

Application Number	19/01540/AS
Location	Land rear of Minnis Moor Stables, Scots Lane, Brabourne, Kent
Parish Council	Brabourne
Ward	Bircholt Ward
Application Description	Demolition of existing agricultural barn and erection of a detached dwelling for agricultural worker with associated parking
Applicant	Mr Peacock
Agent	Finn's
Site Area	176 sqm
(a) 1 / 3R 1G & 6-S b) Parish Council – R (c) ESM X & RPL - R	

Introduction

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

Site and Surroundings

2. The application site is located outside any defined rural settlement in the open countryside which is designated AONB. The site comprises a collection of rural barns which appear to be used for keeping a small number of livestock and horses with a small paddock directly behind / south of the barns. The surrounding area is characterised by the scenic beauty of the AONB and sporadic residential development along the road frontage. PROW AE301 runs to the south of the site.

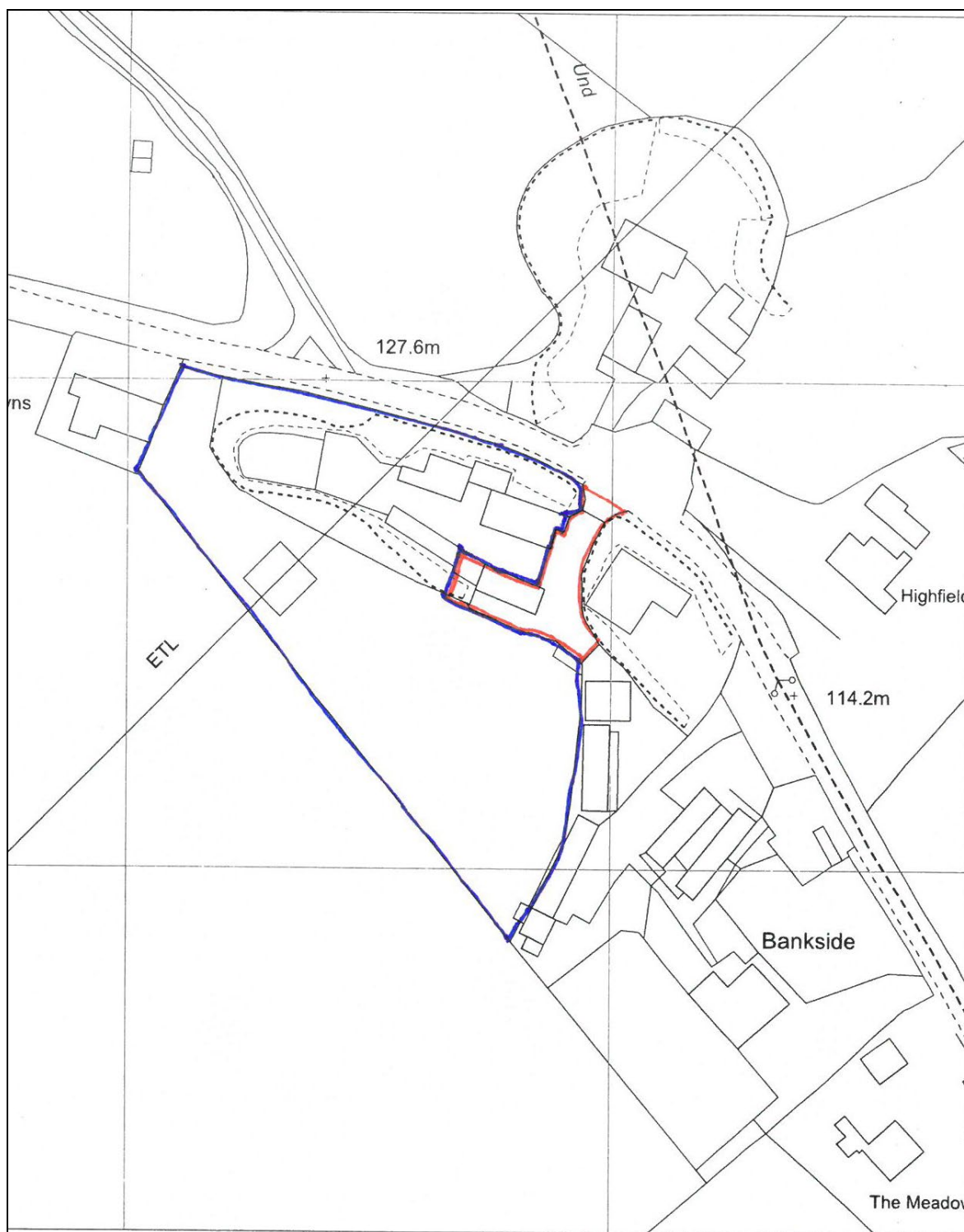


Figure 1 - Site location Plan

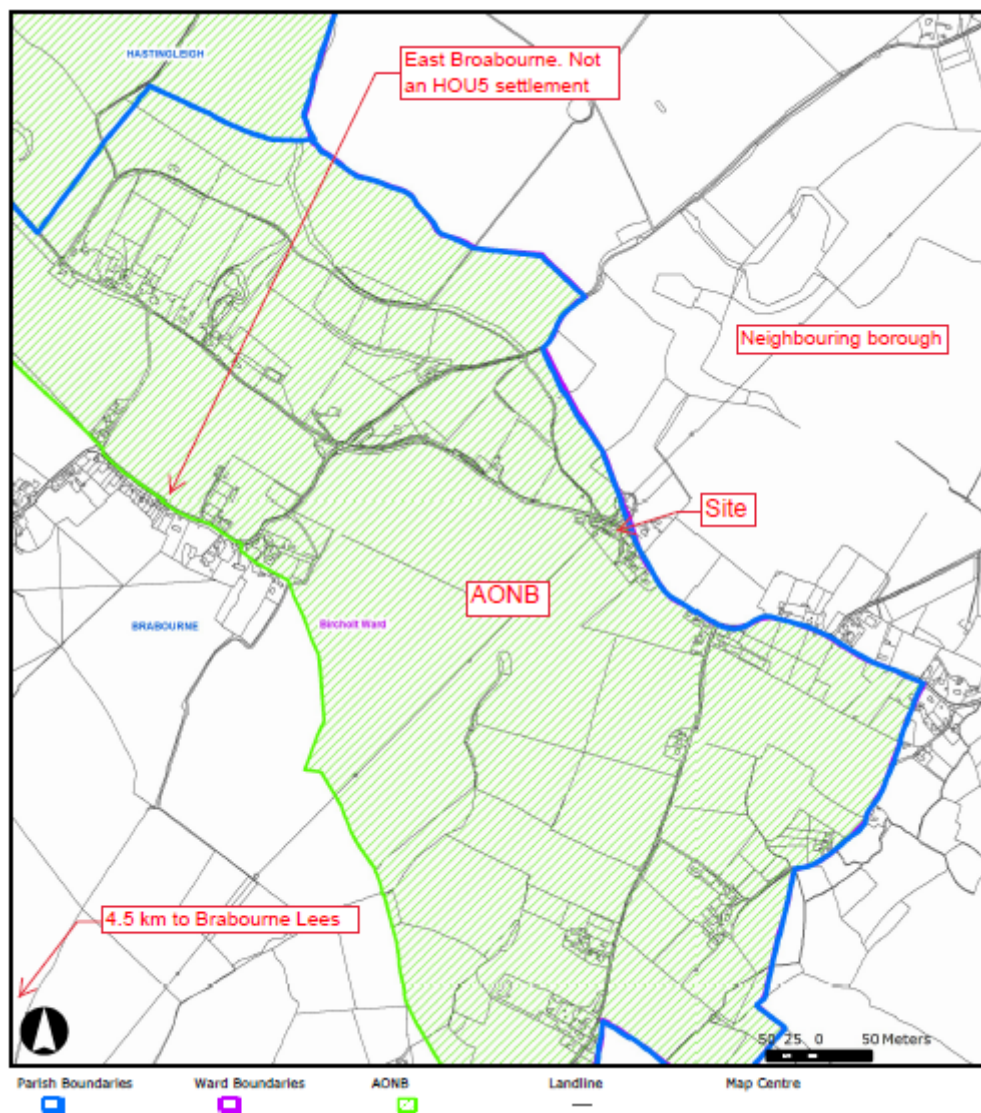


Figure 2 - Site location Plan (wider surrounding area)

Proposal

3. Demolition of existing agricultural barn and erection of a detached dwelling for agricultural worker with associated parking.

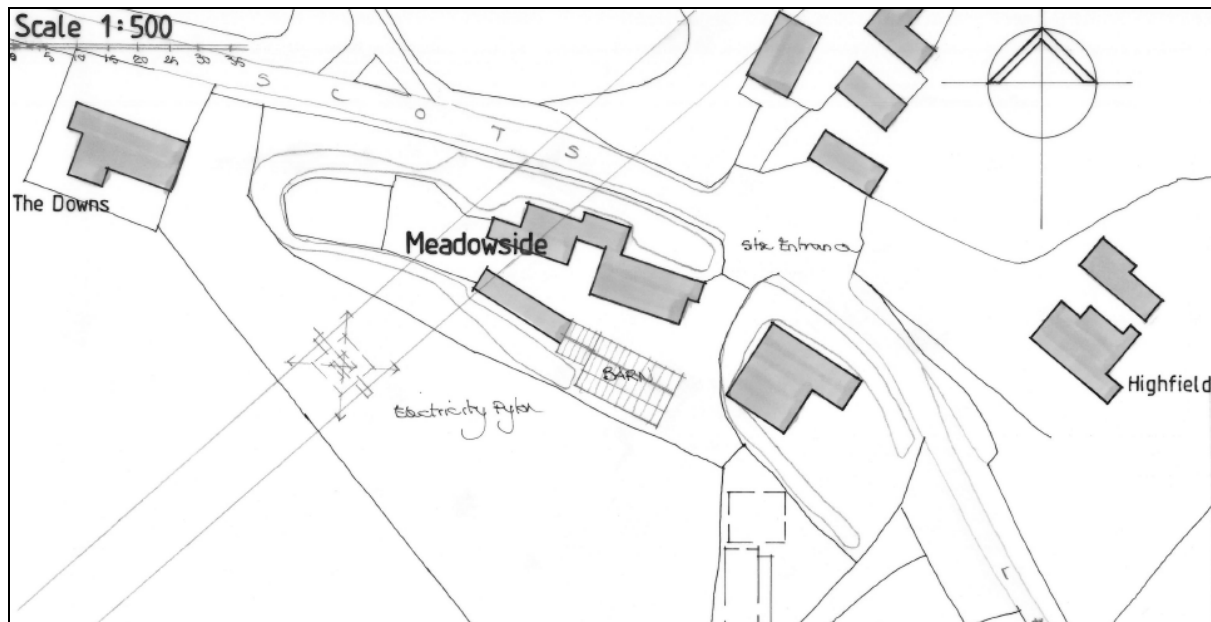


Figure 3: - Proposed block plan (NB. Barn is the proposed dwelling)

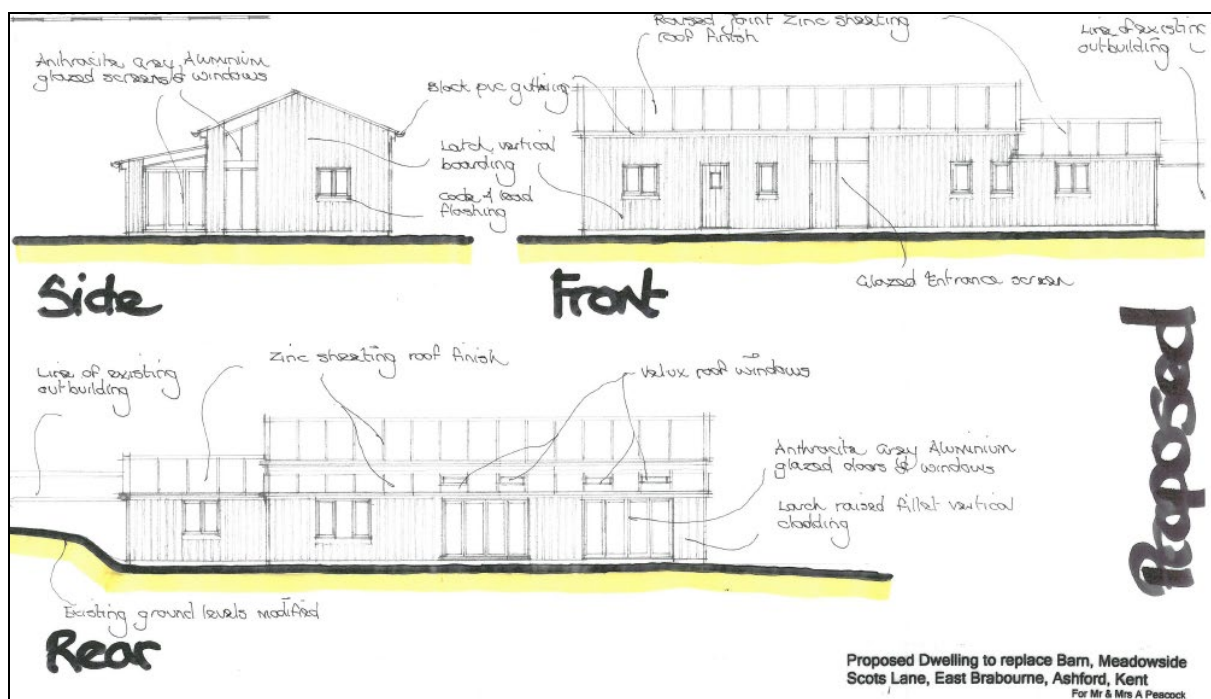


Figure 4 - Elevations

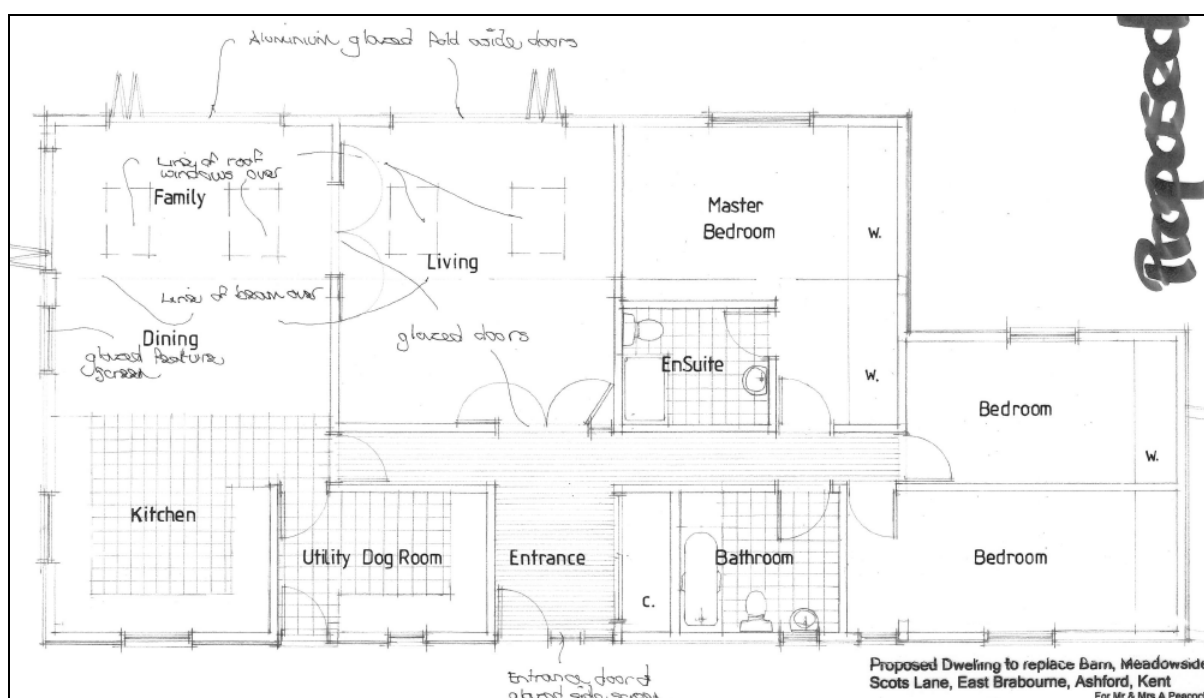


Figure 5 – Proposed Floor Plan

4. In support of the application a financial summary has been provided which sets out the following figures for the small holding:

Summary of Accounts

End of Year totals

Actual 2018-2019 / - £2342

Actual 2019-2020 / - £7092

5. The holding is still establishing and growing the flock with low sales to retain ewes and purchase of more ewes, together with purchase of more land to increase the holding. This has resulted in a higher expenditure during the 2019-2020 financial year and therefore a higher loss.

Forecast 2020-2021 / -£1608

Forecast 2021-2022 / £2566

6. Since the forecast figures were provided within the accounts, the Applicant has increased the flock to 90 ewes and purchased a further 13 acres of land with a further 20 lambs being purchased for fattening shortly. Therefore, it is expected sales will be higher throughout the forecast years resulting in profits at the end of 2020-2021 and higher profits at end of year 2021-2022.

Planning History

None of relevance to this application

Consultations

Ward Member: Requests that the application be determined by the planning committee.

Brabourne Parish Council: Object for the following summarised reasons:

- The site is outside a settlement boundary and should be assessed against policy HOU5.
- There is no justification in the application of a need for an agricultural worker to live close to their place of work.
- If a genuine need for a rural worker to live close to the site can be demonstrated there should be further consultation.
- If the decision is to Permit the Parish Council asks that an agricultural tie be placed on the dwelling.

Rural Planning Consultant: Given the confirmation of the low level of agricultural activity, the proposal would not meet the usual functional and financial tests in support of rural worker accommodation in the countryside.

The submitted figures confirm the low level of agricultural activity and lack of profitability.

Furthermore I consider that the level and nature of the identified agricultural activity (a small flock of sheep) does not give rise to any essential functional need to permanently reside at this site.

In conclusion the proposal would not meet the usual functional and financial tests required to justify the construction of a rural worker's dwelling.

ESM - No objection subject to conditions.

Neighbours; One neighbour has been formally consulted. Three objections, one general comment and 6 letters of support as summarised below:

Objections:

- Concerns that the proposed dwelling will not be used for the purpose stated on the planning application but is a possible attempt to circumvent planning laws.
- Neither of the people applying would appear to have, nor are likely to have, any major agricultural connection other than keeping a few sheep.
- It is felt that the agricultural dwelling will eventually become a considerably more substantially and valuable house.
- The location is unsustainable.
- Essential need has not been demonstrated.

Comment:

- Have concerns regarding the right of way between Bankside and the development.
- Concerned re the loss of privacy due to the kitchen side window and the expanse of glass at the rear of the property.
- Excessive noise during construction working hours.

Support:

- The building would be an improvement on the barn that is there now.
- A dwelling here would also give this local young family the opportunity to be near their animals rather than having to travel on a daily basis.

Further consultation was undertaken following the receipt of a financial summary and the closing date for comments is the 14 July 2020. Any additional comments received will be provided as an update at the committee meeting.

Planning Policy

7. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmingdon Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), Rolvenden Neighbourhood Plan 2019 and the Kent Minerals and Waste Local Plan (2016).
8. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
9. The relevant policies from the Development Plan relating to this application are as follows:-

SP1 – Strategic Objectives

SP2 – Strategic Approach to Housing Delivery

SP6 - Promoting High Quality Design

HOU5 - Residential windfall development in the countryside

HOU12 - Residential space standards internal

HOU14 – Accessibility standards

HOU15 - Private external open space

TRA3a - Parking Standards for Residential Development

TRA6 – Provision for Cycling

TRA7 - The Road Network and Development

ENV1 – Biodiversity

ENV3b – Landscape Character and Design in the AONBs

ENV4 – Dark Skies

ENV9 - Sustainable Drainage

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

Supplementary Planning Guidance/Documents

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

Residential Parking and Design SPD 2010

Sustainable Drainage SPD 2010

Dark Skies SPD

Landscape Character SPD

Government Advice

National Planning Policy Framework (NPPF) 2019

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 particularly relevant to this application:-
12. Paragraph 78 of the National Planning Policy Statement advises to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
13. Paragraph 79 states planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality

National Planning Policy Guidance (NPPG)

14. Technical housing standards – nationally described space standards

ASSESSMENT

15. The key issues for consideration are as follows:

- Principle
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety
- Ecology

Principle

16. The application site is located in the rural area and therefore falls to be considered under policy HOU5 of the Local Plan 2030 which covers proposed windfall housing developments located outside the built up confines of settlements, i.e. in the open countryside. Policy HOU5 is set out in two sections:
- Proposals for residential development adjoining or close to the existing built up confines of specified (sustainable) settlements.
 - Residential development elsewhere in the countryside.
17. The site is located some distance (approx. 4.5Km) from the nearest sustainable settlement at Brabourne Lees / Smeeth as set out in policy HOU5 and is therefore contrary to the first section of this policy as the site is not adjoining or close to the nearest sustainable settlement and is therefore not a sustainable location for a new dwelling. The supporting Planning Statement at paragraph 6.14 also confirms this is not a sustainable location for a new dwelling.

18. The application has been submitted as a rural workers dwelling, therefore the second section of policy HOU5 applies. This section of the policy states residential development elsewhere in the countryside will only be permitted if the proposal is for at least one of the following:-
- *Accommodation to cater for an essential need for a rural worker to live permanently at or near their place of work in the countryside;*
 - *Development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
 - *It is the re-use of redundant or disused buildings and lead to an enhancement to the immediate setting;*
 - *A dwelling that is of exceptional quality or innovative design which should be truly outstanding and innovative, reflect the highest standards of architecture, significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area;*
 - *A replacement dwelling, in line with policy HOU7 of this Local Plan;*
19. The first criteria is relevant and allows new dwellings in the countryside where there is an essential need for a rural worker to live permanently at or near their place of work.
20. The key issues here is whether an essential need has been demonstrated by the applicant for a dwelling on this site and whether the scale of the farming operation is sufficient to require a new house in the AONB.
21. In order to meet the stringent tests of essential need the applicant would need to demonstrate that the farming business is of a sufficient scale (i.e. it is a viable and profitable farming operation) and the livestock kept on the site require someone to live on the site on a permanent basis.
22. The applicant has confirmed that he keeps the following animals as part of the small holding:
- 48 sheep (The agent has confirmed the applicant has kept sheep for 7 years).
 - 2 pigs.
 - 2 horses.
 - 15 chickens.
 - A total of 20.3 acres of grazing land is owned / rented by the applicant.
 - Since the application has been submitted the applicant has increased the flock to 90 ewes and purchased a further 13 acres of land with a further 20 lambs purchased.
23. The Planning Statement advises that the applicant needs to live on the site to look after his livestock as he is currently living off site and has to make several daily trips back and forth to the site which is not sustainable.

24. The inconvenience of living off-site does not constitute an essential need for a new dwelling. It is of note that the applicant has kept sheep for 7 years without needing a dwelling on the site. An essential need to live on the site to manage the limited livestock has therefore not been demonstrated. It is also noted that the area of grazing land directly to the rear of the site is less than one hectare and the applicant owns and rents other land (no location provided) therefore the 48 sheep (recently increased to 90) would not always be located close to the application site and proposed new dwelling.
25. Clearly this is a small scale operation with few livestock. The main source of income are the 48 sheep (recently increased to 90) and the applicant has provided financial records which indicate that the sheep alone do not generate a profitable income. This is clearly a small scale farming operation (small-holding) and given the limited number of livestock and financial figures/forecasts the farming operations do not justify a new dwelling on the site. Indeed any income generated from this small holding could not viably sustain a new dwelling.
26. The Council have sought the view of a specialist rural planning consultant to assess the scale of small holding to see if there is a functional and financial need for the applicant to reside on the site. As set out in the representations section the view is that given the lack of profitability and low level of agricultural activity, the proposal would not meet the usual functional and financial tests in support of rural worker accommodation in the countryside.
27. The proposal is therefore contrary to policy HOU5 and the aims and objectives of the NPPF and would represent an unjustified and unsustainable new dwelling in the AONB.

Impact on the AONB / visual amenity

28. The site is located in the AONB, which is afforded the highest status of protection. The erection of a dwelling on the application site, which would be clearly visible from the road and PROW, would result in the domestication of a rural agricultural site through the introduction of a new dwelling, parked cars, light spillage (from the large openings in the rear elevation overlooking the AONB) and domestic garden land with associated domestic paraphernalia. As a result the proposal would cause significant visual harm to the rural character of the site and would fail to conserve or preserve the AONB.
29. The Planning Statement advises that the new dwelling would visually enhance the site as the barn being demolished is in a poor state of repair and detracts from the character of the area. However, this is not a reason to justify a new house in the AONB and would encourage other land owners to neglect agricultural buildings. Further agricultural buildings of a varying degree of repair are common place features in rural areas.

Residential amenity

30. No designated private outdoor garden space is proposed and the Planning Statement advises *'the site provides sufficient space within the farmyard itself for play activity. Therefore, there will be no associated domestic paraphernalia associated with the use of this particular dwelling'*.
31. The absence of dedicated outdoor garden for a new family dwelling would be contrary to policy HOU15 and also indicates an overdevelopment of the site as there does not appear to be sufficient space for a private garden area, other than the farm yard itself. Given the proximity of the proposed dwelling to the rear boundary and proposed ground floor layout (bio-fold doors opening onto the rear boundary) there is a significant likelihood of a future application for change of use of agricultural land to residential curtilage. This would be extremely difficult to resist and would result in further domestication of the site. In addition, whilst the Planning Statement advises there would be no domestic paraphernalia associated with the development this could not be controlled by the Council and the presence of a family dwelling would inevitably result in the domestication of the plot over time. Nevertheless, in the absence of a private garden area the proposal would be contrary to policy HOU15.
32. The proposed internal living accommodation would comply with the National Technical Standards, which are also set out under policy HOU12.
33. Given the separation distances involved to neighbouring residential properties there would be no unacceptable impact on neighbour amenity through the development appearing overbearing or resulting in overlooking.

Highways safety and parking

34. Parking and on-site turning could be provided in accordance with policy TRA3a of the Local Plan. The proposal would utilise an existing vehicle access and acceptable turning areas could be provided although this would limit the amount of farmyard / play space for the applicant, therefore no highways safety objections are raised.

Ecology

35. The submission includes an ecological appraisal report which indicates there would be no significant negative ecology impact subject to mitigation and enhancement measures which could have been secured by condition had the scheme been acceptable overall.

Human Rights Issues

35. 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

36. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

Conclusion

37. The site is located in the open countryside approx. 4.5km from the nearest sustainable settlement therefore the proposal is not supported under the first section of policy HOU5.
38. Given the low level of agricultural activity, the proposal would not meet the usual functional and financial tests in support of rural worker accommodation in the countryside. The proposal does not meet the tests of essential need for a rural worker to live permanently at this site.
39. As such the development would constitute an unsustainable form of development in the countryside contrary to policy HOU5 of the Local Plan 2030, and would fail to comply with any of the exception criteria outlined under paragraph 79 of the NPPF. There would be an over reliance on the private motor car to access basic day-to-day services and the site is therefore considered to be located in an unsustainable location for new housing.
40. The proposal, by reason of the siting, scale, domestic appearance, and domestication of the plot, would constitute a visually harmful form of development and would be significantly detrimental to the rural character and appearance open countryside and would fail to conserve or preserve the character of the AONB.
41. The economic and social benefits of one additional house on this site is not considered to outweigh the demonstrable harm identified above.
42. Therefore, for these reasons it is recommended that the application is refused.

Recommendation

Refuse

The proposal is contrary to policies SP1, SP2, SP6, HOU5, HOU15, ENV3b of the Ashford Local Plan 2030, Central Government guidance contained in the National Planning Policy Framework and National Planning Policy Guidance and would therefore be contrary to interests of acknowledged planning importance for the following reasons:

- The proposed development, which lies outside of the built confines of any identified settlement, with no overriding justification having been submitted, would give rise to an unsustainable new dwelling in the countryside which would result in the over reliance on the private modes of transport to access basic everyday shops and services, contrary to the core principles of the Local Plan and the National Planning Policy Framework which seek to promote sustainable development in rural areas and avoid isolated homes in the countryside.
- The proposal, by reason of the siting, design and the domestication of the plot, would constitute a visually harmful form of development detrimental to the rural character and appearance of the site and would fail to conserve or enhance the Area of Outstanding Natural Beauty.
- In the absence of a dedicated private garden the proposal would constitute overdevelopment of the plot and result in a poor standard of amenity for future residents to the detriment of their residential amenity.

Note to Applicant

1. Working with the Applicant

In accordance with paragraph 38 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 applicant was informed/ advised how the proposal did not accord with the development plan, that no material considerations are apparent to outweigh these matters. and provided the opportunity to amend the application or provide further justification in support of it.
- 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 19/01540/AS)

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