
East Malling & Larkfield East Malling	569525 155080	28.11.2005	TM/05/03699/FL
---	----------------------	-------------------	-----------------------

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

1. Description:

1.1 Members will recall that this application was deferred at the Area Planning Committee No. 3 on 27 April 2006 (DPT pages 35-49 refer) for a Members Site Inspection, which was held on the 12 June 2006 at 5pm. Members also requested clarification of the following points:

- whether all the buildings had planning permission;
- further assessment of the impact of noise and vibration on the adjoining residential property's;
- analysis of the additional information presented by Lambert & Foster in terms of the "ten year rule".

A copy of my earlier report is Annexed for convenience sake.

1.2 The applicant has submitted a letter stating that they have had machinery and equipment at Corio Farm since the early 1990s.

2. Consultees (brought forward from the supplementary report and additional letters received):

2.1 Private Reps: One additional letter received objecting to the extent of open storage areas (A, B & C) and questioning the claimed time periods of historic use stated in the Committee report and questioning how such claims can be possibly substantiated.

2.2 Two letters of support have been received. One stating that they are aware that business operations have been carried out by the applicant since 1990 and that have hired civil engineering and building plant for the applicant. A second letter states that they hired yard space at Corio Farm in the early 1990s. The Borough Council is asked to support an existing commercial and small family run company. If planning permission is granted, a condition should be imposed to restrict hours of working at Corio Farm.

- 2.3 DHH: Members requested that they be provided with additional information on the impact of noise and vibration from lorry movements to and from the adjoining residential property.
- 2.3.1 I do not have information on the absolute/relative level of lorry movements associated with the present/proposed use of the site and therefore cannot provide a comparative analysis between the present position and that which will arise if permission is granted. I have prepared my evaluation of these aspects by reference to absolute noise and vibration criteria.
- 2.3.2 So far as ground borne vibration is concerned I have used information provided in Department of Transport publication "Traffic induced vibration in buildings" to calculate that provided the site roads do not have potholes greater than 55mm in depth the movement of lorries within the site will not cause perceptible vibration within the adjoining residential property.
- 2.3.3 The noise emitted by diesel engines has significant low frequency components and it is a characteristic of such low frequency sounds that, if they are of sufficient magnitude, they may cause the vibration of building elements, particularly the rattling of windows. In this case I have calculated that low frequency noise from the movement of a "typical" lorry along the site road closest to the adjacent residential property will not be so great as to cause windows to rattle although it is possible that on occasion an individual lorry might cause windows to rattle.
- 2.3.4 With regard to lorry noise affecting the external amenity areas of the adjacent residential property; PPG 24 advises that "*general daytime outdoor levels of less than 55 dB (A) LAeq are desirable to prevent any significant community annoyance*". In this case I calculate that provided no more than 17 lorries/hour pass along the site road closest to the adjacent residential property these criteria to safeguard amenity will be satisfied.
- 2.4 KCC Highways: Additional comments based on the recent analysis by TMBC environmental officer regarding lorry noise affecting external amenity. The officer has assessed that external amenity will not be adversely affected providing that 'no more than 17 lorries/hour pass along the site road closest to the adjacent residential property'. This I assess as 8 vehicles x 2 in/out movements an hour. Taken over say an operational day of 10 hours results in a total of 170 two-way (arrival and departure) movements per day.
- 2.5 TRICS (Trip Rate Information Computer System) does not hold data particularly relevant to units this small in floor area. However, having no other information to use I have used the nearest appropriate TRICS data to make a best assessment of likely traffic generation.
- 2.6 TRICS suggests that a B8 (storage and distribution) use would generate in the order of 5 to 6 movements per 100sq m per day, a B2 use would generate 3 to 4 movements. However, these figures are derived from much larger sites. Based on

the number of buildings and the stated floor areas I estimate that the proposal could generate in the order of between 60 and 70 two-way (arrival and departure) movements per day. This leads me to the conclusion that the proposals are unlikely to result in traffic generation exceeding that stated in the environmental officers' analysis.

3. Determining Issues:

3.1 The main additional issues to be considered are:

- whether all the buildings have planning permission,
- whether the additional information supplied by Lambert & Foster provides any clarification regarding the "*ten year rule*" relating to the use of the land, and
- a further assessment of the noise and vibration impacts on the residential amenity on Badgers Dell.

3.2 The following list sets out whether the buildings have planning permission:

- Building 1: TM/91/1363: Change of use of farm shop to B8 storage - Approved 27.02.1992.
- Building 2: TM/89/0299: Replacement agricultural barn - Approved 19.07.1989.
- Building 3: TM/97/2077: Prior Agricultural Notification for erection of tractor shed - Prior approval of siting and appearance not required 19.01.1998.
- Building 4: TM/83/0395: Erection of replacement farm building - Approved 08.06.1983.
- Building 5: No planning application submitted for this building.
- Building 6: Part of the building is covered by TM/83/0395: Erection of replacement farm building - Approved 08.06.1983.
- Building 7: No planning application submitted for this building.
- Building 8: No planning application submitted for this building.
- Building 9: No planning application submitted for this building.
- Building 10: No planning application submitted for this building.

3.3 Whilst buildings 5, 7, 8, 9 and 10 do not have planning permission, all of these buildings appear on aerial photographs from 1999. Building 5 appears on aerial photographs from 1995, whilst building 7 appears on aerial photographs from 1990. In terms of the lawfulness of these buildings, they have all stood for more

than four years and therefore are lawful (and thus also immune to enforcement action). Therefore, the Members will need to consider the appropriateness of the change of use of these rural buildings to alternative uses in light of Policy P6/14 of the Tonbridge and Malling Borough Local Plan 1998. In particular, I draw Members attention to paragraphs 5.6 to 5.11 of my April Committee Report, and paragraphs 3.8 to 3.11 below.

- 3.4 The additional information supplied by Lambert & Foster relates to the claimed areas of open storage. Reference is made an Enforcement Notice dated the 12 May 1992 which related to a "*material change of the use of land for storage or caravans, motor caravans, coaches, lorries and civil engineering plant and equipment*". This notice appears to have been complied with, but is also still in effect. Letters on file appear to indicate that all the materials and equipment stored on the site were for agricultural purposes in 1998. Further investigations relating to a plant hire business operating from site, revealed that there was open storage involving equipment, machinery, lorry bodies and skips, but which were used for agricultural purposes.
- 3.5 Following further enforcement investigations around 2000/2001, the Borough Council served a Section 215 Notice. Such a Notice does NOT place control over uses as such but rather can only to be used to control the appearance of land (and then only in particular circumstances). This notice required the site owner "*to remove from the land all lorries, building equipment and materials and various pieces of machinery and equipment and old skips*". The extent of the Notice covered the whole the Corio Farm land holding and significantly extended beyond the open storage areas currently sought. It should be noted that the Notice could not prohibit open storage, but required specific items to be removed to improve the appearance. This Notice was finally complied with in September 2004 but did not remove the areas of open storage, but simply removed the lorry bodies, building equipment and materials, machinery and old skips from the site.
- 3.6 The three areas on which planning permission is sought will consolidate the open storage areas and, as highlighted in my previous report, Area C is to be reduced. A 5m deep landscaping buffer is also proposed to screen the site from views to the west and north. In addition, I have taken the opportunity to clarify and revise the condition 3. To preclude the items prohibited by the Enforcement Notice and those previously covered in the Section 215 Notice.
- 3.7 In terms of the further assessments on the impact on the residential amenity on the nearby Badgers Dell, the main source of noise and vibration will be from vehicular movements in the northern section of the site adjacent to the boundary with the neighbouring property. The DHH does not consider that vibration from lorry movements will be significant. As for noise from lorry movements, the DHH considers that the lorry movements would need to exceed 17 lorry movements per hour along the road nearest to Badgers Dell cause significant harm to their residential amenity. This is approximately 3 lorry movements per minute and this

scenario clearly does not exist at Corio Farm, which is backed up by KCC Highways own analysis of traffic movements. A condition can be imposed to restrict the level of lorry movements, even if I feel that such a scale of movements is highly unlikely to occur given the size and nature of Corio Farm. DHH does not oppose this development.

3.8 The following matters were raised at the Members Site Inspection:

- Checking aerial photographs for the existence of building 8 and the access road in particular, as well as any other buildings /works by checking any pre 1990 aerial photographs available;
- Providing distances from the site to the surrounding residential properties including Badgers Dell to various buildings, areas of open storage and the access road and also the distance of surrounding residential properties from the nearest site boundary;
- Assessing the justification for a noise level condition;
- Reviewing hours of operation controls;
- KCC Highways to assess the shared access arrangement in terms of visibility;
- KCC Highways to assess the manoeuvrability of larger vehicles within the site;
- Providing information on the newly erected fences on the site and adjoining Badgers Dell and around the open storage area south of the open field adjoining Badgers Dell;
- Clarification of the relative levels of Corio Farm and the Badgers Dell sunken garden.

These matters will be dealt within a Supplementary Report.

3.9 Members also requested the following clarification B1, B2 and B8 uses:

- B1 Use - Light Industrial, offices and research and development. These are activities which can be carried out within residential areas, without any harm to the residential amenity;
- B2 Use - General Industry. All other industrial activities not falling within B1 use, such as a workshop or a factory.
- B8 Use – Storage, warehousing and depots.

3.10 Information was also sought on the distances from nearest buildings, open storage and access road to Badgers Dell, they are as follows:

- Building 2 – 27m to garden boundary & 44.5m to house;
- Building 8 – On the garden boundary & 20m to house;
- Building 3 – 30m to garden boundary & 55m to house;
- Buildings 4 & 6 – 69m to garden boundary & 86m to house.
- Open Storage Area A – 32m to the garden boundary and 49m to the house;
- Open Storage Area B – 7.5m to the garden boundary and 31m to the house;
- Open storage Area C – 41m to the garden boundary and 59m to the house;
- In addition, the distance from the access road to the house is approximately 22m.

3.11 It should also be noted that the noise assessment by the DHH in paragraph 3.7 was based on the assumption that no fence existed between the access road nearest to the site boundary and Badgers Dell. Circumstances have clearly changed. The potential noise mitigation from these fences will be considered again by the DHH, in light of further investigations on these fences and the relative ground levels. This matter will also be updated in the supplementary report.

3.12 In light of the above considerations and those set out in my April 2006 report, I recommend that planning permission be granted.

4. Recommendation:

4.1 **Grant Section 73A Approval** as detailed by letters dated the 04.05.2006 and the 28.11.2005, schedule of buildings dated 16.11.2005, site plan received on the 28.11.2005 and by plans P124 Sheet 3, 050201.01, 050201.02, 050201.03, 050201.04, 050201.05, 050201.06, 050201.07, 050201.08, 050201.09, 0502010A, 050201.11 subject to:

- the receipt of a desktop contamination study (acceptance to DP&T); and
- 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.

- 2 No vehicles used in connection with the business operations 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 written 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 outside the areas shown on the attached plan, and the height of open storage within the designated areas shall not exceed 3 metres in height above ground level. The areas of open storage shall preclude the storage of lorry bodies, building equipment and materials, civil engineering plant, machinery and equipment and skips.

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 Within three months of the date of this permission the area shown on the submitted layout as vehicle parking space shall be 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 Within three months of the date of this permission the area shown on the submitted plan as turning area shall be 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, incorporating a 5m buffer along western and northern boundaries. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following approval of the landscaping details. 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 without the express written consent of the Local Planning Authority.

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

- 9 Within three months of the date of this planning permission the area of land within the vision splays shown on the approved plans shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 1.05metres 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 flow of traffic.

- 10 No new surface water or foul drainage works shall be installed until a scheme has been submitted to and approved by the Local Planning Authority.

Reason: To prevent pollution of the water environment.

- 11 The parking spaces to the north of Open Storage Area C shall only be occupied when all other car, van and lorry parking spaces within the remaining part of the application site have been utilised.

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

- 12 No more than 7 lorries per hour shall pass along the access road adjoining the north site boundary adjacent to the residential property know as Badgers Dell.

Reason: In the interests of the aural amenity of the nearby dwellings.

- 13 Any conditions necessary to deal with information revealed in the Supplementary Report.

Informative:

- 1 The applicant is advised to consider improving the visibility of the junction of the private accesses between Corio Farm and Badgers Del and is invited to discuss options with KCC Highways.

Contact: Aaron Hill