

**East Malling &  
Larkfield**  
East Malling

**569446 155080 7 October 2009**

**TM/09/01927/FL**

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Proposal: Demolition of existing garage and stables and the erection of new detached house and garage  
Location: Badgers Dell Wateringbury Road East Malling West Malling Kent ME19 6JJ  
Applicant: Mr Gary Clark

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**1. Introduction:**

1.1 Members will recall that this application was withdrawn from the 28 January 2010 Area 3 Planning Committee following the submission of a statement from the applicant's advisors which Officers and Members had not had time to consider. The previous Committee reports are attached as annexes to this report.

**2. Determining Issues:**

2.1 The previous reports attached as annexes set out the objection in policy terms to this proposal and this position has not changed.

2.2 I understand that all Members will have received a copy of the applicant's further submissions. The content of these submissions is noted.

2.3 Comparisons are drawn between this proposal and the development at Heath Farm, but the submissions do not fully reflect the context within which the decisions at Heath Farm were taken. The Secretary of State granted outline planning permission for residential development at Heath Farm, but within clearly defined limits. This established a principle which was rightly accorded significant weight when it came to consideration of the later, detailed, proposals. It was therefore not necessary to give detailed consideration to policy CP14 at that stage. The most recent application for Heath Farm has not yet been decided and should not, therefore, be considered as part of the context for the proposed currently before Members.

2.4 It is also incorrect, in my view, to seek to argue that this proposal does not conflict with policy CP14, that policy says that in the countryside, development will be restricted to certain specified categories, none of which applies to the current proposal.

2.5 I believe that the remainder of the issues raised have been adequately dealt with in my previous report.

2.6 With regard to the comments made on constitutional matters it is not for an outside body to seek to advise Members on the legal position with respect to the Council's decision making process. This is a matter for the Council's own solicitors to

address. In this regard, Members will wish to have due regard for the advice they have received, including confidential advice in the Part 2 report.

2.7 Given the above and the content of the previous reports the application is considered to be unacceptable.

**3. Recommendation:**

3.1 **Refuse Planning Permission** for the following reasons:

1. The site lies outside any settlement confines as defined in the Tonbridge and Malling Local Development Framework and within a countryside area and accordingly there is a strong presumption against permitting new development outside the presently defined extent of urban areas and the present extent of any village, unless the development is directly related to agriculture or other uses appropriate to a rural area. Accordingly, the proposed development is contrary to PPS3, PPS7, and Policy CP14 of the Tonbridge and Malling Local Development Framework Core Strategy 2007.
2. The Local Planning Authority does not consider that there is any justification, in the circumstances of the present application for overriding the planning policy objections.

Contact: Robin Gilbert