
Report of 20 October 2005

**East Malling &
Larkfield**
East Malling

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05.07.2005

TM/05/02102/FL

Proposal: Change of use of farm buildings (in part retrospective) to a combination of B1; B2 and B8 uses
 Location: Corio Farm 450 Watringbury Road East Malling West Malling Kent
 Applicant: W A King

1. Description:

1.1 This is a retrospective application in the main to regularise the use of a number of buildings and areas of open storage, along with proposal's to change the use of a number of buildings to B1 (light industrial use), B2 (general industrial use) and B8 (warehousing and storage). The following list sets out the precise consent sought, along with supporting commentary from the applicant in italics.

- Building 1 – *Originally built as a farm shop. This building already has planning consent to be used for storage (B8) under planning permission TM/91/1363 – used for cycle storage. The applicant is not seeking to change the authorised B8 storage use of this building.*
- Building 2 – *Retrospective change of use to B2 & B8. Originally granted consent as a replacement agricultural barn and two garages. The building has been used for repair of agricultural machinery and farm machinery, as well as other vehicles from approximately 1989. It would appear that it has never been used for keeping livestock.*
- Building 3 – *Retrospective change of use to B8, with the proposed insertion of a mezzanine floor (approximately 75 square metres). The building was erected under a prior notification in 1997 for agricultural barn. The building has been used for storage of hay and straw together with general storage since 1997.*
- Building 4 – *Proposed change of use to B1 and B2. This forms part of a group of buildings permitted in 1983 for stables, stores and tractor shed. The group of buildings has been used for stabling, agricultural and general storage. The mixed storage commenced after 1994.*
- Building 5 – *Retrospective change of use to B8. This forms part of a group of buildings permitted in 1983 for stables, stores and tractor shed. The group of buildings has been used for stabling, agricultural and general storage. The mixed storage commenced after 1994.*

- Building 6 – Retrospective change of use to B8. *This forms part of a group of buildings permitted in 1983 for stables, stores and tractor shed. The group of buildings has been used for stabling, agricultural and general storage. The mixed storage commenced after 1994.*
 - Building 7 – Proposed change of use to B8.
 - Building 8 – Proposed change of use to B8.
 - Building 9 – Retrospective for B8. *Built around 1985 and has been used for storage purposes since that date.*
 - Building 10 – Retrospective change of use to B8. *This forms part of a group of buildings permitted in 1983 for stables, stores and tractor shed. The group of buildings has been used for stabling, agricultural and general storage. The mixed storage commenced after 1994.*
 - Two areas of open storage are proposed. *External storage takes place around the whole site currently. The application proposes to replace this with two dedicated areas for open storage uses. Zone A is 200 square metres and Zone B is 156 square metres.*
 - A number of containers are to be removed from the site.
- 1.2 The applicant is proposing to formalise the parking arrangements, with 4 lorry spaces, 4 van spaces and 21 car parking spaces to be provided. The existing access onto Wateringbury Road is to be utilised and the applicant has indicated that vision splays of 120m by 2.5m by 120m can be achieved.
- 1.3 The applicant has submitted a supporting statement, which is available for Members inspection prior to the meeting.

2. The Site:

- 2.1 The application site lies within a Green Wedge and outside the rural settlement confines of East Malling. The site lies to the west of Wateringbury Road, just north of its junction with Barming Road. To the north of the access lies 446 Wateringbury Road, whilst to the northwest of the farm complex lies Badgers Dell situated behind a line of conifers. A pond lies to the south of the vehicular access. The site generally rises from the north to the south.
- 2.2 Corio Farmhouse is the first building you approach from the vehicular access off Wateringbury Road. Directly to the south of the house lies Building 1, a single storey brick built former farm shop. To the west of Building 1, lies Building 2, which is a L-shaped brick built structure with storage at first floor and single storey flat roof pair of garages. Directly to the west of these lie a number of vegetable plots and the residential property of Badgers Dell. To the south of Buildings 1 & 2,

lies an internal access road and parking and just beyond lies the open storage Zone A. The main access lies behind this storage area. To the west of open storage Zone A lies Buildings 7 & 8, which are two small brick built structures. To the south of buildings 7 & 8, lies the second area of open storage Zone B, whilst to the east lies a main access and the large agricultural barn, shown as Building 3. To the southwest of Zone B, lies the small storage Building 9. To the south of this building, lies the large collection of structures and buildings, which form Buildings 4, 5, 6 and 10. These are a mish mash of blockwork, brickwork and profiled steel clad structures.

2.3 The site also contains a number of casual parking areas and some open storage across the site of various degree.

3. Planning History (most relevant):

3.1 TM/97/02077/AGPN Prior Approval Not Required 19.01.1998
Prior Agricultural Notification: Erection of tractor store (Building 3).

3.2 TM/89/00299 Approved 19.07.1989
Erection of replacement barn (Building 2).

3.3 TM/91/01363 Approved 27.02.1992
Change of use of farm shop to B8 or B1 (Building 1).

3.4 TM/86/01526 Approved 28.11.1986
Replacement of fire destroyed farm shop (Building 1).

3.5 TM/83/395 Approved 08.06.1983
Erection of replacement farm building (Building 4).

4. Consultees:

4.1 PC: Objection. No mention is made about the number of traffic movements that is expected to be generated by this application.

4.1.1 We are concerned by the number of lorry parking spaces shown and wish a weight restriction of 20 tons placed on this development. Also that any heavy lorries attending this site do so via Wateringbury and not up the High Street in East Malling. (Note: we do not wish to see this site used as an Asda or Tesco distribution depot).

4.1.2 We wish an hours of working condition be placed on this site, i.e., 07:00-20:00 hours Monday to Friday and 07:00 to 13:00 hours on Saturdays. No night, Sunday or bank holiday working.

4.1.3 When the work is completed we would like to see the whole site cleaned up and landscaped.

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- 4.2 DHH: This site is subject to ongoing concerns about noise and smoke. Abatement Notices were used in February 2002, pursuant to the noise nuisance provisions of the Environmental Protection Act 1990, which prohibit the use of static and mobile equipment at Corio Farm outside the hours of 07:00 to 18:00 Monday to Friday (excluding public holidays) and 07:30 to 12:00 on Saturdays, other than in an actual or potential emergency.
- 4.2.1 I recommend that any consent should be subject to a similar restriction. In addition, there should be conditions to:
- Prohibit the burning of any material on the site;
 - Prohibit deliveries/vehicle movements outside the hours of 07:00 to 19:00 Monday to Friday and 07:30 – 12.00 on Saturdays;
 - Restrict open storage to designated areas.
- 4.3 This application is to partly formalise current uses within the application site, plus other proposed additional uses. The site currently has existing access onto Wateringbury Road is acceptable and has previously been used by various vehicles. A private access road/drive serves the current internal traffic movements within the site. Applicant to be advised to maintain suitable trimming to hedges to help retain safe visibility at the entrance.
- 4.3.1 Generally the details indicate suitable parking provision for the proposed uses. Applicant to be reminded that for office use other than a small ancillary office attached business KCCVPS to be followed (1 parking space per 20-sq. m of floorspace). Building 2 seems to incorporate a garage type of use. If this was to be for car servicing/repairs it could attract an additional parking requirement (4 car spaces per service bay). However, based on the proposals submitted I would in principle raise no objection.
- 4.4 EA: No objection to proposal.
- 4.5 Private Reps: 11/0X/0S/5R. Five letters have been received from two local residents and their agents, objecting on the following grounds:
- Noise pollution during unsociable hours;
 - Noise complaints have led to restriction notices being served;
 - Mess on site, not a farm, but site of heavy plant and equipment being operated from farm;
 - Bonfires and muckspreading in close proximity to neighbouring properties;
 - One of the buildings which usage is to be changed lies less than 30m from neighbours living room;

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- No details of predicted traffic movements;
 - Access is dangerous;
 - 70% of the application is retrospective;
 - The visibility from the access is very poor, when applying a visibility splay from a 4.8m set back;
 - Site lies within a green wedge and should act as buffer between areas of development;
 - The farm buildings at Corio Farm are not suitable candidates for conversion under policy P6/14 of the TMBLP 1998 in terms of the buildings not being appropriate design and character to the locality;
 - The buildings will not have a positive impact on the rural environment of the area;
 - The buildings are not a form, bulk and general design which is in keeping with its surroundings;
 - The buildings are not permanent, substantial or sound construction;
 - The proposal involves new build;
 - Adverse impact on the rural character or appearance of the area both locally and in wider views;
 - Proposal will not represent diversification of the rural economy, but merely create an industrial estate;
 - Does not lie within a RS2 or RS4 settlement where small scale business development are appropriate;
 - PPS7 does not support this proposal, as there is no evidence that supports the need for this development on either an economic or a social level.
 - Under PPS7, it is considered that none of the buildings have any architectural or historical interest of the area;
 - The site is very visible from Badgers Dell;
 - Harm the rural character of the site;
 - Light pollution;
 - There will be an increase in traffic movements;

- Access is dangerous;
- The stated claims over the usage of the buildings are not correct.

4.6 A8 Site Notice: No response.

5. Determining Issues:

- 5.1 The main issues to be considered is whether the development is appropriate, whether the development harms the residential amenity of nearby dwellings and whether the development results in hazardous highway conditions.
- 5.2 This application site has been subject to a long history of enforcement investigations, both from planning and environmental health. The Borough Council served Noise Abatement Notices in February 2002, which prohibits the use of static and mobile equipment outside specific hours, which are detailed above in the DHH comments (paragraph 4.2). The Borough Council also served a Section 215 Notice in July 2001 which required the site to be tidied up by removing from the land all lorries bodies, building equipment and materials and various pieces of machinery and equipment and the old skips. This Notice was complied with in September 2004.
- 5.3 Whilst no enforcement notices have been served regarding the current uses of the site, the Borough Council did serve a Planning Convention Notice in May 1998, which required the applicant to provide information regarding the activities being carried out at Corio Farm. In the owner's response, it was stated "*the only activity carried on from Corio Farm is related to agricultural use. We also operate a small plant hire business in Essex from an authorised depot. One lorry is garaged on these premises for transport use to Essex and for use locally on small agricultural jobs, on rare occasion. To best of my knowledge we have permission to operate two lorries of maximum overall weight of ten tonnes*".
- 5.4 The applicant also stated in his response to the PCN in 1998 that "*the egg shop is now used by Mr Wiltshire of Larkfield Cycles for storage. One lorry per six to eight weeks delivers to these premises and then loaded into two vans approximately twice per week. To the best of my knowledge the change of use of these premises was obtained and is still operational for which we pay rates*".
- 5.5 The applicant is seeking to regularise the use of a number of buildings and areas of open storage, along with proposed change of the use of the remaining buildings.
- 5.6 This application seeks to either regularise or propose changes of uses to a number of buildings to B1, B2 or B8. PPS7 allows for the re-use of buildings in the countryside, however it is less prescriptive in terms of buildings suitable for conversion than its predecessor PPG7. Re-use for economic development purposes will usually be preferable. It also goes on further in stating replacement

buildings are acceptable where it results in an environmental improvement in terms of the development on its surroundings and the landscape. There is no requirement that the buildings have to be redundant or formerly related to agriculture in order to be considered worthy of re-use for alternative uses.

- 5.7 Policies RS5 of the KSP 1996 and P6/14 of the TMBLP 1998 allow for the conversion of rural buildings to alternative uses, such as commercial and industrial development, amongst other uses. Therefore, as a starting point, the principle of reusing these rural buildings for light industry, offices, general industrial, storage and warehousing is acceptable in principle.
- 5.8 Policy P6/14 sets out a detailed criteria to assess whether buildings are suitable candidates for conversions, such as whether the buildings are in keeping with their locality; whether they are capable of conversion without major or complete reconstruction; any alterations are sympathetic to rural character of the building; does not harm the residential amenity of nearby properties; acceptable in highway terms; and does not have any adverse impact on the rural character of the locality.
- 5.9 Whilst it is possible to run through the criteria against each individual buildings, this policy has been partially overtaken by new government guidance in PPS7 where it relates to non-residential conversions. In particular, whilst a criterion for conversion is set out, it is less stringent in terms of the quality of the buildings that policy P6/14 of the TMBLP 1998 requires.
- 5.10 Members need to also be aware that at a recent appeal (The Cross, Malling Road, Mereworth) for the conversion of rural buildings, the Borough Council sought to defend a refusal based that *“they will require substantive alteration and/or rebuilding and are not of a substantial nature and that these buildings are not of a form and design that are in keeping with their more general surroundings of traditional buildings. Accordingly, the proposals are considered to be contrary to policy P6/14 of the Tonbridge and Malling Borough Local Plan 1998”*. These buildings were in a poor state of repair and in some many respects less permanent or sound construction than those that currently stand at Corio Farm. The appeal proposal involved extensive external alterations to the buildings to improve their appearance, as the number of buildings were merely Nissan huts and Anderson shelters. The Corio Farm application does not involve any external alterations, the only alterations, relate to inserting mezzanine floors and internal partitions, which do not require the Council’s consent. The application does not involve new build or extensions to existing buildings. The appeal at The Cross, Mereworth for converting those buildings was allowed were PPS7 was a material consideration.
- 5.11 Therefore, I do not consider that any ground of refusal for the re-use of these buildings could be substantiated on the quality or appearance of the existing buildings, particularly as a number of these where previous found to be acceptable in this location in receiving planning permission. The buildings on the site are

permanent and do not require any external alterations, major reconstruction or rebuilding to be suitable for conversion particularly bearing in mind the recent appeal decision.

- 5.12 There is no requirement under policy P6/14 of the TMBLP 1998 or PPS7 that only buildings of historic or architectural interest can be converted. The policies require care be taken in retaining important features when converting.
- 5.13 The site has previously been subject to widespread open storage of a variety of materials, equipment and containers. This resulted in the Borough Council serving a Section 215 Notice in July 2001, which was complied with. The applicant is seeking regularisation for two areas for open storage, which would result in the consolidation of all the existing general open storage into two defined areas. The site lies within a rural area and a green wedge, but not in any special landscape designation. The chosen locations have minimal visual impact from public vantage points and subject to restricting the height of open storage to 3m, I am satisfied that this will significantly improve the appearance of the site. To ensure the existing general open storage is relocated within the designated area, I am recommending a condition prohibiting open storage outside the two designated areas. Therefore, if materials or containers were to be placed outside the designated areas of open storage, there would be a breach of condition and the Borough Council would have the ability to take enforcement action to seek their removal where appropriate. Whilst the principle of open storage in a rural area may not normally be expected, given that this is intended to regularise and exercise a level of control over a continuing problem, on balance I find this solution acceptable.
- 5.14 Concern has been raised by local residents that this is not appropriate development in a rural area and a green wedge, by creating an industrial estate. The development as discussed above is acceptable in terms of re-using rural buildings and I have detailed the position for the open storage. There is however, scope to further limit the visual impact of the development, particularly the parking area to the west and around the open storage areas by planting landscaping to help soften the development. This matter can be controlled by condition.
- 5.15 In terms of the impact of the residential amenity of nearby dwellings, the site has previously resulted in a number of complaints relating to noise, burning and works at unsociable hours. None of the matters appear to be related to uses now subject to the retrospective elements of the application. A Noise Abatement Notice is in place to control noise levels between set hours. The DHH raises no objection to the application subject to imposing a number of conditions restricting the hours of use for deliveries and vehicle movements, prohibiting burning and controlling storage to the designated areas. All these matters can be controlled by condition and would ensure the Council has the ability to exercise greater control than currently exists. In addition, I consider that all operations on the site should also tie with the permitted hours of use under the Noise Abatement Notice to ensure

operations can only be carried out during normal working hours. In effect, vehicular movements and business operations will be restricted to 07:00 to 18:00 Monday to Friday and 07:30 to 12:00 on Saturdays, with no movements or operations on Sundays, Bank Holidays or Public Holidays. The imposition of conditions will protect the residential amenity of the nearby dwellings.

- 5.16 Concern has been raised over possible light pollution and this is a material consideration. Therefore, I have imposed a condition prohibiting the installation of external lighting without the express consent of the Local Planning Authority.
- 5.17 In highway terms, the development will utilise an existing access and the applicant states that a vision splay of 120m by 2.4m by 120m can be achieved. I note local residents' concerns that the access is very poor and visibility with 4.8m set back would have limited visibility. However, the KCC Highways considers that the vision splays are adequate with the 2.4m set back and suggests that the hedges need to be trimmed back on a regular basis. This matter can be controlled by condition limiting to the height of obstructions within the vision splay.
- 5.18 The site layout shows the provision of an adequate level of parking to meet the KCCVPS, and there is scope for overflow parking within existing hardstanding areas, if required. In terms of traffic movements, the KCC Highways does not raise any objections to this development and does not consider that it will result in hazardous highway conditions. It should be remembered that this is a retrospective application in the main, whilst the proposed changes are to existing agricultural uses being carried out.
- 5.19 In light of the above considerations, I am satisfied that the change of use of farm buildings to a variety of B1, B2 and B8 uses is acceptable in terms of policy P6/14 of the TMBLP 1998 and PPS7 and the retention of two areas of open storage to be acceptable. In recommending approval, I consider that a permission enables the Borough Council to exercise a greater level of control than currently exists.

6. Recommendation:

- 6.1 **Grant Section 73A Approval** as detailed in letter dated the 15.09.2005 and 04.07.2005, schedule of buildings received on the 05.07.2005 and by plans P124 sheet 3, 050201.11, 050201.01, 050201.03, 050201.02, 050201.04, 050201.08, 050201.05, 050201.09, 050201.07, 050201.06, 050201.10 and site received on the 05.07.2005 subject to the following conditions:

- 1 The business and associated operations shall not be carried on outside the hours of 07:00 to 18:00 Mondays to Fridays and 07:30 to 12.00 Saturdays with no working on Sundays or Public and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance outside normal working hours to nearby residential properties.

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- 2 No vehicles shall arrive, depart, be loaded or unloaded within the application site outside the hours of 07:00 to 18:00 Mondays to Fridays, 07:30 to 12:00 Saturdays, or at any time on Sundays or Public and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance outside normal working hours to nearby residential properties.

- 3 There shall be no open storage of lorry bodies, containers, plant or other equipment, materials, machinery or skips outside the area(s) shown for such use on the approved plans, and the height of open storage within the designated areas shall not exceed 3 metres in height above ground level.

Reason: To avoid obstruction of vehicle parking/manoeuvring areas and to ensure the character and appearance of the development and the locality is not significantly harmed.

- 4 No materials shall be burnt on the site.

Reason: To protect the amenities of nearby dwellings.

- 5 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

- 6 No building shall be occupied until the area shown on the submitted plan as turning area has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

- 7 Within three months of the date of this planning permission, the applicant shall submit for approval to the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved

scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 8 No external lights shall be installed on any building or any part of the application site within the express written consent of the Local Planning Authority.

Reason: In the interests of the visual amenity of the locality.

- 9 The access shall not be used until the area of land within the vision splays shown on the approved plans has been reduced in level as necessary and cleared of any obstruction exceeding a height of 1.05 metres above the level of the nearest part of the carriageway. The vision splay so created shall be retained at all times thereafter.

Reason: To ensure the safe and free flow of traffic.

Contact: Aaron Hill