

East Malling & Larkfield **570553 156708** **12 September 2011** **TM/11/01319/FL**
East Malling

Proposal: Change of use of part of the ground floor B1 packing Area to chiropractic clinic (D1) including the erection of external staircase (mixed B1/D1 use)
Location: Paris Farm The Rocks Road East Malling West Malling Kent ME19 6AT
Applicant: Mr M Eagle

1. Description:

1.1 The application comprises the change of use of part of the existing building for use as a Chiropractic clinic. The majority of the works are internal however the application also includes the erection of an external staircase to the south elevation of the building.

2. Reason for reporting to Committee:

2.1 The application has been called to Committee by Cllr Simpson due to the complex nature of the planning history of the site.

3. The Site:

3.1 The site lies to the south east of the East Malling settlement within the open countryside. The existing building is two storey in red brick. The access is from The Rocks Road.

3.2 The site lies immediately adjacent to the site of an agricultural barn destroyed by fire. A planning application is also currently being determined under TM/11/01953/FL for the replacement of this agricultural storage building.

4. Planning History:

4.1 The site has an extensive planning history. The most recent applications are summarised.

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TM/02/00304/LDCE Application Withdrawn 1 May 2002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

Area 3 Planning Committee

TM/02/00305/FL Application Withdrawn 1 May 2002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

TM/87/10660/FUL grant with conditions 23 December 1987

Agricultural storage building and covered way.

TM/89/10375/OUT Refuse 15 August 1989

Outline application for farmhouse.

TM/91/10483/OUT Refuse 23 February 1991

Outline application for four no. detached and two no. semi-detached houses with garaging and relocated parking for existing dwellings.

TM/91/11332/FUL Refuse 30 August 1991

Demolition of existing portal framed barn, erection of 2 detached houses with integral garages. Paris Farm, The Rocks Road, East Malling

TM/91/11340/FUL Refuse 30 August 1991

Detached house and garage. Land at Paris Farm. The Rocks Road, East Malling

TM/92/10467/FUL Refuse 3 July 1992

Retrospective application for replacement stable block, feed shed and sand riding area. Paris Farm, The Rocks Road, East Malling

TM/93/00380/FL grant with conditions 5 January 1994

Cattle shelter

TM/94/00423/AGPN planning application not required 7 October 1994

Proposed replacement barn

TM/95/50696/FL Application Withdrawn 23 October 1995

rebuilding of storm damaged farm building and adaption to stables

TM/96/00176/FL Grant With Conditions 22 March 1996

erection of agricultural building for use as farm store and stabling

TM/97/01119/FL Grant With Conditions 16 September 1997

demolish redundant fruit pickers ladder store and erect stable block with tack room and hay store

TM/99/00482/FL Grant With Conditions 4 June 1999

proposed riding sand school

TM/07/04328/AGN Prior Approval Not
Required 11 January 2008

Prior Agricultural Notification: Proposed steel framed agricultural barn

TM/07/04329/FL Approved 27 February 2008

Removal of existing stables and replace with larger modern stables, conversion of agricultural barn to stabling and change of use from agricultural to equestrian

TM/08/03774/FL Refuse 9 October 2009

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

TM/11/01953/FL

Replacement agricultural storage building (original destroyed by fire)

5. Consultees:

5.1 East Malling & Larkfield Parish Council:

- Comments received 01.08.11 - raises no objection subject to the existing 'portacabin' being removed as per the appeal decision.
- Comments received 30.09.11 – the proposal which would result in the removal of the unauthorised portacabin and the containers would be an improvement on the existing situation. It is noted that the Applicant is prepared to accept a landscaping scheme and this should be devised to take into account

TM/11/01953/FL assuming that application is approved. There should be a car parking condition and a condition to preclude any outside lighting or signing without specific consent as this is a rural location.

5.2 KCC (Highways): No comments.

5.3 DHH: Food Safety: Please ask the applicant to ensure that a wash hand basin supplied with hot and cold water, soap and hand towel and properly connected to the drainage system is installed in the treatment room to enable the Chiropractor to wash their hands between clients.

5.4 Neighbours: 6/1X/0S/0R + site notice. 1 letter received raising no objection but commenting on the ambiguity of the application regarding the portacabin. DPTL: This arose from an initial inaccuracy in the submitted Design and Access and Planning Statements which referred to the retention of the portacabin. These documents have been amended. The application does not seek to retain the portacabin which is the subject of ongoing enforcement action by the Council.

6. Determining Issues:

6.1 The building was originally used for stock rearing and then as a packing house connected with the wider farm. However the building became redundant and subsequently planning permission was sought to change its use to B1 light industrial. Planning permission for this change of use was granted under TM/02/01261/FL on 27.09.2002.

6.2 My agricultural advisor considers the re-conversion of the existing building back to an agricultural use not to be feasible. As a narrow building with limited entrance provision, and is divided internally into smaller rooms, and with a ground and upper floor, it lacks the necessary space, accessibility and manoeuvring for mechanical handling and storage suitable for modern agricultural use.

6.3 The use of the building for a non agricultural purpose has been established. The assessment of this application must therefore be based upon the change of use of part of the building from an established light industrial use to use as a Chiropractic clinic.

6.4 Planning permission was refused under TM/08/03774/FL for a change of use from light industrial to Chiropractic clinic with portacabin unit on 09.10.2009. The application was refused on the following grounds; *“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.”*

6.5 It must be noted that the refusal related to the portable unit only. The Committee Report dated 01.10.2009 stated that the principle of a clinic use in this general location was considered acceptable as it was 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. It was the siting of the portable unit only that was deemed unacceptable. This application was subsequently dismissed at Appeal on 30.09.2010.

- 6.6 Although the Appeal was dismissed the Inspector comments in paragraph 8 of his decision that the Council makes no objection to the use sought if carried out within the building for which industrial use has been approved. This confirms that in 2010 the Council considered the change of use of part of the building from light industrial to Chiropractic clinic to be acceptable.
- 6.7 There has been no any alteration to planning policy since 2010 that would change this view. While the site lies within the open countryside the only external alterations involve the erection of an open staircase to the rear (south) of the building. This will make minimal impact only upon the wider countryside and is therefore compliant with Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007.
- 6.8 The principle of the application has already been agreed by the Council. The application will make no adverse impact upon the open countryside and will make no additional impact upon highway safety or the general amenity of the area than the existing light industrial use. The application is therefore acceptable and I recommend permission be granted.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Photograph dated 19.05.2011, Design and Access Statement dated 17.08.2011, Floor Plan JB11.1A dated 17.08.2011, Elevations JB11.2 dated 22.06.2011, Letter dated 12.09.2011, Certificate B dated 12.09.2011, Site Plan dated 17.08.2011, Letter dated 17.08.2011, subject to:

Conditions / Reasons

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turving comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. 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. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

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.

- 3 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been 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.

- 4 The permitted hardstanding/parking area shall be constructed of porous materials or provision made to direct surface water run-off from the hard surface to a permeable or porous area or surface within the site.

Reason: Development of hardstanding without the suitable disposal of surface water is likely to lead to unacceptable surface water run-off onto land outside the ownership of the applicant.

- 5 No materials, plant or other equipment of any description shall be kept or stored in the open other than in areas and to such heights as may be approved in writing beforehand by the Local Planning Authority.

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.

- 6 Vehicular access to and from the site shall be via the access track to the west onto The Rocks Road as shown on the site plan received 17.08.2011. Vehicle access must not take place from the north.

Reason: In the interests of highway and pedestrian safety.

Informatives

- 1 A wash hand basin supplied with hot and cold water, soap and hand towel and properly connected to the drainage system shall be installed in the treatment room to enable the Chiropractor to wash their hands between clients.

Contact: Maria Brown