

**East Malling &
Larkfield**
East Malling

16 January 2017

TM/16/03680/FL

Proposal: Change of use to holiday site incorporating 5 mobile homes
Location: Orchard Farm Well Street East Malling West Malling Kent
ME19 6JW
Applicant: Mr & Mrs Fuller
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1. Description:

- 1.1 This full application proposes the change of use of a parcel of land to a holiday site for 5 mobile homes. The land is currently operated as a Caravan Club touring caravan site and it is proposed to replace the 5 touring pitches with static mobile homes designed to resemble log cabins. The current use of the site for touring caravans is permitted development so no planning permission was required for this operation.
- 1.2 The existing access to the touring pitches as approved under TM/15/01023/FL would be retained to serve this development. The access within the site is to be remodelled to create two parking spaces per unit and provide turning space at its northern end. A replacement underground package sewerage treatment plant is proposed to be sited adjacent to the turning head, and an underground LPG tank and enclosed bin store to the south west corner of the site. A detailed landscaping scheme has also been submitted with the application. This indicates that additional trees are to be planted within the site and native hedgerows are shown to the southern, eastern and part of the northern boundaries of the site with smaller pockets of hedgerow set to the west of the mobile home plots within the site itself.

2. Reason for reporting to Committee:

- 2.1 At the request of Cllr Roud on the grounds that it is overdevelopment and would detract from the rural area. Third such application of this type in East Malling. On a very narrow lane which would cause traffic issues locally.

3. The Site:

- 3.1 The application site forms part of a wider complex all in the ownership of the applicant and is located between Well Street, Stickens Lane and Broadwater Road. The site is outside the village confines of East Malling in the countryside.
- 3.2 Access to the site is gained via the existing access from Well Street. The site has no other road frontages. The land to which the application relates is to the north of the existing mobile home, ancillary buildings and access and to the east of an

existing stable block and sand school. A mature hedge exists to the north of the site.

4. Planning History (relevant):

TM/69/10418/OLD Refuse 27 August 1969
Appeal Allowed 26 March 2013
Erection of three detached dwellings, garages and vehicular accesses.

TM/75/10228/FUL Refuse 12 June 1975
Reconstruction of existing cottages to provide two dwelling houses.

TM/75/11221/FUL Application Withdrawn 10 March 1975
O/A Demolition of existing dwellings (4) and erection of two dwellings with garages.

TM/10/00502/FL Refuse 19 August 2010
New agricultural building and access

TM/10/01011/FL Application Withdrawn 8 February 2012
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)

TM/10/03441/FL Refuse 25 March 2011
New agricultural building and access

TM/11/02655/FL Refuse 12 June 2012
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)

TM/11/03558/FL Approved 14 June 2012
Construction of stables and outdoor sand manege

TM/13/01029/RD Approved 16 December 2014

- If this site was proposed for housing it would be turned down
- No mention of restrictions on domestic paraphernalia

5.2 KCC Highways: The proposed scheme will result in the cessation of the regular use by motorhomes and various vehicles towing caravans. It is not considered that this proposal would constitute a material impact on the public highway and therefore confirm that there are no objections from the Highway Authority. With regard to the installation of the mobile homes an informative is recommended in relation to the requirements of moving abnormal loads by road.

5.3 EMCG: Object to the application and would like it refused on the following grounds:

- The economic benefits will be substantially outweighed by the adverse impact on the countryside.
- Access to the proposed sites is via 'quiet lanes' which are not suitable for substantially increased regular traffic flows.

5.4 Private reps: 0/0X/3R/0S + site notice. Three letters of objection received raising the following issues:

- Applicant is flouting the limitations placed on his land by Inspectors.
- Current hardstanding does not respect the agricultural nature of the surrounding countryside nor does it take into account the aspect of the users of the quiet lanes surrounding it.
- Site clearly visible from both Well Street and Stickens Lane and the suggested 'timber lodges' could only be viewed as permanent homes in their planned form.
- Applicant has dogs that can be heard barking and should this proposal be allowed there would be more dogs and noise implications.
- Large central amenity/play area would also impact on noise levels.
- The proposal to develop holiday homes steps well beyond the intentions and rulings both of both the planning department and planning inspectorate's decisions to date that have already made exceptions well beyond the norm.
- Given the current development of other such homes within a short distance of this site there is no justification or indeed benefit to the community for this to be granted as there is already more than sufficient allowance.

- As permission was not needed for the touring caravan pitches this application should be regarded as an application to change the status of agricultural land to residential for which there can be no justification.

6. Determining Issues:

- 6.1 The starting point for decision making is the Development Plan which comprises the NPPF, the TMBCS adopted in September 2007, DLA DPD adopted in April 2008 and the MDE DPD, adopted April 2010. For the avoidance of doubt, the saved policies of the TMBLP 1998 are also a material consideration; however none of these is directly relevant to the current case.
- 6.2 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.
- 6.3 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.”*
- 6.4 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.
- 6.5 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.

- 6.6 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.
- 6.7 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 static units in place of touring caravans 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 trees, hedges and shrubs surrounding the site and this screening will be increased with the introduction of additional planting.
- 6.8 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.
- 6.9 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 should be noted that there is no onus on the applicant to provide direct evidence of the demand for such a facility.
- 6.10 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 5 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 refuse

storage area is proposed to the east of the site. This structure will be screened and additional planting is proposed. The refuse storage area is modest and would have negligible impact on the overall character and appearance of the area.

- 6.11 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.
- 6.12 Section (g) of Policy DC5 requires the application to consider any biodiversity interest. The site is currently a mixture of grass and hardstanding 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.
- 6.13 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 network. For instance, the proposed use avoids the need for caravans to be towed in and out of the site, as with the current lawful use, but rather simply requires predominantly passenger car access (after the initial delivery of the log cabins and occasional maintenance vehicle usage).
- 6.14 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 considered to be acceptable in highway terms. As the vehicle movements would no longer mainly 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.

- 6.15 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.
- 6.16 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 Broadwater Road and is approximately 170m from the site itself. This distance will ensure any noise from the site would not be at an unacceptable level. In addition the site owner/operator lives immediately adjacent to the site – at the existing residential mobile home at Orchard Farm. The close proximity is likely to engender adequate site supervision.
- 6.17 A primary concern to the majority of objectors in relation to the current proposal is the perceived proliferation of such applications to the south of East Malling village and whether there should be a moratorium on such development because of the proliferation of such uses and because they are being used as permanent residences rather than holiday homes. To impose such a moratorium would require supporting evidence that demonstrates that any further development of this type would have such a severe impact so as to outweigh other policy considerations. I am not convinced that the quantum and impact of holiday homes in the vicinity of East Malling has reached such an extent that would justify a moratorium. Such policies have been suggested in parts of the country with much greater concentrations of holiday homes than Tonbridge and Malling. In nearby Swale Borough Council for example, there is a draft Local Plan policy that is not yet adopted, but this is in recognition of the fact that the Isle of Sheppey alone has 56 holiday parks comprising 6,731 chalets and caravans occupying 193 hectares. As the number of holiday homes in the vicinity of East Malling is in the region of 55, an Inspector considering a similar approach in this area is unlikely to be convinced of the need for such a policy.
- 6.18 The occupation of the units can be controlled by condition. Whilst the current application description is explicit – change of use to holiday site incorporating 5 mobile homes - 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. As with the other mobile home developments in the area a condition can be imposed requiring the site licence operator to maintain a record of visitor details, and for the inspection of this by the Council's Planning Enforcement Team. Regular inspections of the other sites are undertaken and to date no breaches have been found. This is therefore considered an appropriate approach to controlling the occupancy.
- 6.19 Given the countryside location of the site, the hard and soft landscaping, refuse storage, gas tank and sewerage treatment plant need to be assessed against policies CP14, Development in the Countryside, and CP24, Achieving a High Quality Environment, of the TMBCS 2007.

- 6.20 The landscaping scheme has been designed in such a way so as to utilise native species to provide additional natural screening. The boundary hedging proposed would enhance screening of the site from both Stickens Lane and Broadwater Road, limiting the impact of the development on the surroundings. The use of sporadic tree planting would enhance the appearance of the site and the use of quarry dust to surface the access track rather than a metalled surface would give a less urban feel to the works.
- 6.21 With regard to the refuse storage, gas tank and sewerage treatment plant, only the refuse storage provision would be above ground and this would be in a fenced enclosure that is further screened by the proposed landscaping. The enclosure would not be visible from outside the site and would therefore not have an adverse impact on the surroundings.
- 6.22 Turning to the gas tank, the intention is to locate a 2 tonne gas tank to the east of the refuse storage 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.
- 6.23 The sewerage treatment plant is also proposed to be wholly located underground. Whilst a mains drainage connection is the preferred option with any development, the plant proposed for this site is capable of treating sewerage for a development of this size and would not result in any groundwater pollution.
- 6.24 The proposal also involves a scheme of foul water disposal linking each unit and ultimately discharging into the public sewer on The Heath. This is a satisfactory arrangement.
- 6.25 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 to permit development only 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 Well Street area in light of the additional planting proposed and, given the set back of the site from the road, would not impact on the landscape, amenity and biodiversity value of the lane.
- 6.26 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.

- 6.27 The application comprises the enhancement 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.
- 6.28 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 not adversely affect the natural environment.
- 6.29 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, not resulting 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.
- 6.30 In response to the concerns raised by the PC, EMCG and residents I would make the following comments.
- 6.31 The planning appeal decision mentioned relates to the adjacent land where the residential mobile home is sited. The area of land to which this application relates is outside the site area for that application, with only part of the access being shared. The conditions imposed by the Planning Inspector therefore do not relate to this site.
- 6.32 With regard to the development detracting from the rural area and being outside the village envelope, it is considered that the development is acceptable in such a countryside location and accords with adopted planning policy. The landscaping proposed and the scale of the development would ensure that there is no significant impact on the character of the rural area surrounding the site. The development would remove touring caravan pitches from the site which would benefit vehicle movements by reducing the use of the road by towed vehicles.
- 6.33 The use of the site as a holiday site for mobile homes does not mean that the land would be designated as a brownfield site. As the PC state, if this was an application for housing it would be turned down as it would be contrary to policy. However as the application is for holiday accommodation it is compliant with planning policy.

6.34 The two other mobile home sites in East Malling are restricted in use and occupation by planning conditions that state that the units cannot be a main or permanent residence. This is regularly monitored to ensure that the sites are being used in accordance with the respective planning conditions. This type of condition can be attached to any grant of consent on the application site.

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: This was approved in accordance with the following submitted details: Proposed Plans TDA.2261.04 bin store dated 29.03.2017, Photograph MOBILE HOME dated 29.03.2017, Details SEWAGE TREATMENT dated 29.03.2017, Landscaping TDA.2261.01 B dated 29.03.2017, Email dated 29.03.2017, Design and Access Statement dated 14.12.2016, Location Plan TDA.2261.02-A dated 16.01.2017, Site Plan TDA.2261.03-A dated 16.01.2017, and subject to the following conditions and informatives:

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.

Reason: To ensure that the development does not harm the character and appearance of the locality.

3 The maximum number of static caravans to be located at the site shall be no more than 5.

Reason: The siting of more than 5 static 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.

4 (i) The static caravans shall be occupied for holiday purposes only and no trade or business shall be carried on from the site;

(ii) The static 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 static 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: The occupation of the static caravans for permanent residential occupation would constitute an inappropriate land use in the countryside.

- 5 The use hereby permitted shall only be carried out, and the site shall be operated, by the occupiers of Orchard Farm Well Street East Malling.

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.

- 6 Notwithstanding any of the provisions of Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 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.

- 7 Notwithstanding any of the provisions of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 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.

- 8 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.

- 9 The static caravans hereby approved shall not exceed 12m in length and 6m 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.

- 10 The static caravans hereby approved shall be limited to a maximum of 2 bedrooms.

Reason: To protect and enhance the appearance and character of the site and locality.

- 11 The vehicle parking spaces shown on the submitted plans shall be provided and permanently retained prior to the use of the site.

Reason: To ensure no adverse impact on highway safety resulting from hazardous on-street parking.

Informatives:

- 1 With regard to installing the proposed mobile homes the applicant is made aware of requirements involving the movements of abnormal loads defined as:-

- a weight of more than 44,000 kilograms
- an axle load of more than 10,000 kilograms for a single non-driving axle and 11,500 kilograms for a single driving axle
- a width of more than 2.9 metres
- a rigid length of more than 18.65 metres.

Hauliers are responsible for notifying the highway authority, the Police and any bridge or structure owners on-route (particularly for heavy loads) in accordance with guidance given at <https://www.gov.uk/esdal-and-abnormal-loads/abnormal-loads>

- 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 An application to vary the existing 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.
5. The proposed development is within a road which does not have a formal street numbering and, if built, the new property/ies will require new name(s), which are required to be approved by the Borough Council, and post codes. To discuss suitable property names you are asked 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 addresses@tmbc.gov.uk. To avoid difficulties, 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.

Contact: Robin Gilbert