
East Malling & Larkfield **570553 156708** **17 June 2009** **TM/08/03774/FL**
East Malling

Proposal: Change of use from B1 (light industrial) to a mixed B1 (light industrial) and D1 (chiropractic clinic) including the stationing of a portakabin clinic unit
Location: Paris Farm The Rocks Road East Malling West Malling Kent ME19 6AT
Applicant: Mr Martin Eagle

1. Description:

- 1.1 This full application proposes the retention of a portable unit used as a D1 chiropractic clinic sited within a fenced compound to the rear of a building which has been used as a B1 light industrial unit since 2002. The portable unit measures 9.6m long by 2.7m wide by 3m in height and is light green in colour.
- 1.2 In support of the application the applicant states that the applicant is a Chiropractor by profession and due to the economic climate has had to diversify the existing B1 use of the site and provide a treatment centre for his practice. The surgery operates on a purely by appointment system and is estimated to create a maximum of 8 vehicle movements to and from the site in an average working day. It is unlikely that there would be no more than two clients on site at any one time and the operation would support two jobs.

2. Reason for reporting to Committee:

- 2.1 The application is reported to Committee in light of public interest and as a result of enforcement investigations.

3. The Site:

- 3.1 The application site is a red brick, two-storey building situated within the farmyard and adjacent to the southern access to Paris Farm. The portable unit is situated on a large area of hardstanding on the southern side of the building. The hardstanding is surrounded by a 1.8m high closed boarded fence. Access to the farm is via The Rocks Road.

4. Planning History:

TM/00/00697/FL Grant With Conditions 28 July 2000

Agricultural storage building.

TM/02/00304/LDCE Application Withdrawn 1 May 2002

Lawful Development Certificate Existing: B1 light industrial (curtain making).

TM/02/00305/FL Application Withdrawn 1 May 2002

Change of use of ground floor to B1 light industrial.

TM/02/01261/FL Grant With Conditions 27 September 2002

Change of use of packing station to B1 light industrial use.

5. Consultees:

- 5.1 PC: No objection to the existing building being used for a chiropractors clinic but strongly object to the portable unit as this stands out in what is a rural area. Would prefer a brick built extension to the existing building.
- 5.2 KCC (Highways): No objections.
- 5.3 DHH: No objections.
- 5.4 Private Reps: 2/OX/1R/0S + Site Notice. One letter received raising concerns regarding the visual appearance of the portable unit, stating that it is a utilitarian structure, half of which projects above the fence which surrounds the site and being positioned so that it is visible against the skyline from the west. The applicant should be asked to provide some means of lessening its visual impact on the countryside.

6. Determining Issues:

- 6.1 The site is outside the rural settlement confines and the brick built building is a former agricultural building that was approved for B1 light industrial use in 2002. The use of this building is not to change as part of this application but consent is sought to retain the portable unit on the hard standing to the south of the building that is currently used as a D1 consulting room for a chiropractors clinic.
- 6.2 The principal consideration with this application is therefore considered to be the principle of the change of use and the impact of the portable unit on the countryside.
- 6.3 Planning Policy Statement 7: Sustainable development in Rural Areas (PPS7) supports the principle of farm diversification that help sustain the agricultural enterprise and are consistent in scale with their rural location. It is also stated that

new building development in the open countryside should be strictly controlled as the Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty.

- 6.4 The principles set out in PPS7 are carried forward in Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007. This policy supports farm diversification with the preference being for the re-use of existing buildings.
- 6.5 The principle of a clinic use in this general location is considered acceptable as it is considered to be a use that generates employment in a rural area and the traffic generation from the size of the unit would be equivalent to that of a similar B1 light industrial or office unit but the installation of the portable unit is considered detrimental to the open character of the countryside. The use is housed within a structure that is visually incongruous to the open countryside setting of the area in general. The applicant has suggested that a scheme of landscaping could be provided to reduce the impact of the structure but given its visual prominence it is not considered that some form of hedging would grow to an adequate height to screen the unit in this location.
- 6.6 It is therefore considered that whilst the use is considered acceptable in principle the siting of the portable unit for the use is considered inappropriate in this countryside location. In light of this, consideration must be given to possible enforcement action to secure the removal of the unauthorised portakabin. However, given the benefits of the use both to the local business and clients I consider that any enforcement action should allow sufficient time to resolve the situation without the need to close the chiropractor's clinic.

7. Recommendation:

7.1 Refuse Planning Permission for the following reason:

1. The retention of the portable unit would be detrimental to the open character of the countryside location and the rural location in general and is therefore contrary to Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007.

7.2 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 Chief Solicitor, he being authorised to amend the wording of the Enforcement Notice 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

Without planning permission the stationing of a portable unit on the land.

Reasons for Issuing the Notice

It would appear to the Authority that the above breach of planning control has occurred within the last four years. The retention of the portable building would be detrimental to the open character of the countryside location and the rural location in general and is therefore contrary to Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007.

Requirement

To permanently remove the portable unit from the land.

Period For Compliance

Six Calendar months from the date that the Notice becomes effective.

Contact: Robin Gilbert