

Application Number	16/01025/AS	
Location	Stafford Farm, Moons Green, Wittersham, Tenterden, TN30 7PR	
Grid Reference	88485 / 27598	
Parish Council	Wittersham	
Ward	Isle of Oxney	
Application Description	Outline planning permission with all matters reserved for a new dwelling to replace an existing outbuilding in use for agriculture and the keeping of horses	
Applicant	Mr Anthony Gleeson, 4 Oxney Cottages, Appledore Road, Stone, Tenterden, TN30 7JL	
Agent	Mr Richard Elliot, Appleby Architects, 10 Union Square, Eridge Road, Pantiles, Tunbridge Wells	
Site Area	0.1037ha	
(a) 11 / 42 S; 2R ; 1X	(b) PC / S	(c) KCC PROW- X, EH (ES) - X, KCC BIO - X

Introduction

1. This application is reported to the Planning Committee at the request of the Ward Member Cllr. Burgess.

Site and Surroundings

2. The application site is a yard with a field behind divided into two paddocks. There is an existing single skin brick built building on the site that measures 6.6 metres wide and 6.8 metres deep which the applicant's agent states has stood on the site for almost 40 years.. A mobile home is stationed on the site, the building and mobile home are not occupied or being used for residential purposes.
3. The subject land including the existing building is in mixed use for agriculture and the keeping of horses, as established through a Lawful Development Certificate granted in 2015 (ref: 15/00325/AS).

4. The site is located well outside the built confines of the nearest settlement (Wittersham); it is not connected to public transport services and is not close to any local amenities. It is located in the countryside in planning terms. The site is located at the end of a track which serves a public right of way (PROW). The site lies within the designated High Weald AONB. The area is characterised by sporadic dwellings sited near to the road or track and that of undeveloped open fields.



Figure 1 Site Location Plan

Proposal

5. Outline planning permission is sought for the erection of one dwelling with all matters to be reserved. The submitted plans show an indicative 3 bedroom bungalow, with an 85 sq. m footprint to be sited over the existing building is (45 sq. m). The access, scale, appearance and layout are not subject of this application and would be dealt with under a reserved matters application.
6. During the course of the application, the description has been changed, as the proposal originally showed the conversion and extension of an existing building. However, in officers view the proposal would have constituted a very substantial rebuild and extension of the existing structure and therefore the description was subsequently changed to better reflect the proposed development for a new dwelling.

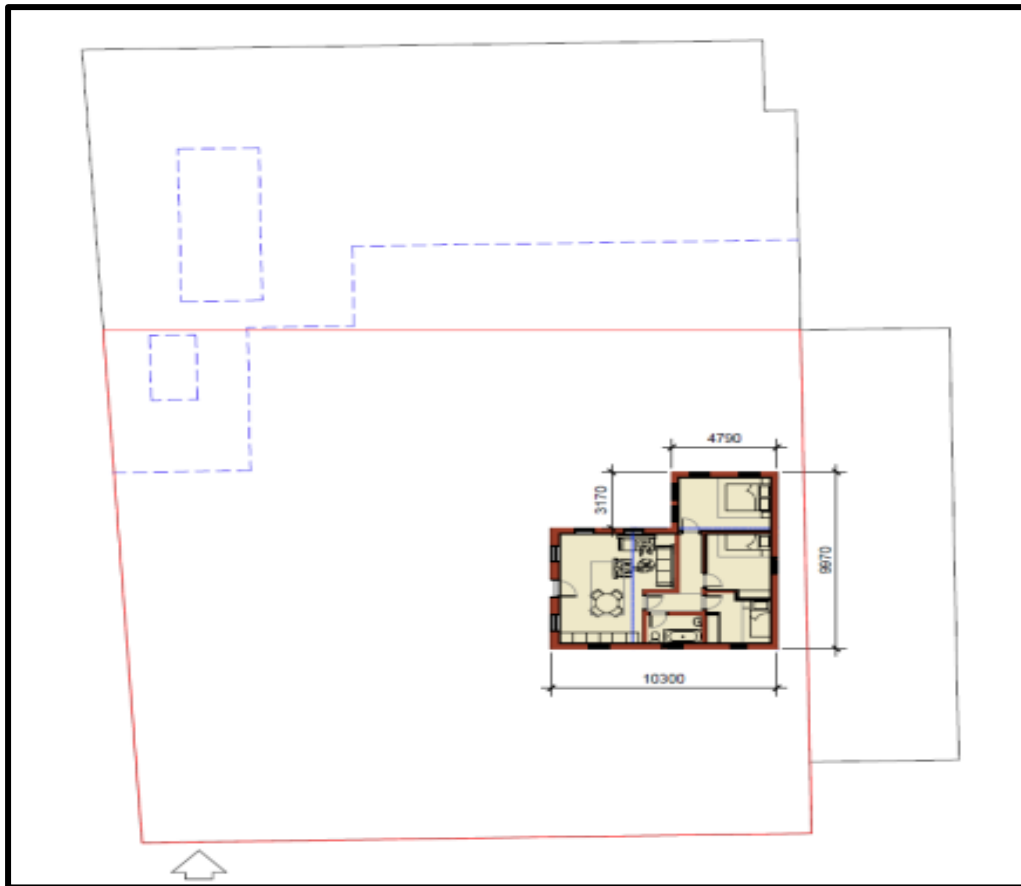


Figure 2 Indicative Site Plan

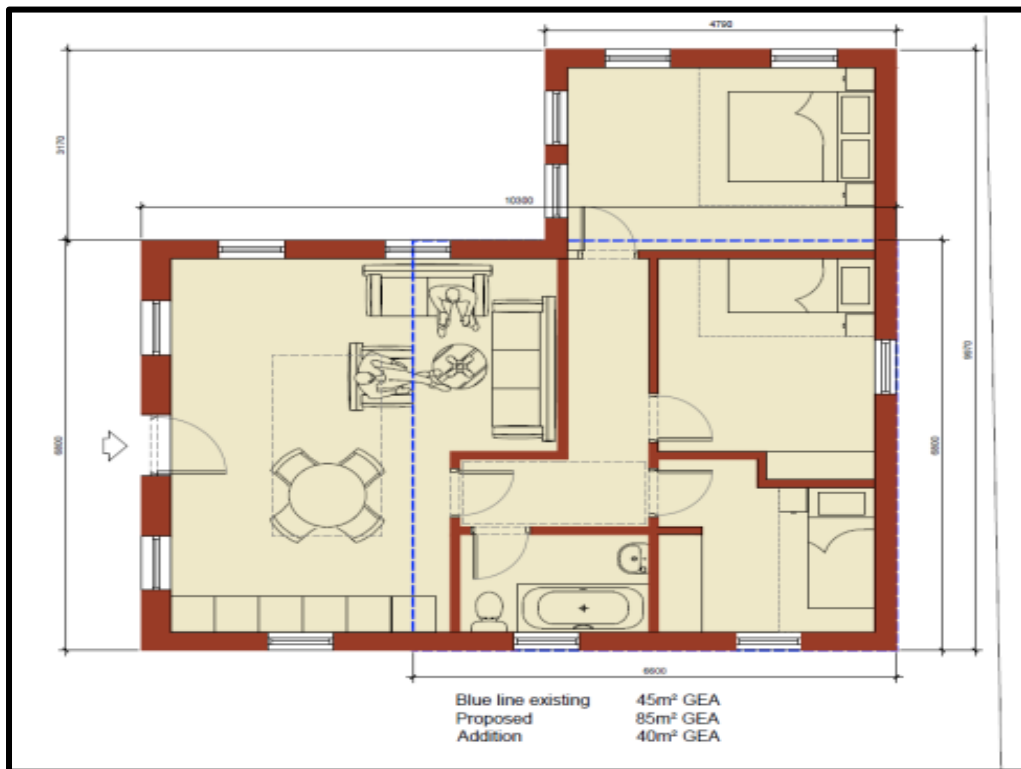


Figure 3 Indicative Floor Plan



Figure 4 Indicative sketch of bungalow

7. In support of the application, a planning statement has been provided that states the following:
- The proposal would replace an existing agricultural building and remove a mobile home. Weight should be given to the removal of these structures which would also replace the function of the mobile home, these do not contribute to the AONB.
 - The site is located in a hamlet where other new dwellings have been approved. Even if the view was taken that the site is isolated then the special circumstances identified in the para. 55 of the NPPF apply in relation to the essential need for a rural worker to live permanently at or near their place of work in the countryside; the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.
 - The provision of a dwelling on the site will allow the smallholding (currently part of the site is used to keep 3 horses and the housing of a herd of 13 pygmy goats kept for breeding purposes) to be managed in a more productive way. Further expansion hampered by not living on site. Given involvement in education would like to develop smallholding as an educational centre for learning of local young people.
 - The centre of Wittersham is within walking distance, the site is not isolated where there are amenities nearby.

- The existing building is in a poor condition and its replacement would be more sympathetic and environmentally friendly to the landscape/a visual enhancement.
- Hunts Hill Farm has been built close to the boundary. (**JDCM** comment: Given the barn was converted to residential use without normal planning permission, this development should be granted).
- We are genuine village people who would like to live here and work the land.
- The development is considered to comply with Para. 55 of the NPPF, in that the site is not isolated and failing this, there are special circumstances ,i.e. to support a small holding/rural enterprise.
- It is noted the scheme is in line with the emerging policy HOU5, but it is accepted this has little weight.
- Accepts the proposal is not compliant with policy TRS1 and TRS2 of the Tenterden and Rural Sites DPD.
- Following a recent appeal decision (Tilden Gill) it is considered the Council does not have a 5 year deliverable housing supply, therefore presumption in favour of sustainable development applies and reduced weight should be applied to the adopted local plan policies.
- Previous planning permissions for similar development have set a precedent:
- Planning permission ref: 15/01677/AS – Hillside Lime Works, East Brabourne “Demolition of existing agricultural buildings and erection of new single storey building to comprise new dwelling with associated garden and parking”. (**JDCM comment:** This approval was made by Members contrary to officer recommendation, it was considered on balance that given the context of the site and existing development therein the proposal would lead to a visual enhancement of the landscape. Therefore, the benefits outweighed the harm in terms of sustainability objectives.
- Planning permission ref: 16/01047/AS – Norwinds, Old Wives Leas, Chilham “Outline application for erection of a new dwelling”. It is argued that the site is way outside the built confines and it related to a site that was undeveloped, thus making the subject application more compelling. (**JDCM comment:** Whilst the site is outside the built confines of an identified settlement, as defined within the Tenterden and Rural Sites DPD (Section 7.8), the site was not considered physically isolated, as it is adjacent to Old Wives Leas (a secondary settlement as identified in emerging Policy HOU4) and it is within 1km of Chilham (considered a key service centre settlement in emerging

Policy HOU4). The subject site is not adjacent to a settlement and is over 1.5km from the nearest settlement of Wittersham.

Planning History

81/00653/AS - Siting residential caravan for use as field shelter medicine store, septic tank and occasional sleeping accommodation. During lambing season or to tend sick animals. Refused

82/01311/AS - Change of use of agricultural land to include occasional storage and parking of motor lorry JCB and associated plant used in agricultural engineering works elsewhere. Permitted on a Temporary basis and now expired.

83/01335/AS - Erection and siting of 3 bedroom mobile home (caravan) - Permitted on a Temporary basis and now expired.

15/00325/AS – Lawful Development Certificate for use of land and the building for agriculture and the keeping of horses. – Granted

Consultations

Ward Members: The Ward Member Cllr. Burgess is the Chairman of the Planning Committee.

Parish Council: Support on the following grounds:

- Frees up a Council House
- Would tidy up the site
- Support rural enterprise
- It is in line with current policy
- Supported by neighbours

KCC Public Rights of Way (PROW): No objection, comments that a PROW runs through the site and adjacent to the site. Raise a number of informatives to be added if development approved.

KCC Biodiversity: No objection subject to condition. The proposed development may have the potential to result in ecological impacts. There are ponds nearby which could result in harm to GCN. Would recommend a precautionary mitigation strategy to be submitted as a condition of planning permission.

Ramblers Association: No objection, no adverse impact.

Neighbours: 11 consulted; 42 support comments:

- It would free up a Council House in the village.
- Comments made responding to a neighbour dispute.
- The applicants are good neighbours.
- Other homes around the site have been allowed.
- The applicants have lived in the village all their lives.
- We should support local families in building homes in Wittersham.
- Applicants work on small holding and are committed to their land.
- The applicants should have a right to live on their land.
- It would improve the landscape, they are genuine village people.
- The mobile home would be removed, the replacement of building/mobile home would improve the landscape and AONB.
- It would support rural enterprise.
- There are special circumstances (removal of existing buildings and working the land) justifying a departure from TRS2.
- Applicants are going through the correct channels.
- Applicants should be treated the same as other members in Moons Green.

2 objections received covering:

- The proposal does not meet the required criteria of the NPPF, Para. 55. The farming activity at the site would not meet the functional need or financial test to allow a dwelling in this location.
- Development does not meet criteria of Rural Sites Development Plan or Policy CS6 of the Core Strategy.
- The site is not a small holding; it is used for horses/goats.
- The building is a shack.
- No one has lived at the site.

- Freeing up a council house does not give the right for planning permission. This sets a dangerous precedent.

Planning Policy

8. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012, the Chilmington Green AAP 2013 and the Wye Neighbourhood Plan 2015-30. On 9 June 2016 the Council approved a consultation version of the Local Plan to 2030. Consultation commenced on 15 June 2016 and has now closed. At present the policies in this emerging plan can be accorded little or no weight.
9. The relevant policies from the Development Plan relating to this application are as follows:-

Ashford Borough Local Plan 2000

GP12 Protecting the Countryside

Local Development Framework Core Strategy 2008

CS1 Guiding Principles

CS9 Design Quality

CS20 Sustainable Drainage

Tenterden & Rural Sites DPD 2010

TRS1 Minor residential development or infilling

TRS2 New residential development elsewhere

TRS17 Landscape Character and Design

Local Plan to 2030

SP1 Strategic Objective's

SP6 Promoting High Quality Design

HOU5 Residential windfall Development in the countryside

ENV3 Landscape Character Design

10. The following are also material to the determination of this application:-

Supplementary Planning Guidance/Documents

Landscape Character Assessment SPD 2011

Residential Space and Layout SPD 2011 (now external space only)

Residential Parking and Design SPD 2010

Sustainable Drainage SPD 2010

Dark Skies SPD 2014

Government Advice

National Planning Policy Framework (NPPF) 2012

11. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-
12. Paragraph 14 - presumption in favour of sustainable development
13. Paragraph 55 – Guidance on new isolated homes in the countryside
14. Paragraph 115 - Conserving landscape and scenic beauty in the AONB.

National Planning Policy Guidance (NPPG)

Technical housing standards – nationally described space standard

Assessment

15. The main issues for consideration are:
- Principle of Development
 - Impact upon visual amenity / AONB
 - Impact upon Residential Amenity
 - Highway Safety/ Parking
 - Planning Obligations

Principle of Development

16. Policy TRS1 of the Tenterden & Rural Sites DPD 2010 identifies towns and villages that are considered suitable to accommodate minor development and infilling within their built confines. Wittersham is one such identified village. The preamble to policy TRS1 defines the built confines for the purposes of the development plan as:
17. *‘the limits of continuous and contiguous development forming the existing built up area of the settlement, excluding any curtilage beyond the built footprint of the buildings on site’*. The National Planning Policy Framework (March 2012) provides planning policy guidance with a presumption in favour of sustainable development (para 14). For decision taking this means:
 - approving development proposals that accord within the development plan; and
 - where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:
 - any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the framework, taken as a whole; or
 - specific policies in the framework indicate development should be restricted.
18. As noted in the planning statement, following a recent appeal decision which considered the five year land supply, the Council’s adopted development plan policies relating to new housing are now considered to be out of date. With the Council’s new Local Plan still in draft form, applications for new housing have to be considered against the policies of the NPPF and in the context of the presumption in favour of sustainable development. As stated above this means approving the application unless the harm significantly and demonstrably outweighs the benefits and/or specific policies within the NPPF indicate otherwise.
19. Policy TRS2 stems from policy TRS1 and states that new housing in the countryside should be avoided unless there are special circumstance such as:
 - An agricultural workers dwelling;
 - It is the re-use of an existing rural building of architectural or historic interest;
 - It is a replacement dwelling;
 - It is a local needs scheme justified under TRS4 or TRS5.

20. The underlying aims of the development plan policy TRS2 is broadly consistent with the National Planning Policy Framework (March 2012) which seeks to promote sustainable development by resisting new isolated homes except in special circumstances. This policy therefore is in general conformity with Paragraph 55 of the NPPF. Given that the site falls outside the built confines of and does not adjoin the village of Wittersham as defined in the development plan and it is not within easy walking distance or accessed by all modes of transport, it cannot be considered under policy TRS1.
21. Therefore the proposal would need to meet the exception criteria as set out under policy TRS2. The proposal does not comply with the criteria for a rural exception site as set out in TRS2, as whilst the applicant is engaged/has expressed an interest in small-scale animal rearing and keeps horses in the paddocks, this activity would not be of sufficient scale or provide the financial returns to meet the usual essential need tests (in terms of functional need and financial viability) for the erection of a permanent agricultural dwelling in this location. In any event the keeping of horses is not defined as agriculture and the proposal is for the principle of an unrestricted dwelling (not for an agricultural worker).
22. The proposal fails to comply with any of the other criteria of Policy TRS2 to justify such an exception in planning terms; the development is therefore unacceptable as a matter of principle.
23. Insofar as they relate to housing supply, policies TRS1 and TRS2 are considered to be out of date. The housing policies contained within the NPPF and paragraph 49, which states new housing should be considered in the context of sustainable development, therefore apply.
24. In considering the location of the site as per national guidance, the site is physically isolated where it lies in open countryside and is over one mile away from the confines of the village of Wittersham, with no access to immediate amenities or public transport links and it not within easy walking distance. Residential development here would be contrary to paragraph 55 of the NPPF which states that:

“...housing should be located where it will enhance or maintain the vitality of rural communities”. And “Local Planning Authorities should avoid isolated new homes in the countryside unless there are special circumstances.”
25. The special circumstances have been addressed in this report and do not in this case justify such an exception under Para, 55 of the NPPF. As such, new residential development on this site would compromise and conflict with the NPPF in relation to general sustainability objectives as outlined above.

26. In considering any other material considerations that would outweigh the harm of the development identified above, there is an existing building and a mobile home on site, which the agent claims should be considered in support of a new dwelling. The existing brick built building is in a mixed use, as established by the granting of a Lawful Development Certificate (ref: 15/00325/AS) in 2015. As such it cannot be considered an agricultural building for the purposes of the General Permitted Development Order 2015 (Part 3, Class Q - Change of use of an agricultural building to a dwelling house) and given the landscape is designated AONB, there is no permitted development right fall back (allowed under Class Q) to allow such a change of use to a dwelling on this site. In relation to the argument to remove the mobile home, this has not been in residential use, where the Council has evidence following previous contravention investigations that the mobile home was simply being used as a tea room/shelter ancillary to the use of the land back in 2013. Therefore no residential use has commenced or taken place at the site. Whilst there would be some benefit in visually tidying up the site, its removal would not override the conflict/harm identified in relation to sustainability objectives.
27. Whilst support comments have been made which assert the development would free up a Council house and the applicants are genuine village residents, the freeing up of a Council house for the purposes of this assessment cannot be considered an overriding material consideration. Furthermore the proposal is for an unrestricted market dwelling and does not relate to a local needs house where a specific local need has been identified, where no supporting information relating to local needs housing under Policy TRS4 has been provided. I cannot therefore take this into account for the purposes of this scheme.
28. In light of the above, policy TRS2 is not satisfied and no material considerations outweigh the harm of the development in relation to sustainability objectives.

Impact upon visual amenity / AONB

29. The site is located within a designated AONB, which under the NPPF has the highest status of protection in relation to landscape and scenic beauty. It is viewed directly from the west and through the site (where a PROW runs adjacent to the west and through the site).
30. As set out in the site and surroundings, the area is characterised by sporadic dwellings located near to the road or track and that of undeveloped open fields. The site comprises two paddocks with a small functional brick built building, typically found in such a rural location.

31. Whilst the layout, scale and appearance are all subject to reserved matters, the introduction of a substantially larger new dwelling (along with any associated domestic paraphernalia such as parking of cars, gardens etc) on this largely undeveloped and rural site, would result in a significant visual change, detrimental to the scenic beauty and value of this designated High Weald AONB. This harm is compounded as the site is readily visible both at short and long range views given the PROWS that run through and near to the site.

Residential Amenity

32. The scheme is in outline form with layout, appearance and scale not a matter for determination at this stage. Nevertheless, indicative floor plans and sketches have been provided which appear to demonstrate that such a dwelling would not result in adverse harm through overlooking (single storey) or overbearing development to neighbouring occupiers (nearest neighbour to the south).
33. In respect of future residents, again this cannot be assessed at this stage. However based on the illustrative plans provided, there appears to be sufficient living conditions offered for future occupiers and there is sufficient external amenity space on the site to accommodate one dwelling.

Highway Safety/parking

34. The scheme is in outline form with access not a matter for determination at this stage. Nevertheless, the site benefits from an existing access that runs from the private road to the west and there appears to be sufficient parking on site to accommodate one dwelling.

Ecology

35. The proposed development site is a mixture of hard standing with small patches of vegetation and areas of it are used for external storage. There are a number of ponds within 200 metres. It is possible that GCN commute across the site. KCC Biodiversity have been consulted and confirm that as the development will not result in a loss of terrestrial habitat, they are satisfied that there is no requirement for a specific GCN survey to be carried out and recommend a precautionary mitigation approach.
36. Given this, the development would not result in harm to protected species subject to potential mitigation/compensatory measures that could be controlled by condition.

Planning Obligations

37. The development for one dwelling in this rural designated landscape, in accordance with the NPPG would not require planning contributions.

Human Rights Issues

38. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Working with the applicant

39. In accordance with paragraphs 186 and 187 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner as explained in the note to the applicant included in the recommendation below.

Conclusion

40. Balancing the issues identified above, the proposal is not considered to be compliant with the criteria of local development plan policy TRS2 and the criteria of the Consultation Local Plan policy HOU5 which provides guidance on new dwellings in the countryside. The development would represent an isolated and unsustainable form of development that would be contrary to National Planning Policy. It would result in adverse harm to the visual amenity of the designated landscape. There are no other material considerations that would outweigh the harm identified. The proposal is therefore considered to be harmful, in accordance with the adopted Development Plan, Consultation Plan and Central Government Guidance as a whole. I therefore recommend the application is refused.

Recommendation

Refuse

on the following grounds:

1. The proposal would be contrary to Policy GP12 of the Ashford Borough Local Plan 2000, Policies CS1 & CS9 of the Local Development Framework Core Strategy 2008, Policies TRS2 and TRS17 of the Tenterden and Rural Sites

DPD 2010, Draft Policies HOU5 & ENV3 and to Government advice contained in the NPPF and would therefore be harmful to matters of acknowledged planning importance for the following reasons:

- The site lies outside of the built confines of the village of Wittersham, in countryside for development management purposes, and remote from rural services, facilities, public transport and local amenities. The development proposed would therefore represent an unsustainable form of development contrary to the fundamental objectives of the NPPF and detrimental to the environment as a whole.
- The introduction of a new dwelling on this site would give rise to an incongruous and unsympathetic form of development that would be at odds with its countryside setting and that of the immediate rural context, harmful to the character and appearance of the AONB designated countryside.
- No material considerations have been submitted that warrant overriding these strong policy objections to the development.

Note to Applicant

1. Working with the Applicant

Working with the Applicant

In accordance with paragraphs 186 and 187 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance .

- the agent was updated of any issues after the initial site visit,

41. The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 16/01025/AS

Contact Officer: Thijs Bax

Telephone: (01233) 330403

Email: thijs.bax@ashford.gov.uk

Annex 1



This product includes mapping data from Ordnance Survey with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. All rights reserved. Licence Number 100024427>