

Application Number and Registration Date	MO/2018/0594 (Variance of Conditions) 05-Apr-2018
Applicant	Mr & Mrs I Osborne-Patterson, C/o White & Sons
Case Officer	James Amos
Amendments /amplifications	Amended by Plan No 1803-07-PLO4a recieved 05/07/2018.
Committee Date	1 August 2018
Ward(s)	Capel, Leigh & Newdigate
Proposal	Removal of Condition 3 of approved planning permission MO/2005/0452 for the renewal of planning permission MO/2000/0580. Conversion of stable block to residential accommodation ancillary to main dwelling to allow the building to be occupied by persons who are not family members or employees.
Site Description	Melton Hall Farm, Rusper Road, Newdigate, Dorking, Surrey, RH5 5BX

RECOMMENDATION: Refuse

Summary

This application seeks the removal of condition 3 on permission MO/2005/0452 which restricts the occupation of an ancillary residential building at the application site to members of the same family who occupy the main dwelling on the site and/or their employees.

The removal of condition 3 on permission MO/2005/0452 would result in the formation of a new dwelling in the countryside without any restriction on occupation. This would be contrary to Mole Valley Local Plan Policy ENV3 and the provisions of the NPPF.

1. Development Plan

Countryside Beyond the Green Belt

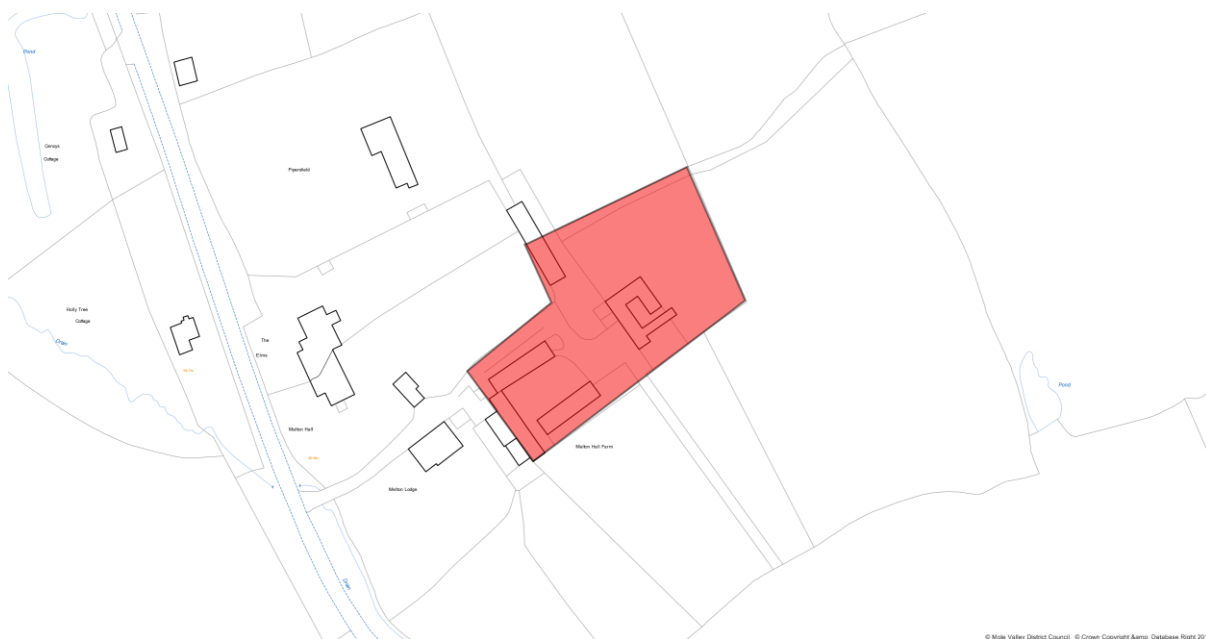
2. Relevant Planning History

53/255	Additional living accommodation	Permission 10/09/53
63/208	Use farm store for dog care	Permission 28/06/63
71/623	Extend & convert out building to form additional living accommodation	Permission 15/02/72
71/624	Convert outbuilding to living accommodation	Refused 15/02/72
71/625	Use animal shelter as loose boxes	Permission 15/02/72
72/229	Extension, convert outbuilding to living accommodation. New Vehicular access	Permission 17/07/72
MO/2000/0580	Convert existing stable block to residential use	Permission 07/06/00
MO/2005/0452	Renewal of planning permission MO/2000/0580. Conversion of stable block to residential accommodation ancillary to main dwelling.	Permission 23/05/2005
MO/2005/1541	Certificate of Lawfulness for existing use in respect of a single storey courtyard infill extension.	Permission 03/01/2006
MO/2008/1402	First floor extension with balcony to rear and replacement double garage with pitched roof.	Permission 07/11/2208
MO/2011/1512	Erection of 40m x 20m sand school.	Permission 03/01/2012
MO/2011/1585	Construction of 50m x 30m sand school.	Permission 09/01/2012
MO/2011/1640	Construction of alternative access with enhanced visibility splays.	Permission 30/01/2012
MO/2014/1911	Erection of single storey side extension, rear infill extension and new porch. Raise roof height to create accommodation in roof space.	Withdrawn
MO/2015/0153	Certificate of lawfulness for a proposed development in respect of the erection of 2 No. single storey side extensions.	Withdrawn
MO/2015/0285	Prior notification for the erection of a single storey rear extension of 8 metres deep by 4 metres high and a height at the eaves of 2.7 metres.	Prior approval not required 25/03/2015

MO/2015/0284	Certificate of lawfulness for a proposed development in respect of the erection of 2 No. single storey side extensions and a single storey front extension.	Permission 26/03/2015
MO/2015/0451	Addition of pitched roof to side extensions granted under planning ref: MO/2015/0284/PCL (Permitted Development).	Permission 08/05/2015

3. **Description of Development**

3.1 The application site comprises a collection of single storey buildings, including a detached dwelling, (Melton Hall Farm) which is part of a scattering of development on the eastern side of Rusper Road, a 'C' classified road outside of any defined settlement, in countryside beyond the Green Belt. The site lies approx. 1.6 miles south of the village of Newdigate.



3.2 The building which is the subject of this application is located on the south-eastern side of the complex of buildings with access from Rusper Road,

3.3 This application seeks planning permission for the removal of condition 3 of planning permission MO/2005/0452 which was for the conversion of a stable block to residential accommodation ancillary to the main dwelling. Condition 3 states as follows:

The accommodation hereby approved shall only be occupied as an integral part of the existing dwelling by the immediate members (parents and children) of the family of the occupiers of Melton Hall Farm or by members of staff employed at Melton Hall Farm with no subdivision of the existing residential curtilage.

The reason for the imposition of the condition is as follows:

Reason: To ensure that the additional accommodation is not severed from the main dwelling as this would conflict with the strict Green Belt policy that is applied in this area.

3.4 The applicants' agent states that:

- the proposal is to remove the condition which restricts the occupancy of the building to family members and employees;
- there is no longer a need for family members or staff to live on the property and that the building is no longer needed for its originally intended use;
- the condition is no longer considered to be necessary or reasonable having regard to the tests at paragraph 206 of the NPPF;
- the application seeks to bring the building back into active use;,
- there is no intention to sell the building off from the rest of the property and the application does not seek to amend the description of the permission which is for 'residential accommodation ancillary to the main dwelling'

4. Representations

None received.

5. Main Planning Policies

Government Guidance

NPPF

Section 6 – Delivering a wide choice of high quality homes

Planning conditions and obligations

NPPG

Use of conditions

Mole Valley Core Strategy

CS1 – Where development will be directed (A Spatial Strategy)

CS2 – Housing Provision and Location

CS3 – Balancing Housing Provision

CS13 – Landscape Character

Mole Valley Local Plan

ENV3 – Development in the Countryside Beyond the Green Belt

RUD9 – Garages and other Ancillary Domestic Buildings in the curtilage of dwellings in the Countryside

6. Main Planning Issues

- 6.1 The NPPF, at paragraph 206, states that *“Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects”*.
- 6.2 The National Planning Policy Guidance further states that the 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made. It is also stated that *“when used properly, conditions can enhance the quality of*

development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development”.

- 6.3 Therefore, the main issue for consideration is whether the development, which was granted planning permission in 2005, would be acceptable if the condition was removed, and whether there have been any changes in circumstances since 2005 which would justify the removal of the condition in this application.
- 6.4 The condition was originally imposed in 2000 in relation to planning permission MO/2000/0580 which related to the conversion of a stable block to provide ancillary residential accommodation comprising kitchen/lounge and two bedrooms. The condition was imposed in order to ensure that the additional accommodation was not severed from the main dwelling as this would conflict with the strict ‘Green Belt’ policy that is applied in this area. The same reason was expressed in 2005 when the permission was renewed.
- 6.5 It should be noted, however, that the reference to ‘Green Belt’ in the reasons is incorrect as the site is located in ‘Countryside Beyond the Green Belt’. Nevertheless, similar policies of restraint are applied in such areas, albeit by virtue of policy ENV3 in the Local Plan and the NPPF.
- 6.6 Since the grant of planning permission in 2005, planning policy with regards to Countryside Beyond the Green Belt has not changed. Policy ENV3 remains in force, whilst the NPPF, introduced in 2012, states at para. 55 that ‘Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

the essential need for a rural worker to live permanently at or near their place of work in the countryside; or

- *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:*
 - *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
 - *reflect the highest standards in architecture;*
 - *significantly enhance its immediate setting; and*
 - *be sensitive to the defining characteristics of the local area.*

- 6.7 Saved Local Plan Policy ENV3 relates to Development in the Countryside Beyond the Green belt, and states as follows:

In the rural areas not covered by the Green Belt, and outside the area of Ockley defined in accordance with Policy RUD3, the countryside will be protected for its own sake, and development adversely affecting its open character will not be permitted.

Development within the countryside beyond the Green Belt will only be acceptable for the reasonable needs of agriculture, and forestry or comprises essential facilities for outdoor sport and outdoor recreation, mineral extraction and waste disposal. Small scale development to diversify the rural economy may be permitted under Policies RUD17 and RUD19. Other development in the countryside beyond the Green Belt including the extension and replacement of dwellings, the extension and

redevelopment of industrial and commercial premises and other development appropriate to the countryside may be acceptable provided the relevant policies in the Plan are satisfied. All development must be appropriate in scale, form, impact and siting.

- 6.8 Removing the condition would be to remove the requirement for the application building to be only occupied by members of the family or employees of the family who occupy the main dwelling on the site. This would allow the building to be occupied independently from the main dwelling on the site, with the effect of creating a new, independent dwelling. Local Plan policy RUD9 relates to ancillary domestic buildings within the curtilage of dwellings in the countryside and states that new ancillary domestic buildings will normally be permitted provided that they, *inter alia* are for ancillary domestic purposes only. The supporting text to this policy states that conditions will be imposed to prevent the conversion and the policies applicable within the Green Belt and the Countryside Beyond.
- 6.9 The location plan has been amended during the course of the application to remove an independent access from the ancillary accommodation to Rusper Road. This was procedurally necessary as an application under s73 of the Town & Country Planning Act to remove a condition must relate to the same red outline as the 'parent' permission. However this would facilitate independent access to the application building without the need to use the main access to Melton Hall Farm. Therefore the proposal would conflict with the provisions of the NPPF and Policy ENV3 of the Local Plan, as well as with the spatial strategy set out in the Core Strategy which seeks to locate new residential development in the built-up area.
- 6.10 The applicants' agent makes reference to policy RUD19 (Re-use and Adaptation of Rural Buildings) in support of the application. However, the change of use of the former stables to ancillary residential accommodation has already taken place following the grant of planning permission in 2005, and subject to condition 3. Policy RUD19 is not, therefore, relevant in the consideration of this application as both the buildings (main house and ancillary accommodation) form part of a single dwelling already in residential use.
- 6.11 The condition remains relevant in order to achieve the objectives of Policies RUD9 and ENV3, thus fulfilling one of the 6 tests set out in para.206 of the NPPF.
- 6.12 With regards to the other 5 tests, it is considered that the condition is relevant to planning and to the development which has been permitted, that it is precise and enforceable, and is reasonable in all other respects.
- 6.13 In support of the proposal to remove the condition, the applicants' agent states that the building was originally converted in order to allow elderly family members to live on the property. The agent goes on to state that the elderly family members concerned are now deceased and whilst staff are employed at the property on a seasonal basis, there is currently no need for staff to live on the site. Therefore the building, which is now empty, is no longer required for its originally converted use. The condition is therefore no longer considered, in their view, to be necessary or reasonable having regard to the tests at paragraph 206 of the NPPF.
- 6.14 The agent also states that the application seeks to bring the building back into active use. At the time of the officer's visit to the property the building was vacant but had clearly been recently occupied. The agent states that there have no intention to sell the building off from the rest of the property and the application does not seek to amend the description of the permission which is for 'residential accommodation ancillary to the main dwelling'. However this intention is not something which could

be controlled by planning without a condition and therefore does not form part of the consideration of the application.

- 6.15 However, it is considered that the condition remains reasonable in terms of its aim in preventing the creation of a new residential unit within the countryside. There is no policy backing for the removal of the condition as the establishment of a new dwelling in the countryside is unacceptable in principle in line with the NPPF and local Plan Policy ENV3.

7. Conclusion

- 7.1 The removal of condition 3 on permission MO/2005/0452 would result in the formation of a new dwelling in the countryside without any restriction on occupation. This would be contrary to Mole Valley Local Plan Policy ENV3 and the provisions of the NPPF. No significant material planning considerations have been identified which would justify a departure from the Development Plan.

8. Recommendation

Permission be **REFUSED** for the following reason:

1. The site lies within Countryside beyond the Metropolitan Green Belt to which a policy of restraint is applied and the unrestricted use of the ancillary residential accommodation would be contrary to Mole Valley Local Plan policy ENV3 and Mole Valley Core Strategy policy CS1 and to the provisions of the National Planning Policy Framework.