

Alleged Unauthorised Development

**East Malling &
Larkfield**

08/00047/UNAUTU

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East Malling

Location: Corio Farm 450 Wateringbury Road East Malling West Malling
Kent ME19 6JJ

1. Purpose of Report:

- 1.1 To report the unauthorised use of land and recommend the service of an Enforcement Notice requiring cessation of the unauthorised use.

2. The Site:

- 2.1 The site lies within open countryside 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. The site contains a number of buildings including a redundant farm shop, a store and garages and a wide variety of blockwork, brickwork and profiled steel clad structures.
- 2.2 The authorised use of the site remains a mix of residential, agricultural and B1 (business) and B8 (storage).

3. History:

Members will be aware that there is a long planning history of the site. Of material interest to this report are the following:

- 3.1 Enforcement Notice issued on 10th December 1991 regarding a change of use of the land to a caravan site. In the appeal decision dated 28th July 1992 against this notice, the Inspector noted that a business was being run from the premises. It is assumed that this observation was made during the site inspection as no evidence to support this was advanced by the Appellant.
- 3.2 Council records show that the caravan was removed and the notice complied with in February / March 1994.
- 3.3 TM/05/03699/FL Refused 29.08.2006; Appeal dismissed on 10.09.2007

Change of use of farm buildings (in part retrospective) to a combination of B1; B2 and B8 uses.

4. Alleged Unauthorised Development:

- 4.1 An area of the site is being used for a mixed agricultural contracting and civil engineering business. Various and substantial operations in connection with the running of the business are carried out including the storage of plant and materials, the processing of materials, maintenance of vehicles and the installation of a hard surface consisting mainly of compacted rubble. No express planning permission has been granted for this use.
- 4.2 The planning permission refused on 29th August 2006 (TM/05/03699/FL) related to the use of the farm buildings and site as a whole for storage (B8), business (principally light industrial) (B1) and general industrial (B2) use.
- 4.3 The appeal decision dated 10th September 2007 which upheld the refusal of planning permission stated that the use of a smaller area of open land on the site for commercial, non agricultural use might be acceptable under the Council planning policies which would result in a smaller scale of operations.
- 4.4 Evidence available to the Council shows how the unauthorised use has expanded throughout the site onto what was previously pasture land from a previously contained area. This shows that the expansion of the unauthorised use has taken place within the last 10 years.

5. Determining Issues:

- 5.1 Planning Policy Statement 7 supports the continued protection of the open countryside and states that the Government's overall aim is to protect the countryside for the sake of its intrinsic character. Further to this, all development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness. It confirms that a supportive approach to farm diversification should not result in excessive expansion and encroachment of building development into the countryside and that planning authorities should have regard to the amenity of any nearby residents who should not be adversely affected by new types of non-farm development.
- 5.2 The scale and impact of the unauthorised use and associated operations is contrary to Planning Policy Statement 7.
- 5.3 PPG4 advises that in rural areas, new development should be weighed with the need to protect the countryside in terms of, for example, its landscape, wildlife, agriculture, natural resources and recreational value. The expansion of the unauthorised use and associated operations is contrary to PPG4.
- 5.4 Draft Planning Policy Statement 4 (2007) states that local planning authorities should, in rural areas, support farm diversification schemes for business purposes that help to sustain agricultural enterprise and are consistent in their scale with their rural location and environmental impact.

- 5.5 The scale of the unauthorised use is contrary to draft Planning Policy Statement 4.
- 5.6 Policy CP1 of the Tonbridge and Malling Core Strategy requires new development to result in a high quality environment and to preserve the quality of the countryside.
- 5.7 Policy CP14 of the Tonbridge and Malling Core Strategy 2007 restricts the degree of development in the countryside but accepts that in some cases, development and diversification of use in the countryside can be beneficial and sustainable. This must be appropriate to the character of the countryside which also needs to be sustained. It requires that development must be necessary to the purposes of agriculture or forestry. The development does not fall into any of the acceptable categories of development.
- 5.8 Policy CP24 of the Tonbridge and Malling Core Strategy 2007 prevents development which would be detrimental to the amenity or functioning and character of the countryside.
- 5.9 The unauthorised use and associated operations are contrary to Policy SS8 of the Kent and Medway Structure Plan 2006 which requires development in the countryside to be acceptable on environmental, traffic and other planning grounds, and to be necessary to agriculture, forestry, the winning of minerals or other land uses for which a rural location is essential.
- 5.10 The unauthorised use and associated operations have an adverse impact on the countryside with no overriding need which outweighs the requirement to protect the countryside. It does not respond positively to the functioning or character of the countryside or local surroundings and is therefore contrary to Policy EN1 and QL1 of the Kent and Medway Structure Plan 2006 which states that development in the countryside should seek to maintain or enhance it.
- 5.11 The current scale and extent of the unauthorised use and associated operations on the site go beyond what is acceptable in this rural location and have a significant and detrimental effect on the appearance and functioning of the countryside. This view was held in the appeal decision dated 10th September 2007. The current scale of use and associated operations do not preserve or enhance the quality of the countryside and are out of character, both visually and in terms of amenity impact, on a quiet countryside location. The associated development is not necessary for the authorised agricultural use of the land and does not result in a high quality environment. The extent of the unauthorised use is contrary to Policy CP24 of the Tonbridge and Malling Core Strategy 2007.
- 5.12 The unauthorised use and associated operations have an adverse impact on residential amenity in terms of noise and disturbance. This is contrary to saved Policy P3/17 of the Tonbridge and Malling Local Plan 1998.
- 5.13 It is recommended that an Enforcement Notice be issued relating to the expansion of a mixed agricultural contracting and civil engineering business, incorporating various and substantial operations in connection with the running of the business including

the storage of plant and materials, the processing of materials, maintenance of vehicles and the installation of a hardstanding, onto pasture land hitherto unused for these purposes.

6. Recommendation:

- 6.1 An Enforcement Notice **BE ISSUED** as set out below and copies be served on all interested parties.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Acting Chief Solicitor, he being authorised to amend the wording of the Enforcement Notices as may be necessary.
- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

Breach of Planning Control Alleged

A material change of use of land consisting of the expansion a mixed agricultural contracting and civil engineering business, incorporating various and substantial operations in connection with the running of the business including the storage of plant and materials, the processing of materials, maintenance of vehicles and the installation of a hard surface, onto pasture land hitherto unused for these purposes.

Reasons for Issuing the Notice

1. The local planning authority is satisfied that the material change of use alleged has taken place within the last ten years. The unauthorised use of the land and associated operations are not in keeping with its location and constitutes excessive encroachment and expansion of development onto the countryside. The scale of the unauthorised use and associated operations are not appropriate or sensitive to local distinctiveness or the character of the countryside, do not enhance or maintain the countryside, do not result in a high quality environment, and are detrimental to the amenity and functioning of the countryside. The unauthorised use has an adverse impact on residential amenity in terms of noise and disturbance. It is therefore contrary to PPG4, draft PPS4, PPS7, policies CP1, CP14 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, Saved Policy P3/17 of the Tonbridge and Malling Local Plan 1998, and policies SS8, ENV1 and QL1 of the Kent and Medway Structure Plan 2006.

Requirement

1. To cease the use of the land as shown on the attached plan for the mixed agricultural contracting and civil engineering business incorporating various and substantial operations in connection with the running of the business including the storage of plant and materials, the processing of materials and the installation of a hardstanding.
2. Remove from the land all materials, equipment, hard surfaces and arisings associated with the unauthorised use.
3. Restore the area shown on the attached plan to pasture land.

Period for Compliance

12 weeks

6.2 Further Proceedings

In the event of the Enforcement Notice not being complied with and subject to satisfactory evidence, the Acting Chief Solicitor **BE AUTHORISED** to commence any proceedings which may be necessary under Section 179 of the Town and Country Planning Act 1990 (as amended) to secure compliance with the Enforcement Notice.

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