
APPLICATION REFERRED FROM THE WEEKLY LIST**WEEKLY LIST NO. 1444 – 5 October 2018****18/00606/FUL****SCALDHURST FARM, LARK HILL ROAD, CANEWDON****APPLICATION TO REMOVE CONDITION 5 ON PLANNING APPLICATION ROC/304/84 (NO ALTERATIONS OR EXTENSIONS WITHOUT THE PRIOR APPROVAL OF THE LOCAL PLANNING AUTHORITY)****1 DETAILS OF REFERRAL**

- 1.1 This item was referred from Weekly List No. 1444 requiring notification to the Assistant Director, Planning and Regeneration Services by 1.00 pm on Wednesday, 12 October 2018 with any applications being referred to this meeting of the Committee.
- 1.2 Cllr G J Ioannou referred this item on the grounds that the reason for refusal might not be sustainable on appeal. The provisions of the General Permitted Development Order 2015 (as amended) Class E allows buildings to be erected up to the curtilage of a dwelling house, which in this case has not been removed, thus making a mockery of Green Belt policy to protect the openness of the Green Belt. The applicant cannot extend the dwelling house, but can in effect erect a building abutting the dwelling house without planning permission.
- 1.3 The item that was referred is attached at appendix 1 as it appeared in the Weekly List.
- 1.4 A plan showing the application site is attached at appendix 2.

2 RECOMMENDATION

- 2.1 It is proposed that the Committee **RESOLVES**

To determine the application, having considered all the evidence.

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Application No: 18/00606/FUL Zoning :
Case Officer: Mr Arwel Evans
Parish: Canewdon Parish Council
Ward: Roche North And Rural
Location: Scaldhurst Farm Lark Hill Road Canewdon
Proposal: Application to Remove Condition 5 on Planning
Application ROC/304/84 (No alterations or extensions
without prior approval of the Local Planning Authority)

SITE AND PROPOSAL

The proposals

- 1 The application seeks to remove condition 5 attached to a historical planning consent issued in 1984 in respect of a two-storey replacement dwelling granted planning permission on the 22nd June 1984. Condition 5 removed the permitted development rights as conferred at that time by the provisions of the Town and Country (General Permitted Development) Order which controlled any further alterations and extensions to the property without the first prior written consent of the Local Planning Authority.
- 2 The application states that it is now the wish to undertake building works utilising permitted development rights which however do not currently pertain to the property by virtue of the pertinent condition which this application seeks therefore to re instate.
- 3 The submitted application form indicates that this application seeks to affect the Lawful Development Certificate application considered under reference 03/00168/LDC which was for A Certificate Of Lawful Use In Respect Of The Breach Of Condition 2 On Permission ROC/304/84 Restricting Occupation Of The Dwelling To A Person Employed In Agriculture (Resubmission Following 02/00938/LDC) which was granted a lawful development certificate on 0.04.2003.

The Site

- 4 The dwelling subject of this application is located to the North of Lark Hill Road from which it is accessed via a farm track which serves a farm building complex and a dwelling known as Scaldhurst farm bungalow located East of the application site. Scaldhurst Farm House which is accessed independently is set within a substantial rectangular plot.

PLANNING SITE HISTORY

- 5 02/00938/LDC Application For A Certificate Of Lawful Use In Respect Of The Breach Of Condition 2 On Permission Ref ROC/304/84 Restricting Occupation Of The House To A Person Employed In Agriculture. EFLDC - Refuse Lawful Development Certificate 30.12.200
- 6 02/01049/LDC Application For A Certificate Of Lawful Use In Respect Of An Existing Use, Namely The Parking Of Commercial Vehicles. EFLDC - Refuse Lawful Development Certificate Refused 3.03.2003
- 7 03/00168/LDC Application For A Certificate Of Lawful Use In Respect Of The Breach Of Condition 2 On Permission ROC/304/84 Restricting Occupation Of The Dwelling To A Person Employed In Agriculture (Resubmission Following 02/00938/LDC) PERLDC - Grant Lawful Development Certificate 10.04.2003
- 8 83/00326/FUL Alterations and extensions to existing bungalow REF - Application Refused 3.11.1983
- 9 83/00624/FUL Outline application to demolish existing house and erect new dwelling PER - Application Permitted 7.12.1983
- 10 84/00304/FUL Demolish existing house and garages and erect detached two storey house permitted 22.06.1984
11. 04/00525/FUL Add single storey front side and rear extensions and re-roof. Deemed lapsed 6.09.1989

Policies

12. National Planning Policy Framework (July 2018) Paragraphs 142, 143, 144

Local Development Framework Core Strategy Adopted Version (December 2011) policy GB1 Green Belt Protection

MATERIAL CONSIDERATIONS

13. This application can only consider the removal of condition 5 of the original planning consent issued ROC/304/84, whilst the second item highlighted in section 5 of the application form relates to a matter which has been dealt with and concluded under planning reference

03/00168/LDC which relates to the condition of occupancy of the dwelling.

- 14 The condition which this application seeks to remove is noted to be as follows:

Notwithstanding the provision of Article 3 and Class 1, Schedule 1 of the Town & Country Planning General Development Order 1977, the dwelling should not be enlarged or altered without the prior approval of the local planning authority.

15. The reason for the condition is indicated to be as follows:

This permission is granted exceptionally having regard to the condition of the existing dwelling and the case made on agricultural grounds. The dwelling hereby permitted provides a dwelling unit of a very reasonable size and the local planning authority consider any further extension should be considered in the light of its current policy concerning dwellings in the Green Belt.

- 16 It is an established principle that if the reasons for imposing conditions considered reasonable and necessary at that time still apply and that the conditions are relevant to address a planning objective which prevails, there would be no policy grounds for removing that condition.

- 17 The reasons for withdrawing permitted development rights are considered two- fold. The condition recognises the exceptional case which existed at that time for a replacement dwelling based on the grounds of agricultural need taking into account also the condition of the dwelling which was to be replaced. The reasons recognised that the dwelling approved was of a sufficient size to accommodate the agricultural need whilst the consideration of control on further extension was not based on the justification of such on agricultural grounds but on the basis of the policy which prevailed at that time with regards to impacts of further alterations or additions on the Green Belt.

- 18 Although the reason is not explicit, it is clear that permitted development rights were withdrawn taking into account impacts upon the Green Belt which was a prevailing consideration which informed the decision notice at that time.

- 19 It is clear that the condition served a planning purpose in safeguarding the openness of the Green Belt from development which was made subject of control for this very reason. In considering the validity of the case for the removal of a condition the key consideration is that of whether there is a sound and valid reason for retaining the condition. It is considered that the control exercised by the imposition of the condition was justified and still justified in the light of current Green Belt

Policy as the governments policy objectives in this context have not changed.

- 20 In considering this application the local planning authority needs to consider the relevance of current planning policy therefore in informing its decision and whether the objective of prevailing policy in Green Belt protection terms would be undermined if the condition were to be removed. Just as there were exceptional circumstances which justified the original development and reasons why permitted development rights were withdrawn given the scale and location of the development approved within the Green Belt setting - there would need to be a very special circumstance to justify removing the controls imposed by the original planning permission. Given the provisions of the National Planning Policy Framework (July 2018) (par 144) which recognise the substantial weighting which has to be given to any harm to the Green Belt in assessing applications and the very special circumstances which would need to exist to outweigh this harm - the removal of this condition would undermine the very principles which informed the imposition of the condition in the first instance which remain valid today.
- 21 The planning appeal details submitted with the application are noted. Although it is not entirely clear how that particular case specifically relates to this application, it is considered that the circumstances of the case are not identical such that reasonable comparisons can be drawn such to be relevant to the Local Planning Authority's consideration of this application.

CONCLUSION

22. It is concluded that the condition should remain for the reasons set out and that a consent omitting condition 5 should not be issued.

Representations:

Canewdon Parish Council: Objection

- 23 Canewdon Parish Council objects to the removal of Condition 5 of ROC/304/84. The Adopted and Draft Local Plan Policies clearly define what is considered to be proportional floorspace additions to existing and replacement dwellings in the Green Belt and state that Permitted Development rights will be removed by condition. The existing dwelling is located well into the Green Belt, remote from the defined residential settlement of Canewdon and in an area that is generally open in character. There will also be many other similar sites throughout the Green Belt within the parish of Canewdon and in the wider District. Of particular significance is that, since the original planning permission was granted for this replacement dwelling, legislation now provides, in some circumstances, greater flexibility for extensions to dwellings

generally, including in the Green Belt. It is considered that these greater flexibilities should remain controlled by condition in the Green Belt and any proposal to increase the size of a Green Belt dwelling should be tested against the appropriate policies of the Local Planning Authority and national guidance. To do otherwise would result in significant harm to the openness and appearance in the Green Belt and to the aims and objectives of the Green Belt

REFUSE

- 1 The condition was imposed on Green Belt grounds taking into account the prevailing Green Belt policies at that time, being reasonable and purposeful in controlling development affecting the Green Belt.
- 2 It is considered that the control exercised by the imposition of the condition was justified and continues to be justified in the light of current Green Belt Policy as cited by the National Planning Policy Framework (July 2018) as the government's policy objectives of safeguarding Green Belt has not changed in this context. It is considered that the removal of the condition would fundamentally undermine the very basis on which the condition was imposed which prevails and would undermine current policy. It is not considered that the very special circumstances which would need to exist to outweigh this harm exist such as to justify removing the condition which remains pertinent and purposeful in maintaining the fundamental objective of the condition. The granting of planning permission removing condition 5 is considered contrary to policy GB1 of the Local Development Framework Development Core Strategy Adopted Version (December 2011) and paragraph 144 of the National Planning Policy Framework (July 2018)

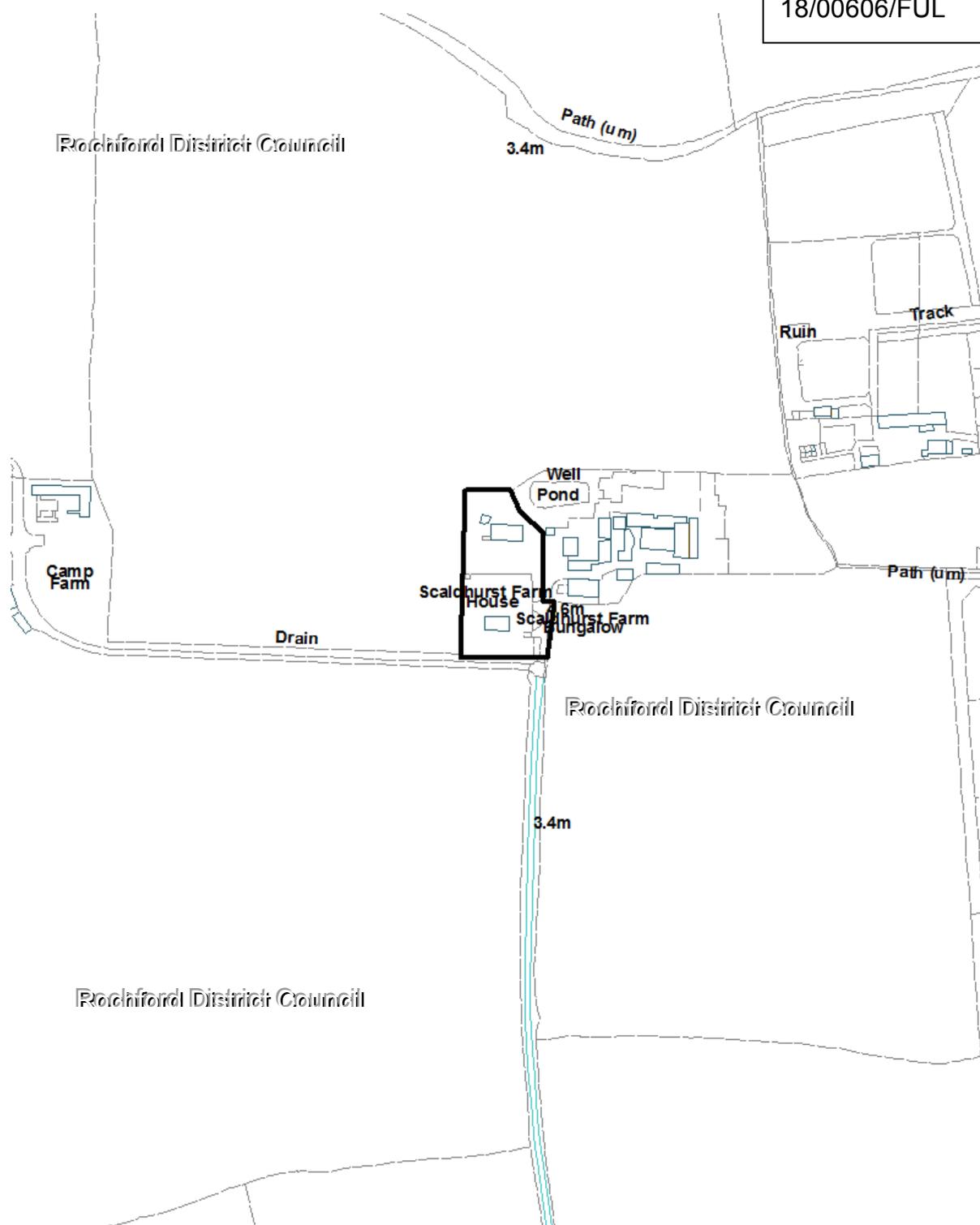
Relevant Development Plan Policies and Proposals:

Rochford District Council Local Development Framework Core Strategy (2011) – Policies CP1, GB1.

Rochford District Council Local Development Framework Development Management Plan (2014) – Policies DM1, DM17, DM21.

The local Ward Member(s) for the above application is/are Cllr N L Cooper
Cllr G J Ioannou Cllr Mrs L Shaw

18/00606/FUL



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