



Application Number And Registration Date	MO/2017/1710 (Variance of Conditions) 28-Sep-2017
Applicant	Mr R Pike
Case Officer	Mr Christopher Peters
Amendments /amplifications	
Committee Date	4 April 2018
Ward(s)	Fetcham East
Proposal	Removal of Condition 6 of approved Planning Permission MO/74/0015 to allow occupancy by persons other than those employed locally in agriculture or forestry.
Site Description	Cannon Grove Nurseries, Cannon Way, Fetcham, Leatherhead, Surrey, KT22 9LN

RECOMMENDATION: Approve subject to conditions:

Summary

This application seeks planning permission for the removal of Condition 6 of Planning Permission MO/74/0015 which was for the renewal of planning application LEA/21026, for the erection of three bedroom bungalow (1290 sqft gross area including garage) after demolition of existing bungalow (680 sqft floor area).

Condition No.6 of this consent stipulates that:

“The occupation of the dwelling shall be limited to a person wholly employed, or last employed, locally in agriculture as defined in section 290(1) of the Town and Country Planning Act, 1971, or forestry, or a dependant of such a person residing with him (but including a widow or widower of such a person)”.

At present the nursery is disused having ceased trading as a business as it is no longer viable as a result of the persistent flooding of the site and damage occurring to produce., As a consequence the applicant now proposes that the condition attached to the host dwelling restricting its occupancy to agricultural employment is removed on the basis that it is no longer necessary or viable.

Former Local Plan Policy RUD16 which related to Agricultural Occupancy Conditions and the circumstances in which they may be removed, has not been saved as at the time the Core Strategy was adopted, it duplicated National Policy in Planning Policy Statement 7 (PPS7). Since then, the former PPS7 has been superseded by the NPPF which doesn't refer to agricultural occupancy conditions; therefore a policy vacuum has been created. Guidance on the use of planning conditions is contained in the National Planning Policy Guidance.

Based on the information submitted with the application together with Officers assessment of the circumstances, it is considered that on this occasion, the Agricultural Occupancy Condition should be removed and on this basis the proposal is considered acceptable and has thus been recommended for approval.

1. Development Plan

1.1. Metropolitan Green Belt, Flood Zones 2 & 3

2. Relevant Planning History

MO/74/0015	To renew planning permission No. LEA/21026 for three bedroom bungalow (1290 sqft gross area including garage) after demolition of existing bungalow (680 sqft floor area).	Approved
MO/4/94	Construction of building 30.7 sqm for horticultural propagation.	Approved
LEA/21026	To erect a three bedroomed detached bungalow with a garage after demolition of existing dwelling.	Approved
LEA/18993	Outline application to erect two bungalows for staff.	Refused

3. Site Description

3.1 The application property relates to a detached dwelling located on the northern side of Cannon Way. The site lies between Fetcham and Leatherhead and is accessible under a low bridge, which provides the London to Guildford train service.

3.2 As a whole, the site area of the Cannon Grove nurseries measures 7.2 ha; comprising of 3.9ha grass, 0.9ha of woodland and approximately 2.4ha of buildings, hard surfaces and shingle nursery beds. It consists of a commercial plant nursery with associated greenhouses and horticultural outbuildings occupying a substantial floor area.



4. Description of Development

4.1 The current application seeks planning permission for the removal of an agricultural occupancy condition upon a dwelling at a redundant plant nursery north of Fetcham. Planning Application MO/74/0015 was for the renewal of planning application LEA/21026, which sought permission for the erection of a three bedroom bungalow (1290 sq ft gross area including garage) after the demolition of existing bungalow (680 sq ft floor area).

4.2 Condition No.6 of this consent stipulated that:

“The occupation of the dwelling shall be limited to a person wholly employed, or last employed, locally in agriculture as defined in section 290(1) of the Town and Country Planning Act, 1971, or forestry, or a dependant of such a person residing with him (but including a widow or widower of such a person)”.

4.3 The current application proposes the removal of the condition to allow an unrestricted residential use of the dwelling which was originally built to support the running of the plant nursery.

5. Consultations

5.1. Environment Agency – No comments received

6. Representations

6.1. Three letters of representation received raising the following summarised concerns:

- The site is an agriculturally designated land
- Removal of this condition would render the site liable to planning applications for wholesale housing development.
- The site has inadequate vehicular access.
- Highway congestion and safety concerns.
- Flooding considerations

7. **Main Planning Policies**

Government Guidance

7.1 National Planning Policy Framework (2012):

7.2 The core planning principles of the NPPF (paragraph 17) state that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. In addition development should secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 56 attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

7.3 Paragraph 89 of the NPPF stipulates that local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- buildings for agriculture and forestry;
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

7.4 Mole Valley Core Strategy

CS1 – Where Development will be Directed
CS2: Housing Provision and Location
CS3: Balancing Housing Provision
CS13 - Landscape Character
CS20 - Flood Risk Management

7.5 Mole Valley Local Plan

ENV22 – General Development Control Criteria
ENV23 – Respect for Setting
MOV2 – The Movement Implications of Development
MOV5 - Parking Standards

8. Main Planning Issues

- Principle of the development
- Impact on the open character of the Green Belt and visual amenities of the area
- Impact on the amenities of neighbouring properties
- Highway Considerations
- Flooding considerations

Principle of the development

8.1 Paragraph 89 of the NPPF stipulates that local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- buildings for agriculture and forestry;
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

8.2 The proposed development would result in the introduction of an open market dwelling within the Green Belt. As the siting of the dwelling is considered to be previously development land, the proposal would meet the requirements of point 6 of this criterion. In order to ensure that the re-use of the existing dwelling would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing dwelling, it is considered that conditions should be imposed removing permitted development rights for the extension to the dwelling and for the erection of any further outbuildings within the site.

8.3 Paragraph 90 of the NPPF advises that certain other forms of development are also not inappropriate in Green Belt provided that preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These include re-use of buildings provided that the buildings are of permanent and substantial construction. The re-use of the existing dwelling in this instance is considered to also comply with paragraph 90 in this instance.

8.4 Following the adoption of the Core Strategy in 2009, former Policy RUD16 was not saved as, at the time, it was considered that it duplicated the former National Policy set out in Planning Policy Statement 7 (Sustainable Development in Rural Area), PPS7 was subsequently superseded by the NPPF which does not refer to agricultural occupancy conditions, and as a result, a policy vacuum was created. This application is therefore considered on its own merits.

8.5 The principle of the use of the building as a residential dwelling has already been established. This application has to assess whether the occupation of the dwelling

should be limited to a person wholly employed, or last employed, locally in agriculture or forestry. The main factors relate to the viability of the business and need for an agricultural worker's dwelling on site and the need for an agricultural worker's dwelling locally.

- 8.6 The dwelling was originally built to support the running of a plant nursery, which has since been forced to close due to flooding on the site. At present the dwelling is used under an agricultural occupancy associated with a commercial plant nursery known as Cannon Grove plant nursery. The property is said to have originally been purchased by the applicant's father after the Second World War and used for growing barley, prior to it becoming a horticultural nursery.
- 8.7 At present the nursery is disused having ceased trading as a business. The applicant proposes that the condition attached to the dwelling restricting its occupancy to agricultural employment is removed on the basis that it is no longer necessary now the business has ceased, the site is unviable and there is no local need.
- 8.8 The nursery is said to have ceased in early 2014, which coincided with a major flooding event on the site that occurred in 2013. The site is said to have largely been left vacant since then, as the applicant could not invest in new stock when the prospect of this being spoiled is so high. It is also said that there was an earlier flood in 1970 but this was said to have been less devastating to the business as it had less stock in those days and it was able to recover. Such flooding events are said to be occurring more frequently.
- 8.9 Having reviewed the circumstances and the supporting information in support of the request for the removal of an agricultural occupancy condition to allow unrestricted residential use of the dwelling, it is considered that the inability for both the applicant and potential occupants of the site to run a viable horticultural enterprise from the site and land is due to the persistent flooding on site, and which resulted in the former enterprise closing. The applicant has also stated that the low access beneath the railway prevents access by modern agricultural equipment and delivery vehicles, which also makes the site unappealing for modern day agricultural operations.
- 8.10 Officers have considered whether the dwelling on site could be used to support an alternative agricultural operation within the District. However, other agricultural premises within the area are said to have associated farmhouses and are not easily accessible from this dwelling. For these reasons, Officers consider it to be unlikely that there is a need to keep the dwelling in agricultural occupancy.
- 8.11 The applicant has put forward grounds to demonstrate that the land at Cannon Grove Nurseries is no longer viable to be kept in agricultural use. Based on this information, Officers have balanced this against the justification for the need for a dwelling with an agricultural tie on this site. The principle of the development has thus considered acceptable.

Impact on the open character of the Green Belt and visual amenities of the area

- 8.12 Policy ENV22 of the Mole Valley Local Plan states that development will be permitted where it is appropriate to the site in terms of its scale, form and appearance and where it would respect the character and appearance of the locality.
- 8.13 The proposed development would not result in any material external changes or modifications to the dwelling in question. On this basis, the proposal would not unduly harm the character and appearance of the existing dwelling or the character of the Green Belt or the Cannon Way street scene. The proposed development would

comply with Local Plan Policies ENV22 and EN23. However, it is considered that, due to the location of the site within the Green Belt, conditions should be imposed to restrict the ability of the occupiers to implement permitted development rights for extensions and outbuildings, in order to ensure that the openness of the Green Belt location is not harmed.

Impact on the amenities of neighbouring properties

- 8.14 Due to the significant distances between the proposal site and neighbouring properties, the application would not result in any alterations to the buildings built form nor would it result in the insertion of any windows. For these reasons, the proposed development would not have an adverse impact upon the amenities enjoyed by the occupants of neighbouring properties.
- 8.15 The amenities enjoyed by the occupants of neighbouring properties would not be adversely affected by way of overbearing presence, light loss or loss of privacy. The proposed development would accord with Local Plan Policy ENV22 in this regard.

Highway Considerations

- 8.16 The removal of the agricultural occupancy condition, would not impact upon highway movements or safety. The proposal is considered to be acceptable from a highway perspective.

Flooding considerations

- 8.17 It is noted that the site is within Flood Zones 2 & 3. Regardless as to whether the Agricultural Occupancy Condition is removed or not, the existing dwelling would remain and occupied by an individual or one family regardless of whether they are agricultural workers or not. The Environment Agency was consulted on the proposal and a response was chased but no comments were forthcoming. At the time of completing this report no response and thus no objections have been received.

Other Matters

- 8.18 In considering this application the views and comments received by way of representation have been taken into consideration in the determination of this application and considered within the report. In response to the representation letter that raises concerns that the removal of the agricultural occupancy condition would render the site open for future development, this proposal would not change the use of the land or the Green Belt designation of the area, and thus any future development proposal would be required to submit a formal planning application for determination by the Council.

9. Recommendation

Permission be GRANTED subject to the following 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(1) of the Town and Country Planning Act 1990 as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out and completed in all respects strictly in accordance with the submitted documents and plans contained within the application and no variations shall take place.

Reason: To accord with the terms of the submitted application and to ensure minimal impact on local amenity and the environment in accordance with Mole Valley Core Strategy policy CS14 and Mole Valley Local Plan policy ENV22.

3. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions within Schedule 2, Part 1, Classes A, B, or C to any dwelling hereby permitted shall be erected.

Reason: To control any subsequent enlargements in the interests of the visual and residential amenities of the locality, in accordance with Mole Valley Local Plan policy ENV22 and policy CS14 of the Mole Valley Core Strategy [and to restrict the enlargement of dwellings in this rural area in accordance with Mole Valley Local Plan policy RUD7].

4. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no building or enclosure, swimming or other pool, within Schedule 2, Part 1 Class E, shall be carried out on the land the subject of this planning permission.

Reason: To protect the character and amenities of this rural area, in accordance with the advice contained in the National Planning Policy Framework [Mole Valley Local Plan policy [ENV3] [RUD19] and policy CS14 of the Mole Valley Core Strategy.