

<b>Application Number</b>	20/00767/AS	
<b>Location</b>	Conley Barn, Bulltown Lane, Brabourne, Ashford, TN25 5NB	
<b>Grid Reference</b>	607950/ 142699	
<b>Parish Council</b>	Brabourne	
<b>Ward</b>	Bircholt Ward	
<b>Application Description</b>	Conversion of barn to residential dwelling (retrospective) and change of use of land to residential	
<b>Applicant</b>	Mr P Fritz	
<b>Agent</b>	Mr T Parrett, Rubicon Building Consultancy Ltd	
<b>Site Area</b>	0.10ha	
(a) 3/2R	(b) +	(c) -

#### **Re-Consultation**

(a) 3/2R                      (b) -                      (c)

## **Introduction**

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

## **Site and Surroundings**

2. The application site comprises a former agricultural barn which is located off Bulltown Lane in the parish of Brabourne. Falling outside of the built confines of a settlement recognised in the Local Plan, the site is in the countryside and is not subject to any other landscape restrictions. The Kent Downs AONB lies to the north of the site and PROW AE216 lies to the south west.
3. Located to rear of Fallons, a detached dwelling within a sizeable mature plot, the barn occupies a large site and lies adjacent to the extended rear garden of Little Foord, a grade II listed building which lies to the east.



Figure 1: Site Location

## Proposal

4. Planning permission is sought retrospectively for conversion of the barn to residential to form one dwelling.
5. Consent to convert the barn to residential use under Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) was granted in 2016 (ref 16/00644/AS). Works to convert the barn have commenced but the prior approval was subject to the requirement that the development had to be completed within 3 years from the date of the decision. As this time has now passed the conversion works taking place are unlawful. Furthermore, the conversion being carried out is different to that considered and approved in 2016.

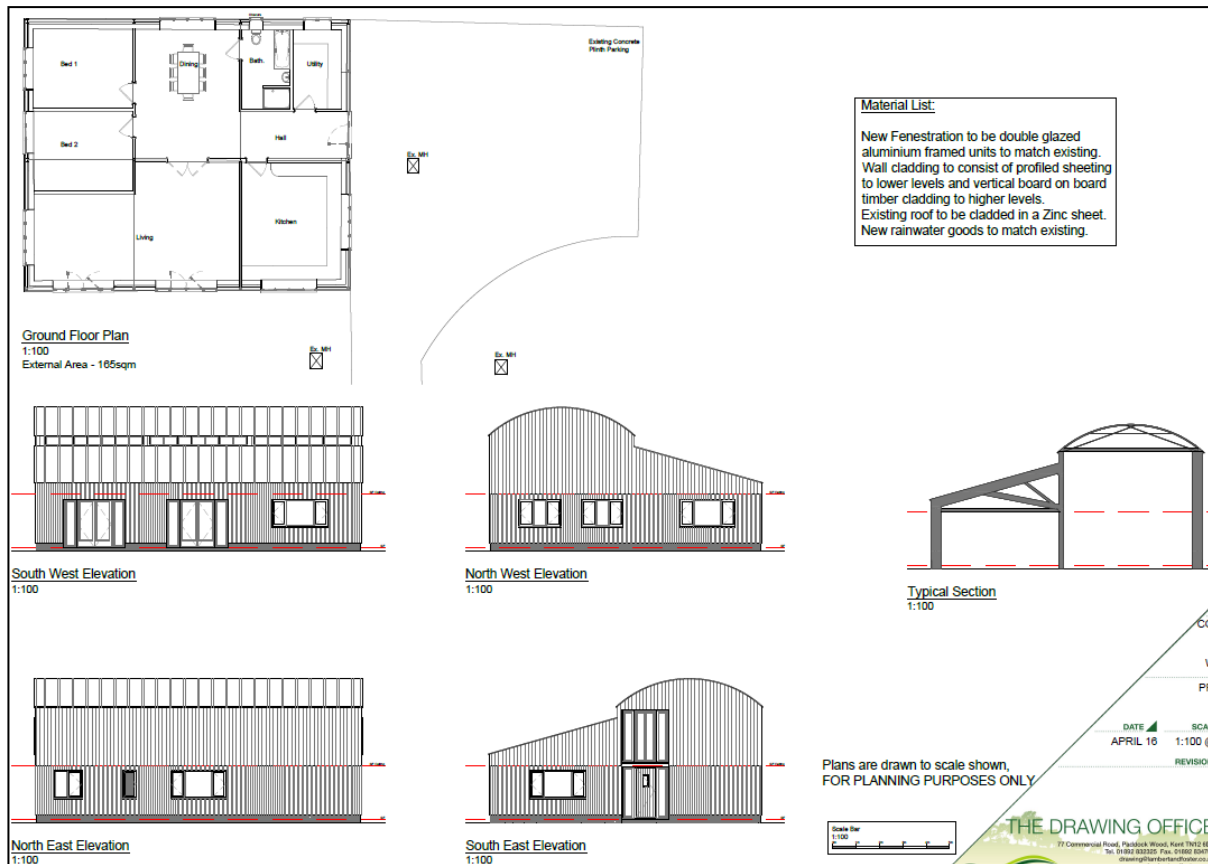


Figure 2: Plans approved under Prior Approval application 16/00644/AS

6. Amendments made to the prior approval previously approved are the addition of a first floor which has resulted in the following changes to the fenestration as follows:
  - a) Two additional first floor windows in the south east elevation.
  - b) Three first floor windows on the north east elevation.
  - c) Two first floor windows on the north west elevation.
7. The application also seeks a minor increase to the proposed residential curtilage to that previously permitted under the prior approval.
8. During the course of the application, further information has been requested by the Council in respect of enhancements to the immediate setting, a reduction in the size of the residential curtilage and details relating to the impact of the development upon the protected sites at Stodmarsh Lakes.

Ashford Borough Council - Report of the Head of Planning and Development  
Planning Committee 21st April 2021

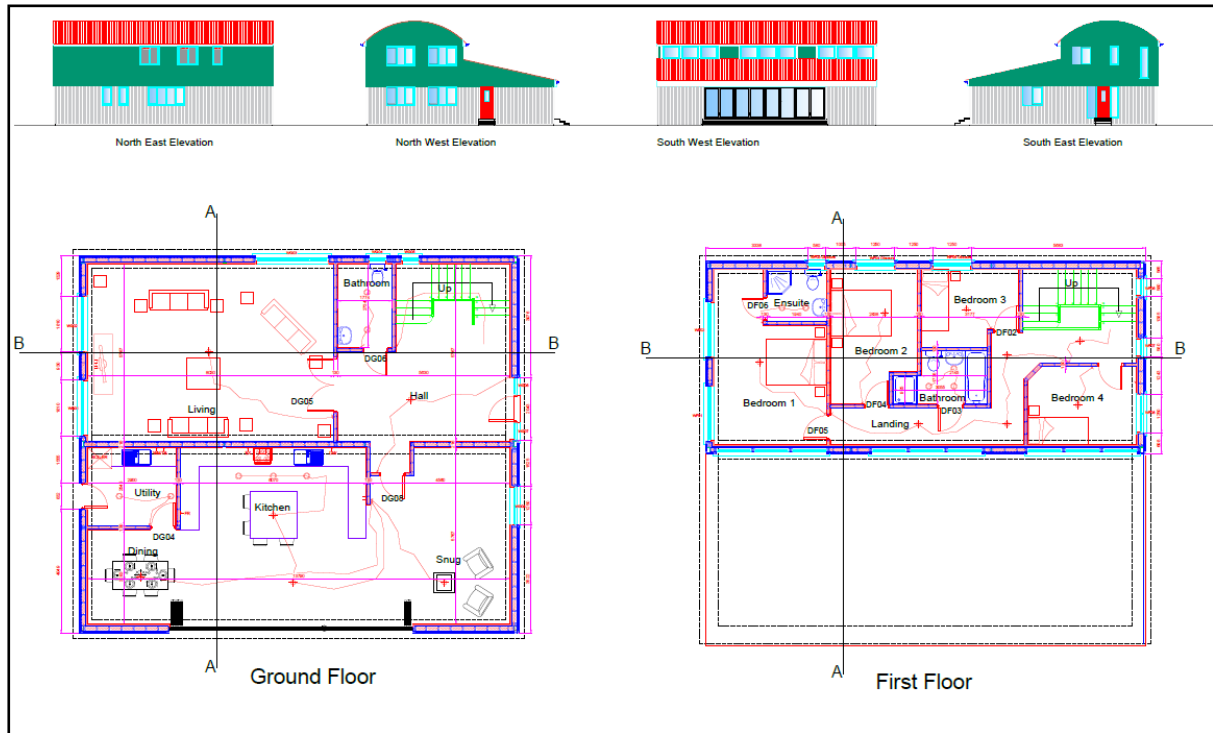


Figure 3: Proposed Floorplans and Elevations

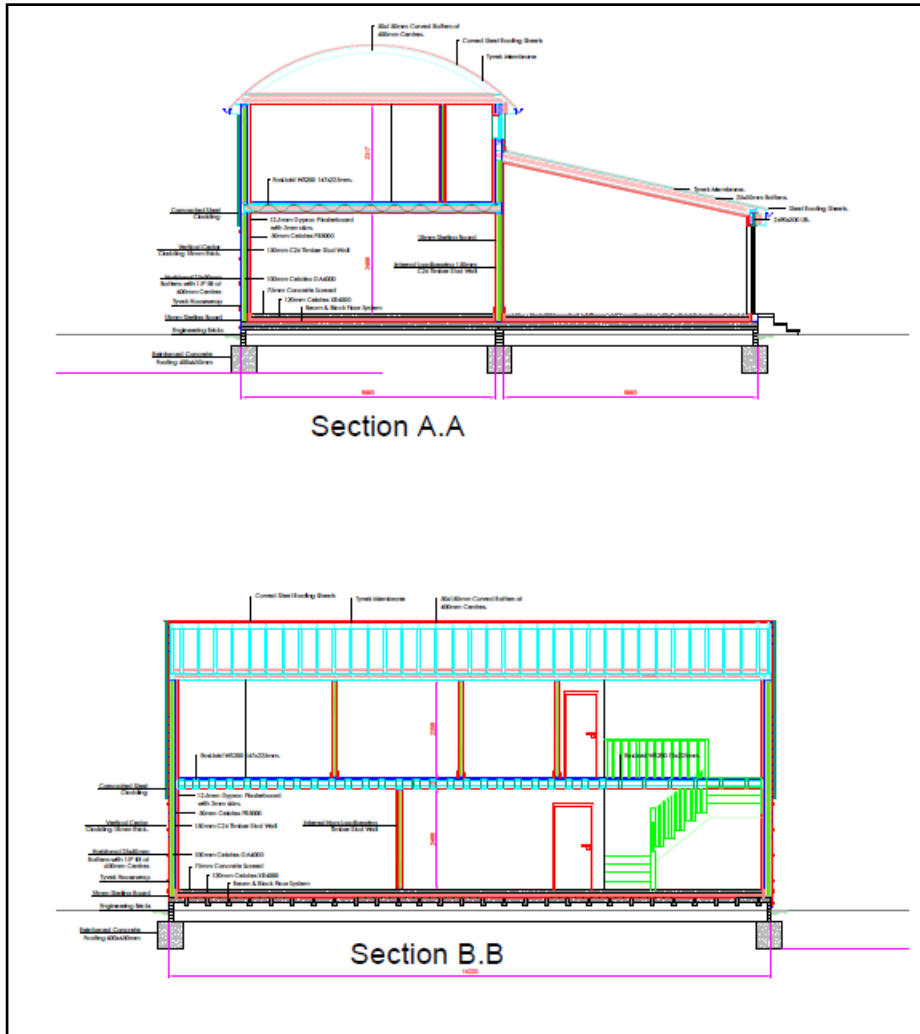


Figure 4: Proposed Sections



Figure 5: Proposed Landscaping and Ecological Enhancements

## Planning History

DC	FA	20/00773/AS	Temporary siting of mobile home whilst converting existing barn	PERMITTED
DC	CUAR	16/00644/AS	Prior approval for the change of use agricultural barn to single dwellinghouse and associated operational development.	PRIOR APPROVAL NOT REQUIRED

## Consultations

**Ward Members:** The Ward Member is a Member of the Planning Committee

**Brabourne Parish Council:** No comment on the application but requests that the choice of materials, the impact on the amenity of the neighbouring properties, and the issue of light pollution all be given careful consideration

**Neighbours:** 3 consulted 2 letters of objection raising the following concerns:

- Proposed garden area should be reduced to control and limit the wider impact of the scheme on the countryside. **[DMM comment:** the proposed curtilage has been reduced following the receipt of amended plans]

- Minimal landscaping details provided to demonstrate where any landscaping mitigation or structural planting may go. **[DMM comment:** An amended site plan has been submitted illustrating proposed landscaping.
- Proposed external design and appearance will overly domesticate the building.
- Proposal will result in significant overlooking of private gardens and loss of privacy.
- Proposal will result in significant increases in noise and disturbance.
- Proposal will increase light pollution.
- Hard and soft landscaping and lighting should be secured upfront to ensure an acceptable scheme.

Upon receipt of amended plans, 2 letter of objection received raising the following concerns:

- Plans do not address concerns raised.
- Amended scheme provides some hard and soft landscaping details, however this is fairly limited and does not robustly demonstrate where any landscaping mitigation or structural planting will go. Further, more extensive landscaping and green enhancements should be sought.
- Hardstanding areas should be of a soft material.
- Scheme still appears unduly domesticated in nature through the poorly arranged fenestration, harmful to the appearance of this countryside and rural location and would not be in keeping with the agricultural barn being converted.
- Issue of overlooking and loss of privacy remain.
- No details of external lighting provided.
- Request that an approved plans condition is imposed, ensuring the resultant development approved is carried out in accordance with its plans

## Planning Policy

1. The Development Plan for Ashford Borough comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016) as well as the Kent Minerals and Waste Early Partial Review (2020).
2. The relevant policies from the Local Plan relating to this application are as follows:-

SP1 – Strategic Objectives

SP6 – Promoting High Quality Design

HOU5 - Residential windfall development in the countryside

HOU12 - Residential space standards internal

HOU15 - Private external open space

ENV3a – Landscape Character and Design

ENV4 – Light Pollution and Promoting Dark Skies

ENV5 – Protecting Important Rural Features

ENV9 - Sustainable Drainage

TRA3a - Parking Standards for Residential Development

TRA6 - Provision for Cycling

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

### **Supplementary Planning Guidance/Documents**

Sustainable drainage

Residential Parking

Residential space & layout (External space standards)

Landscape Character Assessment

Dark Skies SPD

### **Government Advice**

#### National Planning Policy Framework (NPPF) 2019

4. 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:-
- Paragraph 11 – Presumption in favour of sustainable development.
  - Paragraph 47 – Determination in accordance with the development plan.
  - Paragraph 59-76 – Delivering a sufficient supply of homes.
  - Paragraphs 91-95 – Promoting healthy and safe communities.



- Paragraphs 102-107 – Promoting sustainable transport.
- Paragraphs 117-121 – Making effective use of land.
- Paragraphs 124-132 – Achieving well-designed places.
- Paragraphs 148-165 – Meeting the challenge of climate change and flooding.
- Paragraphs 170-177 – Conserving and enhancing the natural environment.
- Paragraphs 174-177 – Habitats and biodiversity.
- Paragraphs 178-183 – Ground conditions and pollution

National Planning Policy Guidance (NPPG)

Technical housing standards – nationally described space standards

## **Assessment**

9. The main issues for consideration are:
- a) Principle of Development & Visual Amenity
  - b) Residential Amenity
  - c) Highway Safety and Parking
  - d) Foul Water Disposal & Habitat Regulations
  - e) 5 Year Housing Land Supply

### **Principle of Development & Visual Amenity**

10. The application site is an unallocated site in the countryside. Falling outside of the built up confines of Brabourne Lees, which is the nearest settlement to the site recognised in the Local Plan and the Council's endorsed village confines (2019) the proposal therefore represents residential windfall development in the countryside which is assessed under part 2 of policy HOU5.
11. The general emphasis of part 2 of policy HOU5 is that residential development in the countryside should be resisted unless it meets the exceptions stated in the policy. These exceptions are consistent with the exception criteria contained at paragraph 79 of the NPPF. These tests place favour on those schemes which demonstrate an essential need for a rural worker, consist of

the re-use of redundant or disused buildings and lead to an enhancement of the immediate setting or, propose a dwelling of exceptional quality or innovative design which reflects the highest standard of architecture and which would significantly enhance the immediate setting and is sensitive to the defining characteristics of the local area`.

12. The conversion of the barn would comply with policy HOU5 and paragraph 79 of the NPPF insofar as it involves the re-use of a redundant building, provided it would lead to an enhancement of the immediate setting. The enhancement to the immediate setting would derive from the re-cladding of the existing building with traditional materials and the proposed landscaping which comprises a mix of native trees and hedgerows and, includes ecological enhancements such as a wildflower meadow to the rear which, significantly improves the character and appearance of the site and surrounding countryside and, provides a suitable buffer with the open countryside and AONB.
13. It is also material to this application that the barn could be converted to residential use without the need for planning permission. The application for prior approval (reference 16/00644/AS) determined that conversion of the barn to residential use would constitute development permitted under Class Q of the Town and Country Planning General Permitted Development Order 2015 (as amended). Planning permission is only required because the prior approval has expired prior to the works being completed. Also, the conversion is not being carried out in accordance with the approved plans as outlined in the proposal section. The insertion of a first floor would be internal and not require planning permission, only the insertion of windows to serve the first floor would require the benefit of planning permission.
14. The changes to the building, other than those outlined above would still result in a new residential dwelling in this location. Notwithstanding the proposed design, the building has retained much of its original form. The materials used and the fenestration details are acceptable given the rural context of the site, which is not overly visible from public vantage points other than the PROW which runs to the south west of the site. When compared to the scheme subject of the prior approval, the development does not significantly differ and would not impact upon the wider countryside and the character and appearance of the surrounding landscape, which would be enhanced.
15. Whilst there has been an increase in the curtilage as a result of this development from that granted under prior approval, there has been limited land take and this has been reduced following the receipt of amended plans to a curtilage which is commensurate with the dwelling which it would serve. Considering the site is divorced from any active agricultural holding and the surrounding land is no longer in active agricultural use, its loss is not unacceptable. The visual impact of this can be limited by conditions restricting

outbuildings, requiring details of boundary treatments and requiring more detailed landscaping to be implemented.

16. Overall, I do not therefore consider the proposal would result in demonstrable harm to the character and appearance of the countryside including the character and appearance of the countryside or be contrary to the principles set out under policy ENV3a.

### **Residential Amenity**

17. In consideration of the amenity of the future occupiers the proposed dwelling would comply with the relevant space standards set locally for external and internal amenity for future occupiers respectively. The enlarged curtilage is acceptable and provides sufficient external amenity space in line with the Council's adopted policy, which would be an improvement on that permitted under prior approval which only enables a very limited curtilage and would not comply with policy HOU15 of the Local Plan.
18. The use of the building as a dwelling has resulted in minor changes with windows at ground and first floor level. Objections have been received from both the occupiers of Fallons and Little Foord, raising concern about overlooking and loss of privacy.
19. Considering the impact upon the neighbour at Fallons first, given there would be a distance of over 21m between the barn and this neighbouring dwelling and that mature trees lie along the south eastern boundary between the two properties, it is not considered the proposal would result in a significant or unacceptable overlooking of this property of Fallon's most private area of garden. That said, there would be an increased perceived sense of overlooking and with this in mind it would not be unreasonable to secure by condition that two of the windows (which serve the stairwell and landing) are obscure glazed and fixed shut.
20. Turning to the impact upon Little Foord, whilst it is noted that the proposed first floor windows on the north east elevation would face this property, these windows will be at a distance of over 20m from the neighbouring dwelling. Furthermore, there are mature trees and an outbuilding within the neighbouring property which lie between the application site and the neighbour's most private area of garden. Taking this into account and considering one of the windows will serve a bathroom and would be obscure glazed and can be secured by condition, it is not considered the proposal would result in significant or unacceptable overlooking and loss of privacy.
21. In respect of the objections received regarding noise and lighting, the proposal is for conversion to a single dwelling. The vehicle movements associated with a single residential would not be significant to result in unacceptable levels of

nose and disturbance. Conditions can be imposed restricting the installation of any external lighting.

22. On balance, and subject to the above conditions, no significant or unacceptable harm to the residential amenity of the adjacent neighbouring dwellings results from this development, subject to conditions.

### **Highway Safety and Parking**

23. Policy TRA3a states that dwellings of three bedrooms should have 2 off road parking spaces provided. Two parking spaces are proposed to be provided and there is sufficient turning space provided to allow vehicles to enter and exit in forward gear. The development is therefore acceptable on the matter of parking.
24. Given the residential use of the site and the vehicle movements associated with the use, it is not considered that any significant or unacceptable issues with regard to highway safety would arise from this proposal. Particularly when compared to the former (unrestricted) use of the access/site in connection with agriculture.
25. No details of bicycle storage are provided but these can be sought as a condition of any planning approval.

### **Foul Water Disposal & Habitat Regulations**

26. The applicant has stated that it is proposed to connect to an existing water treatment package plant which has been installed on site to serve the mobile home recently permitted. The mobile home, however, has only been granted temporary permission for the duration of the works to convert the existing building to dwellinghouse. Once this permission expires, it is a prerequisite of the decision notice that the mobile and all development associated with it is removed from the site, including the existing water treatment package plant. As such, the site does not have any established mechanism in place for the disposal of foul water in perpetuity as there is not currently a permanent residential use on the site.
27. The site falls within the 'Stour Lower' Operational Catchment Area. Standing advice has been received from Natural England (NE) regarding the water quality at the nationally and internationally designated wildlife habitat at Stodmarsh lakes, east of Canterbury, which in particular includes a Special Area of Conservation (SAC), a Special Protection Area for Birds (SPA) and a Ramsar Site.
28. The effect of the advice means that this proposal must prima facie now be considered to have a potentially significant adverse impact on the integrity of

the Stodmarsh lakes, and therefore an Appropriate Assessment (AA) under the Habitats Regulations would need to be undertaken and suitable mitigation identified to achieve 'nutrient neutrality' as explained in NE's advice, in order for the Council to be able lawfully to grant planning permission.

29. Under the Council's Constitution, the Head of Planning and Development already has delegated authority to exercise all functions of the Council under the Habitats Regulations. This includes preparing or considering a draft AA, consulting NE upon it, and amending and/or adopting it after taking into account NE's views.
30. As such, the applicant is required to carry out a Habitats Regulations Assessment (HRA), which generally includes an Appropriate Assessment (AA) carried out by the competent authority, in this case the LPA (NB: the second, more detailed stage of an HRA). The findings of the HRA need to be referred to Natural England and there is a duty to consider their response.
31. As matters stand, it is very likely that an off-site package of mitigation measures will be required in order for this proposal to achieve 'nutrient neutral' status and in the absence of such measures (or any others) having been identified and demonstrated to be deliverable, it is not possible to conclude that the scheme would be acceptable in respect of this issue now.
32. However, work commissioned by the Council is expected to commence shortly on identifying a package of strategic mitigation measures that it is hoped would enable relevant developments within the Borough's River Stour catchment (where the NE advice applies) to come forward on a 'nutrient neutral' basis, subject to appropriate obligations and conditions to secure the funding and delivery of the mitigation before occupancy of the development.
33. Therefore, on the basis that this proposal is considered to be otherwise acceptable (subject to conditions), it is recommended that a resolution to grant planning permission should be subject to the adoption by the Head of Planning and Development, having consulted NE, of a suitable Appropriate Assessment to address the Habitats Regulations, to the effect that the proposed development will not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions in order to reach that assessment

## **5 Year Housing Land Supply**

34. The Council can currently demonstrate a 4.8 year supply of housing land. Given that a five year supply of housing land cannot be demonstrated, Paragraph 11(d) of the NPPF (2019) is engaged. This states that for decision taking, planning permission should be granted unless: "*any adverse impacts*

*of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

35. In my view, the proposal is consistent with the policy requirements in the Local Plan 2030 and would deliver sustainable development. In line with Paragraph 11 of the NPPF (2019) the proposal should therefore be permitted.

## **Human Rights Issues**

36. 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**

37. 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**

38. In conclusion, taking account of all of the above, it is considered that the proposal represents a suitable alternative to the scheme the subject of the prior approval. The conversion is a well-designed and sympathetic conversion of a rural building in the countryside which would lead to an enhancement of the immediate setting. The proposal would comply with bullet point 3 of part 2 of policy HOU5 in that it would result in the re-use of an existing building and an enhancement of the immediate setting. Together with the fall-back position this is afforded significant weight.
39. Subject to the imposition of suitable planning conditions there would be no significant harm to residential amenity and the development is acceptable in terms of its visual impact and impact upon the highway.
40. Currently, insufficient information has been provided to allow the Council to assess the impact of the proposal on the Stodmarsh Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site under the Habitats Regulations. Therefore, the recommendation to grant planning permission is subject to the adoption, under delegated powers, of an

Appropriate Assessment to the effect that the development will not adversely affect the integrity of the SAC, SPA and Ramsar Site, and to any necessary obligation(s) and/or conditions to that end.

41. Subject to the securing and with no significant or unacceptable harm identified and no matters raising an overriding objection to the grant of permission, I recommend planning permission should be granted as the development would comply with the development plan

## **Recommendation**

### **Permit**

**(A) Subject to the applicant submitting information to enable an Appropriate Assessment under the Habitats Regulations to be adopted by the Head of Planning and Development which identifies suitable mitigation proposals such that, in their view, having consulted the Director of Law and Governance and Natural England, the proposal would not have a significant adverse effect on the integrity of the Stodmarsh SAC, SPA and Ramsar Site; and with delegated authority to the Development Management Manager or the Strategic Development and Delivery Manager to add, amend or remove planning obligations and/or planning conditions as they see fit to secure the required mitigation and the following conditions**

**(B) Resolve to Permit subject to planning conditions and notes, including those dealing with the subject matters identified below (but not limited to that list) and those necessary to take forward stakeholder representations, with wordings and triggers revised as appropriate and with any 'pre-commencement' based planning conditions to have been the subject of the agreement process provisions effective 01/10/2018**

### **Conditions**

1. Compliance with Approved Plan
2. Details of Boundary Treatments
3. Implementation of Landscaping
4. Obscure glazing on the south east elevation and north east elevations
5. Removal of PD Rights for Extensions and Alterations
6. Details of External Lighting
7. Retention of Vehicle Parking space
8. Bicycles storage provision
9. Enforcement Condition

### **1. Working with the Applicant**

#### **Working with the Applicant**

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 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/agent was updated of any issues after the initial site visit,
- the applicant/ agent responded by submitting amended plans, which were found to be acceptable
- the applicant was provided the opportunity to submit amendments to the scheme/ address issues.
- 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](http://www.ashford.gov.uk)). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application r20/00767/AS)

**Contact Officer:** Laura Payne  
**Email:** [laura.payne@ashford.gov.uk](mailto:laura.payne@ashford.gov.uk)  
**Telephone:** (01233) 330738