

East Malling & Larkfield **569862 155832** **23 September 2011** **TM/11/02493/FL**
East Malling

Proposal: Change of use of the land to static holiday log cabin (caravan) site
Location: Land Adjoining 260 Wateringbury Road East Malling West Malling Kent
Applicant: Mr Garry Haffenden

1. Description:

- 1.1 The application comprises a change of use of land to use as a holiday park with the stationing of ten units. The proposed units fall within the statutory definition of caravans but are to be clad in timber to resemble log cabins.
- 1.2 The units will be arranged around a central grassed area. No alteration is proposed to the existing access onto The Heath.
- 1.3 The application also comprises external lighting details, drainage and surfacing details, storage and screening details and landscaping and boundary details.

2. Reason for reporting to Committee:

- 2.1 A decision to grant planning permission was made at the December 2011 Planning Committee meeting and a Decision Notice was issued on 22 December 2011. However a claim for Judicial Review in respect of this decision was received by the Council in March 2012. The challenge did not go to the consideration or substance of the case but took issue with a number of procedural points, including the form of the Decision Notice. In light of legal advice from external Counsel, the Council conceded that the decision notice did not provide an adequate summary of the reasons for granting planning permission, as required by the relevant legislation. Although Members will be aware that the reasons for the decision were fully set out in the report it is now recognised that these were not sufficiently clear in the decision notice. The Court therefore quashed the original decision and the outcome is that the case has been remitted to the Council to consider again and determine.

3. The Site:

- 3.1 The site lies within the open countryside to the south of East Malling village. The site is bounded to the north and west by mature trees and shrubs and delineated to the south by a post and rail fence.
- 3.2 Although the site is agricultural land it is currently operated as a touring caravan site licensed by the Camping and Caravan Club. This means that the site can accommodate up to five touring caravans without the need to submit a planning

application. The siting of a maximum of five caravans is permitted development falling within Part 5 of Schedule 2 to the General Permitted Development Order 1995 (as amended) and Schedule 1 to the Caravan Sites and Control of Development Act 1960.

4. Planning History:

TM/00/00501/FL Grant With Conditions 27 July 2000

Erection of 'American Barn' for stabling of horses

TM/00/02080/RD Grant 8 October 2000

Details of landscaping and boundary treatment submitted pursuant to condition 3 of permission TM/00/00501/FL: erection of 'American barn' for stabling of horses

TM/00/02081/RD Grant 22 November 2000

Details of waste disposal submitted pursuant to condition 5 of planning permission TM/00/00501/FL: Erection of 'American Barn' for stabling of horses

TM/04/00617/FL Grant With Conditions 20 May 2004

Construction of hay and carriage barn for personal use

TM/10/02303/FL Approved 14 December 2010

Refuse bin store and chemical toilet waste disposal facility (including underground sealed tank) to serve use of land as a 'certified' site for Caravan Club members

TM/12/00289/RD Pending

Details pursuant to condition 2 (landscaping and boundary treatment), condition 3 (external lighting), condition 4 (access roads and parking), condition 5 (storage) and condition 11 (refuse storage) of planning permission TM/11/02493/FL (Change of use of the land to static holiday log cabin (caravan) site)

4.1 The site has been the subject of three Planning Enforcement investigations:

- The installation of a chemical toilet waste disposal facility at the site. This matter was investigated in 2010 and was consequently the subject of planning application TM/10/02303/FL which was granted on 14 December 2010.
- It was alleged that in excess of seven caravans were present at the site in July 2011. The site was inspected on 12 July 11 and found three caravans present. The site was again inspected on 29 July 11 where four caravans were found to

be present. No evidence was obtained that breach of planning control had occurred.

- It was alleged in October 2011 that a caravan had been on the site for up to eight weeks. The matter was investigated and in November 2011 it was confirmed that all caravans had been removed from the site and there was no evidence that the site was being used on a permanent residential basis.

The cases are all closed without any enforcement action being justified.

5. Consultees:

5.1 The responses to the initial consultation of 05 October 2011 are summarised below as are the responses to the further consultation of 11 July 2012 and 23 July 2012. The dates of receipt of the consultation responses are included in order to clarify whether they refer to the original round of consultations or are in response to the 2012 further consultation.

5.2 East Malling and Larkfield PC (comments received 14 October 2011): No objection in principle subject to:

- The number of units being limited to 10 and the existing caravan club site being given up as stated. This to be covered by a condition.
- There be a landscaping condition to make sure the existing planting is retained and additional planting carried out as shown on the submitted plan with native species.
- The log cabins shall be used for holiday purposes only and be removed should the use cease.
- There shall be no external lighting without specific approval as this is a countryside area with few existing lights.
- Any signing shall need specific approval so it respects the rural nature of the site and the appearance of The Heath as a rural lane.
- Consideration be given to a condition precluding any fencing or additions to the cabins without specific permission so as to maintain an open appearance between the cabins and the site generally.
- The bin store is screened.
- The existing access be used and should be such as to respect the lane appearance of The Heath so as to preclude hard kerbing or similar engineering works.

5.2.1 East Malling and Larkfield PC (comments received 21 October 2011) made on behalf of a number of local residents. These do not alter the original comments

received on 14 October 2011 which constitute the formal view of the Parish Council.

5.2.2 This is really a residential development comprising cabins outside the confines of the village and within the countryside. Traffic movements would be detrimental to highway safety and the Quiet Lane to the west of the site. The use of the site would be detrimental to local amenity due to potential lighting, noise and activity and domestic paraphernalia. Dwelling refused at 238 Wateringbury Road and 5 Sweets Lane. Not possible to enforce holiday use to ensure no full time residential occupation. Conditions recommended if granted

- Occupation of units be allowed only from 1st March until 31st October.
- Occupation only allow for 2 weeks in any period.
- No commercial vehicles be parked on the site at any time.
- No storage of car parts or other materials.
- No bonfires be permitted.
- No outside washing lines.
- Permitted development rights be rescinded and that there be a plan with dimensions showing the sizes of the cabins, car parking spaces and the internal dimensions of the spacing between each one.

5.2.3 East Malling and Larkfield PC (comments received 26 July 2012):

- These comments are in addition to those previously submitted prior to consent being granted on 22 December 2011
- It is noted that consent was quashed by the High Court Order dated 3 April 2012 on the basis the decision notice did not comply with Article 31 of the 2012 Order.
- The additional comments of the Applicant's Agent dated June 2012 are noted including references to the National Planning Framework and the fact the site can be used under general planning rules for 5 touring caravans.
- It is understood the matter is to be referred back to the Area 3 Planning Committee and especially in view of the history the Parish Council supports that especially as it will allow all parties to address the Committee.
- As previously stated the Parish Council is aware of local objections to the proposal but assumes having regard to the previous decision the Council is likely to grant permission.

- It agrees though careful consideration should be given to the wording of the conditions with a view to making the site fit in with its countryside location and ensuring it does not change into a fully residential site,
- With this in mind the conditions covering good landscaping; control of signage and any lighting; screening on the bin store and gas bottles; and appropriate removal of permitted development rights are crucial.
- It is noted some objections refer to alleged breaches of planning control. The Parish Council realises that these should be investigated as separate issues but if permission is granted it urges the Borough Council to make sure all conditions are fully met.
- These comments are made to meet the date of 26 July 2012 but further comments may be submitted in the light of local representation.

5.3 East Malling and Larkfield PC (comments received 13 August 2012).

- The details are noted, describing trees, hedges and bushes with common names is helpful. The screening along The Heath is important including a continuous hedge. The additional and existing landscaping should be maintained for at least 10 years.

5.4 DHH: Environmental Protection: (Comments received 25 October 2011)
Recommends a planning condition relating to external lighting and planning informatives relating to hours of works and the burning of waste on site.

5.4.1 (Comments received 26 July 2012): The applicant has submitted information of the external lighting proposed for the site (drawing ref 12/1192/02) that contains details of the maximum spread of the proposed lighting. This would appear to indicate that the lighting will not unduly affect other properties in the locality. A planning informative relating to hours of works is also recommended.

5.4.2 DHH: Housing Standards: (Comments received 25 October 2011) Recommends planning informatives regarding the need for a Caravan Site Licence. This advice is repeated on 26 July 2012.

5.5 KCC (Highways): (Comment received 07 October 2011) No objection.

5.5.1 KCC (Highways): (Comment received 01 August 2012) No objection but request that an informative is added to any planning permission granted to request that a visibility splay of 2m x 43m be provided and maintained with no obstruction over 900mm.

5.6 East Malling Conservation Group: Objection received 27 January 2011 (summarised):

There are adequate tourist facilities in the area and no demonstration of need. The design is not in keeping with the area and does not enhance the value of the rural lane. The proposal represents a visual intrusion, is not reasonably accessible and will increase traffic flow.

5.7 Private Reps: 9/0X/1S/19R + site notice – Responses received between 13 October 2011 and 06 November 2011 in response to consultation of 05 October 2011. The responses are summarised below but Members will be aware that all the representations are available to view on the application file and on the website in their original form.

- Highway problems – Difficulties associated with the delivery of the units. The site is already associated with tipper trucks and transit vans causing difficulties in the surrounding narrow country lanes (Quiet Lanes). Adverse impact on highway safety including danger to cyclists and pedestrians. Existing access inadequate with limited sight lines. Harm to the wildlife from the pollution caused by extra traffic, (specific mention of Water Voles in Well Street).
- Contrary to policy - Site is inaccessible, not close to amenities including shops, cycleways or footpaths therefore unsustainable development leading to an increase in traffic movements. Setting of an unacceptable precedent on land designated as best and most versatile agricultural land.
- Absence of onsite facilities – No onsite provision of laundry or drying facilities. No onsite provision for the general storage of any maintenance equipment or bedding and no storage for the individual units or bottled water or gas.
- Absence of information - No details are provided of the proposed hardstanding, parking areas, on site access roads, surface water runoff, external lighting, life expectancy of the units or drainage. No evidence that the existing sewerage system could accommodate the additional units. No provision for adequate disposal of rubbish.
- Adequate tourist facilities already provided in the area therefore unlikely to be further economic benefits to the area. No evidence of a demand for such holiday accommodation.
- Visual harm – The urban layout, design, high density and siting are out of keeping with the character of the area and the rural lane. Harm to the Conservation Area. Not in accordance with the East Malling Design Statement. Boundary trees lose foliage in winter that therefore results in a loss of screening.
- Harm to local amenity – disturbance in terms of noise, lighting and increased traffic generation/movement.
- The applicant is currently breaching the existing site licence. The site is being used for itinerant travellers who are operating businesses and keeping livestock.

- Conditions proposed if granted relating to renewal of units, limited occupation, no commercial use, bonfires and other domestic paraphernalia.

5.7.1 Private Reps: Additional comments, received following further consultations carried out on 11 July 2012 and 23 July 2012, summarised below – 16 letters of objection from 14 residents and 1 letter of support.

- The proposal is contrary to the development plan in terms of its location, nature, scale and design.
- The site is remote from all services and amenities and is poorly served by public transport. The application does not provide the usual facilities expected by visitors. The occupiers are therefore likely to rely on cars, there are no pavements or street lighting and therefore the application is not sustainable.
- The rural location of the site may be desirable but it is not essential.
- There is no evidence presented to support the demand for the development. Unconvinced that East Malling is a tourist destination. The current site is underused which implies the facility is not required. Can the area sustain another caravan park as there is another one at Hillberry Farm and similar facilities already exist at Wateringbury and the Hop Farm.
- The application has not demonstrated an overriding need to develop the best and most versatile agricultural land.
- The site is essentially an undeveloped field and does not constitute the expansion of an existing business. The application comprises an unacceptable form of intensive built development.
- The proposed layout is urban and the landscaping merely token gestures. The wide access would give a full view of an urban streetscape.
- The cabins are at a high density and their appearance is not sympathetic. The application fails to enhance the value of the area being contrary to policy DC6 and CP24.
- Increase in traffic particularly if a vehicle is towing a trailer. This will mean a dramatic increase in vehicle traffic resulting in noise and pollution and add to the existing congestion in the area and in East Malling village. The restricted entrance will increase the likelihood of road accidents and should be moved to Wateringbury Road.
- An adverse visual impact upon the area, particularly the numerous listed properties along The Heath and Well Street and the impact upon the historic village of East Malling.

- The caravans should be moved back into the site and more trees and shrubs should be planted. The overall number of units should be reduced – suggestion of 4.
- The existing site users are not holiday makers but itinerant workers with trade vehicles. The site will become a traveller site.
- Is the owner complying with all the existing restrictions at the site? There is a history of non-compliance at the site.
- The use should be limited to genuine holiday makers so it should be restricted. Objectors have made a number of suggestions – the park should only be used from March to October; the park should only be used from May to October and the park should not be open between 1 November and 28 February.
- Concerned that the application was approved despite unanimous and growing legitimate objections.
- The application is not in keeping with the village plan nor the village design statement.
- This will set a precedent for similar applications.
- Does the application meet the triple bottom-line approach of measurement in the NPPF – economic, social and environmental sustainability?
- Suggested amendments to the layout to include additional landscaping to the site frontage, relocate the access to prevent views into the site and re-site the refuse and bottle storage further away from local residences.
- If the LPA is minded to approve the application then attach these additional planning conditions. This is necessary considering the history of the site. The number of cabins not to exceed ten, no trade or business or commercial vehicles at the site, cabins not to be occupied between 1 November and 28 February, increased landscaping, details of size and appearance of cabins, details of foul and surface water and parking within the site.
- A letter of support comments on the potential calibre of the site users and the likely decrease in traffic movements.

The issues raised by local residents will be considered in Section 6 of the Report.

6. Determining Issues:

- 6.1 The starting point for decision making is the Development Plan which comprises the South East Plan (2009), the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007, Development

Land Allocations DPD (DLA DPD) adopted in April 2008 and the Managing Development and the Environment DPD (MDE DPD), adopted April 2010. For the avoidance of doubt, the saved policies of the Tonbridge and Malling Borough Local Plan (TMBLP) 1998 are also a material consideration, however none of these is directly relevant to the current case.

- 6.2 The Localism Act 2011 has been enacted, and a first round of consultation has taken place on reports which assessed the implications of the abolition or revocation of the various Regional Spatial Strategies, including the South East Plan. Following the conclusion of this consultation, these reports have been updated. Further consultation is currently being undertaken on the report for the revocation of the East of England Plan, and additional consultation is programmed to take place shortly on the updated reports associated with the other plans (including the South East Plan). Orders will be prepared to formally abolish the various Strategies following the conclusion of this second round of consultation.
- 6.3 Members will recall that the original consideration of the application took place prior to the introduction of the NPPF in March 2012. This document must now be considered in the determination of the application. NPPF identifies that Development Plan policies remain relevant until March 2013 unless now fundamentally in conflict with NPPF. Such conditions do not apply in respect of Development Plan policies related to proposals such as this. The application includes an additional planning statement submitted by the Agent on 26 June 2012 which seeks to address this recently issued national planning policy.
- 6.4 Paragraph 7 of the NPPF states that there are three underlying dimensions to sustainable development: economic, social and environmental. The planning system has an economic role to ensure the creation of a strong, responsive and competitive economy, a social role to support strong, vibrant and healthy communities and an environmental role to protect and enhance the natural, built and historic environment. The application must therefore be assessed with regard to these three underlying themes.
- 6.5 The NPPF also makes specific reference to the need to support a prosperous rural economy. Paragraph 28 places a duty upon LPAs to ensure development plans and decisions support the rural economy, and to:
- *“support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;*
 - *promote the development and diversification of agricultural and other land-based rural businesses;*
 - *support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and*

expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.”

- 6.6 The application proposes the creation of a static holiday park. This constitutes a rural tourist and leisure facility. Although the existing use only accommodates up to five caravans it does constitute an existing rural tourist facility and rural business. It is therefore reasonable to view the proposal as the expansion of an existing rural business. However it is also necessary to ascertain whether the application respects the character of the countryside and is sited within an appropriate location.
- 6.7 In the light of what is set out in para. 6.2. above, it is generally accepted that the policies in the South East Plan should be accorded less weight than previously. Nevertheless, there are several policies in the Plan that may have a bearing on the current case, including policy TSR2 which says that opportunities to promote tourism and recreation-based rural diversification should be encouraged where they provide jobs for local residents and are of a scale and type appropriate to their location, and policy TSR5 which says (amongst other things) that local planning authorities should facilitate the upgrading and enhancement of existing un-serviced accommodation including extensions where this will not harm landscape quality or identified environmental assets.
- 6.8 The TMBCS 2007 is the principal local Development Plan policy document to which reference should be made and the application must therefore be determined with regard to Policy CP14. This policy seeks to limit development in the countryside. Section (i) of CP14 permits development for which a rural location is essential. A “holiday park” of the type proposed, by its very nature, needs to be located in the countryside to derive the attraction and benefit of the countryside to the users and consequently a location within a rural setting such as this site is essential for this particular development.
- 6.9 The application comprises a tourist facility. The application must therefore be determined with regard to Policy DC5 of the MDEDPD 2010. This policy permits the development of new tourism and leisure facilities providing a number of criteria are met.
- 6.10 Section (a) of Policy DC5 seeks to ensure that development does not detract from the character of the area.

The site has already been used for the siting of up to five touring caravans. The application proposes the siting of five additional units and although the units are still legally ‘caravans’ they are of a more permanent appearance. However the external appearance of the ‘log cabins’ may be considered more visually appropriate to, and less intrusive in, this rural setting. A timber clad ‘caravan’ within the countryside is likely to be less visually intrusive than a series of touring caravans. The use of timber as an external material is more appropriate in the wider setting than the more suburban appearance of touring caravans. The

potential impact is further reduced by the screening provided by the existing mature trees and shrubs to the north and west of the site and this screening will be increased with the introduction of additional planting.

- 6.11 Section (b) of Policy DC5 seeks to ensure that development is appropriately located.

A rural location is an appropriate location for this type of holiday park bearing in mind the nature of the proposal. Such a tourist facility within the rural area can still be considered a sustainable land use notwithstanding the need for some car use; indeed all rural tourist accommodation is likely to be predominantly car borne in character. Sustainable development particularly as explained in the NPPF acknowledges the need for a balance between economic, social and environmental demands. The rural location will provide an appropriate setting for this type of development whilst the amenities of East Malling and the wider urban area are close and remain reasonably accessible.

- 6.12 Section (c) of Policy DC5 seeks to ensure that development supports the local economy.

It is reasonable to surmise that the introduction of a holiday park will be of wider economic benefit to the area. The increase in visitor numbers is likely to result in increased spending in the local area. It must be noted that there is no onus on the applicant to provide direct evidence of the demand for such a facility.

- 6.13 Section (d) of Policy DC5 seeks to ensure that the amount of new build is minimal and directly related to the development.

The application seeks to site 10 units only. The units fall within the statutory definition of caravans and are not therefore buildings. No ancillary buildings are proposed although it is noted that a screened refuse storage area is proposed to the east of the site entrance. This structure will be screened by the existing boundary hedge. Planning permission has already been granted for a refuse bin store under application TM/10/02303/FL on 14 December 2010 to serve the existing Certified Location use (which is itself permitted development). Although this permission has not been implemented the acceptability of a modest fenced area to store refuse bins has already been assessed and agreed.

- 6.14 Sections (e) and (f) of Policy DC5 seek to avoid the irreversible loss of the best agricultural land and the fragmentation of an agricultural land holding.

It is acknowledged that the site falls within one of the broad areas of countryside identified on the TMBCS diagram as comprising the best and most versatile land for agricultural use. Policy CP9 of the TMBCS 2007 seeks to preserve this land for agricultural purposes. However the site is not currently used for an agricultural purpose but as a lawful touring caravan site. The adjacent land owned by the applicant is primarily used for equestrian purposes. There is no evidence to

suggest that the land has recently been used to grow any particular crop nor that the quality of the land is of particular value in agricultural terms. The application site does not currently form part of a wider agricultural holding and its development would not cause the fragmentation of a viable agricultural unit. Moreover the nature of the proposal is such that it would not result in irreversible loss of agricultural land.

- 6.15 Section (g) of Policy DC5 requires the application to consider any biodiversity interest.

The site is currently grassed and used as a touring caravan site. The application will therefore make only very limited additional potential impact upon existing wildlife. The retention of the existing mature trees and shrubs will ensure the preservation of any existing habitats and the additional planting is likely to be a betterment over the uncontrolled position at present.

- 6.16 Sections (h), (i) and (j) of Policy DC5 require the development to be adequately served by the highway network, not present a hazard to road safety and protect any existing rights of way.

A number of objectors refer to an adverse impact of the proposed use upon the highway network. However KCC (Highways) has raised no objection. No alteration is proposed to the existing access and, as KCC comments, the vehicle movements associated with the proposal are not inordinate in comparison to the current permitted use and will not unduly impact on the highway networks. For instance the proposed use avoids the need for caravans to be towed in and out of the site as with the current lawful Certified Location use but rather simply requires very predominantly passenger car access after the initial delivery of the log cabins and occasional maintenance vehicle usage.

KCC does however recommend a planning informative advising the applicant of the need to maintain a visibility splay of 2m x 43m. As no physical change is proposed to the existing access and there will be no significant change in traffic movement it is not appropriate to impose a specific planning condition, however it is appropriate to offer this advice by means of a planning informative.

In light of this view and the final sentence of paragraph 32 of the NPPF, "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe", the application is acceptable in highway terms. As the vehicle movements would no longer of necessity comprise vehicles towing caravans but are likely to be single vehicles only, this would be a benefit in terms of traffic movement and overall highway safety.

It is acknowledged that the rural location of the site will result in a reliance upon private vehicles to access the site and local amenities. However the rural siting of

this facility is an essential characteristic and it is likely that users/occupants will be attracted to the site for its setting and its walking and cycling opportunities.

- 6.17 Section (k) of Policy DC5 seeks to ensure that the development makes no adverse impact upon residential amenity.

The nearest dwelling to the site is to the north west on the other side of The Heath, approximately 50m from the site entrance. This distance will ensure any noise from the site would not be at an unacceptable level. In addition the site owner/operator lives close to the site – to the east at 260 Watringbury Road. The close proximity of the caravan site licence holder is likely to engender adequate site supervision.

- 6.18 A primary concern to many objectors in relation to the current proposal is the need to ensure that occupation would be limited to tourist use only and not for permanent residential use. Members will recall planning application TM/10/01908/FL for the continued use of land as a caravan site on land at Hillberry House also on Watringbury Road. That application was granted in February 2011.

- 6.19 Whilst the current application description is explicit – use of land as a static holiday log cabin (caravan) site - it is appropriate to impose planning conditions on any permission that may be granted to ensure no permanent residential occupation and to limit the number of units at the site. Further guidance on this particular aspect can found within the Good Practice Guide on Planning for Tourism 2006 which remains part of the DCLG policy guidance.

- 6.20 This guidance recognises the importance of tourism to the economic, social and environmental well-being of the whole country stating that the planning system has a vital role to play in terms of facilitating the development and improvement of tourist facilities. The guidance supports the need to ensure sites are retained for tourist accommodation only and do not become part of the general housing stock. Accordingly Annex B of the Good Practice Guide relates specifically to Seasonal and Holiday Occupancy conditions. The guidance makes a distinction between 'holiday occupation' and 'seasonal occupation'.

- 6.21 The Good Practice guidance advises LPAs that the widest 'holiday season' is advantageous not only to the potential occupants and site operator but also to the wider local economy. Members will also recall planning application TM/11/01269/FL at land at Hillberry House which was granted in August 2011. This removed planning condition 4 which stated that the site shall only operate between 1 March and 31 October. It was determined that in the light of the Good Practice Guide 2006 this condition was not the most appropriate means by which to prevent permanent residential occupation and that the recommended 'holiday occupancy' condition was appropriate. Therefore, in line with the guidance, this Report does not recommend a 'seasonal occupation' condition to prevent all year

round occupation but rather relies upon the recommended 'holiday occupancy' condition to ensure the units are not occupied on a permanent residential basis.

- 6.22 Another issue that has arisen in connection with possible controls over how the site is occupied is whether there should be specific controls over the length of stay of individual occupants of the caravans. I am aware that this is an issue which has previously been of concern to Members, and local residents have also raised it in response to the further consultations carried out recently. I have re-examined this issue in the light of the detailed examination that this case was subjected to as part of the Judicial Review, and Counsel's advice has also been sought. As mentioned previously, the Good Practice Guide on Planning for Tourism contains specific advice on the use of occupancy conditions. The recommended condition is the "holiday occupancy" condition, as described in the preceding paragraph. This makes no mention of the need to limit the length of time that individuals or families may stay at the site. The advice from Counsel is that, given this guidance, there would need to be a clear and specific justification for such a condition, based on local or site-specific considerations. I have been unable to identify any such justification in this instance. I am aware that other permissions on sites nearby do contain a condition limiting the length of stay (typically to 28 days) but, in the light of the particular examination that this application has been subjected to, I do not feel it is justifiable to recommend such a condition here. Members may be aware that in another recent case in the Borough, at Stansted, permission was granted following an application to amend certain conditions, and that new permission does not include a condition limiting the length of stay.
- 6.23 Members will also note that the application now comprises additional details relating to the proposed external lighting, surfacing and drainage, storage and screening and landscaping and boundary treatment. It will be necessary to consider Policy CP24 of the TMBCS which seeks to ensure that all development is well designed to respect the site and its surroundings. However it may also be useful to refer to the Model Standards 2008 for Caravan Sites in England but bearing in mind that these are not part of the planning regime but flow from Caravan Sites legislation. This document offers guidance for site operators.
- 6.24 **External lighting** – The Model Standards require roads, communal footpaths and pavements to be adequately lit between dusk and dawn. The intention in the current case is to use low-level lighting bollards around the central amenity area, to the rear car parking area and at the site entrance (set back from the highway close to the existing hedge). The proposed light fixtures will be 950mm in height and have a total power output of 85w each. Details have been provided to illustrate the anticipated light spill which demonstrates that no light will spill beyond the confines of the application site. The proposed lighting therefore strikes a balance between the need to provide a low level of lighting and ensure no adverse impact upon levels of residential amenity or the character of the wider area. The suitability of the proposed lighting scheme in this regard is confirmed by DHH.

- 6.25 **Surfacing** - The scheme involves the creation of access roadways and areas of hardstanding within the site. This accords with the Model Standards which require the provision of hard surfaces to connect every unit to a footway. The intention is to finish these areas with a bonded-gravel. The parking areas are to be constructed using a permeable grid base to facilitate on-site drainage. The use of a bonded-gravel is a more suitable material than a bitumen macadam or concrete in this rural setting and is appropriate.
- 6.26 **Drainage** – The Model Standards require surface water drainage to avoid standing pools of water and satisfactory provision for foul and waste water disposal. As noted the intention is to construct the hard surfaces using a permeable material with a series of surface drainage channels linked to a soakaway. This will ensure no surface water run off onto land outside the ownership of the applicant.
- 6.27 The proposal also involves a scheme of foul water disposal linking each unit ultimately discharging into the public sewer on The Heath. This is a satisfactory arrangement.
- 6.28 **Storage and screening** – The intention is to locate a 2 tonne gas tank beneath the ground within the central amenity area. (From a safety point of view the controls are exercised under other legislation.) This will ensure that the tank makes no visual impact and is suitably sited in terms of site safety and security. As noted a screened refuse storage area is proposed to the east of the site entrance. This structure will be screened by the existing boundary hedge and the proposed additional planting. The Agent has confirmed that no other storage areas will be required.
- 6.29 **Landscaping and boundary treatment** – The intention is to retain the existing boundary trees to the north and west and also the existing trees to the rear and east of the paddock although this latter area does not fall within the application site. The proposal comprises additional planting to the west (in part) and to the northern boundary to increase the natural screen to the public domain. The application states that all trees will be nursery standard and this will ensure the speedy establishment of the new planting.
- 6.30 The East Malling Village Design Statement “*expresses the direction in which the community wishes future development and minor changes to buildings in East Malling to be guided, preserving and enhancing its identity yet giving it a vibrant future*”. This document is primarily concerned with changes to buildings within the village itself however mention is made of the character of the surrounding approach roads and lanes - seeking to retain hedgerows, overhanging trees and verges. Policy DC6 of the MDEDPD also seeks only to permit development where it conserves, and, where appropriate, enhances the value of rural lanes in terms of their landscape, amenity, biodiversity, historic or archaeological importance. In terms of these considerations the application is likely to enhance the verdant

nature of The Heath in light of the additional planting proposed to the site frontage. This will add to the landscape, amenity and biodiversity value of the lane.

- 6.31 As indicated in paragraph 7 of the NPPF there are three underlying dimensions to sustainable development: economic, social and environmental. The application comprises a tourist facility within the countryside which is likely to be of economic benefit to the wider area. The expansion of an existing rural enterprise will help to create a strong, responsive and competitive local economy.
- 6.32 The application comprises the expansion of an existing rural tourist facility. This provides a social role by meeting people's leisure requirements. This facility will contribute to the wider community to help it maintain its strength, vibrancy and health.
- 6.33 The application comprises a particular type of tourist use for which a rural location is essential. The site is already used for a tourist facility and therefore little additional impact would be made upon the surrounding natural environment. The proposal will have no adverse impact upon existing wildlife habitats and the additional planting is likely to enhance the rural character of the area. The site does not lie within a Conservation Area or an area of any special historic or landscape designation. There are no Listed Buildings near the site. The application does not therefore make any impact upon the built or historic environment and will enhance the natural environment.
- 6.34 The application therefore accords with the three dimensions of sustainable development as enshrined in paragraph 7 of the NPPF. Similarly, as shown above, the application, being the expansion of an existing rural business, accords with paragraph 28 of the NPPF. The application accords with DC5 comprising the expansion of an existing tourist facility which does not detract from the character of the area, is appropriately located within the rural area, will support the local economy, does not involve the erection of any ancillary buildings, does not result in the loss of valuable agricultural land or the fragmentation of an agricultural holding, makes no adverse impact on levels of existing biodiversity, and will make no adverse impact upon highway safety or levels of adjacent residential amenity. The application has been designed to a sufficient standard to meet the aims of CP24. The application therefore accords with the Development Plan.
- 6.35 It is therefore recommended that planning permission be granted subject to the following planning conditions. A number of objectors have suggested planning conditions and where appropriate these suggestions have been incorporated into the recommendation. However a number of suggestions involve matters outside the control of planning legislation and have therefore not been included.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 23.09.2011, Design and Access Statement dated 09.09.2011, Site

Plan dated 09.09.2011, Photograph INDICATIVE dated 09.09.2011, Landscaping REF: HP 1A dated 09.09.2011, Letter dated 03.11.2011, Landscaping 12/1192/01 b dated 19.07.2012, Planning Statement dated 26.06.2012, Lighting DETAILS dated 26.06.2012, Plan LIGHTING 12/119202 a dated 26.06.2012, Drainage Layout 12/1192/03 a dated 26.06.2012, Plan STORAGE 12/1192/04 a dated 26.06.2012, 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 The maximum number of log cabins (caravans) to be located at the site shall be no more than 10.

Reason: The siting of more than 10 log cabins (caravans) would lead to an over intensification of the use of the site which could potentially have an adverse impact upon the wider character of the countryside and be contrary to Policies CP14 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, Policy DC5 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraph 28 of the National Planning Policy Framework 2012.

- 3 (i) the log cabins (caravans) shall be occupied for holiday purposes only and no trade or business shall be carried on from the site;

(ii) the log cabins (caravans) shall not be occupied as a person's sole, or main place of residence;

(iii) the caravan site licence holder or his/her nominated person shall maintain an up-to-date register of the names of all owners/occupiers of individual log cabin (caravans) on the site, their arrival and departure dates and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

Reason: Having regard to Annex B of the Good Practice Guide on Planning for Tourism 2006 and to ensure that the log cabin (caravans) hereby approved are not used for permanent residential occupation which would constitute an inappropriate land use within the countryside and be contrary to Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007, Policy DC5 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010, paragraph 28 of the National Planning Policy Framework 2012.

- 4 The use hereby permitted shall only be carried out, and the site shall be operated, by the occupiers of 260 Wateringbury Road.

Reason: To ensure the continuing relationship between the host dwelling and the application site in order to provide adequate management supervision for the site to ensure that neither the levels of adjacent residential amenity nor the character of the wider area suffer from an adverse impact, in accordance with policy DC5 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraph 28 of the National Planning Policy Framework 2012.

- 5 Notwithstanding any of the provisions of Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) the site shall not be used for the accommodation of touring caravans.

Reason: This would lead to an over intensification of the use of the site which would potentially have an adverse impact upon the wider character of the countryside and be contrary to Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007, Policy DC5 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraph 28 of the National Planning Policy Framework 2012.

- 6 Notwithstanding any of the provisions of Parts 4 and 27 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) the site shall not be used for the pitching of tents.

Reason: This would lead to an over intensification of the use of the site which would potentially have an adverse impact upon the wider character of the countryside and be contrary to Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007, Policy DC5 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraph 28 of the National Planning Policy Framework 2012.

- 7 The proposal for landscaping shown on the submitted layout shall be implemented in the first planting season following the first use of the site pursuant to this planning permission. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Authority gives written consent to any variation.

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 Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007, Policy DC5 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraph 28 of the National Planning Policy Framework 2012.

- 8 The log cabins (caravans) hereby approved shall not exceed 13m in length and 4m in width and shall be externally finished to resemble a log cabin/chalet.

Reason: To protect and enhance the appearance and character of the site and locality in accordance with Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007, Policy DC5 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraph 28 of the National Planning Policy Framework 2012.

Informatives

- 1 A Caravan site licence will be required under the Caravan Sites and Control of Development Act 1960. An application form may be obtained from the Council's Environmental Health and Housing Service. Conditions will be attached to the licence to protect the health and safety of the site users and visitors.
- 2 The applicant is advised that light has been added into the list of Statutory nuisance under the Environmental Protection Act 1990. It is thus in the applicant's own best interests to ensure that the lighting does not unduly affect neighbours and is maintained as such.
- 3 During the construction/installation phase the hours of working (including deliveries) shall be restricted to Monday to Friday 08:00 hours - 18:00 hours, Saturday 08:00 to 13:00 hours with no working on Sundays, Bank Holidays or Public Holidays.
- 4 The applicant is advised of the need to maintain adequate vision splays. A splay of 2m x 43m is recommended which should be maintained with no obstruction over 900mm.

Recommended summary of main reasons for this decision and relevant Development Plan policies and proposals:

The Local Planning Authority considers that the application fully accords with the relevant policies of the adopted Development Plan in particular:

The application comprises a tourist facility for which a rural location is essential. The application therefore accords with Section (i) of CP14 of the Tonbridge and Malling Borough Core Strategy 2007.

The application comprises a tourism and leisure facility which will support the local economy whilst making no adverse impact upon the character of the area, does not involve the fragmentation of an existing agricultural holding and makes no unacceptable adverse impact upon levels of local residential amenity or the wider highway network. The application therefore accords with Policy DC5 of the Tonbridge and Malling Borough Managing Development and the Environment Document 2010.

Furthermore the development complies with the NPPF in that:

The application meets the three dimensions of sustainable development: economic, social and environmental as enshrined in paragraph 7 of the National Planning Policy Framework 2012.

The application comprises the expansion of an existing rural tourist business which respects the character of the countryside. The application therefore accords with paragraph 28 of the National Planning Policy Framework 2012.

The Council has considered fully all the objections to the proposal but does not conclude that there are material considerations which would indicate that planning permission ought not to be granted.

Contact: Maria Brown