



The Planning Inspectorate

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## Appeal Decision

Site visit made on 12 January 2016

by **M C J Nunn BA BPL LLB LLM BCL MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20<sup>th</sup> January 2016

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**Appeal Ref: APP/V2255/W/15/3135819**

**The Laurels, New Orchard Farm, Upper Rodmersham, Sittingbourne, Kent  
ME9 0QL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr & Mrs John McGrath against Swale Borough Council.
  - The application Ref: 15/505995/FULL, is dated 30 July 2015.
  - The development is described as: "division of existing dwelling into two dwellings".
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### Decision

1. The appeal is allowed and planning permission granted for the division of the existing dwelling into two dwellings at The Laurels, New Orchard Farm, Upper Rodmersham, Sittingbourne, Kent, ME9 0QL, in accordance with the terms of the application, Ref: 15/505995/FULL, dated 30 July 2015, subject to the conditions at Annex A.

### Preliminary Matters

2. The Council failed to give notice of its decision within the prescribed period. The Council's Statement of Case explains why it considers the development to be unacceptable and I have proceeded on this basis. An application for costs has been made by the appellants against Swale Borough Council. This is subject of a separate decision.

### Background and Main Issues

3. The appeal building was originally constructed as stables, but before their completion, the owners sought permission for use as four holiday cottages. This was approved by the Council in 2001. Most recently in August 2014, a certificate of lawfulness was granted for the use of the building as a single dwellinghouse on the basis it had been used as such for over 10 years. The certificate related to the building itself, and not the surrounding land. This current proposal seeks to divide the dwelling into two smaller separate dwellings.
  4. I consider the main issues are: (i) the effect of the proposal on the character and appearance of the area; and (ii) whether the scheme would comply with policies aimed at protecting the countryside.
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## Reasons

### *Character and Appearance*

5. The appeal building is a detached timber-clad structure with a 'U'-shaped footprint. It has a hipped pitched tiled roof with rooflights. Although the building has the appearance of a single storey structure, accommodation is provided over two levels, the upper level within the roof space. It is set well back from the road and reached via a long drive. Immediately to the west is the complex of buildings comprising New Orchard Farm. There are also other residential properties nearby to the west. The site falls outside the built-up area boundary in the adopted Swale Borough Local Plan ('the Local Plan') and is within the countryside.
6. The scheme involves removing a small central section of the existing building to create two individual detached buildings. The newly exposed side elevations would be weather-boarded to blend with the existing building. The new roof ends would be designed with small 'half hips'. The scheme would not increase the footprint or volume of the building. Rather, the removal of the central section means there would be a marginal reduction. No other changes are proposed to the external elevations. The existing dwelling's simple design, using a traditional palette of materials, currently appears unobtrusive. I consider that its division into two smaller separate dwellings would have a negligible impact on the character and appearance of the area.
7. Two additional weather-boarded garages are proposed to serve each dwelling. These would be easily accommodated on this site without appearing cramped. They would be perceived as part of a wider enclave of built development in the locality, and not as isolated or exposed buildings within the open countryside. I consider their prominence in the wider landscape would be very limited. I am satisfied that the two garages would be adequately assimilated in this area without harming its character or appearing incongruous.
8. I note that the Council states that the certificate of lawfulness for residential use only related to the building itself, and not the surrounding area. The Council is concerned that allowing this scheme would result in the creation of new curtilages with associated domestic paraphernalia. However, at my site visit, I observed there is currently an established landscaped garden area which serves the existing dwelling. There are also associated areas of lawn, as well as hardstandings for vehicle parking. I do not consider that the effect of the proposed subdivision of these areas on the landscape to be significantly different from the existing situation, nor to result in an unacceptable impact.
9. Overall, I conclude on the first issue that the proposal would not harm the character and appearance of the area. It would comply with Policy E1 of the Local Plan which requires development proposals to respond positively by reflecting the positive characteristics and features of the site and locality; to protect and enhance the natural and built environments; and to be well sited and of a scale, design and appearance that is appropriate to the location.

### *Countryside Protection*

10. The Council has raised various objections on the basis that the site is outside the built-up area boundary and within the countryside where restrictive policies

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apply, and that the proposal is not justified by any exemptions. In particular, it is argued that the proposal is not necessary for agriculture, forestry or mineral extraction, and therefore contrary to Policy E6 of the Local Plan. It is also said that the scheme would not meet a rural housing need, specifically an identified local affordable housing need, and fails to meet the criteria of Policy RC3. It is also argued that the development is not associated with providing accommodation for gypsies and travelling showpersons, and would therefore fail to accord with Policy H4.

11. In my judgement, these objections are not well founded. I appreciate that the building lies outside the built-up boundary where restrictive countryside policies apply. However, the existing building already has an established lawful residential use, and therefore the principle of such a use in this location cannot be in doubt. The question, it seems to me, is whether the sub-division of the building into two smaller residential units would be harmful. For the reasons explained above, I do not consider that it would. Moreover, and very importantly, at the heart of the National Planning Policy Framework ('the Framework') is now a requirement to deliver a wide choice of quality homes, and to boost significantly the supply of housing. The Framework is clear that housing applications should be considered in the context of the presumption in favour of sustainable development. In this case, the proposal would result in an additional residential unit which accords with the aims of the Framework.
12. The Council has also raised objections in respect of Policy RC7 relating to rural lanes, on the basis that the additional traffic arising from the scheme would harm the character of this rural lane. However, no physical alterations are proposed to the road and any additional traffic arising would not be significant. I am satisfied that the existing character of this local rural lane would be unaffected by the scheme.
13. To sum up, I accept that the site is in a countryside location, outside the built-up boundary. However, the residential use of the building is already established, and I see no reason why its division into two smaller residential units would be harmful. Weighing all these matters in the balance, I do not consider the Council's various concerns to be valid reasons for the appeal to fail.

*Conditions*

14. I have reviewed the suggested conditions in the light of the Planning Practice Guidance (PPG). A commencement condition is necessary to comply with the relevant legislation. A condition requiring compliance with the submitted plans is necessary for the avoidance of doubt. Conditions relating to external materials, and hard and soft landscaping are necessary to preserve the character of the area. A condition restricting permitted development is also necessary for similar reasons. Where necessary, I have reworded the suggested conditions for succinctness, to avoid duplication and to accord with the PPG. For the reasons explained above, I conclude that the appeal should be allowed.

*Matthew C J Nunn*

INSPECTOR

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**Annex A: Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, 481-01 A, 481-02 A, 481-03 A, 481-04, 481-05, 473-06.
- 3) The materials to be used in the construction of the external surfaces of the development, including the alterations to the existing building and the new garages, shall match those used in the existing building in terms of type, colour and texture.
- 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include details of hard and soft landscaping, as well as boundary treatments. The approved landscaping works shall be carried out before the subdivided residential units are first occupied, or in accordance with a programme agreed by the local planning authority; and any trees or plants which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority gives written approval to any variation.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement, improvement or other alteration to either of the dwellings hereby permitted, or provision of buildings, structures or enclosures within their curtilages, apart from those authorised by this permission.