
Report of 27 April 2006

**East Malling &
Larkfield**
East Malling

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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
 Location: Corio Farm 450 Wateringbury Road East Malling West Malling Kent
 Applicant: W A King

1. Description:

1.1 This is an application in the main retrospective to use a number of buildings and areas of open storage, along with proposals 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 – *Proposed change of use from B8 to B2, 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 – *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 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.*

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- 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 use of building 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.*
 - The applicant is seeking retrospective consent for three areas of open storage, principally around the existing buildings. These are referred to as Area A (650 square metres), Area B (936 square metres) and Area C (1872 square metres).
 - The application also involves the provision of 19 parking spaces for cars, 7 parking spaces for lorries and 2 parking spaces for vans.
 - A number of containers are to be removed from the site.
- 1.2 This application follows the withdrawal of planning application TM/05/02102/FL, which was reported to the October APC3 and deferred for a Members Site Inspection. However, the application was withdrawn before the Members Site Inspection was held.
- 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 an 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 the open storage Area A. The main access into the site 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 Area B, whilst to the east lies a main access and the large agricultural barn, shown as Building 3. To the southwest of open storage Area 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 wide variety of blockwork, brickwork and profiled steel clad structures. To the north of these buildings lies the large open storage Area C. The site also contains a number of casual parking areas.

3. Planning History:

- 3.1 TM/05/02102/FL Withdrawn 14.11.2005
Change of use of farm buildings (in part retrospective) to a combination of B1, B2 and B8 uses.
- 3.2 TM/97/02077/AGPN Prior Approval Not Required 19.01.1998
Prior Agricultural Notification: Erection of tractor store (Building 3).
- 3.3 TM/91/1363 Approved 27.02.1992
Change of use of farm shop to B8 or B1 (Building 1).
- 3.4 TM/89/0299 Approved 19.07.1989
Erection of replacement barn (Building 2).
- 3.5 TM/86/1526 Approved 28.11.1986
Replacement of fire destroyed farm shop (Building 1).
- 3.6 TM/83/0395 Approved 08.06.1983
Erection of replacement farm building (Building 4).

4. Consultees:

- 4.1 PC: No objection subject to a site inspection.
- 4.2 KCC (Highways): This application is to partly formalise the current uses within the application site, plus other additional uses. The site currently has existing access onto Wateringbury Road, which 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.
 - 4.2.1 Generally the details indicate suitable parking provision for the proposed uses. Based on the proposals submitted I would in principle raise no objections.

4.3 DHH: The 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.

4.3.1 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 to 12:00 on Saturdays;
- Restrict open storage to designated areas.

4.4 EA: No objection subject to controls over foul and surface water drainage works and contamination.

4.5 Private Reps: 12/0X/0S/3R. Three letters of objection received from a local resident and their agent, 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;
- 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;

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- 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;
 - The stated claims over the usage of the buildings are not correct.
 - No evidence has been submitted that the extent of the enlarged open storage has been carried out for more than ten years;
 - Open storage would have a greater impact on the countryside and the adjoining residential property;
 - Sight lines to the public highway and those of the driveway to Badgers Dell should be maintained;

- The development has grown with the open storage and car parking nearer to Badgers Dell, adding to existing problems of intrusive noise and views from property;

4.6 Press Notice & A8 Site Notice: No response.

5. Determining Issues:

- 5.1 The main issues to be considered are 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 prohibit 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 by September 2004.
- 5.3 The Borough Council served 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 use of a number of buildings to B2 or B8. PPS7 allows for the re-use of buildings in the countryside. It is more liberal in terms of buildings suitable for conversion, than its predecessor PPG7. Re-use which brings economic benefit is supported. It also goes further in stating that replacement buildings are acceptable where this results in an environmental improvement in terms of the impact 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. These policies predate PPS7 and must now be read in the context of PPS7. 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 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 these criteria against each individual building, 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 than policy P6/14 of the TMBLP 1998 requires.
- 5.10 Members need to also be aware that at an appeal (The Cross, Malling Road, Mereworth) for the conversion of rural buildings, the Borough Council sought to defend a refusal based on the argument 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 many respects less permanent or sound in construction than those that currently stand at Corio Farm. The appeal proposal involved extensive external alterations to the buildings to improve their appearance, as a 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 planning permission. The application does not involve new build or extensions to existing buildings. The appeal at The Cross, Mereworth for converting those buildings was allowed where 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 were previously 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 The site has previously been subject to widespread open storage of a variety of materials, equipment and containers. The impact of this resulted in the Borough Council serving a Section 215 Notice in July 2001, which was complied with. The applicant is seeking regularisation for three areas for open storage, which would result in the consolidation of all the existing general open storage into three defined areas. This would lead to some areas permanently used for storage ceasing to be used as such.
- 5.13 The extent of the open storage has grown significantly from the earlier withdrawn application and this is the key difference between the two applications. I have inspected aerial photographs and enforcement records to verify the claimed areas of open storage.
- 5.14 Area A, lies in front of Buildings 1 and 2. The majority of the area has been used for open storage for at least seven years from Council records and the Council does not have any evidence to dispute the claim on the majority of the area in terms of the ten year rule. The existing buildings and screening reduce the visual impact of this area of open storage.
- 5.15 Open storage Area B lies around Building 3 and upto the conifer hedge to the west. Again, a large part of this claimed open storage area has been used as open storage for in excess of seven years from Council records and the Council does not have any evidence to dispute the claim on the majority of the site in terms of the ten year rule. In terms of the remaining areas of proposed open storage, these lie to the side and rear of Building 3, which is heavily screened by conifers. Open storage is also sought to be regularised in the front of Building 3, which will be screened from public vantage points by existing buildings and existing trees..
- 5.16 Open storage Area C is the largest of the claimed areas, which lies in front of buildings 4,5,6 and 10. As with the other areas, the Council holds records of open storage on a number of parts of the claimed area of open storage, however, not to such a great extent. Approximately half of the claimed area, the Council would not be able to dispute. The northwestern section of this open storage area is the most visually sensitive, however, I am not satisfied that this area has been used for open storage for more than ten years.
- 5.17 The entire application site lies within a Green Wedge, but not in any area of special landscape designation. The majority of the areas of open storage have minimal visual impact from public vantage points subject to restricting the height of open storage to 3m. However, there is scope to screen the most exposed elements of the open storage, principally along the western and northern

boundaries, by planting a 5m deep landscaping buffer. I am satisfied that this measure along with general relocation of existing open storage will improve the appearance of the site.

- 5.18 To ensure the existing general open storage is relocated within the designated areas, a condition would be appropriate prohibiting open storage outside the three 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. I believe that the opportunity to bring control over the external storage is a valuable benefit.
- 5.19 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 Government policy for re-use of rural buildings and I have detailed the position for the open storage. There is, however, a quite proper issue to address with regard to visual impact and there is scope to further limit the visual impact of the development, particularly as a result of the proposed parking area to the north of open storage Area C. The additional planting as detailed above will help to screen this area. I also believe it to be desirable to impose a condition, to require all other parking areas to be used first before this northwestern parking area is utilised in order to limit the visual intrusion.
- 5.20 In terms of the impact on 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 under quite separate legislation 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 this would ensure the Council has the ability to exercise greater control than currently exists. I consider that all operations on the site should also ideally mirror 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.
- 5.21 Concern has been raised over lighting impact and this is a material consideration. Therefore, I have recommended a condition prohibiting the installation of external lighting without the express consent of the Local Planning Authority.

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- 5.22 In highway terms, the development will utilise an existing access and the applicant states that vision splays 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, 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 the height of obstructions within the vision splay.
- 5.23 The site layout shows the provision of an adequate level of parking to meet the KCCVPS. 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 mixed B2/B8 facilities.
- 5.24 In terms of the visibility at the shared driveway and in particular the junction between Corio Farm and Badgers Dell, this is a private access and ultimately a matter between the two parties. However, I have attached an informative advising the applicant to improve visibility of the junction of the private accesses rather than being covered by a condition, as it does not affect a public highway nor has KCC Highways raised objections to this arrangement.
- 5.25 The application forms state that any surface water and foul drainage will be connected to existing. A local resident has raised concerns over potential new connections and the EA seeks to control drainage as the site lies within Source Protection Zone 3 of a public water supply abstraction. Therefore, I consider it appropriate to attach a condition regarding any new drainage provisions requiring the approval of the LPA, this matter can be controlled by condition.
- 5.26 The EA has requested that a contamination study be undertaken with this application. Before it would be possible to finally regularise any retrospective elements of the scheme and to assess prospective elements I consider that the desktop studies sought by EA should be completed.
- 5.27 In light of the above considerations, I am satisfied that the change of use of farm buildings to a variety of B2 and B8 uses is acceptable in terms of policy P6/14 of the TMBLP 1998 and PPS7 and the retention of three areas of open storage is also acceptable. In recommending approval, I consider that a carefully conditioned permission will enable the Borough Council to exercise a greater level of control than currently exists.

6. Recommendation:

6.1 **Grant Section 73A Approval** as detailed by letter dated the 28 November 2005, schedule of buildings dated 16 November 2005, site plan received on the 28 November 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:

- A – a site inspection by the Committee
- B – the receipt of a desktop contamination study (acceptance delegated to DP&T)
- C - 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 of lorry bodies, containers, plant or other equipment, materials, machinery or skips outside the area(s) shown for such use on plan TMBC1, dated attached hereto, 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.

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- 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 free 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.

Informative:

- 1 The applicant is advised to consider improving the visibility of the junction of the private accesses between Corio Farm and Badgers Dell.

Contact: Aaron Hill