

MC/18/1405

Date Received: 9 May 2018

Location: Keepers Barn Upper Bush Farm Upper Bush Farm Road Cuxton

Proposal: Change of use of redundant agricultural barn to a residential dwelling

Applicant Mr D Attwood

Agent Mr Sam Finnis  
77 Commercial Road  
Paddock Wood  
TN12 6DS

Ward: Cuxton And Halling Ward

Case Officer: Amanda Grout

Contact Number: 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 19th December 2018.**

**Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:  
  
Drawing numbers 1381 002B and 1381 003 received on 27 September 2018.  
  
Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 No development above slab level shall take place until samples, in form of a sample board, of all materials to be used externally have been submitted to and

approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 4 If the scrub habitat is to be lost by the proposed development, a reptile precautionary mitigation strategy will need to be submitted and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed measures prior to the occupation of dwelling.

Reason: Required before commencement to ensure satisfactory arrangements are made to safeguard the habitats in the interests of ecology in accordance with Policy BNE37 of the Medway Local Plan 2003.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Classes A, B, C and E of Part 1, and Class A of Part 2, of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 6 No development shall take place until a "lighting design strategy for biodiversity" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting strategy shall:
  - A. Identify those areas/features on site that are particularly sensitive for badgers and bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
  - B. Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

Reason: Required before commencement to ensure satisfactory arrangements are made to safeguard the habitats in the interests of ecology in accordance with Policy BNE37 of the Medway Local Plan 2003.

- 7 In this Condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs a) and b) below shall have effect until the expiration of 5 years from the date of occupation of the building for its permitted use.
- A. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning approved shall be carried out in accordance with British Standard 3998 (Tree Work).
  - B. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time as may be specified in writing by the Local Planning Authority.
  - C. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this Condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written approval of the Local Planning Authority.

Reason: To protect and enhance the appearance and character of the site and locality, in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 8 Prior to the occupation of the development hereby approved, an ecological enhancement plan formulated in line with the Biodiversity Opportunity Area (BOA) target list of the area, to be incorporated within the site shall be submitted to and approved in writing by the Local Planning Authority. The enhancements shall be retained thereafter.

Reason: Required before commencement to ensure satisfactory arrangements are made to safeguard the habitats in the interests of ecology in accordance with Policy BNE37 of the Medway Local Plan 2003.

- 9 No vegetation clearance or development shall take place during the bird nesting season (March to September inclusive) unless a suitably qualified ecologist has first confirmed that no nests or dependent young are present (nesting bird checks within 24 hours of work commencing).

Reason: Required before commencement to ensure satisfactory arrangements are made to safeguard the habitats in the interests of ecology in accordance with Policy BNE37 of the Medway Local Plan 2003.

10 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

- I. a survey of the extent, scale and nature of contamination;
- II. an assessment of the potential risks to:
  - III. human health
  - IV. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
  - V. adjoining land,
  - VI. groundwaters and surface waters,
  - VII. ecological systems,
  - VIII. archeological sites and ancient monuments;
- IX. an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

11 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result

of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 12 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 13 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 12 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 12.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval, please see Planning Appraisal Section and Conclusions at the end of this report.**

## Proposal

The application seeks planning permission for the change of use of a redundant agricultural barn to residential dwelling, together with external alterations, removal of existing silos and installation of soakaway, sunken treatment plant and parking provision with drainage.

Elevation changes proposed are in form of the replacement of existing cement fibre sheeting with tile (roof) and timber cladding (walls), installation of new doors, insertion of windows, a double height centrally glazed section to the front and rear elevation, roof lights and chimney flue. The residential curtilage is shown as a broadly 'L' shaped layout utilising existing access from Upper Bush Road. Two parking spaces would be provided in an area to the front of the building.

## Site Area/Density

Site Area: 0.10 hectares (0.24 acres)

Site Density: 10 dph (4.16 dpa)

## Relevant Planning History

There is no planning history on this site however the following are material to the consideration of this application.

MC/17/0282	High Birch, Upper Bush Road, Cuxton, ME2 1HQ Change of use of garage to a 1 bedroomed holiday let Approval with Conditions 13 April 2017
MC/17/2467	Travellers Tan, Sharnal Street, High Halstow, ME3 8QR Change of use from barn to residential facilitating a 4 bedroom dwelling with garage and associated landscaping Approval with Conditions by Planning Committee (25 October 2017) 10 January 2018

## Representations

The application has been advertised on site, in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

**Cuxton Parish Council, The Royal Society for the Protection of Birds, Kent Wildlife Trust and KCC Biodiversity** have also been consulted.

**Cuxton Parish Council** have objected to the application on the following grounds:

1. The proposed building is not in keeping with the other buildings in Upper Bush.

2. The current access to Upper Bush via a single track road and this may cause problems if the proposed development goes ahead.
3. As there are other agricultural buildings on the site the Parish Council are concerned that a precedent may be set which would lead to further development which would destroy the unique nature of this small hamlet.

**KCC Biodiversity/Ecological** are satisfied with the finding of the submitted ecological survey, however have recommended some conditions to secure mitigation measure to protect roosting bats and nestling birds. These would be secured by conditions.

**The Dickens Country Protection Society** made comment to the two storey nature of the building.

**Six Letters** of objection have been received making the following summarised comments:

- Out of character and set undesirable precedent
- Health and safety (asbestos sheeting)
- Impact on the Hamlet, Green Belt, Conservation Area and Area of Outstanding Natural Beauty, and impact on wildlife
- Increased traffic
- Strain on access roads and services
- Uninspiring design
- Disruption during construction
- Noise

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2018 and are considered to conform.

## **Planning Appraisal**

### *Principle*

The application is for a change of use of a redundant agricultural barn to a residential dwelling, currently known as Keepers Barn. As such, this proposal would be assessed under Policies BNE25 (Development in the Countryside) and BNE27 (Re-use of buildings in the Countryside) of the Local Plan.

Policy BNE25 seek to ensure that development maintains or enhances the character, amenity and functioning of the countryside as well as re-using an existing building that is considered to be in keeping with the area. Policy BNE27 reaffirms these principles and states that re-used 'buildings should not need complete reconstruction' and that 'the form should be in keeping with the rural surroundings'.

It is considered that the proposal complies with the objectives of these policies as the proposal would retain the building in particular its frame and form. The cladding is to be replaced however, the main concrete structure forms the basis of this application. The proposal as such falls within the policy category of a re-used building to provide the residential dwelling and as such does not involve the construction of a new building. The current siting of the barn building is also considered to be suitable and would maintain the character, amenity and functioning of the countryside.

The current scheme looks at utilising the current structure. It would help to preserve the current character of the area and would not result in suburbanisation.

The principle of the loss of the barn as a storage of agricultural machinery, although appropriate to this location, is acceptable and its re-use for residential purpose would be an acceptable use of the building given the established residential nature of the area.

For the above reasons, the proposal is considered acceptable and would comply with Policies BNE25 and BNE27 of the Local Plan.

### *Design*

Policy BNE1 of the Medway Local Plan 2003 (Local Plan) requires alterations to respect the scale and appearance of buildings and to be satisfactory in relation to scale, mass and proportions. This is consistent with the National Planning Policy Framework (NPPF), which states that new development should respond to the local character, reflect the identity of local surroundings, be visually attractive as a result of good architecture and add to the overall quality of the area.

The current asbestos corrugated sheeting is to be removed but retaining the main concrete frame for the new dwelling. The proposed development would not increase the existing footprint or the height of the barn.

The frame of the structure would be clad, roof tiled and window and door openings on the elevations to serve the habitable rooms to be created internally. As such, the proposal would maintain the scale and profile of the farm building and in turn the appearance of the area. It would however make for a significant enhancement and if detailed correctly would retain an agricultural architecture and result in an identifiable dwelling house with the arrangement and design that would be sympathetic to the character of the area. The proposal would therefore preserve and enhance the character and appearance of the Upper Bush Conservation Area.

Given that there are, existing residential uses adjacent to the site the proposed dwelling would not be out of character or impact on the setting of the nearby listed building.

Consequently, it is considered that the proposed development would be acceptable in design term. To ensure the quality of the development, it is recommended that condition requesting the submission of detail of the materials should be requested.

Subject to condition, the proposal is considered to be compliant with Policies BNE1 and BNE12 of the Medway Local Plan 2003 and Paragraphs 124, 172 and 194 of the NPPF.

### *Amenity*

Keepers Barn is located approx. 31m from The Cottage and approx. 54m from The Bungalow, these being the nearest residential neighbours, as such the proposal would not result in direct overlooking to either property, or the other surrounding properties.

Having regard to the building's location in a remote rural area and the residential use, it is considered that the proposed dwelling would not be subject to unacceptable levels of noise.

To ensure that the amenity of neighbouring residents is protected and character of the site maintained, it is necessary to remove the permitted development rights of the dwelling to control future enlargements under Classes A, B, C and E of Part 1 and, minor operations under Class A of Part 2 of the 2015 GDPO as amended.

In considering amenity, it is also important to assess whether a suitable level of amenity would be afforded to the future occupants of the proposed dwelling. It is considered that the relationship of the proposed dwelling to others in the vicinity is acceptable and would not give rise to overlooking or an unacceptably close relationship that would lead to a poor level of amenity.

In terms of the level of accommodation provided, the residential unit would have a floor area of approx. 303m<sup>2</sup>. Policy BNE2 of the Medway Local Plan 2003 relates to amenity provisions and states that all development should secure the amenities of its future occupiers. In this, respect the proposed floor plan show adequate living, circulation and storage areas and amenity for the future occupiers.

Proposed unit size	Bedroom 1	Bedroom 2	Bedroom 3	Bedroom 4
303m <sup>2</sup>	24.12m <sup>2</sup>	24.12m <sup>2</sup>	14.04m <sup>2</sup>	13.77m <sup>2</sup>

All the rooms proposed have good natural light and all habitable rooms are provided with good levels of outlook. In addition, this size of accommodation would comply with the National Technical Housing Standard for a 4-bedroom dwelling.

In terms of outdoor amenity space, the area immediately to the north and west of the building would provide adequate private amenity space without affecting the surrounding farmland or open space.

Overall, given the site's location within a residential cluster it is considered that the re-use of this building for residential purpose is appropriate and the impact on the immediate

neighbouring residents would be minimal. The development would comply with Policy BNE2 of the Medway Local Plan 2003 and 127 of the NPPF.

### *Highways*

The parking area shown at the front of the proposed dwelling is sufficient to accommodate a number of vehicles. The access point onto Upper Bush Road has been in place for many years and serves The Cottage as well as the application site and stables. The provision of one dwelling in this location would not cause harm to this junction or to the existing users of the adjacent properties. There are no concerns raised on highway or parking grounds.

The proposal would comply with the provisions of Policies T1 and T13 of the Medway Local Plan 2003.

### *Ecological*

KCC Biodiversity/Ecological are satisfied with the finding of the submitted ecological survey, however have recommended conditions to secure measures to protect roosting bats and nestling birds. These would be secured by condition.

### *Contamination*

This application is supported by a desk study report by Southern Testing, Ref. J13666 dated July 2018. The report is in line with current guidance and shows that there is potential for contamination on the site from previous land use and materials on site. The presence of asbestos material on site is also a concern raised by residents.

The site is over a principal aquifer and a water source protection zone 1. The report recommends an intrusive investigation to be carried out to identify the risks associated with potential contamination. This can be secured by conditions.

Subject to conditions, the proposed development would comply with the objectives of Policy BNE23 of the Medway Local Plan 2003 and Paragraphs 178 and 179 of the National Planning Policy Framework 2018.

### *Bird Mitigation*

The application site falls outside 6km of the North Kent Marshes SPA/Ramsar Sites and therefore the proposed development is unlikely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Therefore, no objection is raised under Paragraphs 175 and 176 of the NPPF and Policies S6 and BNE35 of the Local Plan.

### *Local Finance Considerations*

There are no local finance considerations.

### **Conclusions and Reasons for Approval**

The proposal to convert the barn to a residential dwelling house together with alterations is considered acceptable in principle and design terms. The proposal would not have a harmful impact on the character or appearance of the area or the setting of the heritage assets, and would not cause harm to the amenity of neighbouring and nearby residential occupiers. The proposal would not cause harm or result in unacceptable traffic levels to and from the area. Subject to conditions, the proposal would comply with Policies BNE1, BNE2, BNE14, BNE23, BNE25, BNE27, BNE32, T1 and T13 of the Medway Local Plan 2003 and Paragraphs 124,127, 172, 175, 176 and 194 of the NPPF 2018.

This application would normally be determined under delegated powers however is being referred to the Planning Committee for determination due to the number of representations received expressing views contrary to officers recommendation.

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### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>