

# **PLANNING APPLICATIONS**

## **UTT/0659/11/FUL (GREAT CANFIELD)**

*(Call in request by Councillor S Barker if recommended for refusal)*

**PROPOSAL:** Detailed application for retention of former agricultural building and continuation of its use for joinery business.

**LOCATION:** Griffin Farm, Great Canfield

**APPLICANT:** Mr C Easter

**AGENT:** Mr J Grayson

**GRID REFERENCE:** TL 582-182

**EXPIRY DATE:** 8 June 2011

**CASE OFFICER:** Mr C Theobald

### **1.0 NOTATION**

1.1 Outside Development Limits / Protected Lane.

### **2.0 DESCRIPTION OF SITE**

2.1 The application site lies within a rural position along the north side of Green Street between Hellman's Cross and Ashfields Polo and Equestrian Centre and comprises a close grouped complex of modern farm buildings positioned to the side of a concrete entrance yard with an area of associated open storage located to the rear enclosed by perimeter bunding. Griffin Farmhouse is located to the immediate west of the yard, with The Grange located beyond this, whilst Ashfields Polo & Carriage Centre lies to the east. Arable land pertaining to the farm holding lies to the immediate north. It is stated that the applicant currently has a total farm holding of 200 ha (495 acres).

### **3.0 PROPOSAL**

3.1 This application seeks the retention of a brown profiled metal sheeted barn measuring 18.2 metres by 12.1 metres (220sqm) with roller shutter door located at the eastern end of the site for its continued use as a joinery workshop by a local joinery business called Griffin Woodcraft. Photographs submitted with the application show that the building contains an extensive range of machines, equipment and materials capable of providing a full range of bespoke joinery services. It is stated in the application that the use is B2 General Industrial and that the business currently employs 4 staff.

### **4.0 APPLICANTS CASE**

4.1 The application is accompanied by the following documents:

- Design and Access Statement
- Sequence of photographs showing interior and exterior of building
- Letter from Foxley Joinery Ltd dated 21 March 2011 providing a background profile to the business (now Griffin Woodcraft) and supporting letters from Ashfields Carriage and Polo Club, De Vere Homes Limited and two local residents
- Traffic Report prepared by Stirling Maynard Transportation Consultants dated April 2007

4.2 *Summary of applicant's case:* It is stated that there have been six material changes to the circumstances at the site following previous enforcement action taken by the Council concerning unauthorised commercial activity at the site, including the joinery workshop business. These are as follows;

- 1) The level of unauthorised activity at the site has reduced and that the majority of the previous vehicular movements have now ceased addressing the Planning Inspector's main concern regarding the effects of traffic on the protected lane;
- 2) Griffin Farm now employs additional staff resulting in a more sustainable development rather than attracting workers from outside of the locality and therefore addressing the Planning Inspector's second concern regarding sustainability;
- 3) The joinery business through its association with the Ashfields Polo and Carriage Centre and its work on barn conversions has resulted in commercial diversification to the point that the use now can be viewed as a locally based enterprise in line with ULP Policy E5;
- 4) The government has produced a revised PPS13: Transport, which advises that LPA's should be realistic about the availability of alternatives to access by car and that proposals should not be rejected where small scale business development or its expansion would give rise to only modest additional daily vehicle movements in comparison with other uses that are permitted on the site (agriculture) and where the impact on minor roads would not be significant;
- 5) The Council has since granted planning permission for the application building to be retained once the business has been removed. This removes the need to demolish the building as previously required under the enforcement notice should the current application be approved;
- 6) The applicant now has evidence of at least 12 other business within a five mile radius of the site that have been allowed to establish and expand in this rural area and that the Council should therefore be seen to be fair, consistent and objective in its exercise of control within the public interest.

4.3 The applicant has added that the level of vehicular traffic movements at the site is now so low that no significant harm is being caused to the protected lane (Green Street) and that planning permission should be granted for the retention of the building for the continued occupation by Griffin Woodcraft, subject to appropriate conditions.

## **5.0 RELEVANT SITE HISTORY**

5.1 The application building was erected between 2000 and 2001 under agricultural permitted development rights as a potato store for Griffin Farm. It was understood to be used for this permitted purpose from 2001 to 2003 when this storage activity ceased following a fall in the potato market. The building was subsequently occupied unlawfully by Foxley Joinery (now Griffin Woodcraft) and a retrospective application was submitted in 2005 to retain the application building for B2 use and for other unlawful B2 uses which were being conducted in an adjoining farm building on the site relating to the auto trade (UTT/0103/05/FUL). The application was refused and a subsequent appeal was dismissed in July 2006 on the grounds that the site was not located within a sustainable location and on traffic grounds given that Green Street is a protected lane. An enforcement notice was issued in 2007 requiring the applicant to cease both unauthorised uses, whilst at the same time requiring the former potato building (the application building) to be removed. In dismissing the applicant's subsequent appeal, the Planning Inspector remarked that the applicant had failed to provide evidence that the workshop building had any proven operational or agricultural need under the GPDO (General Permitted Development Order - the national document setting out permitted development rights) following its cessation of use as a potato store and that a separate justification for its future use in connection with the lawful use of the land would be a further matter between the applicant and the Council.

5.2 Planning permission was subsequently granted to the applicant in 2010 for the retention of the application building back as an agricultural building (potato store) notwithstanding its ongoing unlawful occupation by Foxley Joinery. In the applicant's submission for that proposal, a detailed supporting planning statement was made by the applicant's previous agent regarding the applicant's intentions to grow potatoes on the site and how the building would be re-used as a

storage building for this purpose. The statement included a business projection detailing this activity and stated that, " *The applicant has been in discussion with the Council regarding this application and the use of the building is as follows: The whole of the existing building would be*

*used to store potatoes from a 10 acre site. The applicant is proposing to plant Desiree potatoes as they do not need irrigation. The applicant is reverting back to potato production as the market for potatoes has risen over the past several years. The availability of the storage building would ensure that the applicant is able to store all produce and then sell when the price is right rather than having to sell them from the field immediately. The building will enable the applicant to use it to its full capacity. Extensive information has already been provided to the Council concerning the need for this building and the applicant clearly has justification", adding, "It is essential for the farm's survival that it retains its current storage to enable more profitability".*

5.3 It was under this strict submission pretext and given the applicant's clearly stated intentions that the Council the application with a condition stating that the building shall be used for agricultural purposes only relating to Griffin Farm and for no other purpose. Legal action in respect of the continuing unauthorised use of the building as a joinery workshop was subsequently temporarily held in abeyance pending the implementation of this "reversion" permission by the applicant. However, as has been shown, the applicant has since failed to implement the permission and enforcement/legal action by the Council has resumed, although again temporarily suspended pending the outcome of the current application for the building's retention of use for non-agricultural purposes (joinery workshop).

5.4 The applicant's new planning agent for the current application has since informed the Council that the 2009 application was submitted purely in order to provide the applicant with the comfort of knowing that the building could remain for agricultural purposes on the land rather than being demolished as previously required should he eventually have to cease using the building as a joinery workshop. The Council has also been informed that the applicant has no intention of growing potatoes unless he is forced to relocate the joinery business so he could be certain that he would not have to demolish the building should the "worst case scenario" result.

## **6.0 POLICIES**

### **6.1 National Policies**

- Planning Policy Statement 1: Delivering Sustainable Development (PPS1)
- Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS4)
- Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7)
- Planning Policy Guidance Note 13: Transport (revised 2011) (PPG13)

### **6.2 East of England Plan 2006**

- Policy E2: Provision of Land for Employment
- Policy T1: Regional Transport Strategy Objectives & Outcomes
- Policy ENV2: Landscape Conservation
- Policy ENV6: The Historic Landscape

### **6.3 Essex Replacement Structure Plan 2001**

- None.

### **6.4 Uttlesford District Local Plan 2005**

- Policy S7: The Countryside
- Policy GEN1: Access
- Policy GEN4: Good Neighbourliness
- Policy E5: Re-use of Rural Buildings
- Policy ENV9: Historic Landscapes (includes Protected Lanes)

## **7.0 PARISH COUNCIL COMMENTS**

7.1 The site and the building in question have a long and complex history of planning applications and appeals. An application for this building to be used as a potato store, including plans to grow potatoes on a 10 acre site, was approved in April 2010. As this plan has never materialised, there remains an enforcement notice against the use of the building for general industrial purposes. Following strong objections from the local community, the Parish Council has previously objected to these applications for change of use primarily due to the impact of light industrial development in the village. Whilst this Council has some sympathy with the current application as it is providing local employment and a service, it cannot overlook the views of residents and as the use is contrary to the Village Design Statement regarding industrial uses. It is for these reasons and the history of non-compliance at this site that the Parish Council objects to the application.

## **8.0 CONSULTATIONS**

### **Essex County Council Highways**

8.1 Objection raised on the following grounds under ULP Policy GEN1:

1. The site location, lack of footways and no access to public transport would mean that all journeys generated by the proposal would be by private vehicles. The proposal is not considered to be sustainable due to the reliance on this mode of transport;
2. Furthermore, having regard to the additional traffic which this proposal is likely to generate or attract, the rural protected lane which connects the application site to the nearest traffic distributor is considered to be inadequate by virtue of its narrow width which could give rise to regular vehicular conflict and awkward reversing manoeuvres.

### **Building Control**

8.2 No adverse comments.

### **UDC Project Officer**

8.3 No adverse comments.

### **Environmental Health Officer**

8.4 No comments.

### **Drainage Engineer**

8.5 No comments.

## **9.0 REPRESENTATIONS**

9.1 None received. Advertisement expired 22 April 2011. Site notice expired 26 April 2011.

## **10.0 APPRAISAL**

10.1 The issues to consider in the determination of this application are:

- Countryside protection / Principle of retention of this former agricultural building for commercial purposes (B2 use);
- Whether the retained use can be described as being sustainable / would give rise to traffic conflict by reason of additional traffic movements / would have a damaging effect on a protected lane;

- Whether the retained use would be harmful to residential amenity by reason of noise and disturbance

#### Principle of building retention for non-agricultural purposes

10.2 Policy UDC S7 states that the countryside shall be protected for its own sake and that development will only be permitted if its appearance protects or enhances the particular character of the countryside in which it is set or there are special reasons why the development in the form proposed needs to be there. The building has an extant unimplemented permission to be retained if used for agricultural purposes and in this respect the applicant had previously claimed that it had special circumstances to be retained (reversion to agricultural storage). Whilst it is not being used for its approved purpose, has no need to be in the countryside and is required by the enforcement notice to have been removed. Consequently as the permission for retention and agricultural use of the building has not been implemented the building should no longer exist.

10.3 Permitted Development Rights are defined nationally and grant permission for farmers to erect building subject to criteria including that the building has to be reasonably necessary for agriculture within the unit. The order also requires that buildings are removed if their agricultural use ceases within the first ten years. The permitted development rights do not provide a right for farmers to erect buildings for spurious agricultural uses without the normal planning controls and then convert them to business premises. In effect the applicant is asking for retrospective permission for the erection of a commercial (non agricultural) building in the countryside. This is contrary to national and local planning policy.

#### Whether the use as retained can be reasonably described as being sustainable

10.4 Essex County Council Highways has objected to the continued use of the application building for B2 purposes under ULP Policy GEN1 on the basis that the site is within an unsustainable location in terms of its connections with the main road network and the stated mode of travel to the site (car), the protected status of Green Street as a protected lane and the potential for vehicle conflict arising from the use. However, the applicant has stated that circumstances have materially changed from when an unauthorised car spaying and bodywork workshop business also existed at the site and argues that vehicle movements have since decreased and that no commercial HGV movements occur at the site any longer given that the joinery business now only uses one 4x4 vehicle and a trailer when required for transporting joinery products and further that the joinery business provides more of a local service today. As such, it is asserted that the previous Highway's Authority's objections for the enforcement appeal are no longer valid.

10.5 Notwithstanding the applicant's comments, it is considered both relevant and pertinent to revisit the Inspector's comments set out in his decision letter dated 5 February 2008 dismissing the applicant's enforcement appeal when he remarked, *"I acknowledge the fresh evidence of the appellant that Green Street...is not heavily trafficked and that, furthermore, the unauthorised business use at Griffin Farm currently generates little traffic, whether comprising light vehicles or heavy goods vehicles (HGV's), over and above that already associated with the lawful farming enterprise of Griffin Farm or unrelated development that also generates use of the lane. However, objection to the unauthorised development does not appear to have been founded on traffic considerations in terms of numerical capacity of Green Lane [Street] or the highway network. The concern of the Council and local people, and indeed the Inspector in a previous appeal, is focused primarily upon the ability of this picturesque, narrow, winding lane, expressly protected by Policy ENV9 of the adopted Uttlesford Local Plan (ULP) to accommodate any extra traffic without physical harm to its carriageway and verges and danger and inconvenience to local residents and other road users. From the written and pictorial evidence and from my own observations, I share these concerns...I consider that even the current small percentage increase in traffic due to the appeal development, including only a few extra HGV's is unacceptable in context, being likely to give rise to regular conflict and awkward reversing manoeuvres, such as when a small car meeting a lorry might cause the larger vehicle to mount the grass verge".* The Inspector concluded *page 5* *Whilst it is also recognised...that public*

*transport may not be available to support rural enterprise...the site is so remote from the main road network and urban settlements that the benefits of the development are, in my judgement, insufficient to outweigh its present and potential adverse effects related to vehicle generation".*

10.6 Given the continuing concerns expressed by ECC Highways at this site regarding the continuing commercial activities and in light of the Inspector's previous comments, it is considered that the applicant's case that the joinery business should be retained for the reasons stated does not sufficiently outweigh the disadvantages of having the use retained at this particular location. Furthermore the way business operate evolves over time and if the building is allowed to remain it could be occupied by different occupiers each with their own level of staffing and vehicles movements. Therefore, it is considered that the use is contrary to ULP GEN1 (Access) and ULP Policy ENV9 (Protected Lanes).

10.7 As mentioned above, it is considered unlikely that the use would cause a loss of amenity to neighbouring dwellings by reason of noise and disturbance given their distance away from the application building and the use would not therefore be contrary to ULP Policy GEN4.

## **11.0 CONCLUSION**

11.1 The following is a summary of the main reasons for the recommendation:

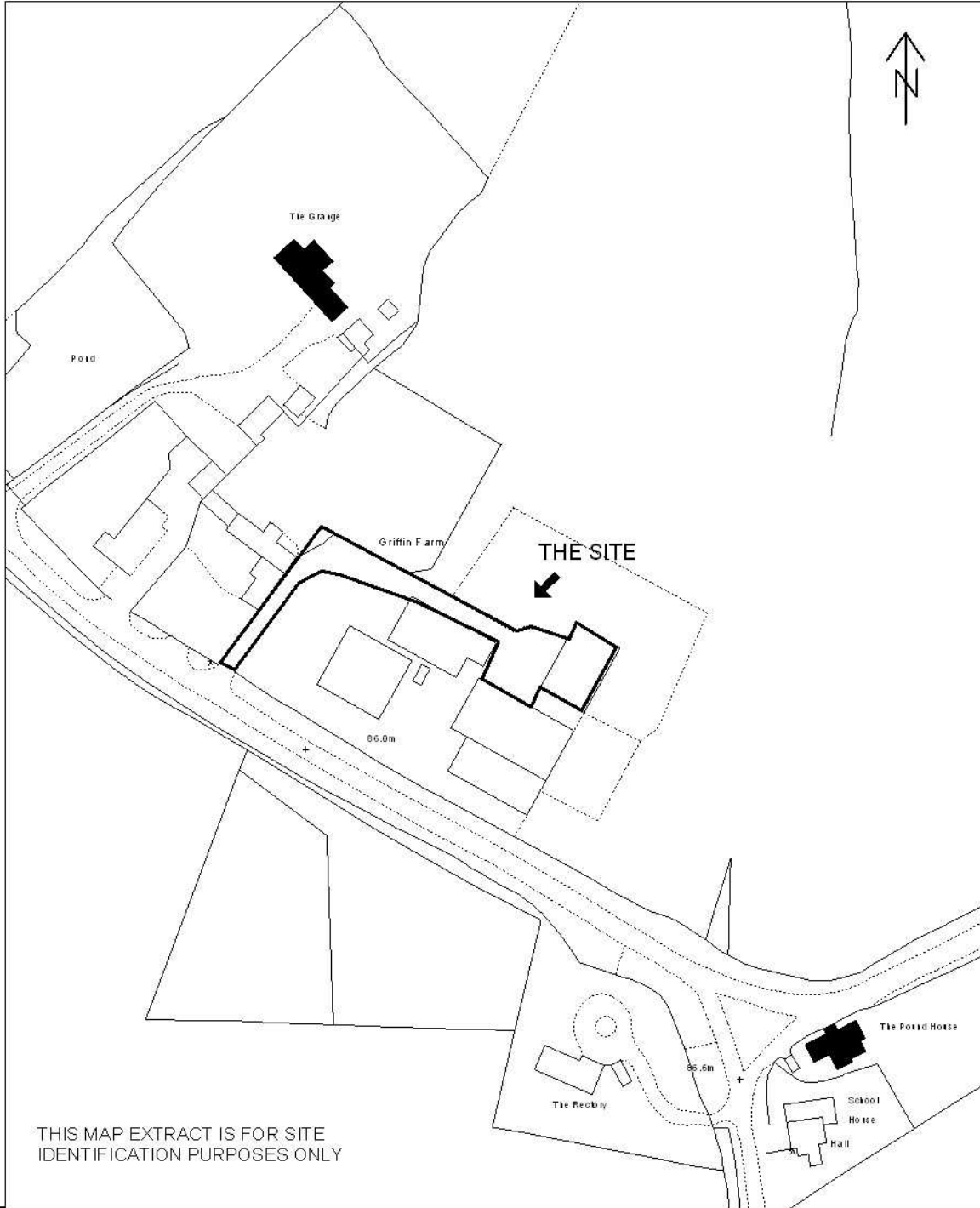
- The application building was originally erected under agricultural permitted development and used for 2-3 years for potato storage. The building was required to be demolished by an enforcement notice following its unlawful occupation by Foxley Joinery (now Griffin Woodcraft) and continues to remain and be unlawfully used as a joinery workshop;
- Planning permission was granted to the applicant in 2010 expressly for the building's resumption of use as an agricultural storage building (reversion back to potato storage) and carries a planning condition to this effect. The applicant has not implemented this permission;
- The existing B2 use would not fully comply with ULP Policy E5 and would have a detrimental effect on Green Street as a protected lane contrary to ULP Policy ENV9;
- The site location, lack of footways and no access to public transport would mean that all journeys generated by the proposal would be by private vehicles. The proposal is not considered to be in a sustainable location due to the reliance on this mode of transport. Furthermore, having regard to the additional traffic which this proposal is likely to generate or attract, the rural protected lane which connects the application site to the nearest traffic distributor is considered to be inadequate by virtue of its narrow width which could give rise to regular vehicular conflict and awkward reversing manoeuvres.

11.2 Given the above, the retention of the application building for continued B2 use would for the above reasons be contrary to PPS1, PPS7 and PPG13 and ULP Policies GEN1, E5 and ENV9. This site has a complex planning history involving enforcement action and it is for the committee to ultimately decide based upon the information contained within this report whether circumstances have sufficiently changed at the site to warrant a grant of approval for the application when two previous planning inspectors (one dealing with an enforcement notice) have previously stated that the use is not acceptable at this location and required the removal of the building. It is claimed that the joinery business has a significant impact upon the continued viability of the farmholding and it is understood that this is the principal reason why the use has continued at the site in lieu of the retention and use of the building for potato storage as approved last year. However, it is considered that this in itself is not an overriding material planning consideration. It is further considered that a personal, temporary condition in favour of Griffin Woodcraft would not be appropriate in all of the circumstances.

## **RECOMMENDATION – REFUSAL**

1. The proposal would result in the retention of an unlawfully erected building in the countryside. The building is not used or proposed to be used for agriculture. The development is contrary to Local Plan policy S7

2. The site location, lack of footways and no access to public transport would mean that all journeys generated by the proposal would be by mean of private vehicles. The proposal is not considered to be sustainable due to the reliance on this mode of transport. Furthermore, having regard to the additional traffic which this proposal is likely to generate or attract, the rural protected lane which connects the application site to the nearest traffic distributor is considered to be inadequate by reason of its narrow width which could give rise to regular vehicular conflict and awkward reversing manoeuvres. The proposal would therefore be contrary to PPS1, PPS7 and PPG13 and ULP Policies GEN1 and E5 (d) of the Uttlesford Local Plan 2005.
3. The proposal given the B2 nature of its use is likely to cause environmental harm to Green Street, a locally designated Protected Lane, through the use of the lane by commercial vehicles and it is considered that the need for the development at the application site does not outweigh the harm that this would cause. The proposal is therefore contrary to ULP ENV9 of the Uttlesford Local Plan 2005.



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