

**A02**

**F/TH/22/0669**

**PROPOSAL:** Change of use from agricultural land to residential garden in association with 4 Downbarton Farm Cottages

**LOCATION:** 4 Downbarton Farm Cottages Down Barton Road St Nicholas At Wade Kent CT7 0QQ

**WARD:** Thanet Villages

**AGENT:** No agent

**APPLICANT:** Mr Peter McIntyre

**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 AB/294/002 Rev a received 31 May 2022.

**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.

4 If, during development, significant contamination is suspected or found to be present at the site, then works shall cease, and this contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority. The approved works shall be implemented within a timetable agreed by the Local Planning Authority and shall be of such a nature as to render harmless the identified contamination given the

proposed end use of the site and surrounding environment, including controlled waters. Prior to first occupation/use and following completion of approved measures, a verification report shall be submitted to the Local Planning Authority for approval.

**GROUND:**

To ensure that the proposed development will not cause harm to human health or pollution of the environment, in accordance with Policy SE03 of the Thanet Local Plan and the advice contained within the National Planning Policy Framework.

INFORMATIVES

Information on how to appeal this planning decision or condition is available online at <https://www.gov.uk/appeal-planning-decision>

Please ensure that you check the above conditions when planning to implement the approved development. You must clear all pre-commencement conditions before development starts on site. Processing of conditions submissions can take up to 8 weeks and this must be factored into development timescales. The information on the submission process is available here:

<https://www.thanet.gov.uk/info-pages/planning-conditions/>

SITE, LOCATION AND DESCRIPTION

The site forms an area of land to the west of number 4 Down Barton Farm Cottages on the southern side of Down Barton Road that is currently enclosed by post and rail fencing. The site is free from development and comprises mown grass with some planting around the boundary. To the rear of the site is open fields and to the west is an area of land that appears overgrown and the applicant has indicated is an existing allotment. An existing driveway runs between the site and number 4 Down Barton Farm Cottages.

RELEVANT PLANNING HISTORY

OL/TH/20/0923 - Outline application for the erection of a single storey dwelling with all matters reserved. Refused 09 October 2020 due to the location outside of the urban confines and the impact upon the character and appearance of the area. Dismissed at appeal 04 August 2021.

OL/TH/19/0818 - Outline application for the erection of 5no dwellings with all matters reserved. Refused 22 August 2019 due to the impact upon the character and appearance of the area, archaeology, unsustainable location and lack of contribution to the SAMM Plan.

F/TH/06/1130 - Erection of a two storey rear extension together with porch. Granted 13 November 2006

F/TH/06/0819 - Erection of a two storey rear extension. Refused 24 August 2006 due to the impact upon the living conditions of the neighbouring property occupiers.

### 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

#### **Thanet Local Plan**

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.

One letter of support has been received.

### CONSULTATIONS

**KCC Biodiversity** - No ecological information has been submitted with this application. As a result of reviewing the data we have available to us (including aerial photos and biological records) and the information submitted with the planning application, we advise that the proposed development has limited potential to result in ecological impacts and as such we are satisfied that there is no requirement for an ecological survey to be carried out at this time.

We have taken this view because satellite photos indicate that the site is a regularly mown /grazed field and it's unlikely that the proposal will impact protected/notable species. The application is for the extension of a garden and, therefore, it is possible that a change in management will benefit biodiversity.

**TDC Environmental Health** - As the land has been used for agricultural purposes there is some potential for land contamination. Therefore the following condition should be added in case of unsuspected contamination:

If, during development, significant contamination is suspected or found to be present at the site, then this contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority. The approved works shall be implemented within a timetable agreed by the Local Planning Authority and shall be of such a nature as to render

harmless the identified contamination given the proposed end use of the site and surrounding environment, including controlled waters.

## COMMENTS

This application has been brought before members by Cllr Smith to consider the loss of agricultural land and that this application may facilitate further applications for housing development.

### **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 for which 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.

### **Loss of Agricultural Land**

Policy E16 of the Thanet Local Plan states: "Except on sites allocated for development by virtue of other policies in this Plan, planning permission will not be granted for significant

development which would result in the irreversible loss of best and most versatile agricultural land unless it can be clearly demonstrated that:

- 1) the benefits of the proposed development outweigh the harm resulting from the loss of agricultural land,
- 2) there are no otherwise suitable sites of poorer agricultural quality that can accommodate the development, and
- 3) the development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land.

Whilst the land has been referred to as agricultural land in this application it appears to have been separated from the surrounding fields by fencing since 2009 and Google Street View images show the area to primarily comprise managed grass. It therefore appears that this site has not been used for agricultural purposes 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. The public benefits of this proposal are limited, however given the evidence regarding the existing use this development would not result in the loss of a significant area of agricultural land and would not compromise the remainder of the adjacent agricultural holdings or lead to further significant losses of high quality agricultural land. The impact upon agricultural land is therefore not considered to be significantly harmful.

### **Character and Appearance**

The site falls within the St Nicholas at Wade Undulating Chalk Farmland 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.

To the east of the site is the existing driveway and side access for 4 Down Barton Farm Cottages. The southern boundary is shared with open countryside and the western boundary is shared with a strip of land that the applicant has indicated is an allotment. Down Barton Road runs along the northern boundary of the site and on the northern side of the road is a campsite and paddocks and fields for horses.

The site is currently enclosed by fencing and adjacent to existing residential dwellings.

The use of the land as a garden in association with an existing dwelling is unlikely to significantly alter the character and appearance of the land, however the change of use would introduce the same permitted development rights that dwellings benefit from and the

erection of outbuildings could change the character and appearance of the area. Permitted development rights for the erection of any outbuildings would therefore 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. It is not considered necessary to restrict permitted development rights for the erection of extensions to the existing dwelling as these are restricted to a width no greater than half the width of the existing property and are therefore unlikely to significantly extend into 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.

### **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 likely 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 or parking in the area.

### **Other Matters**

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 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. The site is located within flood zone one which means it has a low probability of flooding and no built development is proposed on the site and therefore the flood risk is considered to be limited. The use of the site as part of a residential garden for an existing property is not considered to result in any significant increase in pollution. The Councils Environmental Health team have indicated that as the land has been used for

agricultural purposes there is some potential for land contamination, however as no build development is proposed only a watching brief condition is required in this instance. It is therefore considered that this proposal would have limited potential to result in any significant increases in flooding, pollution or harm to ecology.

### **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, living conditions, highway safety and agricultural land. 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/22/0669

Project 4 Downbarton Farm Cottages Down Barton Road St Nicholas At Wade  
KentCT7 0QQ

Scale:

