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**East Malling & Larkfield**                      **570437 158315**    **8 December 2011**                      **TM/11/03406/FL**  
Larkfield South

Proposal:                      Change of use of ground floor to hot food takeaway and cafe, creation of 4 x 2 bed maisonettes above, to include rear extension, improved vehicular access  
Location:                      751-757 London Road Larkfield Aylesford Kent ME20 6DE  
Applicant:                      Mr A Carcabuk

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**1. Description:**

- 1.1 This is a full application to change the use of the ground floor to a hot food takeaway and café with improved vehicular access to a car park to the west. It is also proposed to erect a rear extension and to convert the upper floors of the building to 4 x 2 bedroom maisonettes.
- 1.2 The application states that the take-away and café would employ three full time and five part time employees. The café would operate during the day time 0700-1700 with the take-away open between 1100 and 2300. Off-site parking is to be provided for 24 cars shared between the flats, cafe and takeaway staff and customers.

**2. Reason for reporting to Committee:**

- 2.1 The application is reported to committee due to the general public interest at the request of Cllr Parry-Waller.

**3. The Site:**

- 3.1 The site lies on the south side of London Road, close to the busy traffic light controlled junction with New Hythe Lane. This is a mixed use area with two storey residential properties to the east and the Grade II\* Listed Wealden Hall to the west. On the northern side of the road are business premises and the former Spotted Cow site, now being redeveloped for a mix of residential and commercial uses. To the south of the application site are the more recent residential properties in Garner Drive.
- 3.2 Number 751-757 is a 2/3 storey building with an area of overgrown land to the west. The site falls within the identified district centre of Larkfield and Martin Square. The site is bounded by a 2m close boarded fence along the southern boundary with a low ragstone wall along part of the site frontage. Adjacent to the frontage is the start of the queuing lane for westbound vehicles at the traffic light controlled junction. Within the site are various lopped and young trees, some covered by a Tree Preservation Order.

#### 4. Planning History:

TM/95/51612/FL      Refuse      8 February 1996

Change of use to A3 with residential use above

TM/07/03557/FL      Refused      12.12.2007

Demolition of existing buildings and construction of 14 x residential units and retail space

TM/08/03667/FL      Approved      06.03.2009

Renovation and extension of existing building to create 2 x ground floor commercial units, 11 x flats and 2 x semi-detached dwellings

TM/12/00721/FLX      Pending Consideration

Extension of time to implement planning permission TM/08/03667/FL.

#### 5. Consultees:

- 5.1 PC: Support the renovation and conversion of the building providing it is carried out sympathetically retaining essential features and the ragstone wall, as well as respecting the existing Tree Preservation Order at the site. Concerns that there are traffic implications associated with the take-away use as customers will park on the yellow lines impeding traffic at this busy section of the A20. The provision of cycle racks is supported but further details are requested about the highway aspects of the proposal. There is also concern that the take-away will cause disturbance and effect the amenity of existing residents in the locality by reason of noise, smells and litter. The Parish Council consider the café element should be restricted to opening hours of 9am-5pm. Conditions are also recommended covering the protection of trees during construction work, landscaping, retention of the ragstone wall, archaeological watching brief.
- 5.2 DHH: I can confirm that I agree with the findings of the revised Air Quality Assessment (file ref no: 01176 rev C dated Jan 2012) to install and a suitable scheme to mitigate the poor air quality for the occupants of the proposed residential properties. Following the submission of further detail with regard to both air quality and noise and also odour control I am satisfied that these matters can be properly controlled by planning condition. A condition is recommended requiring the submission of further information and a written report once the works are completed. Conditions are also recommended concerning the assessment of contaminated land, refuse storage, odour and noise.

- 5.3 KCC Highways Engineer: No objections to conditions covering provision of parking and cycle space and access. It is noted that alterations are to be made to the works within the highway and these will be subject to a S278 Agreement. It is recommended that the existing parking restrictions outside the site access are extended as far as the on street parking bays in order to deter parking close to the site access. This would be subject to a Traffic Regulation Order which should be arranged by the developer. It is also recommended that space be provided within the site for a parking space for number 749 is possible.
- 5.4 KCC Property: The development should provide contributions in regard to children, families, education and Adult Social Services.
- 5.5 NHS: Have requested a contribution of £7560 (plus legal costs) via a section 106 agreement to meet the extra demands on the local health service community. It is indicated that a contribution is required to support local surgeries but spend is not clearly specified.
- 5.6 Private Reps: 25/0X/7R/5S + site notice. Seven letters of objection have been received raising the following concerns:
- Cooking smells
  - Noise disturbance from associated vehicles-car doors closing, engines running, car radios
  - Food waste and problems with rats
  - Early morning deliveries
  - Dangerous location close to a major road junction and conflict with the bus lane
  - Increased traffic in the area
  - Insufficient parking and parking problems for residents
  - Litter
  - Meeting point for young people
  - There are sufficient cafes in the area and competition may affect trade
  - Five letters received in support of the application making the following comment
  - The applicants operate other business premises without causing harm to neighbours.

**6. Determining Issues:**

- 6.1 The site lies within Policy R1 of the Land Allocation DPD which supports retail use in the District Centre of Larkfield/Martin Square. Policy R1 also states that proposals for the residential use of the upper floors of buildings will be permitted where that use would not impact on the functioning of the retail centre. The relevant policies promote sustainable development and support a high standard of design and adequate living accommodation. In addition it is necessary to have regard to the need to protect existing residential amenities, the character of the environment and highway safety.
- 6.2 The application relates to vacant premises in need of maintenance and upgrade, that previously operated as shops/commercial uses. An application was approved in 2009 for the renovation and extension of the existing building to create 2 x ground floor commercial units, 11 residential flats and 2 x semi-detached houses. That application also involved highway improvements and a vehicle access to the east of the building with a dedicated parking area at the rear.
- 6.3 The current proposal is again for a mixed use scheme, although the balance of the uses has altered with a reduction in the amount of residential accommodation. In general the principle of extension and refurbishment is welcomed as the building currently makes no positive but rather than adverse contribution to the visual functional character of the Larkfield District Centre. The development will therefore add to the vitality of the district centre. It reflects the expectations set out in the NPPF for such locations. It will also go some way to overcoming the adverse visual impact identified in Section A1.2 of the Medway Gap Character Area Appraisal.
- 6.4 The proposed rear extension is of an acceptable design and would be finished in materials to match the existing. The works would not result in overshadowing of the properties to the south due to the orientation of the site and would not be overbearing due to the distance between buildings being at least 20m. The two sites are also screened to some extent by boundary trees. Any existing mutual overlooking will not be made significantly worse by the development. These works will provide a satisfactory appearance and will be in accordance with policy CP24. In addition the proposed shopfronts to the café/take-away will be modern, but will be acceptable in this location.
- 6.5 Four x 2 bedroom maisonettes will be created on the first and second floors. Each maisonette will have its own private access from ground floor level. The amount of space to be provided in each unit would appear to provide a satisfactory level of accommodation.
- 6.6 The application is supported by an arboricultural report which states that two of the existing trees will be removed but replaced with additional planting along the rear boundary. This should provide enhanced screening for the residential properties to

the south and east. It has been stated that protective fencing around the trees will be required during construction and will need to be covered by a safeguarding condition. These details are considered acceptable.

- 6.7 The application is supported by a Transport Statement which states that uses can be adequately screened by the highway network and would not harm highway safety. The proposal involves the loss of two on-street parking spaces (as approved in the 2009 permission) but will provide a right turning lane. A planning condition is therefore recommended in this instance to ensure no occupation before the right turning lane is completed.
- 6.8 The site lies adjacent to the A20 and falls within an Air Quality Management Area and therefore it has been necessary to give careful consideration to the potential impact of traffic noise and air quality including the residential units above. Since the 2009 permission air quality assessments in the area have been updated and these have been reflected in the revised submission. It is considered that a suitable residential environment can be provided in accordance with policies SQ4 and SQ6 of the MDE DPD.
- 6.9 It is stated that the building will be designed to include insulation between the ground floor commercial units and the upper floor residential units to protect amenity and improve energy efficiency. It is concluded that the facades facing London Road should be subject to noise attenuation measures comprising trickle ventilators with enhanced sound insulation. Following discussions with DHH it is concluded that appropriate noise mitigation can be incorporated into the design to ensure a satisfactory standard of residential amenity. In addition detailed information and plans have now been received of the extraction facilities for the café and take-away and these are considered appropriated in this location subject to conditions ensuring its provision and retention.
- 6.10 A request has been received for developer contributions towards social services etc. It is not clear how such contributions could actually be spent to support this development and they cannot therefore be justified. For the same reason it is not considered appropriate to seek a developer contribution from the NHS towards local medical centres.
- 6.11 The comments raised about an old turnpike road crossing the site are noted. In view of this history it is recommended that a condition is attached requiring an archaeological watching brief. The ragstone wall is to be retained thus keeping the character of the area.
- 6.12 Under the past application the potential for bats on the site was raised. Although there was no definitive evidence to state that there are any protected species on site, it is again considered appropriate to attach a condition to seek the undertaking of a survey so this can be fully investigated and actioned as necessary.

- 6.13 The concerns expressed by the neighbours have been given careful consideration. Many of these concerning the operation of the take-away/café are matters that are raised with all applications for A3/A5 uses. It is inevitable that such uses attract deliveries, visits and general activity but so, of course, can the A1 use rights that exist at part of the site at present. During the consideration of the case the issues of noise, smell and air quality have been the subject of detailed consideration. It is considered that the revised information now available will provide an acceptable standard of residential amenity for both existing and proposed residents. It should be remembered that the site lies close to a busy traffic light controlled junction on the A20 in an identified retail area where there are already numerous businesses in operation.
- 6.14 The possibility of competition with other A3/A5 uses in the area is not a planning consideration and in any event the NPPF supports the aim of providing for customer choice. With regard to litter outside the front of the site it is recommended that the applicants encouraged to provide a litter bin for customer use.
- 6.15 This proposal will bring visual improvements to an existing building in the identified district centre of Larkfield/Martin Square, which is clearly in need of an upgrade. In recent years commercial uses have been agreed on the ground floor with residential accommodation above and to the side. Although the balance and mix of uses at the site has altered with the current proposal, this location is still considered to be suitable for A3/A5 and residential purposes in accordance with policy R1 and the underlying aims of NPPF. The matters of associated parking, noise, air quality and odours have all been given careful consideration during the determination of the application to ensure a satisfactory standard of accommodation can be achieved. It is therefore recommended that planning permission is granted.

## **7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Existing Site Layout 826/001 dated 08.12.2011, Existing Elevations 826/002 dated 08.12.2011, Proposed Layout 826/004 Rev B dated 08.12.2011, Proposed Elevations 826/005 Rev A dated 08.12.2011, Site Plan 826/006 Rev A dated 08.12.2011, Details NWV1605/1 dated 08.12.2011, Site Plan 826/003 dated 08.12.2011, Block Plan 826/009 dated 08.12.2011, Air Quality And Odour Survey dated 08.12.2011, Design and Access Statement dated 08.12.2011, Noise

Assessment dated 08.12.2011, Planning Statement dated 08.12.2011, Transport Statement dated , Tree Report dated , Email dated 27.02.2012, Details ODOUR CRITERIA dated 27.02.2012, Noise Assessment dated 27.02.2012, subject to:

### Conditions

- 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 details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 3 No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

- 4 (a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease immediately, and an investigation/ remediation strategy shall be agreed with the Local Planning Authority and implemented by the developer.

(b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

(c) A closure report shall be submitted by the developer verifying how (a) and (b) above have been dealt with and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of ensuring the land is suitable for its permitted end use.

- 5 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 turfing 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.

- 6 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space and turning area 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.

- 7 No dwelling/building shall be occupied or the approved use commenced until space has been laid out within the site for cycles to be parked.

Reason: In the interests of highway safety.

- 8 The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

(b) No fires shall be lit within the spread of the branches of the trees.

(c) No materials or equipment shall be stored within the spread of the branches of the trees.

(d) Any damage to trees shall be made good with a coating of fungicidal sealant.

(e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.

(f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 9 The ragstone wall along the site frontage shall be retained as indicated on the submitted plan and at no time shall it be removed without the prior consent in writing of the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

- 10 The applicant shall demonstrate that noise from vehicles accessing the car park provided will not result in internal noise levels greater than 30 LAeqdB in bedrooms and 40 LAeq dB in living rooms with windows closed. Additionally where the internal noise levels will exceed 40 LAeq in bedrooms or 48 LAeq dB in living rooms with windows open, the scheme of acoustic protection shall incorporate appropriate acoustically screened mechanical ventilation and/or other forms of mitigation to ensure that the preceding levels can be met. This assessment shall be for both the new residences to be created and existing residences around the site. The approved scheme shall be implemented prior to the first use of any of the A3/A5 uses to which this permission relates and shall be retained at all times thereafter.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved.

- 11 No development shall take place until details of a scheme of mechanical ventilation to ensure adequate air quality for the occupants of the development has been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details and shall be retained at all times thereafter.

Reason: To safeguard the amenity of the occupiers of the dwellings hereby approved.

- 12 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 13 Before any works commence on site, a bat survey shall be carried out. Details of the survey and an assessment of the impact of the proposed development and any appropriate alleviation measures shall be submitted to and approved in writing by the Local Planning Authority before any works on site are commenced. Such measures shall then be implemented concurrently with the development or in accordance with a programme to be agreed with the Local Planning Authority.

Reason: To ensure that any protected species on the site are satisfactorily protected.

- 14 The development hereby permitted shall not be occupied until the highways improvements as detailed in the transport statement dated 8 December 2011 have been carried out and brought into use.

Reason: In the interest of highway safety.

- 15 Prior to the development hereby approved commencing the applicants shall submit a Letter of Agreement regarding the extension of the parking restrictions outside the site as far as the on street parking bays, to the satisfaction of the Local Planning Authority. Such details as are agreed shall be carried out concurrently with the development.

Reason: In the interests of highway safety.

- 16 The use shall not commence until full details of a scheme of mechanical air extraction from the kitchen, including arrangements for the continuing maintenance of this equipment and any noise attenuation measures required in connection with the equipment, have been submitted to and approved in writing by the Local Planning Authority. The cumulative noise level from any extraction system shall not exceed NR35 when measured at the nearest site boundary. The approved scheme shall be fully installed before use of the kitchen commences and shall thereafter be maintained in strict accordance with the approved details. No cooking of food shall take place unless the approved extraction system is being operated.

Reason: In the interests of the amenities of nearby properties.

- 17 The businesses shall not be carried on outside the hours of 0700-2300 Mondays to Saturdays and 0900-2200 on Sundays or Public and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance to nearby residential properties.

- 18 Prior to the development hereby approved commencing, the applicant shall demonstrate that noise from vehicles accessing the car park will not result in internal noise levels greater than 30 LAeq dB in bedrooms and 40 LAeq dB in

living rooms with windows closed. Additionally where the internal noise levels will exceed 40 LAeq dB in bedrooms or 48 LAeq dB in living rooms with windows open the scheme of acoustic protection shall incorporate appropriate acoustically screened mechanical ventilation and/or other forms of mitigation to ensure that the preceding levels can be met. This assessment shall be for both the new residences to be created and existing residences around the site. The approved scheme shall be implemented prior to the first use of any of the A3/A5 uses to which this permission relates and shall be retained at all times thereafter.

Reason: To safeguard the aural amenity of the occupiers of the dwellings hereby approved.

### **Informatives**

- 1 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [nameandnumbering@tmbc.gov.uk](mailto:nameandnumbering@tmbc.gov.uk). To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
- 2 Adequate precautions shall be taken during the progress of works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.
- 3 During the demolition and construction phase the hours of working (including deliveries) shall be restricted to 0800 -1800 hours Monday to Friday, 0800-1300 on Saturdays with no work on Sundays or Public Holidays.
- 4 You are advised to avoid the disposal of waste by bonfires as this could lead to complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation.
- 5 The customer toilet facilities should meet adopted standards and should be ventilated using either natural or mechanical ventilation.
- 6 You are advised to contact the Local Planning Authority in the event that signage or adverts are required in association with the approved scheme as Advertisement Consent may be required.

- 7 Please note that this proposal is required to meet the sound insulation requirements under Approved Document E1. The sound attenuation between flats and the ground floor take away and cafe need to achieve a minimum of 43 Dntw + Ctr dB air bourne sound reduction. This will apply to the walls between the new flats and the floor between the ground floor and first floor only. These properties will require sound testing once work is completed, to demonstrate compliance of the building regulation.
- 8 The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
- 9 You are advised to provide a parking space within the site for the occupants of number 749 London Road.
- 10 You are advised to consider the possibility of an external refuse bin adjacent to your property for customer use, in order to avoid potential problems of litter in the vicinity of the premises.

Contact: Hilary Johnson