

PLANNING COMMITTEE – 11 JANUARY 2024**PART 3**

Report of the Head of Planning

PART 3Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 23/501174/FULL		
PROPOSAL Demolition of existing outbuildings and erection of new building in mixed use comprising a flower school in association with the existing flower business, educational and community uses together with associated access, parking and landscaping (resubmission of 22/502282/FULL).		
SITE LOCATION Land North Of Horsham Lane Upchurch Kent ME9 7AP		
RECOMMENDATION Delegate to the Head of Planning to refuse planning permission		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Upchurch Parish Council Support on relevant planning considerations that conflict with the recommendation of the Interim Head of Planning.		
Case Officer Megan Harris		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Mr John Bailey AGENT Refine Architecture Ltd.
DATE REGISTERED 07/03/23	TARGET DATE 02/05/23	
BACKGROUND PAPERS AND INFORMATION: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RR5AQRTYJR100		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site is comprised of a plot of land measuring approximately 0.21 hectares which forms part of a larger farm unit known as Barnfield Farm. The farm currently comprises a 10 acre hay field, 1.5 acre cherry orchard and a 1.5 acre flower farm. The flowers are sold within the local area for collection or delivery and at local markets. The flowers are grown and maintained on a wider parcel of land to the north of the application site. The site is served by several existing outbuildings. The outbuilding to be demolished under this application is located on the north-eastern side of the site. The site is accessed via an unmade track leading to a large area of hardstanding.
- 1.2 The application site is located to the north of 70-76 Horsham Lane, within the countryside and approx. 500m beyond the built-up area boundary of Upchurch village. Horsham Lane is a designated rural lane and the site lies within an area of potential archaeological importance.

2. RELEVANT PLANNING HISTORY

- 2.1 **22/502282/FULL** – Planning permission refused on 12.07.2022 for ‘Demolition of existing outbuilding and erection of new building with a primary use as a flower school and additional use as a multi-purpose space for hire/the community together with associated access, parking and landscaping.’ The application was refused for five reasons, including the application failing to demonstrate that the flower school is a sustainable form of development in a rural area, harm to the character and appearance of the countryside, the unsustainable location of the development, loss of Best and Most Versatile agricultural land and a lack of ecological information.

3. PROPOSED DEVELOPMENT

- 3.1 The application proposal relates to the demolition of an existing farm building which has a footprint of approximately 58 square metres and the construction of a new outbuilding, which will be single-storey with a pitched roof. The proposed new building will have a footprint of approximately 166 square metres, ridge height of approximately 4.1 metres and an eaves height of 2.5 metres.
- 3.2 The proposed replacement outbuilding will be used predominantly as a flower school providing courses and workshops on flower-related topics, including Floriculture, willow weaving, dried flower workshops, seasonal workshops, bouquet workshops, garlands and large-installation demonstrations. In addition, the supporting statement sets out that the flower school will offer a limited volunteer programme and apprenticeship scheme for one or two apprentices. The supporting statement sets out that the flower school will have on average 10 – 15 students per class, with an average of 25 hours of flower related activities taking place per week. It is intended that when the building is not in use for teaching purposes, it could be used as a multi-purpose space for the community.
- 3.3 Internally the space will be divided into a large studio/teaching space with a kitchen, toilets and store located in the southern end of the building. A decking area will wrap around the north-western corner of the building.
- 3.4 A new access from Plough Lane will be formed on the western side of the at the site, with additional hardstanding proposed within the site to provide a parking area, which following amendments, will provide nineteen parking spaces. The red line edge was amended during the course of the application to ensure the visibility splays for the new access are included in the application site.

4. CONSULTATION

- 4.1 Two round of consultations with neighbours and Upchurch Parish Council has been undertaken. A site notice was also displayed at the site. The full representations are available to view online.

4.2 **Upchurch Parish Council** support the application for the following reasons:

- There are no neighbouring objections.
- The site already has buildings that they wish to demolish and replace, and this will not result in loss of agricultural land and will improve the vista of this area.
- Believe this application will help the local economy.
- Believe the traffic to the site will be minimal and its likely to be less than that visiting The Brown Jug public house on the same stretch of road that is now closed.
- This type of diversification should be encouraged by the Council.

5. REPRESENTATIONS

- 5.1 **Agricultural Consultant** – The proposal lacks justification with no financial projections or confirmation of existing trading income (for the last 5 years) and without this they cannot comment on the case further. However, they do note that the ‘flower school’ use would fall outside of agriculture/horticulture use classes and it therefore does fall somewhat outside their area of expertise.
- 5.2 **KCC Ecology** – Request further information is submitted prior to the determination of the application. They note the Preliminary Ecological Appraisal recommends further survey work is undertaken, and the results of any necessary further surveys and a conclusion as to whether the development will achieve a biodiversity net gain, should be submitted within an Ecological Impact Assessment.
- 5.3 **Health and Safety Executive** – No comment, provided that the building would not be classed as a ‘vulnerable building’.
- 5.4 **Natural England** – No objection.
- 5.5 **Mid Kent Environmental Health** – No objection to the proposal but more information on the community use of proposed building and hours of use should be sought.
- 5.6 **KCC Highways** – No objections following the receipt of amended plans showing additional parking and visibility splays for the new access. Request conditions are imposed relating to the provision and maintenance of the visibility splays, parking spaces, EV chargers and cycle parking.

6. DEVELOPMENT PLAN POLICIES

6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

ST 1 Delivering sustainable development in Swale

ST 3 The Swale settlement strategy

ST 5 The Sittingbourne area strategy

CP 1 Building a strong competitive economy

CP 4 Requiring good design

CP 6 Community facilities and services to meet local needs

DM 3 The rural economy

DM 7 Vehicle parking

- DM 14** General development criteria
- DM 19** Sustainable design and construction
- DM 26** Rural lanes
- DM 28** Biodiversity and geological conservation
- DM 31** Agricultural land
- DM 34** Scheduled Monuments and archaeological sites

6.2 **Supplementary Planning Guidance/Documents**

Supplementary Planning Document – ‘Swale Parking Standards’

7. ASSESSMENT

7.1 This application is reported to the planning committee because the Parish Council has supported the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

- The Principle of Development
- Character and Appearance
- Living Conditions
- Highways
- Ecology

Principle

- 7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.4 Policy ST 3 of the Local Plan 2017 supports the principle of development within the built-up area boundary of established towns and villages within the Borough. The policy states that development will not be permitted on countryside land which falls outside of the defined built-up area boundaries unless the development proposal is supported by national policy and the development would contribute to protecting and enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.
- 7.5 The application site lies outside of the built-up area boundary of Upchurch in a rural location, where the principle of development is not generally supported. However, Policy DM 3 of the Local Plan 2017 allows for some limited economic development in the countryside where proposed schemes are conducive to the sustainable growth and expansion of business and enterprise in the rural areas, or to enable the diversification of a

farm. The policy states that development proposals should first consider the appropriate re-use of existing buildings or the development of previously developed land, unless such sites are not available or it is demonstrated that a particular location is necessary to support the needs of local communities.

- 7.6 With regards to the current identifiable use of the land, the definition of agriculture includes horticulture. The Council's mapping system shows the agricultural land classification to be grade 1 in this location. The applicant disputes this, but no Agricultural Land Classification Assessment has been provided with the application.
- 7.7 The application sets out that this is a purpose-built facility meeting the specific requirements of the proposed flower school business. Furthermore, it has been designed to be accessible and provide all of the facilities and the necessary environment in which to carry out the educational functions of the business. The size, structure and lack of facilities within the current building on site render it unsuitable for modification to meet the needs of the flower school in their view.
- 7.8 Whilst the applicant is seeking to diversify their business, the primary use of the proposed building would be for teaching and community uses, and these proposed uses do not fall under "agriculture". The supporting information submitted with the application sets out that the flower school is required to ensure the horticultural business at the site is financially viable, however no business case or financial information has been provided as part of the application. Given the size and specification of the building, officers are concerned whether the business and proposed flower school income has the ability to support the proposed development. Officers have sought advice from an agricultural consultant, but in the absence of financial information, they cannot comment on the case.
- 7.9 The statement sets out that the flower school is required on site to allow students to have direct access to the running of the horticultural business and educational benefits associated with first-hand horticultural operations, which the agent notes is not available in Kent. The statement sets out that around 25 hours of flower related activities will take place per week, in class sizes of around 10-15 people. In addition, the applicant envisages that the new building will be used for a further 15 hours during the week for after school tutoring by a long standing tutoring business as well as facilitating other educational classes such as art classes. The statement includes supporting information on classroom sizes from the Department of Education which states that for art rooms a space in the region of 97sqm is required for a class of 30 students. However, the proposed building would be in the region of 160sqm for class sizes of around 15 people. Even discounting floorspace for facilities such as toilets, the size of the building would appear to be significantly greater than the DoE classroom sizes referred to by the applicant.
- 7.10 The application suggests that the building could also be made available for other uses, including community uses. It is unclear from the submitted information what this will entail and where the demand for such a facility would come from given that Upchurch Village Hall is located nearby. The site is poorly located in terms of public transport, and is also poorly located in terms of access as this will be through narrow country lanes therefore any users of such a building would be dependent upon private cars.
- 7.11 In considering the scheme in the context of the rural location of the site, whilst policy DM 3 does allow for sustainable economic development in rural areas, this is dependent on a

number of criteria, including priority for the re-use of buildings, or development when a particular location is necessary to support the needs of rural communities. Taking the above into account, the questions raised in respect of the supporting justification for the development and the lack of a business / financial plan to explain how this would be viable and assist the existing business in terms of farm diversification, or how this would support rural needs, the development is not considered to be appropriate, or in accordance with the Local Plan and NPPF.

Character and Appearance

- 7.12 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement. Further to this, in rural areas new buildings should be sympathetic to the rural location and appropriate to its context.
- 7.13 The proposed new building is of a substantial scale, approximately three times larger in footprint than the outbuilding which is to be demolished as part of the application. The associated car parking area is also relatively significant in size and will cover over an area of undeveloped agricultural land which will require the removal of a number of trees. The building, in isolation is well designed and as it would be located to the rear of dwellings fronting Horsham Lane it would not be prominent in this respect. However, given the rural nature of the site and surrounding area, it is considered that a building of this size would have a detrimental impact upon the generally undeveloped and rural character and appearance of the area. The associated development of the western side of the plot through the addition of significant amounts of car parking and hard landscaping will further urbanise the character of the plot. The need for such development in this location and within a predominantly rural area has not been justified and the built form would encroach into the countryside in a manner that would not protect or enhance the intrinsic value, landscape, and beauty of the countryside.
- 7.14 In light of the above, the proposal is not considered to meet the requirements of Policies ST 3, CP 4 and DM 3 of the Swale Local Plan 2017.

Living Conditions

- 7.15 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.16 Owing to the nature of the development and the rural nature of the site, the proposal is unlikely to result in significant overshadowing through a loss of daylight or sunlight. It is also sufficiently set back from the nearest neighbouring properties to avoid impacting neighbouring privacy or outlook.
- 7.17 The proposal has the potential to result in some noise impacts as community uses could include activities such as weddings, parties and nursery activities, and in this rural location, close to existing dwellings, such uses would have the potential to cause unacceptable noise and disturbance, contrary to Policy DM 14 of the Local Plan. Nevertheless, this could be controlled by conditions relating to hours of operation and the scope of community uses could also be limited by condition, had officers considered the scheme to be acceptable in other respects.

- 7.18 Taking the above into account the proposal is considered to have an acceptable impact upon the living conditions of surrounding dwellings in accordance with policies DM 14 and DM 16 of the Local Plan 2017 and the NPPF.

Transport and Highways

- 7.19 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such.
- 7.20 The site is located approximately 500m to the east of the built confines of Upchurch and on a narrow country lane which is largely unlit and with no footpaths. Given the location of the development, lack of footpaths and limited public transport available I consider that trips to the site would be heavily reliant on the private car, and that the site is not sustainable in locational terms, which would conflict with policies ST 3, CP 2, DM 3 and DM 6 of the Local Plan.
- 7.21 The Swale Borough Council Parking Standards SPD 2020 states that the parking provision for any proposed teaching facilities should be determined according to the number of staff members and/or number of students. Class capacity for the flower school is predicted to be approximately 10-15 students, along with one staff member. The proposal includes space for 19 vehicles and this is acceptable to KCC Highways.
- 7.22 The new access would provide appropriate visibility splays and is acceptable to KCC Highways. In terms of the impact on the development on the surrounding highway network, no concerns have been raised by KCC Highways in this respect. Whilst Horsham Lane is a narrow rural lane, given the small scale nature of the proposal is it expected that this will naturally be absorbed without giving rise to any unacceptable harm to the highway network.
- 7.23 On the basis of the above, whilst the access arrangements and parking are considered to be acceptable, the development is not in a sustainable location and as such visitors to the site will be heavily reliant on private vehicles and as such there is conflict with policies ST 3, CP 2, DM 3 and DM 6 of the Local Plan.

Archaeology

- 7.24 The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.25 Policy DM 34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 7.26 The site is located within an area of archaeological potential. Comments have been received from KCC's Archaeology team setting out that as the development involves groundworks for the new building, parking and access in presently undeveloped areas, it could potentially impact on archaeological remains. As such, a condition requiring the submission of a programme of archaeological works is required, which would ensure that

features of archaeological interest are properly examined and recorded. If approval were to be recommended, this condition would be imposed to ensure accordance with policy DM 34 and the NPPF.

Ecology

- 7.27 Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. Paragraph 180 of the National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'
- 7.28 National planning policy aims to conserve and enhance biodiversity, and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 7.29 In terms of the Local Plan policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.30 This application is accompanied by a Preliminary Ecological Appraisal, which does not make clear what all the potential effects of the proposal are on biodiversity and identifies that further survey work is required at the site. This is noted by KCC Ecology, who have requested that the survey work, including bat surveys and two waterbody surveys, are undertaken prior to the determination of the application. They request the conclusions of these surveys should be incorporated into an Ecological Impact Assessment, including a conclusion of whether the site will achieve a biodiversity net gain.
- 7.31 Taking this into account the application fails to demonstrate that the proposal will not negatively impact upon protected species, nor is it clear whether the proposal can achieve a biodiversity net gain. The proposal therefore conflicts with policy DM 28 of the Local Plan and paragraph 186 the NPPF.

Trees

- 7.32 The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through policy DM 29 of the Local Plan.
- 7.33 Some of the existing trees within the proposed parking area and at the front of the site will need to be removed to facilitate the development proposal. The trees are considered to be of limited amenity value and they are not subject to Tree Preservation Orders. Replacement landscaping could be secured by planning condition if approval was to be recommended to ensure accordance with policy DM 29 of the Local Plan 2017 and the NPPF.

Loss of agricultural land

7.34 The site is classed as high-quality agricultural land. Policy DM 31 seeks to protect such land. In this instance, the application site incorporates the existing site access, small areas of hardstanding and existing buildings, as well as a small area of wider land associated with the holding. The proposal would result in further loss of this land, and in the absence of information to justify that a teaching / community building is clearly required on this site, this would be contrary to Policy DM 31 of the Local Plan and the NPPF.

Other Matters

7.35 The Health and Safety Executive have reviewed the application and have no comment to make on the proposal, provided that the development would not be classed as a 'vulnerable building'. Both the new building and buildings to be demolished do not meet the description of a 'vulnerable building' as set out in the response letter, and as such no further consideration is required in this respect.

8. CONCLUSION

8.1 Overall, whilst more information regarding the proposed operation of the proposed business has been provided as part of this application when compared to the refused scheme, it is still considered to be severely lacking in robust justification for the development proposed. On the basis of the above, the scheme is considered to amount to an unsustainable form of development in the countryside which does not meet sustainability objectives and will result in harm to the character and appearance and intrinsic value of the surrounding rural area, contrary to policies ST 3, CP 3, DM 3 and DM 6 of the Local Plan. The development also results in the loss of Best and Most Versatile agricultural land, contrary to policy DM 31 of the Local Plan and fails to provide adequate ecological information, contrary to policy DM 28 of the Local Plan. As such, it is recommended that planning permission is refused.

9. REASONS FOR REFUSAL

(1) The site is located within the open countryside where policies of general restraint apply, and is in a location not well served by services and facilities or sustainable travel options. The application fails to demonstrate that the proposal would represent an appropriate and sustainable form of farm diversification or that the development is necessary to support the needs of rural communities or the active and sustainable management of the countryside. In the absence of this and in the absence of a sufficient business or financial case to underpin the proposal and demonstrate a need for a building of the scale proposed in this location, the proposal would represent an unsustainable form of development, that would result in the harmful encroachment of built form into the rural area, and would fail to protect the character, appearance and intrinsic value of the countryside. This would be contrary to Policies ST 3, CP 2, DM 3 and DM 6 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017.

(2) Insufficient ecological information has been provided to demonstrate the impact of the proposed development upon protected species in the area. As a consequence, the proposal is contrary to Policy DM 28 of Bearing Fruits 2031 - The Swale Borough

Local Plan 2017.

- (3) The development would result in the loss of Best and Most Versatile agricultural land, In the absence of any justification that a teaching / community building is necessary on this plot, the development would result in the unnecessary loss of such land, contrary to Policy DM 31 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), September 2023 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

