



**3. The Site:**

- 3.1 The site is located outside the settlement confines of Ryarsh, within the Metropolitan Green Belt. The site lies on the west side of Sandy Lane to the south of a group of buildings used for equestrian purposes and domestic storage by the applicant. The site lies on land formerly used as a piggery. The piggery buildings were removed from site following the grant of planning permission TM/03/02645/FL. The site lies in open countryside and paddocks and a manege are located to the west of the application site, which are owned by the applicant. The manege and a viewing platform associated with it are the subject of a retrospective application (ref. TM/12/00587/FL) which is pending consideration.

**4. Planning History:**

TM/70/10478/OLD grant with conditions 9 July 1970

Open sided storage shed.

TM/72/10693/OLD Refuse 17 November 1972

Outline application for Residential development, new access for G. E. Morgan.

TM/72/11387/OLD Refuse 18 April 1972

Outline Application for detached bungalow.

TM/75/10750/OLD Refuse 18 June 1975

Siting of caravan.

TM/84/11189/FUL Refuse 21 May 1984

Use of agricultural building for manufacture of coloured paving slabs.

TM/95/50863/LDCE Certifies 9 August 1995

Certificate of Lawful Development Existing: occupation of dwelling by persons not fulfilling the terms of conditions (v) of planning permission TM/75/1213, and in breach of that condition

TM/01/00298/FL Application Withdrawn 11 April 2001

Demolition of existing piggery and outbuilding and erection of 3 no. chalet bungalows

TM/01/01771/FL      Refuse      13 September 2001

Demolition of existing piggery and outbuildings and construction of 2 no. chalet bungalows

TM/03/02645/FL      Grant With Conditions      30 September 2003

Proposed stable block comprising four loose boxes, tack room and hay store

TM/03/03554/FL      Refuse      7 January 2004

Detached double garage with storage at first floor level

TM/04/00353/FL      Grant With Conditions      26 March 2004

Double garage with storage above

TM/12/00587/FL      Pending Determination

Retrospective application for change of use of land to recreational keeping of horses, sand school and open fronted timber viewing stand

## **5. Consultees:**

5.1 PC: 1. The Parish Council does not know the history of planning applications and permissions for the units on Partridge Farm and would ask the planning department to confirm that the units on site are all authorised.

2. This application is retrospective - the change of use is already taking place without permission.

3. This application was made due to a complaint about lorries blocking Sandy Lane to make deliveries to Partridge Farm. The suggested level of vehicle activity in the application does not correspond with the actual use that is taking place. The Parish Council believes that far more lorries and large vehicles are making deliveries than are shown in the application.

4. Sandy Lane has been designated by Kent County Council as a "quiet lane". It is narrow, has a 6'6" width restriction, and at this part is single lane. It is not a suitable road for the sorts of vehicles that are making deliveries.

5. There is not enough space for some lorries to turn into Partridge Farm. These lorries remain in Sandy Lane while being unloaded and stop all traffic travelling between West Malling and the A20.

6. Some lorries cannot turn around to leave and the Parish Council is aware of at least one lorry reversing onto the A20 because it couldn't turn around.

7. There are security gates at the entrance to Partridge Farm. This means any lorries will be held waiting and blocking Sandy Lane while waiting for someone to open the gates.

8. The registered office for Frameless Glass Curtains is at Partridge Farm and the Parish Council believes there may be a showroom on site. Is there planning permission for both these activities?

9. The website [www.framelessglasscurtains.co.uk](http://www.framelessglasscurtains.co.uk) talks about an "increase in sales". This will inevitably lead to an increase in deliveries of materials and supplies and of the finished product to customers.

10. The Parish Council relies on TMBC to decide if this business is suitable for B1 in a residential area.

11. If the planning department consider that this is suitable for a residential area, then the main concern of the Parish Council is vehicle movement on a small village single track road, of the road being blocked for periods of time to traffic and of the danger of large vehicles being forced to reverse out onto the A20.

5.2 DHH: A B1(c) use, by its very definition will not cause nuisance to any residents due to noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. I have reviewed the information submitted with the application relating to these issues and am satisfied that they have been adequately addressed. I also note that the business has been operating for 6 months and I am not aware of any complaint received concerning the operation unduly affecting any nearby residents.

5.3 EA: No comments.

5.4 Kent Highway Services: This proposal is less than 150m from the A20 and it is noted that there are a number of passing opportunities on this stretch of Sandy Lane. This is not the case between Partridge Farm and the railway bridge. It is noted in the application that "The use does not involve access by heavy goods vehicles". It is considered fitting that any approval could be conditioned to exclude use by HGVs to avoid congestion and damage. With this stipulation in place, I would not wish to object to this proposal.

## **6. Determining Issues:**

6.1 Paragraphs 79-92 of the recently published NPPF provide Government guidance regarding development within Green Belts. The construction of a building for a B1 use within the Green Belt constitutes 'inappropriate development' according to the NPPF (paragraph 89).

6.2 Paragraphs 87 and 88 of the NPPF state:

*“As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special; circumstances.*

*When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”*

- 6.3 Policy CP 3 of the TMBCS requires development proposals within the Green Belt to comply with national Green Belt policy. Policy CP 14 of the TMBCS seeks to limit development within the countryside. It lists categories of development that are acceptable, but the development, the subject of this application, does not fall within any of them.
- 6.4 It is apparent that the construction of the building, to which this application relates, for its existing B1 use, is inappropriate development within the Green Belt and unacceptable in principle. Therefore, it should only be allowed if a case of very special circumstances exist that clearly outweigh the harm caused by this inappropriate development and any other harm.
- 6.5 The applicant has submitted what he considers to be a case of very special circumstances which focuses on three issues. The first is that the building sits within the former farmyard associated with Partridge Farm where extensive buildings stood previously. Secondly, the use of the building is for a commercial use which is of benefit to the local rural economy. The business would have to relocate if the building cannot be retained and it may fail as a consequence of this. This is considered by the applicant to be contrary to the NPPF and this would have a knock on effect for local businesses who supply the tenants of the building with materials. Finally, the applicant believes that the building is not harmful to the character of the area or the landscape due to its position within the site and the screening provided by the railway embankment, other buildings and boundary treatments along the Sandy Lane frontage.
- 6.6 With regard to the first issue, the former piggery buildings were an appropriate form of development within the Green Belt, being an agricultural use. When the applicant had purchased the site in 2000, the piggery buildings were already in a state of disrepair. In 2003, the applicant applied for planning permission to erect a stable building for the applicant’s private use in place of some of the piggery buildings. It was a condition of the subsequent planning permission (TM/03/02645/FL) that all of the piggery buildings located to the south of the permitted stable building were to be demolished prior to works commencing on its construction. It was considered at the time that their demolition was necessary in

order to prevent an over-development of the site in the interests of the openness and amenities of the Green Belt. As the demolition of the former piggery buildings was a requirement in order to justify the approved stable building in 2003, this argument cannot be used now to justify this inappropriate development. It should also be noted that there has now been an unauthorised extension to the flank wall of the stable building, in 2004.

- 6.7 With regard to the second issue, the use of the building is clearly for economic reasons. However, the cessation of this unauthorised business within this site would not necessarily result in its failure. Alternative premises could be found elsewhere and not necessarily too far away. No information has been submitted by the applicant as to where its suppliers are based. No information has been submitted that demonstrates that there is a lack of authorised business premises in the local area that the tenant of the building could make use of. Consequently, I do not consider that much weight can be given to this argument. The NPPF does indeed support sustainable economic growth. However this has to be balanced against other requirements of the NPPF. Indeed within the definition of **“Sustainable development”** provided within the NPPF, it clearly states that planning permission should be granted unless:

*“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, or specific policies in this Framework indicate development should be restricted”*

- 6.8 In this case, there are indeed NPPF policies that indicate that the erection of a building for most purposes including a business use such as this within the Green Belt should not be allowed. In light of this and my earlier comments, I do not consider the economic arguments put forward in support of this application amount to a case of very special circumstances. The NPPF is clear in requiring buildings within the Green Belt to be kept to a necessary and appropriate minimum.
- 6.9 The building has been designed as an extension to the stable building and having a form and scale that is associated with modern agricultural and industrial buildings alike. The building measures 22.5m in length, 6m in width and 4.1m high at ridge level. The walls of the building have been clad with horizontal timber boarding stained dark brown and the roof is clad with box profile corrugated sheeting to match the materials used on the stable building and stands approx 0.5m higher than it at ridge level. It is acknowledged that the building has been designed to fit in with the existing building it is affixed to. However the appropriate use of materials and established hedge planting do not, by themselves, outweigh the impact of this large building upon the openness characteristic of the Green Belt.

- 6.10 In light of the above, I do not consider that the case of very special circumstances submitted by the applicant is sufficient to outweigh the planning policy objection to this development. Consequently, I believe that the principle of this development is contrary to adopted Government and development plan policies.
- 6.11 Turning now to other matters, KHS has not objected to this application on the basis that no HGVs visit the site in connection with the existing business to avoid congestion and damage caused to Sandy Lane. In this case, the application documents state that the applicant uses two small vans (a VW Caddy and a VW Crafter) to transport the finished glass doors to client's properties. Deliveries are typically made within transit type vehicles or 7.5 tonnes box vans. Whilst the application information refers to the use of these smaller deliver vehicles in connection with this business, it is unlikely that a condition could be used to limit the size of delivery vehicles accessing this site. This is because it would not be in the applicant's control to limit the size of the vehicles sent to deliver products to this site as this would be governed by the vehicles used by the suppliers. Therefore to use such a condition would be unreasonable in my opinion. Such a condition would also be difficult to enforce as they it could be difficult to detect whether a breach of condition is occurring. Deliveries from different suppliers could take place at different times of the day/ days of the week.
- 6.12 With regard to the specific point regarding delivery vehicles raised by the PC, the applicant has submitted information stating that the existing tenant does not use HGVs in connection with this business and suggest that the large delivery lorries using Sandy Lane that the PC has referred to are not in fact delivering to Partridge Farm. Indeed the applicant has stated that he has seen lorries from Comet and B&Q drive past his site heading towards West Malling, but having to stop before the railway bridge due to its limited height clearance. It is suggested by the applicant that these vehicles are being directed this way by satellite navigation devices as a direct route from the A20 to West Malling. Lorries then have to reverse back down Sandy Lane to the A20 as they cannot pass under the railway bridge.
- 6.13 In terms of residential amenity, a B1 use is one that can operate within a residential area without causing detriment to the amenity of neighbouring residential properties. Therefore, whilst there are several residential properties in the locality, I do not consider that the use by its very nature causes detriment to the amenity of local residents in terms of noise and general disturbance.
- 6.14 In summary, the development the subject of this application is considered to be inappropriate development within the Green Belt. The case of very special circumstances put forward in support of the application is not considered to be of such weight as to set aside the harm caused by this inappropriate development or that caused to the openness of the Green Belt which has been eroded by the

erection of this building. The development is, therefore, contrary to the NPPF and policies CP 3 and CP 14 of the TMBCS. I would, therefore, recommend that planning permission be refused.

6.15 As the building has already been erected, I would also recommend that an Enforcement Notice be served requiring the building the subject of this application be demolished and all arisings removed from the land.

## 7. Recommendation:

7.1 **Refuse Planning Permission** for the following reasons:

1. The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined in paragraph 89 of The National Planning Policy Framework and policy CP 3 of the Tonbridge and Malling Core Strategy 2007. The erection of this building for a use falling with Class B1 constitutes inappropriate development and is therefore also contrary to the National Planning Policy Framework (paragraphs 87-89) and policy CP 3 and no adequate case of very special circumstances has been submitted.
2. The proposal is contrary to Policy CP 14 of the Tonbridge and Malling Core Strategy 2007, which states that development will not normally be permitted in the countryside, unless the development falls into one of the special categories listed in this policy, none of which applies to the development, the subject of this application.

7.2 An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties:

- The Notice to take effect not less than 28 days from the date of service, subject to:
  - The concurrence of the Chief Solicitor, he being authorised to amend the wording of the Enforcement Notice as may be necessary.
  - In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.
- **Breach of planning control alleged:** without planning permission, the erection of an extension to a stable building and its use for purposes falling within Class B1 of the Town and Country Planning (Use Classes) Order 1987 (as amended);



- **Reasons for issuing the Notice:** A breach of planning control has occurred within the last 4 years. The erection of the extension for its current use is inappropriate development within the Green Belt and an unacceptable form of development within the general countryside. The development causes detriment to the openness of the Green Belt and it is not considered that very special circumstances exist that override the normal policy presumption against this development. This development is, therefore, contrary to Policies CP3 and CP 14 of the Tonbridge and Malling Borough Core Strategy 2007 as well as paragraphs 87-89 of the National Planning Policy Framework 2012. The Enforcement Notice is necessary to alleviate the harm caused to the Green Belt by this inappropriate development, which would also erode its openness. The Council has refused planning permission for the retention of this building because planning conditions could not overcome these objections.
- **Requirement:** To cease the unauthorised use for purposes falling within Class B1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and demolish unauthorised extension to the building shown hatched on the attached plan (TMBC 2) and remove all arisings from the site.
- **Period for compliance:** Six calendar months from the date that the notice takes effect.

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