
Addington Downs **565581 159196** **28 November 2012** **TM/12/03541/FL**

Proposal: The temporary use (two years) of part of an existing mixed use commercial storage yard for a depot serving a courier and logistics business with associated temporary portakabins and sheds to provide ancillary office and storage facilities

Location: Land Adjoining Shelmerdene Addington Green Addington West Malling Kent ME19 5BE

Applicant: 999 Logistics Ltd

1. Description:

1.1 The application retrospectively seeks planning permission for the following:

- Use of an existing storage yard, latterly associated with an horticultural business, as a depot for a courier and logistics business.
- Provision of temporary portakabins, timber sheds and buildings and steel shipping containers to provide ancillary office space and storage facilities.
- The permission is proposed for a temporary period of two years.

1.2 The buildings erected or transported onto the site include:

- Two portakabins that have been modified and joined to provide offices (adjacent to the east boundary);
- A pitched roof timber building also used as offices (adjacent to the east boundary);
- Two steel shipping containers for storage (rear northeast corner and adjacent to west boundary).

1.3 The portakabins and shipping containers are not physically attached to the ground but due to their size, bulk and intended permanence are considered to be “buildings” for the purposes of the Planning Acts.

1.4 A timber workshop building close to the southwest corner of the site and a timber shed in the far northeast corner appear to have been in existence for many years and are to be used for storage.

1.5 Informal parking is provided for approximately 12 vehicles, including staff cars, courier vans and small lorries, adjacent to the north (rear) and west (side) boundaries.

2. Reason for reporting to Committee:

- 2.1 Consideration of enforcement action, if the application is refused as recommended.

3. The Site:

- 3.1 The application site is located beyond the northern most extent of the village of Addington, to the northeast of The Green and within the Metropolitan Green Belt (MGB). Access to the site is via a lane that extends north along the east side of The Green and then turns east at the entrance to the residence of Shelmerdene. A private lane extends eastwards to the main part of the site. Electronic timber gates have been provided at the start of the private lane. The Addington Conservation Area (CA) lies adjacent to the south side of this private lane. The site is generally flat due to it being levelled. The surrounding topography shows a gradual slope from west down to the east.
- 3.2 Paddocks lie between the application site and Shelmerdene to the west and the M20 motorway to the north. A small scale plant nursery (with which the application site has historically been linked) lies to the east. A stables building is sited to the south of the application site with a manege to the southeast.

4. Planning History:

TM/86/11542/OLD	Refuse	28 November 1986
	Appeal Dismissed	7 July 1988
Established Use Certificate re: use of land as a transport operators yard.		
TM/87/10176/FUL	Refuse	20 November 1987
	Appeal Dismissed	7 July 1988
Erection of three detached houses and change of use from transport yard.		
TM/01/03275/FL	Refuse	19 March 2002
	Appeal Dismissed	30 May 2003
Demolition of existing buildings, construction of a detached dwelling and re-use of pig sty for garaging		
TM/02/01524/LDCE	Certifies	18 October 2002
Lawful Development Certificate Existing: storage, distribution and sale of plants etc, parking of commercial vehicles, construction of workshop, storage of bldg. materials, builders plant, use of caravan for ancillary purposes		

5. Consultees:

- 5.1 PC: The Parish objects to the proposal. Concerns raised include:
- The large vans and lorries of the courier business have caused damage to the verges of the village green and those to neighbouring properties.

- The temporary buildings would affect the visual amenity of the locality.
- The movement of vehicles from the site through the village would harm the residential amenity as well as highway safety.

5.2 KCC (Highways): Whilst much of the supporting information provided with this application is frustratingly vague and non-specific, I do not consider that this application which is retrospective and temporary (proposed for 2 years) could be refused with any degree of confidence on highway grounds. This is principally due to the temporary nature of the application however, and any subsequent applications I consider would require specific traffic movement/survey information to give a clear understanding of movements by time of day, days of the week and vehicle type. Subject to any other concurrent approvals, it may also be worth considering for environmental/amenity reasons to limit use to no more than category N2 vehicles - Motor vehicles with at least four wheels designed and constructed for the carriage of goods having a maximum mass not exceeding 12 tonnes.

5.3 Private Reps: 15/0X/0S/4R + site notice and CA press notice. Objections raise the following concerns:

- Operating hours and vehicle movements should be restricted to reasonable working hours.
- The use would result in an excessive number of vehicle movements through the village green.
- Access issues around the green.
- The business has expanded, increasing the traffic and size of vehicles.

6. Determining Issues:

6.1 The application site has historically been part of a plant nursery or horticultural use. It has also been the subject of 3 appeals to the Planning Inspectorate, all of which were dismissed. These include an application for an established use certificate for the use of the land as a transport operators yard in July 1988, the erection of 3 detached houses in July 1988 and the demolition of the existing buildings and construction of a detached dwelling and re-use of pig sty for garaging in May 2003.

6.2 An application for a lawful development certificate for existing use was granted for storage, distribution and sale of plants etc, parking of commercial vehicles, construction of workshop, storage of building materials, builders plant, use of

caravan for ancillary purposes in May 2002 (TM/02/01524/LDCE). A more detailed account of the activities certified as lawful on the site includes the following:

- Importation, storage and distribution of plants and horticultural sundries
- Retail sale of plants and horticultural sundries
- Parking of commercial vehicles
- Use of building as a workshop
- Storage of building materials and builders plant
- Use of caravans on site for purposes ancillary to the above activities.

These activities relate to specific areas of the site, with some (workshop/storage of building materials) relating to specific buildings. These specifics are outlined in the First Schedule on the decision notice for the lawful development certificate. This Schedule made it clear that the activities pertaining to the primary plant business use, consisting of the importation, storage, distribution and retail sale of plants and horticultural sundries, relate to the entire application site, as did the parking/storage of commercial vehicles, but only in connection with the primary plant business use. It is important to note here that the site area relating to this certified lawful use is larger than the application site that is subject to this current application, and included additional land to the east which accommodated the original plant nursery. It was clear from a recent inspection of the site that this eastern part of the site was still used to rear plants.

- 6.3 This current application proposes a change of use of a large part of the site that was the subject of the 2002 lawful development certificate to a depot for a courier and logistics business. The use is currently in operation and a number of buildings have been erected or stationed on the site to provide offices and storage associated with the use, in addition to the re-use of two pre-existing building,
- 6.4 The main issues then are whether the development is “appropriate” in the Green Belt, whether it would affect the openness of the Green Belt and the purpose of including land within it, and whether it would impact on the visual amenity and character of the area, including the CA, and on neighbouring amenity. Highways impacts also need to be considered.
- 6.5 In the MGB, the construction of new buildings is inappropriate. Exceptions do apply, as outlined in paragraph 89 of the National Planning Policy Framework (NPPF). The last of these exceptions is most relevant to the proposal. It includes limited infilling or partial or complete redevelopment of previously developed sites, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

- 6.6 The proposal is considered to constitute a partial redevelopment of a developed site and therefore it needs to be established whether the proposed development would have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing use.
- 6.7 The existing lawful use of the site is considered to be that certified as a lawful existing use in 2002 under ref. TM/02/01524/LDCE. This is outlined in paragraph 6.2 of this report.
- 6.8 Within the Officer's report for the lawful development certificate, it was made clear that the original and primary use of the site was an intensive agricultural/horticultural use similar to a plant nursery which propagated plants on a commercial basis. It was also confirmed that some importation of plants to the site occurred subsequent to the 1970s. Parking of commercial vehicles was also considered to have taken place but only on an ancillary basis to the nursery or to the storage of building materials. The workshop use certified was also seen as ancillary to the keeping of commercial vehicles which in turn were only parked on the site on a subservient basis to the principal plant business use of the land.
- 6.9 The proposed use by contrast does not relate to horticulture but rather is for a depot for a courier and logistics business. The business provides an express courier delivery service for a range of goods. It provides a 24 hour service. The activities on the site consist of the parking of courier vans and small lorries, as well as staff vehicles, and the coming and goings of these vans and lorries responding to the need to carry out deliveries. Additional temporary buildings have also been erected or stationed on the site for offices relating to the business.
- 6.10 I am of the view that the proposed use and activities relating to that use would have a much greater impact on the purpose of including land within the Green Belt compared to the existing established use. The previously existing use of the site has always revolved around a horticultural primary use, which was clearly established within the assessment of the 2002 application for a lawful development certificate (TM/02/01524/LDCE). This horticultural primary use is considered to be an acceptable use in the countryside and, by nature, is consistent with the five purposes of the Green Belt outlined in paragraph 80 of the NPPF. The nature of the proposed courier and logistic business on the other hand, with its additional office buildings, increased number of commercial vehicles being parked on the site and the increased number of comings and goings to and from the site, in my opinion, would result in a more industrial and urban appearance to the site that would add substantial visual clutter to the site. This would have a detrimental impact on the openness of the Green Belt and, contrary to the third purpose of including land in the Green Belt as prescribed in paragraph 80 of the NPPF, would result in an unacceptable encroachment within the countryside.

- 6.11 Accordingly, I am of the view that the development is inappropriate development in the MGB. A case of very special circumstances therefore needs to be demonstrated to show that the harm by reason of the development's inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.12 The applicant, in the submitted planning statement, has postulated the following very special circumstances:
- The proposal is for a temporary permission for two years.
 - The application site is previously developed land with existing commercial use rights for storage of vehicles and items such as building materials. The existing uses are already non-conforming commercial activities.
 - The proposed land would be largely open in terms of its character with low level temporary buildings sited adjacent to existing structures. Vehicle parking fluctuates in intensity at any given time.
 - The site is well screened, being surrounded by a 1.8m high close-boarded fence.
 - Although the site is in the Green Belt, the site is relatively well developed rather than being truly open in character. The locality has a mixed use/character feel with buildings on and surrounding the site.
- 6.13 The applicant has stated that the site has existing use rights for a commercial use that involves the parking and storing of vehicles and other items. It should be clearly noted here that the existing lawful use of the site relates to a horticultural primary use of the land, with the parking of commercial vehicles being ancillary to this use. The proposed use establishes a commercial courier and logistic business as the primary use which is intrinsically different. The proposed use would also substantially increase the number of vehicles on the site and the number of movements to and from the site.
- 6.14 The buildings on the site are temporary in appearance and appear out of character with the rural setting, which is characterised by stables, glasshouses, timber sheds and fields and paddocks. No information has been provided clarifying why the application is for a temporary period only. Notwithstanding this, I am of the view that the proposed development consists of an inappropriate and non-conforming use. Even though the fencing around the site would provide screening to the use and buildings this does not diminish the impact of the development proposed in this application, on the openness of the land. Although the site is close to the village, maintaining the openness beyond the village confines is paramount to preserving the openness of the Green Belt and safeguarding the countryside from

encroachment. Therefore, I do not consider that the justification provided by the applicant represents very special circumstances that would outweigh the harm that the proposal would inflict on the MGB.

6.15 Accordingly, the proposal would be contrary to policy CP3 of the Tonbridge and Malling Borough Core Strategy (TMBCS) and paragraphs 79, 80 and 87-89 of the NPPF.

6.16 I am also of the view that the development fails to satisfy Policy CP14 of the TMBCS where, in the countryside, development is restricted to those categories prescribed in the Policy. The development is not necessary for the purposes of agriculture or forestry, is not an expansion of an existing authorised employment use but rather a change of use from that certified as lawful, and a rural location is not essential for the proposed logistics business.

6.17 The temporary buildings that have been erected are considered to be of a poor design that would be unsympathetic to the visual appearance of the area. I also consider that the parking of a large number of courier vehicles on the site would exacerbate this visual impact. I am therefore of the view that these aspects of the development would demonstrably harm the character and visual amenity of the area and adjacent CA. Accordingly, the development would be contrary to policy CP24 of the TMBCS and policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document (MDEDPD).

6.18 The highway authority (Kent Highways) has reviewed the proposal and does not have any objection. However, I have concerns with the position take in regard to the suggested difference in impact between a temporary proposal and a permanent one, whereby the issues that arise would fundamentally be the same.

6.19 I am of the view that the number and size of the vehicles used and the nature of the business involving couriership and deliveries would generate additional traffic through the centre of the village past The Green where parking is tight and a number of residential properties are positioned close to the highway. Notwithstanding this, the narrowness of the lane and tight parking environment would restrict the speed that vehicles can travel in this area and, as a result, I do not consider that the impact on highway safety as a result of the development would be severe. The proposal therefore would accord with policy SQ8 of the MDEDPD and paragraph 32 of the NPPF.

6.20 However, I am of the opinion that the number of comings and goings relating to this new use is likely to be substantially greater than the existing lawful use and other uses that would relate to the commercial/horticultural use of the site, given the proposed use involves the frequent movement and delivery of goods in vans and small lorries to various destinations at any time of day. This would have a

detrimental impact on the expected residential amenity of the residents in this area and would also harm the character of the area. This would be contrary to policy CP24 of the TMBCS and policy SQ1 of the MDEDPD.

6.21 There is not considered to be any concern relating to land contamination on the site.

6.22 I note the comments made by several neighbouring residents, the Addington Green Residents Association and the Parish Council which relate predominantly to access and traffic issues as a result of the development. As outlined above, I am of the view that the additional traffic movements from the use would have a detrimental impact on the character of the area and expected residential amenity of those residing in close proximity to the route used by the vehicles. However, I do not consider that the development would be harmful to highway safety sufficient to warrant refusal in light of the NPPF paragraph 32, which states that development should only be refused where the residual cumulative impacts of development are "severe". The vehicles would be manoeuvring at a very low speed through the village that would limit harm to pedestrians and other motor vehicle users, in my view. I also note that the highway authority has not objected to the proposal on highway safety grounds.

6.23 Paragraphs 18 and 19 of the National Planning Policy Framework (NPPF) supports sustainable economic growth to which significant weight should be given. I acknowledge that the development would provide some benefit to the local and domestic economies by way of generation of employment and re-investment of earnings. However, in my view, these benefits are not sufficient to outweigh the harm that the development would cause to the Green Belt and character of the area.

6.24 In light of the harm the proposed development would have on the Green Belt, on the character and visual amenity of the area and on the amenity of the residents in the immediate area, I recommend that the application be refused. As the proposal is retrospective, and given the nature and degree of harm that is being occasioned, it is also recommended that enforcement action be undertaken.

7. Recommendation:

7.1 **Refuse Planning Permission** subject to the following:

Reasons

1 The development, by reason of the partial redevelopment of the site and its associated use having a greater impact on the openness of the Green Belt and the purpose of including the land within in it than the existing development, would represent inappropriate development. No acceptable very special circumstances exist that would outweigh the harm that the development's inappropriateness would have on the Green Belt and the other harm that has been identified. The

proposal is therefore contrary to policies CP3 and CP14 of the Tonbridge and Malling Borough Core Strategy 2007 and paragraphs 79, 80 and 87-89 of the National Planning Policy Framework (2012).

- 2 The development, due to the temporary appearance and poor design of the buildings, the impact of the parking of courier vehicles on the site and the amount of coming and goings of the vehicles associated with the use through the village, would demonstrably harm the character and visual amenity of the area and would be detrimental to the residential amenity of village dwellers. The proposal is therefore contrary to policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010.
- 7.2 An Enforcement Notice be **issued** requiring the cessation of the use of the land as a depot for a courier and logistics business and the removal of the unauthorised buildings and temporary structures, the detailed wording of which to be agreed with the Director of Central Services.

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