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**East Malling & Larkfield**                      **569653 155442**    **12 November 2013**    **TM/13/03492/FL**  
East Malling

Proposal:                      Detached gymnasium and music room for use ancillary to main house  
Location:                      354 Wateringbury Road East Malling West Malling Kent ME19 6JH  
Applicant:                      Mr And Mrs Trevor Binger

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**1. Description:**

- 1.1 The application comprises the erection of single storey outbuilding. The intention is to site the building in the existing rear garden some distance from the dwelling.
- 1.2 The intention is to use a facing brick to match that of the existing dwelling with stained weatherboarding.
- 1.3 The application is described as a gymnasium and music room. The Agent has confirmed by letter received 18.12.13 that the proposed outbuilding will be for the private use of the applicants in pursuit of their hobbies and not for any commercial activities. The proposed building will also be used by the family as a summer house and garden room.
- 1.4 The letter also states that approval has been obtained from Liberty Property Trust UK, Rouse Kent (Residential) Ltd, although this statement has been challenged by a number of residents and Acorn Estate Management. (N.B. Whether either LPT or RK(R)L, or indeed any other body, has or has not given their approval is *not* material to this planning decision.)

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

- 2.1 At the request of Councillor Woodger and in light of public interest.

**3. The Site:**

- 3.1 The site lies in the open countryside to the south of East Malling village and to the east of Kings Hill. The site comprises part of a former farm complex known as Heath Farm. The development is accessed from Wateringbury Road. The dwelling is detached with a large rear garden.

**4. Planning History:**

TM/77/10405/OLD    grant with conditions                      22 September 1977

Erection of 2 poles to support a transformer within a tolerance of 3m as indicated on plan M/2542/TC

TM/02/03429/OAEA Approved 28 October 2004

Outline Application: Additional 92,900 square metres B1 Business floorspace, residential development, public open space, sports, leisure and recreation facilities and associated infrastructure at Kings Hill and adjoining land at Heath Farm, East Malling

TM/05/00163/FL Approved 6 June 2005

Variation of conditions 2 and 6 of planning application no. TM/02/03429/OAEA (outline application: Additional 92,900 square metres B1 Business floorspace, residential development, public open space, sports, leisure and recreation facilities and associated infrastructure at Kings Hill and adjoining land at Heath Farm, East Malling) to enable the submission of details and implementations of the development to be undertaken in phases

TM/08/00950/FL Approved 15 September 2008

Development of a total of eight residential units, including redevelopment of existing units and partial variation of condition 4 of planning permission TM/05/00163/OA to enable 8no. residential units within Heath Farm only to be accessed from Wateringbury Road

TM/09/03081/FL Approved 11 May 2010

Amendments to planning application TM/08/00950/FL to use existing buildings for garaging, relocation of new garages and one additional garage with associated minor amendments to layout

TM/10/00854/RD Approved 12 November 2010

Details pursuant to conditions 8 (contamination); 9 (landscaping); 10 (access); and 11 (closure of access) of planning permission TM/08/00950/FL: Development of a total of eight residential units, including redevelopment of existing units and partial variation of condition 4 of planning permission TM/05/00163/OA to enable 8no. residential units within Heath Farm only to be accessed from Wateringbury Road

TM/10/03023/RD Approved 17 December 2010

Details of the implementation of the remediation scheme and certificate of completion submitted pursuant to parts c + d of condition 8 of planning permission TM/08/00950/FL (development of a total of eight residential units, including redevelopment of existing units and partial variation of condition 4 of planning permission TM/05/00163/OA to enable 8no. residential units within Heath Farm only to be accessed from Wateringbury Road)

**5. Consultees:**

5.1 East Malling & Larkfield PC:

5.1.1 Comments received 02.12.13. No objection provided use for the purposes shown.

5.1.2 Comments received 17.02.14. It is understood that there are covenants with Liberty Trust and the Management Company requiring consent for any new building – we assume this is not a direct planning issue. The building is also a summerhouse and garden room in addition to a gymnasium and music room. A dance studio is also mentioned so noise issues may need consideration.

5.1.3 Comments received 13.03.14. The Parish Council notes the further information provided and has become increasingly concerned about the size of the building as well as the precise use involved. It is noted it is implied the size of the building is in part to assist in obscuring the caravan storage site to the south but it is felt this could be equally achieved by landscaping and tree planting. The Parish Council has no objection to a summer house within the plot provided its use is ancillary to the main dwelling and its use is strictly limited so no residential use is established. If used for musical purposes it may need sound proofing.

5.2 Private Reps: 11/1X/9R/0S + site notice.

11 Letters from 6 residents raising the following objections:

- I have no objection to the proposed construction but have informed the applicant that vehicular access to the building site via my property will not be possible.
- Planning conditions were implemented by way of a legal covenant applicable to all residents in the development. Permission has not been obtained from Liberty/Hillreed Homes.
- The applicant has not discussed his proposals with all residents – it is assumed that agreement will be sought from all residents in line with planning and covenant regulations.
- The original development/conversion required the footprint to be contained within 1011m<sup>2</sup> to reflect the original farm buildings, the buildings located to mirror the original farm yard. The development has exceeded this footprint and this leaves no room for any new buildings. Class E permitted development rights were removed in 2008 to protect the rural surroundings. This means the Council will be likely to view any further development as harmful.

- Concern about the proposed use of the building. If approved the planning permission must be conditioned to limit the use of the building to ancillary to residential.
- The 'bungalow' size is intended for eventual change of use to residential as a separate dwelling. Not opposed to a traditional shed/outbuilding but the proposal is a permanent structure almost larger than the existing house.
- The revised plans do not greatly differ – the proposed building is still extremely large for a countryside development. Details are provided of the floor area of the existing dwellings ranging from 1,475 sqft to 3,007 sqft – the proposed outbuilding being 1,140 sqft. The scale and bulk of the building is contrary to CP14.
- Access via the caravan park to the rear of the site will be difficult without further damage/removal of trees and fencing and contravention of the covenants.
- The boundary trees were to be maintained and replaced if damaged. If the boundary tree line had not been thinned and lower branches removed I would not be able to view the proposal. Concern that the site has been cleared in advance of the planning permission and trees have been unnecessarily removed and/or pollarded.
- The internal roadway to the property is small and windy and will not support large vehicle access – the dust cart can only access as far as the first bend. The access is privately owned. No objection in principle but the narrow driveway and entrance gates cannot withstand construction traffic. The site cannot accommodate construction traffic passing through the development.

5.3 Comments have also been received from the following:

5.3.1 Acorn Estate Management has commented on behalf of Hillreed Homes Ltd who were the original developers. Objection is raised on the basis that the application is not compliant with the applicants' contractual obligation in obtaining approval from Hillreed Homes. Details are provided of the Restrictive Covenant which relates to both the erection of outbuildings and removal or pollarding of trees.

5.3.2 East Malling Conservation Group questions whether the proposal breaches the original idea of restricting development to the farm building footprint – the basis on which the original development was permitted. The building appears particularly large for its designated use although the agent has confirmed it to be for private use. However, if approved a condition should be attached to prohibit residential and/or commercial use to avoid 'back garden' development.

**6. Determining Issues:**

- 6.1 The redevelopment of Heath Farm formed part of the outline approval for the Phase 2 Kings Hill development granted permission in 2004 and 2005. The Supporting Statement submitted as part of TM/02/03429/OA makes specific reference to the re-use of the Heath Farm oast houses and farm house complex. The Statement proposes eight residential units not exceeding the existing farm complex footprint of 1,011m<sup>2</sup>.
- 6.2 An alternative planning permission was subsequently approved in 2008. That application also sought to permit access onto Wateringbury Road. Planning permission was again granted in 2009 for an amended scheme which permitted the inclusion of one additional garage. That application also removed any permitted development rights for the erection of further outbuildings.
- 6.3 The redevelopment of Heath Farm as envisaged in 2002 sought to provide eight residential units without increasing the existing footprint of the original farm buildings. This was considered important in order to retain the layout and character of the original farm complex, and minimise any adverse impact on the wider countryside. The important of retaining the character of the complex and minimising any adverse impact on the nature of the countryside remains the key determining factors in assessing the current application.
- 6.4 The redevelopment of Heath Farm predates Policy DC1 of the MDEDPD 2010; this policy relates to the re-use of existing rural buildings. Section 3 makes specific reference to subsequent proposals relating to sites where rural buildings have been converted. Section 3 states that permission to erect ancillary buildings will not normally be granted. The application is therefore, in principle, contrary to this policy. I am aware of paragraph 28 of the NPPF which seeks to support sustainable growth in rural areas, however this relates to support for the rural economy rather than the provision of domestic outbuildings.
- 6.5 I recognise the aims of the original planning permission and the requirements of Policy DC1. The original consent and removal of permitted development rights was not intended to preclude all further development at Heath Farm but to ensure that any additional development could be considered by the Council.
- 6.6 The site lies within the open countryside. Policy CP14 of the TMBCS 2007 seeks to restrict development in the countryside. However Section (b) states that an appropriate extension to an existing dwelling can be acceptable. It is therefore necessary to ascertain whether the proposed outbuilding is appropriate to its setting. Similarly paragraph 58 of the NPPF requires development to function well and add to the overall quality of the area.

- 6.7 This is echoed in Policy CP24 of the TMBCS 2007. This Policy seeks to ensure that all development is well designed and respects the site and its surroundings. This aim is also reflected in paragraph 58 of the NPPF 2012 which seeks to ensure that development will respond to local character and history and reflect the identity of local surroundings.
- 6.8 The proposed outbuilding is 17.4m in length, 6.3m in width with a ridge height of 4.8m. This represents a large structure. It is acknowledged that the application was amended following advice from the case officer. However the amendment relates to an alteration in roof design and a minor reduction in width and ridge height only. The amended scheme does not alter the siting of the proposed outbuilding.
- 6.9 It is acknowledged that the building has been designed, in some respects, to complement the host dwelling and the wider site. The use of a matching facing brick and stained weatherboarding will help to mitigate the impact of the structure. The introduction of a new residential outbuilding structure of this size into the open countryside, however well intrinsically designed, is not one of the classes of development acceptable in terms of CP14 and it would also fail the test in NPPF of respecting the open countryside local character.
- 6.10 The applicant has stated that the siting of the outbuilding has been proposed to shield the view of the adjacent caravan site. In my view this is not an overriding justification for the development. However the proposed siting of the outbuilding, away from the main cluster of dwellings fails to respect the design aims of the original re-development and leads to a dispersed development increasing the impact on the countryside. The farm yard re-development was designed to retain the layout of the original farm complex - the farmhouse and farm buildings being grouped together. The introduction of an additional structure away from the original cluster of buildings fails to reflect the identity of the local surroundings and is therefore contrary to paragraph 58 of the NPPF.
- 6.11 A range of issues have brought to the attention of the Council. However Members will be aware that a number of the objections raised by local residents relate to matters beyond the control of the planning system where they relate to the breach or otherwise of private covenants or reflect upon the consent or otherwise of 3<sup>rd</sup> parties. Such matters are not material planning considerations. The planning issues relevant to the determination of the application relate to the size and location of the proposed outbuilding and its impact in terms of planning considerations.
- 6.12 I concur with the Parish Council and a number of local residents that the erection of small, suitably sited and designed, domestic outbuildings may be acceptable at Heath Farm. This is not such a scheme. The introduction of a structure of this size would have an unacceptably suburbanising impact on the character of the open countryside thereby being contrary to policy CP14/NPPF. The siting of the

proposed outbuilding, being set away from the group of converted farm buildings, would have a negative impact upon the local character and fails to reflect the identity of the local surroundings. I therefore recommend the application is refused.

**7. Recommendation:**

**7.1 Refuse Planning Permission** for the following reason:

- 1 The outbuilding by virtue of its size and siting does not constitute an appropriate extension to an existing dwelling and will result in a negative impact on the character of the open countryside. The application is therefore contrary to Policies CP14 and CP24 of the Tonbridge and Malling Core Strategy 2007 and paragraph 58 of the National Planning Policy Framework 2012.

Contact: Maria Brown