

**LOCATION:** HOOK MEADOW, PHILPOT LANE, CHOBHAM,  
WOKING, GU24 8HD

**PROPOSAL:** Change of use from equestrian stable building to dwelling  
(Class C3) with associated curtilage.

**TYPE:** Full Planning Application

**APPLICANT:** Miss A Hook

**OFFICER:** Ross Cahalane

**This application would normally be determined under the Council's Scheme of Delegation, however it is being reported to the Planning Applications Committee at the request of the Executive Head of Regulatory.**

**RECOMMENDATION: GRANT subject to conditions**

## **1.0 SUMMARY**

- 1.1 This application is for planning permission for a proposed change of use of an existing equestrian stable building to a dwelling (Class C3) with associated curtilage.
- 1.2 The application site has an extensive planning history and the existing dwelling and associated residential land on site is the subject of extant enforcement notices (with appeals having been dismissed) and a High Court Injunction requiring the demolition of the dwelling and the reinstatement of the land to its former condition.
- 1.3 This report concludes that the proposed change of use of the existing lawful stable building to a residential use is not inappropriate development in the Green Belt. No objection has been raised by the Environment Agency and the Council's Scientific Officer. Subject to the conditions as outlined, which include the removal of the existing unauthorised development, the application is recommended for approval.

## **2.0 SITE DESCRIPTION**

- 2.1 Hook Meadow is set in a rural location beyond any defined settlement to the east of Philpot Lane. The site lies within the Green Belt and is on a mix of flood zone 1, 2 and 3 land. Philpot Lane is characterised by low density development set in spacious plots. The area has a verdant character which is considered to be a defining feature of the area.
- 2.2 The timber building proposed for conversion comprises a block of three stables with an attached feed store, with a pitched steel sheet roof on a concrete base. The site also includes an unauthorised single storey timber dwelling with garden land and pond, a carport and hard standing area between the dwelling and stable building, a hay barn and tractor shed directly opposite the stable building, and greenhouse buildings.

### **3.0 RELEVANT HISTORY**

- 3.1 The application site has an extensive planning history. The history most relevant to the current proposal is summarised below.
- 3.2 In December 2003 planning permission was sought (ref. 03/1374) for the erection of a single storey house. This was refused due to the countryside/Green Belt location where new residential is strictly controlled. An appeal against this refusal was subsequently dismissed with the Inspectorate agreeing that the development did not meet an agricultural housing need, and was inappropriate development, and that it would be harmful to the open and rural character of the Green Belt. Meanwhile, retrospective planning permission was granted in September 2004 (ref: 04/0575) for the erection of two barns to be used for stables, a feed room and a hay store. Part of this building is subject to the current change of use application.
- 3.3 A further application for planning permission (ref. 05/0438) for residential development was submitted in April 2005. This application was also refused for similar Green Belt and countryside reasons as those cited under 03/1374. No appeal to that refusal was submitted.
- 3.4 During February 2003 and October 2009 the site was subject to various complaints concerning alleged residential occupation. Officers noted during site inspections in February 2008 that an area of land now had the appearance of garden land, and that a residential unit had been formed within the fabric of the field shelter. The applicant advised at that time that she had been in residence since April 2006.
- 3.5 The site was revisited on 16 October 2009 and this revealed that large parts of the field shelter had been removed and a porch had been added. Enforcement Notices were subsequently issued on 29 October 2009 and required the cessation of the use of the land for ancillary residential purposes and the demolition of the dwelling house contained within the former field shelter, the demolition of the field shelter and various ornamental garden fittings.
- 3.6 As part of the appeal proceedings instigated by the applicant a further site visit was undertaken on 11 March 2010 wherein it was noted that the garden area had been extended and those parts of the dwelling house formerly uncovered had been recovered with timber affixed to the shell of the former field shelter.
- 3.7 The enforcement appeal proceeded as a Public Inquiry and after considering the case presented by both parties, the Inspector dismissed the appeal and upheld the notices and in doing so opined that the dwelling is not a conversion of the former shelter but a freestanding building constructed within it, and that consequently the Council's assessment of the breach of planning control was correct. The decision letter (DL) is dated 24 May 2010 and required the demolition of the dwelling and ancillary garden development and the cessation of the use of the land for residential purposes. The period for compliance was stated as 6 months (for the use) and 9 months for works of demolition and making good.
- 3.8 The period for compliance with the terms of the notices was informally extended until mid-summer 2011; however, requests for compliance since then have not met with success despite extensive communication between the Council and the applicant. Moreover, notwithstanding the presence of the extant enforcement notices and the failed appeal against the same, the applicant undertook an extension (to form a lounge) to the unauthorised dwelling house with these works commencing in October 2013.

These works were inspected on 12 May 2014 where it was also noted that it appeared that preparatory works were in place to facilitate a further extension to the dwelling (this time to the bedroom).

- 3.9 Concerns regarding the applicant's failure to comply with the extant enforcement notices, coupled with the erection of an unauthorised extension (and the apparent intent to undertake further works), resulted in the Council applying to the High Court for an Injunction. The application for the Injunction was granted by his Honour Judge Seymour following a hearing held on 30 October 2014. The requirements of the injunctive Order are (in summary):
1. The cessation of the residential use of the specified garden land by no later than 30 April 2014;
  2. The removal of all ornamental planting, decorative features and raised beds from the specified garden land by no later than 30 October 2015; and,
  3. The demolition of the unauthorised dwellinghouse (including the porch and recently completed extension) by no later than 30 April 2016.
- 3.10 Site visits undertaken reveal that none of the requirements have been complied with and this remains the case.
- 3.11 In 2015 a further planning application was submitted (ref:15/0868). This sought a retrospective change of use of the former field shelter to a dwelling and extensions to it. This was refused planning permission for the following, summarised reasons:
1. The LPA was not satisfied that the field shelter was of permanent construction and was not suitable for conversion. The application was not supported by any evidence to show that any substantive elements were utilised or retained in the works undertaken. The LPA therefore concluded that the works were the erection of a dwelling house. The erection of the dwelling house and the extensions undertaken, along with the curtilage is inappropriate development in the Green Belt, led to countryside encroachment and reduces openness.
  2. A SAMM contribution had not been secured and as such the development was in conflict with policy CP14 of the CSDMP2012 and policy NRM6 of the SEP 2009.
  3. No VSC (Very Special Circumstances) were present to clearly outweigh the harm and accordingly the development was contrary to the NPPF.
- 3.12 An appeal to the refusal of planning permission was lodged and this proceeded by way of public inquiry. The appeal was dismissed on 2nd August 2016.
- 3.13 In 2017, another planning application was submitted (ref:17/0389) for the erection of an occupational workers dwelling ancillary to use of the land for horticultural and agricultural purposes (retrospective), and erection of a single storey extension to form an enlarged bedroom. Permission refused for the following reasons:
1. The LPA, following review by an agricultural consultant, did not consider that there was an essential need for a rural worker to live permanently on the site, and that it was not demonstrated that the horticultural business undertaken was financially viable and is or could become a sustainable form of rural development.
  2. The proposed development was consequently considered to form inappropriate development in the Green Belt that erodes the rural character of the site and the wider

area, reduces openness and encroaches into the countryside. No VSC were present to clearly outweigh the harm and accordingly the development was contrary to the NPPF

3. A SAMM contribution had not been secured (this was subsequently paid by the applicant).
- 3.14 An appeal against this refusal was dismissed on appeal, following a hearing (decision issued 06 July 2018). The Inspector concluded that the unauthorised dwelling was the primary development at this site and was not ancillary to the use of the land for agricultural/horticultural purposes. Consequently, the dwelling was not a building for agriculture and therefore, does not fall within that exception to NPPF Green Belt policy. The Inspector also concluded that the applicant had not established very special circumstances sufficient to outweigh the harm to the Green Belt.
- 3.15 Following this appeal decision, the Council's Executive Head (Regulatory) has authorised direct action to secure compliance with the enforcement notices and injunction. It is however understood that an application to the Court of Appeal against the Inspector's decision to dismiss the latest planning appeal is still pending. The applicant has recently sought pre-application advice from the LPA prior to the submission of the current change of use application.

#### **4.0 THE PROPOSAL**

- 4.1 The application seeks planning permission for a proposed change of use of an existing equestrian stable building to a dwelling (Class C3) with associated curtilage.
- 4.2 No additional footprint is proposed. The proposed alterations are minimal – namely involving replacement of the stable doors with a main entrance and windows. The resultant dwelling would therefore be single storey with one bedroom. The existing access to the site and hardstanding area would be utilised for parking/turning space.
- 4.3 The proposed site plan shows the existing dwelling to be demolished, with reversion of some of its garden land (including pond) back to agricultural land, demarcated by installation of boundary fencing.
- 4.4 The application submission also includes a planning statement and a flood risk assessment.

#### **5.0 CONSULTATION RESPONSES**

- 5.1 Natural England No objection, subject to the applicant complying with the LPA's SPA avoidance strategy (i.e. providing the required SAMM contribution).
- 5.2 Environment Agency No objection, subject to condition *[See Section 7.6]*
- 5.3 Council Scientific Officer No objection, subject to condition *[See Section 7.8]*
- 5.4 Chobham Parish Council Summary: No objection, subject to the following provisos:
  - The proposed change of use accords with the Green Belt exception for redevelopment of previously developed land in the NPPF and meets the criteria set out in policy DM1 of the Core

Strategy for conversion of buildings.

- The Scientific Officer's comments regarding potential contamination of land are taken into consideration and any appropriate action is taken in this regard.
- The Inspector's previous findings regarding the site which remain relevant to this application are treated as material considerations.
- The Planning Authority is satisfied that there would be no net increase to the flood risk in the vicinity of the property (DM10).
- Any vehicles servicing the site are not allowed to park or wait on Philpot Lane; there is no encroachment onto the highway verge to the front of the site, and; no unauthorised gates, fencing or other urbanising features are installed (DM11, DM9).
- It is recommended that permitted development rights are removed for the entire site in order to preserve the openness of the Green Belt (NPPF, DM1, DM9), and
- A suitable condition is applied such that the entire unlawful dwelling on the site is demolished and the land reinstated as per the plan. The condition should carry an appropriate time limit in order to avoid any enforcement situation remaining on the site following the development.

## 6.0 REPRESENTATION

6.1 At the time of preparation of this report 14 representations of support have been received. The following matters are raised in support of the current application:

- No impact on Green Belt – small scale re-use of existing structure - no additional built form
- Proposed stable conversion is compliant with current policy [*Officer note: See Section 7.2*]
- No impact on amenity of area or neighbours [*Officer note: See Sections 7.3 and 7.4*]
- No increase in traffic, extra pollution or pull on resources [*Officer note: See Section 7.5*]
- No additional impact on flood risk [*Officer note: See Section 7.6*]
- Practically no ecological impact, unlike neighbouring development
- Plants, trees and shrubs provide a haven for wildlife and vulnerable species
- Proposal will use low amounts of energy [*Officer note: See Section 7.6*]
- Proposal has support from Natural England, the Environment Agency and local residents [*Officer note: See Section 5 and 6 above*]

- Existing dwelling should be allowed to be retained during course of the works – if approved
- Other applications in surrounding area approved for residential development – including adjacent site
- Enforcement action is unjustified and would not be proportionate

*[Officer comment: Each application must be considered on its own individual merits. Planning conditions are proposed in respect of the existing unauthorised development within the application site, which would still also be subject to enforcement notices and an injunction as outlined in Section 3 above.]*

6.2 Two further representations have been received from two Councillors elected during the determination of the application, raising the following matters:

- Curtilage proposed is a biodiverse habitat
- Existing hardstanding provides adequate parking
- Application is very environmentally friendly
- No reasonable grounds to refuse application
- Applicant has continued to ensure excellent stewardship of the area and commitment to preserving the natural environment

## **7.0 PLANNING CONSIDERATION**

7.1 The application proposed is considered against the policies within the Surrey Heath Core Strategy and Development Management Policies Document 2012 (CSDMP), and in this case the relevant policies are Policies CP1, CP2, CP6, CP12, CP14, DM1, DM9, DM10 and DM11. The National Planning Policy Framework (NPPF) is also a material consideration to the determination of this application. The nature of the application and the site's location mean that the following matters are the main considerations in the determination of this application:

- The principle of the development in the Green Belt;
- Impact on character;
- Impact on amenity;
- Impact on highway;
- Impact on flood risk;
- SPA and infrastructure; and,
- Other matters

## **7.2 The principle of the development in the Green Belt**

- 7.2.1 Para 146 of the NPPF provides a list of development types which are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. This includes “the re-use of buildings provided that the buildings are of permanent and substantial construction”.
- 7.2.2 Policy DM1 of the Surrey Heath Core Strategy and Development Management Policies 2012 (CSDMP) states that within the countryside, including the Green Belt, the conversion or re-use of buildings for residential purposes will be supported, provided that the existing building is appropriate in a rural location, is of permanent construction, structurally sound and capable of conversion without major alterations, adaptations or reconstruction to bring it into its desired use.
- 7.2.3 The stable building proposed for conversion benefits from planning permission (ref: 04/0575 – granted in September 2004) and is therefore considered to be appropriate for its rural location. The supporting statement advises that the building is timber framed with external shiplap cladding, with plywood interior walls. The roof has 'A' frames joined with timber beams supporting a sheet metal roof. The floor comprises fibre reinforced concrete. It is therefore contended that the building is structurally sound.
- 7.2.4 Based on recent site visits and the planning history of the site, it is considered that the building is permanent and has been well-kept. As such, the subject building is viewed as being of permanent and substantial construction as required by both paragraph 146(d) of the NPPF and Policy DM1 of the CSDMP. On the basis of the above, the principle of the proposed change of use and minor alteration of this building to a residential use is considered acceptable, as it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
- 7.2.5 However, the existing unauthorised dwelling and residential curtilage, as established in several appeal decisions, is yet to be resolved. The current proposal includes a revised garden layout that is more closely tied to the building proposed for conversion. This will involve reverting an existing unlawful garden area surrounding the existing dwelling, including a pond to an agricultural use, with installation of boundary fencing.
- 7.2.6 It is considered necessary and reasonable to impose planning conditions to ensure reasonable controls and deadlines to assist in resolving the breach of planning control and resultant harm to the Green Belt, as established in the appeal decisions. The conditions proposed are to impose a time limit (one year from date of decision of this application) for the demolition of the existing dwelling and to ensure that occupation is not undertaken prior to this demolition. It is also considered necessary and reasonable to impose a planning condition removing permitted development rights for any extensions to the converted building, or any outbuildings within its retained curtilage.
- 7.2.7 On the basis of all the above, the proposed conditions are considered to be necessary; relevant to planning; and the development to be permitted; enforceable; precise, and; reasonable in all other respects (as required by Paragraph 55 of the NPPF).

## **7.3 Impact on character**

- 7.3.1 The NPPF requires planning policies and decisions to ensure that new development makes efficient use of land, is visually attractive as a result of good architecture, layout and appropriate and effective landscaping, whilst being sympathetic to local character and history, including the surrounding built environment and landscape setting. Permission

should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents (paragraphs 122, 127 and 130 of the NPPF). Policies CP2 (iv) and DM9 (ii) of the CSDMP reflect these requirements.

- 7.3.2 The proposed external alterations are minimal – namely involving replacement of the stable doors with a main entrance and windows. This would sufficiently respect the rural character of the area, as the form of the existing wooden building would not be substantially altered.
- 7.3.3 Therefore, it is considered that the proposed development would not lead to incongruous impact upon the rural character of the surrounding area, in compliance with the design requirements of Policy DM9 of the CSDMP and the RDG SPD.

#### **7.4 Impact on amenity**

- 7.4.1 Policy DM9 states that development will be acceptable where it respects the amenities of the occupiers of neighbouring properties and uses. It is necessary to take into account matters such as overlooking, overshadowing, loss of light and an overbearing or unneighbourly built form.
- 7.4.2 It is considered that the proposed residential conversion would be sited at sufficient distance from neighbouring boundaries to avoid material harm to residential amenity.
- 7.4.3 The proposed internal residential floor area appears to be approx. 38 sq m, which would meet the minimum space standards for a new one-bed/one-person residential unit. It is considered that sufficient outlook and garden space would be provided.
- 7.4.4 It is therefore considered that the proposal complies with the amenity requirements of Policy DM9 of the CSDMP and the Residential Design Guide Supplementary Planning Document.

#### **7.5 Impact on highway**

- 7.5.1 Policy DM11 (Traffic Management and Highway Safety) states that development which would adversely impact the safe and efficient flow of traffic movement on the highway network will not be permitted unless it can be demonstrated that measures to reduce and mitigate such impacts to acceptable levels can be implemented.
- 7.5.2 The proposed conversion would utilise the existing vehicular access to the site. The existing hardstanding area would also be utilised for parking/turning space, and contains a car port. This is considered sufficient for the proposed dwelling.
- 7.5.3 It is therefore considered that the proposed development would not prejudice highway safety nor cause inconvenience to other highway users, in compliance with Policy DM11 of the CSDMP.

#### **7.6 Impact on flood risk**

- 7.6.1 The site as a whole lies in flood zone 2 and 3 and the proposed residential use is a more vulnerable use. The access to the site is located in flood zone 1 and most of the stable building proposed for conversion is in Flood Zone 2, according to online Environment Agency mapping.

- 7.6.2 The NPPF advises that development for 'more vulnerable' uses, such as residential, should be directed to areas with a lower probability of flooding. In addition, Para 103 of the NPPF advises that development in one area should not displace flood waters and give rise to a problem, or increase problems, experienced elsewhere. The Planning Practice Guidance advises that an application for residential development in flood zone 2 can be approved in principle.
- 7.6.3 A site-specific Flood Risk Assessment (FRA) has been provided, which states that the floor level of the existing stables to be converted is 22.11 above Ordnance Datum (AOD). The Environment Agency (EA) has raised no objection, subject to a planning condition to ensure that these existing finished floor levels are adhered to. It is also noted that safe access/egress can be achieved, as the existing entrance to the site is in flood zone 1.
- 7.6.4 It is therefore considered that the proposed change of use to a residential dwelling would not likely give rise to an increase risk from flooding within or around the site, in compliance with Policy DM10 of the CSDMP. It is also noted that no objection on flooding grounds have been raised in previously appeal decisions.

## **7.7 SPA and infrastructure**

- 7.7.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2006 requires the LPA to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. Section 38 (3) advises that the development plan is the documents (taken as a whole) which have been adopted or approved in relation to that area. The Council's Adopted CIL and Infrastructure Delivery Supplementary Planning Document is therefore part of the development plan. However, the current proposed building conversion would not involve the creation of additional floorspace and as such, would not be CIL liable.
- 7.7.2 It is however noted that any occupation of the land since the SPA designation in 2005 has been unlawful or illegal. As such, the dwelling has not been included in the baseline housing figures. Because of this, and consistent with the most recent 17/0389 application, it is considered that a SAMM contribution of £399 should be secured, in line with the LPA's current charging schedule as set out in the Thames Basin Heaths Special Protection Area Avoidance Strategy SPD 2019. This is required so that the LPA can pool this contribution towards the strategic access management and monitoring of the SANGS, which in themselves provide the main means by which new dwellings mitigate their impact on the SPA.
- 7.7.3 A SAMM contribution has not, at the time of writing, been secured. It is noted that this was paid by the applicant at the last planning appeal and was then subsequently refunded when the appeal was dismissed. The payment has been requested again and an addendum update will be provided.

## **7.8 Other matters**

- 7.8.1 The Council's Scientific Officer has recommended a pre-commencement planning condition requiring submission of a scheme to deal with potential contamination of the site. However, as the proposed change of use of the building in itself does not require excavation of land, and given the extensive planning history of the site in which no objections were raised on potential contamination grounds, in this instance it is not considered reasonable to impose such a condition.

7.8.2 It is noted that the applicant has stated that reinstatement of the land and pond near the unauthorised dwelling may be against policy concerning habitats and biodiversity, as it contains frogs, newts and toads- as well as established trees and shrubs. However, this is not evidenced by an ecology report undertaken by a suitably qualified person.

## **8.0 WORKING IN A POSITIVE/PROACTIVE MANNER**

8.1 In assessing this application, officers have worked with the applicant in a positive and proactive manner consistent with the requirements of paragraphs 38-41 of the NPPF. This included the following:-

a) Provided or made available pre application advice to seek to resolve problems before the application was submitted and to foster the delivery of sustainable development.

b) Provided feedback through the validation process including information on the website, to correct identified problems to ensure that the application was correct and could be registered.

## **9.0 CONCLUSION**

9.1 This application seeks planning permission for the proposed change of use of an existing equestrian stable building to a dwelling (Class C3) with associated curtilage. For the reasons set out in this report, it is considered the proposal complies with Chapter 13 of the NPPF, as the re-use of the existing lawful building of permanent and substantial construction is not inappropriate development in the Green Belt. Subject to securement of the SAMM contribution and the conditions as outlined, the application is recommended for approval.

## RECOMMENDATION

GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun within one year of the date of this permission.

Reason: In the interests of maintaining the openness of the Green Belt and in accordance with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004.

2. The proposed development shall be built in accordance with the following approved plans:

Proposed block plan; Proposed front and side elevations; proposed rear and side elevations - received on 10 April 2019;  
Proposed site plan ("PSP"); Proposed floor plan - received on 23 April 2019,

unless the prior written approval has been obtained from the Local Planning Authority.

Reason: For the avoidance of doubt and in the interest of proper planning and as advised in ID.17a of the Planning Practice Guidance.

3. The building works, hereby approved, shall be constructed in external fascia materials as stated in Section 9 of the application form received on 23 April 2019.

Reason: In the interests of the visual amenities of the area and to accord with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

4. The development hereby approved shall be carried out in accordance with the Flood Risk Assessment (FRA) reference FRA for Hookmeadow, Philpot Lane, Chobham, Surrey GU24 8HD (received on 10 April 2019), and the following mitigation measures detailed within the FRA and drawings. In particular:
  1. Finished floor levels shall be set at existing floor level of 22.11 above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants, in accordance with Policy DM10 of the Surrey Heath Core Strategy and Development Management Policies 2012.

5. The development hereby approved shall not be first occupied unless and until the existing unauthorised dwelling is removed, with its adjacent land reinstated as shown on the proposed site plan ("PSP") received on 23 April 2019.

Reason: In the interests of maintaining the openness of the Green Belt and to accord with Policies CP1, DM1 and DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

6. Within one year of the date of this decision, the existing unauthorised dwelling shall be demolished with all resultant debris removed from the land, and its adjacent land reinstated as shown on the proposed site plan ("PSP") received on 23 April 2019, unless otherwise agreed upon in writing by the Local Planning Authority.

Reason: In the interests of maintaining the openness of the Green Belt and to accord with Policies CP1, DM1 and DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no extensions to the dwelling hereby approved or additions to the roof shall be erected under Schedule 2, Part 1, Class A or Class B of that Order; and no buildings, enclosures, pools or containers incidental to the enjoyment of a dwelling house shall be erected under Schedule 2, Part 1, Class E of that order.

Reason: To enable the Local Planning Authority to retain control over the enlargement, improvement or other alterations to the development in the interests of maintaining the openness of the Green Belt and to accord with Policies CP1, DM1 and DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.