

a) 3/14/1381/FO – Variation of Condition 3 (restriction of use) of planning approval ref: 3/06/0604/FP to allow use of the first floor of the garage building as ancillary residential accommodation; and  
b) 3/14/1633/FO – Variation of Condition 3 (restriction of use) to enable the use of the first floor of the garage building to be used as an ancillary study/office area for the occupants of Long Croft, Monks Green Farm, Mangrove Lane, Brickendon for William Ashley and Partners.

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Date of Receipt: a) 31.07.2014  
b) 08.09.2014

Type: Variation of Condition - Other

Parish: BRICKENDON LIBERTY

Ward: HERTFORD HEATH

**RECOMMENDATION:**

a) That planning permission be **GRANTED** under reference 3/14/1381/FO subject to the following conditions:

1. Approved plans (2E10) – 1:2500 location plan
2. The garage building shall be used solely for the housing of private vehicles at ground floor level and for purposes incidental or ancillary to the enjoyment of the dwelling known as Long Croft at first floor level.

Reason: To ensure that the use of the building remains appropriate to the location of the site within the Metropolitan Green Belt and to safeguard the character and amenity of the area in accordance with Policies GBC1 and ENV9 of the East Herts Local Plan Second Review April 2007.

Directive:

1. Other Legislation (01OL)

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2012 (as amended). The balance of the considerations having regard to those policies is that permission should be granted.

### 3/14/1381/FO and 3/14/1633/FO

b) That planning permission be **GRANTED** under reference 3/14/1633/FO subject to the following conditions:

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#### **1.0 Background**

- 1.1 Monks Green Farm is sited approximately 1 mile to the south of Hertford, as shown on the attached OS extract. The dwelling known as Long Croft is situated on the western edge of the farm and was constructed during 2006. A detached garage building was subsequently constructed to the eastern side of the dwelling, following the grant of planning permission under ref: 3/06/0604/FP. Condition 3 of planning permission 3/06/0604/FP states:-

*'The building hereby permitted shall only be used for the housing of private vehicles and for purposes incidental to the enjoyment of the dwelling house and not for any living accommodation or commercial*

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*activity without the prior written consent of the Local Planning Authority’.*

- 1.2 Two applications have been submitted which seek to vary the wording of the above condition to include the use of the first floor of the garage for purposes ancillary to the residential use of Long Croft (ref: 3/14/1633/FO) including for use as a home office/study area and for ancillary living accommodation such as for a nanny or housekeeper employed at the house (ref: 3/14/1381/FO).
- 1.3 Officers have advised the applicant that it is not necessary to submit two separate applications for the variation of the condition (since there is of course only one condition to be varied). However, the applicant is keen to ensure, for the avoidance of doubt that both types of ancillary use proposed (home office/study and ancillary housekeeper accommodation) are permitted. A decision on both applications is therefore requested.
- 1.4 The applications are referred to the Committee as the applicant is a Member of the Council.

### **2.0 Site History**

- 2.1 Planning permission was granted, under ref: 3/06/0604/FP, for a detached garage/carport with lock up storage to the east of the dwelling known as Long Croft. The garage permission was subsequently implemented in 2006.
- 2.2 Members will recall that, in July this year, the Planning Inspectorate dismissed an appeal, and upheld an enforcement notice, relating to the use of the first floor of the garage for commercial office accommodation. In that decision the Inspector noted that a new commercial enterprise had been established at the farm which resulted in inappropriate development in the Green Belt and caused harm to the rural character of the area.

### **3.0 Consultation Responses**

- 3.1 At the time of writing this report, no consultation responses had been received in respect of either application.

### **4.0 Parish Council Representations**

- 4.1 Brickendon Parish Council has made no comments in respect of either application.

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### **5.0 Other Representations**

- 5.1 The applications have been advertised by way of site notice and neighbour notification.
- 5.2 One letter of representation has been received in respect of application ref: 3/14/1381/FO which raises concerns with any self-contained staff accommodation and states that such accommodation should be provided within the dwelling itself. The representation also questions whether, if approved, the matter could be 'policed'.

### **6.0 Policy**

- 6.1 When considering the applications, a number of policies contained in the adopted Local Plan must be taken into account. These include:-

GBC1: Appropriate Development in the Green Belt  
TR7: Car Parking – Standards  
ENV1: Design and Environmental Quality

- 6.2 The National Planning Policy Framework is also a material consideration in the determination of the applications.

### **7.0 Considerations**

- 7.1 The determining issue in these applications is whether the variation of the planning condition would enable the use of the first floor of the garage building at Long Croft for any purposes which would be harmful to the rural character of the surrounding area which lies within the Metropolitan Green Belt, or to any nearby residents.
- 7.2 Condition 3 of the original planning permission for the garage sought to prevent the use of the building for purposes which are not 'incidental' to the use of the dwellinghouse. 'Incidental' use, in planning terms, means one which is 'parasitic' on the primary residential use – i.e. it cannot exist without it. Examples might be storage, a gym, swimming pool, art studio etc. but it is not generally held to include anything which would materially extend the normal living accommodation at the property.
- 7.3 The condition, as currently worded then, would technically restrict the use of the first floor as a home office or as ancillary residential accommodation such as a granny annexe or housekeeper's accommodation.
- 7.4 However, Officers are of the view that such ancillary uses would not be

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harmful to the character of the surrounding area, nor indeed to the purposes of including the land in the Green Belt. It is not considered that the original condition sought to restrict such uses in any event which, as Members will be aware, are common within residential outbuildings across the District.

- 7.5 The condition goes on to state that it is specifically living accommodation and any commercial activity that are not permitted and Officers consider that the condition was originally imposed to restrict the use of the building for those types of use where they would be separate from the residential use of the main house (because, of course, such uses may have a greater impact on the levels of activity generated at the site). Ancillary office use or ancillary living accommodation would, however, not result in the same impact and are generally considered acceptable within residential outbuildings. Indeed, most outbuildings can be used for such ancillary purposes without the need to obtain planning permission.
- 7.6 An 'ancillary' use, for clarification, is a use which is normally carried out in a dwellinghouse (such as sleeping accommodation, TV room, kitchen etc.) but it is operated in connection with the primary residential use of the main house. It must have a strong functional link with the dwellinghouse and not create a separate planning unit in itself.
- 7.7 Application ref: 3/14/1633/FO seeks permission to vary the wording of the original condition to include such ancillary uses within the first floor of the garage building – specifically a home office/study is proposed.
- 7.8 Officers consider that there is no reason to object to the residents of Long Croft using the first floor of the garage as a home office or study or for any other ancillary use. There would be no adverse impact on the character of the surrounding area; no physical changes to the building and therefore no impact on openness; no increase in traffic generation and no adverse impact on the purposes of including the land in the Green Belt. This use would be appropriate within the Green Belt in accordance with national and local planning policy
- 7.9 An ancillary home office use is distinctly different to the use of the building for commercial office purposes, which can of course lead to additional activity and traffic generation, and which the appeal Inspector found to be unacceptable in this location within the recent appeal decision. The proposed variation of the condition would not enable the resumption of such a use, either now or in the future, and there is therefore no potential conflict with the earlier appeal decision.

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- 7.10 Officers have recommended a revised wording of the condition at the head of this report which will ensure that the matter is clarified for all concerned – that an ancillary or incidental use of the first floor of the garage, such as a home office/study/play area etc., is appropriate and permitted by the condition.
- 7.11 In respect of application ref: 3/14/1381/FO the situation is broadly the same. The revised wording of the condition recommended by Officers would permit the first floor of the garage to be used for ancillary residential purposes (such as a granny annexe, a guest bedroom, or accommodation for a nanny or housekeeper for example). It would not permit the use of the building as a separate residential unit. Again, this form of ancillary accommodation, used in connection with the house, is appropriate within the Green Belt and would have no adverse impact on the rural character of the area.
- 7.12 It is important to note that any ancillary residential accommodation must have a functional link with the main house. Its occupation by a relative or housekeeper for example, would only be ‘ancillary’ if the occupant was reliant on the occupants of the main house to live or ‘function’. A housekeeper, nanny or gardener’s accommodation may be ‘ancillary’, but only if they are reliant solely on the main house for their living – e.g. they are employed only by the occupants of the house to work there full time. The revised condition would not permit occupation by a nanny or housekeeper/gardener who also worked for other people, or at other locations other than the application property.
- 7.13 The revised wording of the condition would not therefore permit the formation of a separate residential unit. A separate residential property may result in additional traffic generation to and from the site which could have a negative impact on the rural character of the area and the narrow country roads leading to the farm. The revised condition would therefore ensure that planning permission would remain required for any separate residential use of the building so that such matters could be properly assessed at the application stage.
- 7.14 In summary, therefore, and in relation to both applications, Officers consider that the revised wording recommended would not result in any use of the building having a detrimental impact on the rural character of the area. It would however, avoid any confusion as to what is permitted within the building and would result in a reasonable and appropriate degree of flexibility for the applicant.
- 7.15 As regards ‘policing’ the future use of the building, the Council will have all the normal range of enforcement powers to ensure that the condition

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can be appropriately enforced. Members will be aware that this form of condition is commonly imposed on rural outbuildings and garages across the District and is not unusual. There are many outbuildings and garages in the District that are used for similar ancillary purposes and, as mentioned earlier in this report, many such uses can be carried out without planning permission. Where permission is required, however, similar conditions to that now recommended are common and seek to ensure that residents can make appropriate use of their garages and outbuildings without harm arising to neighbours or to the surrounding area.

- 7.16 Officers are satisfied that, if the revised condition were to be breached in the future, the Council would be able to enforce its requirements satisfactorily in the usual way.

### **8.0 Conclusion**

- 8.1 To conclude, the proposal to vary the wording of the condition will avoid any confusion as to what uses are permitted within the building and will continue to ensure that only purposes which are ancillary or incidental to the residential use of the dwellinghouse are appropriate and permitted at first floor level. The ground floor would remain available for garaging purposes.
- 8.2 The revised wording will not permit the use of the building for any separate commercial activity and will not permit its use as a separate unit of residential accommodation.
- 8.3 The condition will require any use to be incidental or ancillary to the use of the house and will ensure that the site, as a whole, remains as one single residential unit. No change of use would therefore occur. As such, the proposal would not result in inappropriate development in the Green Belt and would not lead to any harmful impact on the surrounding area in terms of increased traffic generation; adverse impact on the highway network, parking provision or to neighbouring amenity.
- 8.4 It is therefore recommended that planning permission be granted, subject to the re-wording of the condition set out at the commencement of the report.