

**A03**

**F/TH/20/0949**

PROPOSAL: Change of use from agricultural land to residential garden in association with 9 Oakland Court

LOCATION: Land Rear Of 9 Oakland Court RAMSGATE Kent CT12 5JY

WARD: Cliffsend And Pegwell

AGENT: No agent

APPLICANT: Mr & Mrs Nicholas & Judith Alder

RECOMMENDATION: Approve

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.

**GROUND:**

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Purchase Act 2004).

2 The development hereby approved shall be carried out in accordance with the submitted drawings numbered TQRQM20219135134028 and TQRQM20219140539603, received 06 August 2020.

**GROUND;**

To secure the proper development of the area.

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), no outbuildings shall be erected on the land subject to this application hereby approved without the prior written permission of the Local Planning Authority.

**GROUND:**

To safeguard the character and appearance of the countryside and the landscape character area, and residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policies QD02, QD03, SP24 and SP26 of the Thanet Local Plan.

**SITE, LOCATION AND DESCRIPTION**

The site is located to the south of numbers 7, 8 and 9 Oakland Court and the west of numbers 15, 16, 17 and 18 Walmer Gardens. To the south is St Augustine's Golf Course

and to the west is an area of similar agricultural land that appears to be within the ownership of 10 Oakland Court. Trees and soft landscaping are situated along the northern and southern boundaries of the site with an existing shared access located between numbers 9 and 10 Oakland Court and an access to the existing rear garden of 9 Oakland Court. The eastern boundary of the site has low level boundary fences and walls separating the site from the properties on Walmer Gardens and a wire and post fence is located on the western boundary. The majority of the site is currently occupied by mown grass.

### RELEVANT PLANNING HISTORY

TH/82/0649 - Residential development. Refused 09 November 1982. Dismissed at appeal 12 May 1983

TH/82/0648 - Residential development. Refused 09 November 1982. Dismissed at appeal 12 May 1983

TH/79/0573 - Residential development. Refused 04 December 1979

Adjacent site Land to the rear of 10 Oakland Court Cliffsend

F/TH/00/0037 - Change of use of agricultural land to be used as residential garden associated with no. 10 Oakland court. Refused 09 March 2000. Dismissed at appeal 13 December 2000.

### PROPOSED DEVELOPMENT

The proposed development is the change of use from agricultural land to residential garden land. No physical alterations are proposed as part of this application.

### DEVELOPMENT PLAN POLICIES

SP24 - Development in the Countryside

SP26 - Landscape Character area

E16 - Best and Most Versatile land

QD02 - General Design Principles

QD03 - Living Conditions

### NOTIFICATIONS

Letters were sent to neighbouring property occupiers and a site notice was posted close to the site.

Six letters of objection have been received raising the following concerns:

- Loss of agricultural land
- Future applications for residential development
- Covenants on the land

- Need for the development
- Impact upon highway safety
- Loss of privacy
- Impact upon the character and appearance of the area
- Close to adjoining properties
- Conflict with local plan
- Inadequate access
- Loss of light
- Noise and disturbance
- Maintenance of the land as a garden
- Damage to neighbouring properties
- Impact upon property value
- Previous decision for the adjacent land
- Impact upon ecology
- Potential for flooding
- Increase in pollution
- Overdevelopment
- Strain on community facilities

## CONSULTATIONS

None received.

## COMMENTS

This application is presented to members of the committee as a departure from the local plan.

### **Principle**

In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a significant material consideration in this regard.

The site lies outside of the boundary of the urban confines and therefore policy SP24 of the Thanet Local Plan applies. This policy states that Development on non-allocated sites in the countryside will be permitted for either:

the growth and expansion of an existing rural business;  
 the development and diversification of agricultural and other land based rural businesses;  
 rural tourism and leisure development;  
 the retention and/or development of accessible local services and community facilities;  
 or the redevelopment of a brownfield site for a use that is compatible with its countryside setting and its surroundings.

Isolated homes sites in the countryside will not be permitted unless they fall within one of the exceptions identified in the National Planning Policy Framework.

All development proposals to which this policy applies should be of a form, scale and size which is compatible with, and respects the character of, the local area and the surrounding countryside and its defining characteristics. Any environmental impact should be avoided or appropriately mitigated.

This policy does not restrict the change of use of land outside of the urban confines to residential garden land, however it constitutes development in the countryside where there is no justification under the criteria of the policy. Therefore the development represents a departure from policy SP24. It therefore falls to consider the impacts of the development and whether the development would result in harm to the countryside, landscape character areas and other material planning considerations.

### **Character and Appearance**

The site falls within the Wantsum Northern Slopes and the Stour Marshes Landscape Character areas as defined by policy SP26 of the Thanet Local Plan. Within these areas development proposals should demonstrate how they respect and respond to the character, key sensitivities, qualities and guidelines of the relevant landscape character areas. All development should seek to avoid skyline intrusion and the loss or interruption of long views of the coast and the sea, and proposals should demonstrate how the development will take advantage of and engage with these views.

Development proposals that conflict with the above principles will only be permitted where it can be demonstrated that they are essential for the economic or social well-being of the area. In such cases, landscape impacts should be minimised and mitigated as far as possible.

The site is surrounded on the north and east by existing residential development and to the south by soft landscaping. To the west, the site is bordered by a similar area of mown grass to the rear of 10 Oakland Court. This area is surrounded by soft landscaping to the west and southern boundaries. The site is isolated from other agricultural land due to the surrounding soft landscaping and appears to have been maintained as mown grass for a long period of time. Given the location of the site surrounded by soft landscaping it has limited visibility from the public realm and in long views. Furthermore no physical alterations are proposed to the site.

It is therefore considered that the proposed change of use from agricultural land to residential land would not result in any significant harm to the character and appearance of the countryside or the landscape character areas in line with policy QD02, SP24 and SP26 of the Thanet Local Plan and the National Planning Policy Framework.

Permitted development rights for the erection of any outbuildings would be removed. This would ensure that the Council can control any development of outbuildings to prevent harm to the countryside or the landscape character areas.

## **Living Conditions**

No physical alterations are proposed as part of this application and therefore the proposed development is not considered to result in any significant loss of light, overlooking or sense of enclosure to the neighbouring dwellings. As outlined above, permitted development rights for the erection of outbuildings would be removed, thereby removing any potential impact caused to neighbours from structures as a result of the change of use of the land.

Whilst the area of the site is large compared to the existing residential garden, the use of the site by a single residential property is not considered to result in any significant increase in noise and disturbance to the neighbouring residential properties.

The proposed development is therefore not considered to result in any significant harm to the living amenity of the neighbouring property occupiers in line with policy QD03 of the Thanet Local Plan and the National Planning Policy Framework.

## **Transportation**

No alterations are proposed to the existing access to the site and the use of the land as a residential garden is not considered to result in any significant harm to highway safety.

## **Other Matters**

Concern has been raised regarding the loss of agricultural land as a result of this application. Whilst the land has been referred to as agricultural land in this application it has clearly not been used for this purpose for a number of years. Furthermore the loss of an area of land of this size for agricultural purposes does not result in significant harm to the supply of agricultural land supply in the district to warrant refusal of the application.

Concern has been raised regarding the potential for future applications for residential development to be submitted for the site. No residential development is proposed as part of this application and any future applications would be considered on their own merits.

Concern has been raised regarding covenants on the land. Covenants are a separate legal matter and do not form a material consideration in the determination of this application.

Concern has been raised about the applicants need for the development and their ability to maintain the land. This does not form a material consideration in the determination of this application.

Damage to neighbouring properties and the impact of a development upon property values are not material considerations that can be considered in the determination of this application.

Concern has been raised regarding the impact of the development upon ecology and the potential for an increase in flooding and pollution. No physical development is proposed as part of this application and the site appears to have been maintained as mown grass for a

number of years. It is therefore considered that this proposal would have limited potential to result in any significant increases in flooding, pollution or harm to ecology.

The change of use of the site from agricultural land to residential land for use in association with a single dwelling is not considered to result in any significant increase in demand for local community facilities.

A similar application for the change of use of the land on the adjacent site at the rear of 10 Oakland Court was considered in March 2000 under application reference F/TH/00/0037. This application was refused for the following reasons:

The application site lies outside the confines of the existing Village and the proposed use would be unrelated to local need, without agricultural or other rural justification, and thereby contrary to Policy CL1 of the Isle of Thanet Local Plan and Policies ENV1 and RS5 of the approved Kent Structure Plan.

The proposed use would result in the loss of high quality agricultural land, and would establish a precedent likely to result in the loss of further such agricultural land, contrary to Policy AG1 of the Isle of Thanet Local Plan and Policy ED6 of the approved Kent Structure Plan.

This decision was upheld at appeal due to the impact of the development upon the character and appearance of the area (Appeal Reference APP/Z2260/A/00/1049504). The second reason for refusal was not adopted by the Inspector in the dismissal of the appeal. This application was considered a significant amount of time ago, prior to the adoption of the current local plan and the National Planning Policy Framework. This application must be determined in line with the current policies and guidelines which are outlined above.

## **Conclusion**

Whilst the proposed development is not in line with policy SP24 of the Thanet Local Plan, the scheme appears to be acceptable in all other respects including impacts of the scheme upon the character and appearance of the surrounding area, impacts upon living conditions and impacts upon highway safety. It is therefore considered that no demonstrable harm would arise from the proposed development and therefore it is recommended that planning permission should be granted.

## **Case Officer**

Duncan Fitt

TITLE:

F/TH/20/0949

Project

Land Rear Of 9 Oakland Court RAMSGATE Kent CT12 5JY

