

**East Malling & Larkfield**                      **569023 156904**    **29 December 2011**    **TM/11/03558/FL**  
East Malling

Proposal:                      Construction of stables and outdoor sand manege  
Location:                      Land At Well Street East Malling West Malling Kent  
Applicant:                      Mr John Fuller

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**1. Introduction:**

1.1 Members will recall that this application was deferred at APC3 on 19 April as Members were minded to refuse the proposal. The application is now reported back to enable Members to make a decision.

**2. Description:**

2.1 This full application proposes the construction of an L shaped building to provide 5 stables and a store room for private non-commercial use. A 60m x 25m sand school surrounded by a post and rail fence is also proposed. The stables are proposed to be set approximately 60m north of Well Street and 210m to the east of Broadwater Road, with the sand manege immediately to the west of the stables. Access is gained from Well Street.

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

3.1 The application was initially reported to Committee due to the general public interest.

**4. The Site:**

4.1 The site is predominantly open grassland that slopes down towards the north. The land was previously laid to orchard, however the trees have since been removed to create open grazing land. The wider area is characterised by areas of orchard and open grassland. To the east of the site is a belt of conifers that separate the site from the adjacent mobile home which is subject to a separate application TM/11/02655/FL which is reported to Members separately on this Agenda.

**5. Planning History:**

TM/10/00502/FL	Refuse	19 August 2010
New agricultural building and access		
TM/10/03441/FL	Refuse	25 March 2011
New agricultural building and access		

TM/11/02655/FL      Pending consideration

Change of use of land for stationing of two caravans for residential occupation with associated development (utility shed, hardstanding, amended access, access track and septic tank)

**6. Consultees:**

6.1 PC (initial comments): Strongly object on the following grounds:

- Planning application for caravan on this land is still outstanding.
- The application states existing access track. Planning applications for this track were refused in applications TM/10/03441 and TM/10/00502, therefore there should be no 'existing access' although it does already exist onto Well Street.
- The proposed stable complex is for 5 stables plus store.
- How often would the site be accessed for the proposed sand school? Is this to be available to the public?
- All these applications should be considered together as soon as possible. The applicant moved onto the site in April 2010 and is changing the landscape in this green wedge between East and West Malling.
- The proposed stable is in the same position as barn planning application. This was refused.

6.1.1 (additional comments):

- It is understood this application has to be considered in its own right but it remains concerned this is a means to obtain approval for some built development at the site.
- If however, the use is approved can a condition be included to require the removal of the buildings should the Equestrian use cease?
- Lastly, as the report states views from Stickens Lane are screened by an evergreen tree belt. Can a landscaping condition be included to retain these?

6.2 DHH: Conditions required for manure storage details and restricting lighting.

6.3 KCC Highways: No objection in principle provided that it is private use only.

6.4 EMCG: Object to this application as it further compounds the change of use of this agricultural land.

6.5 Private Reps: 19/0X/5R/0S + site notice. Five letters of objection raising the following concerns:

- Land has already undergone a change of use from orchard to equestrian use without consent.
- Works would alter the appearance of land described in the local plan as 'green wedge' and this development is inappropriate.
- Applicant stated that they originally were going to manage the orchard but have since grubbed it up and change the use of the land for the grazing by horses without consent.
- The access that the applicant states as existing is unauthorised and planning permission for it was sought under previous refused submissions for a barn in this location. Therefore there should be no 'existing access'.
- The applicant is bringing feed onto the site indicating that there is no intention of maintaining this as agricultural land.
- Possibility for increased disturbance in the area and increased light pollution.
- Drainage by soakaway would not be acceptable.
- Grass snakes and newts are in the area so full ecological site assessments should be undertaken.
- This application should not be considered until application TM/11/02655/FL has been dealt with.

## **7. Determining Issues:**

7.1 This application site shares the same access as and includes the site of the application TM/11/02655/FL for residential caravans. Nevertheless the two proposals must be considered each on their own merits. The principal considerations with *this* application are the principle of the development in this locality and the impact on the site and its surroundings.

7.2 The site is outside the village confines of East Malling. Development in such a countryside area should be assessed against the criteria set out in policy CP14 of the Tonbridge and Malling Local Development Framework Core Strategy 2007. This policy restricts development in the countryside but does allow predominantly open recreation uses together with associated built infrastructure. Equestrian uses are classed as such a type of development and therefore the works are acceptable in principle in policy terms. The change of use of the land from agriculture to equestrian is also supported by this policy. This use and associated facilities are not in conflict with NPPF.

- 7.3 The stable building is proposed to be situated towards the northern boundary of the site and would be screened in views from Stickens Lane by an existing evergreen tree belt. The stables and sand school would also be viewed against these trees when viewed from Broadwater Road. It is therefore not considered that such a development would have an adverse impact on the overall landscape character of the area in general.
- 7.4 The development proposes five stables and a store room in an 'L' shaped building orientated to face towards the west. The proposed stable building is to be finished in brown stained timber weatherboarding with a black bituminous sheet roof cladding. The building would have an overall maximum height of 4m. The building would therefore be of a small scale commensurate with its use as private stables. The building is similar to other stable buildings in the countryside area around East Malling and is therefore considered to be acceptable.
- 7.5 The sand manege is proposed to be sited close to the stables and towards the rear of the site. As the applicant has stated that this is for private use only it is not considered that it would have an adverse impact on the amenity of the surrounding areas. In order to make sure that this is the case it is appropriate to limit the use of the sand manege by condition to ensure that it is for private use only and that it is not lit.
- 7.6 It is acknowledged that the access and track to serve the stables is in place. These works have not received planning permission but there is no objection to the principle of an access *to serve this type of development in the countryside*. The access has appropriate visibility onto Well Street and therefore is not considered to be detrimental to highway safety.
- 7.7 It must be recognised that the access does also serve the adjacent caravan that is the subject of a separate planning application TM/11/02655/FL. The presence of the access track does not in its own right have significant adverse impact. Its approval would not provide a justification for acceptance of proposal TM/11/02655/FL which will have to be considered in its own right as mentioned in 6.1 above.
- 7.8 Comments have been received regarding the presence of grass snakes and newts in the area. Although the nature of the works is such that there is minimal ground intrusion, the site is not within an area of nature conservation identified in the Development Plan and while there are no ponds on the site that could provide habitats for newts it is considered appropriate to attach a condition requiring a Phase 1 Ecological Assessment to be undertaken prior to the commencement of works. The applicant is also to be reminded that they should have due regard to the provisions of the Wildlife and Countryside Act 1991 relating to the protection of species and habitats.

- 7.9 With regard to the other issues raised in the representations received it is considered appropriate to seek details by condition of drainage and manure storage and disposal to ensure that appropriate controls are in place to ensure the development does not have an adverse impact on the surroundings, and details of a habitat walkover survey to ensure that there are no protected species on the site. It is considered appropriate to attach further conditions to the recommendation seeking the removal of the buildings if the equestrian use would cease and including a landscaping condition. Given the applicants statement as to the number of horses on site it is also considered appropriate to limit the number of horses to a maximum of 7 (the number identified by the applicant in a letter sent to the Council). It is also considered appropriate to add an informative advising the applicants to consider installing stock proof fencing to the boundaries to ensure that horses cannot escape.
- 7.10 In light of the above the proposal is appropriate in policy and technical terms in its own right and the fact that the proposal raises no other amenity issues justifies the grant of planning permission.

## **8. Recommendation**

- 8.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 08.02.2012, Floor Plan OF/01 dated 29.12.2011, Elevations OF/02 dated 29.12.2011, Proposed Plans and Elevations OF/03 dated 29.12.2011, Site Plan OF/04 dated 29.12.2011, Location Plan dated 29.12.2011, Letter dated 29.12.2011, Design and Access Statement dated 29.12.2011 and subject to the following:

### **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 All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality and in accordance with policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policies SQ1 and DC4 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraphs 58 and 61 of the National Planning Policy Framework (2012).

- 3 The stables and sand manege shall not be brought into use until works for the disposal of surface water have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason: In the interests of pollution prevention and in accordance with paragraphs 109 and 120 of the National Planning Policy Framework (2012).

- 4 No development shall take place until details of the means of storage and disposal of manure, bedding or any other waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out and thereafter retained in accordance with the details so approved.

Reason: To prevent nuisance to neighbours by virtue of smell, vermin and flies and in accordance with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policy DC4 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraphs 109 and 120 of the National Planning Policy Framework (2012)..

- 5 The stables hereby permitted shall be used solely for private stabling of a maximum of seven horses owned by the owner/occupier of the application site and not for commercial stabling or in connection with a riding school/livery.

Reason: Commercial use could harm significantly the amenities of the locality and the free and safe flow of traffic on local highways and in accordance with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policies SQ8 and DC4 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraph 120 of the National Planning Policy Framework (2012)..

- 6 At no time shall any burning of waste (including manure and straw) take place at the site.

Reason: In the interests of the residential amenities of the occupants of the adjacent properties and in accordance with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policy DC4 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraphs 109 and 120 of the National Planning Policy Framework (2012).

- 7 No development shall take place until a habitat assessment has been undertaken and the findings along with any recommendations submitted to and approved in writing by the Local Planning Authority. Any mitigation measures identified shall be fully implemented prior to the construction of the stables and sand manege hereby approved and shall not be varied without prior written approval.

Reason: To ensure the safety of protected species and their habitats in accordance with policy NE2 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and to accord with the aspirations of paragraph 118 of the National Planning Policy Framework 2012.

- 8 If at any time the equestrian buildings hereby approved cease to be used they shall be removed within one month of the cessation and the land returned to its original condition.

Reason: In the interest of the visual amenity of the area and to accord with the aspirations of paragraph 109 of the National Planning Policy Framework 2012.

- 9 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 in accordance with policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policy SQ1 of the Managing Development and the Environment Development Plan Document 2010 and paragraphs 58 and 61 of the National Planning Policy Framework (2012).

### **Informatives**

- 1 You are advised that, in undertaking the works hereby approved, due regard should be had to the provisions of the Wildlife and Countryside Act 1981 relating to the protection of species and habitats. The applicant is recommended to seek further advice from Natural England, The Countryside Management Centre, Coldharbour Farm, Wye, Ashford, Kent, TN25 5DB
- 2 The applicant is advised to consider the use of stock proof fencing to the site boundaries to ensure that animals cannot break out of the site.

Contact: Robin Gilbert