

**East Malling &  
Larkfield**  
East Malling

**27 June 2019**

**TM/19/01532/FL**

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Proposal: Change of Use from dwelling house (Class C3) to a Wellness Centre (Class C2)  
Location: 3 Gilletts Lane East Malling West Malling Kent ME19 6AS  
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## **1. Description:**

- 1.1 It is proposed to change the use of the existing dwelling house (use class C3) to a wellness centre (use class C2). No external alterations are proposed to the building in order to facilitate the change of use. Parking would remain on the existing drive for 3x spaces.
- 1.2 The centre would be privately run. Staffing numbers will be as follows:
- Three nurses on shift patterns of 8 hours each, to ensure one nurse in attendance 24 hours a day
  - One registered manager ("RM") on site during normal working hours, with overall responsibility for the centre
  - Two support staff on normal hours who will take care of the general requirements including food preparation, cleaning, gardening etc.
- 1.3 The centre will host a maximum of 3 clients, with admission pre-arranged at specific times during the week. The applicant advises that they expect only 2 clients to be receiving treatment at the centre at any one time.

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

- 2.1 At the request of Councillor Roud for the Committee to consider if the proposal would have an unacceptable impact on neighbouring amenity by reason of noise and disruption and whether there would be significant traffic movements arising.

## **3. The Site:**

- 3.1 The site is a detached dwelling within the settlement confines of East Malling. It lies on the north side of Gilletts Lane, outside of the Conservation Area and is separated from the boundary by adjacent development. There are no designations present that are considered relevant to the determination of this application.
- 3.2 The site sits between two adjacent detached dwellings, both similar "chalet" style properties with roof accommodation. The garden of the dwelling on the eastern boundary has been parcelled off and a detached bungalow is located here, backing onto the rear garden of the site. Across the road, on a raised elevation, is

a conventional two storey detached dwelling. The area has a semi-rural fringe character, lying on the outer limits of the East Malling village.

**4. Planning History (relevant):**

TM/55/10235/OLD grant with conditions 3 September 1955

O/A for maximum of 3 bungalows with vehicular access.

TM/56/10433/OLD grant with conditions 17 February 1956

Semi-bungalow, garage and access.

TM/10/02213/FL Approved 4 October 2010

Proposed one and half storey side extension over existing garage and single storey rear extension

TM/10/02214/CA Application Not Proceeded With 10 August 2010

Proposed one and half storey side extension over existing garage and single storey rear extension

**5. Consultees:**

5.1 Parish Council: Strongly object.

5.1.1 In respect of the application form we would point out the property has been empty since November 2018 (Question 6); there are trees and shrubs on the property (Question 10); and the property is close to the East Malling stream which emerges in Gilletts Pond in this lane (Question 11). It is believed the property is served by a main sewer (Question 13).

5.1.2 The site itself is in a valley with a steep entrance down narrow Gilletts Lane and a similarly steep exit out to The Rocks Road. Before street naming the area was known as Gilletts Hole due to this land formation with the pond and stream arising from it.

5.1.3 In practice due to the slopes and sight lines vehicles enter the lane from Chapel Street and exit via The Rocks Road. The Parish Council considers this essentially rural lane is unsuitable to accept any more traffic and it would seem this use may generate more traffic than as a residence.

5.1.4 In this respect the use applied for – Class C – covers a range of uses including residential care; nursing homes, boarding schools and so on. The Parish Council is concerned once permission is given one of the other uses could happen without the need for planning permission and therefore basis on this application such as 2/3 residents could just change.

5.1.5 It is understood the applicant has other centres including in Devon and there is local concern this “Wellness Centre” if approved could be for a wider range of residents than stated.

5.1.6 We reserve the right to submit further comments.

5.1.7 Following receipt of additional information, further comments were received by the Parish Council:

5.1.8 The further information provided is noted and is helpful by way of background relating to the role of Care Quality Commission. However, the Parish Council is concerned about the proposed change of use on planning grounds considering this is an unsuitable location.

5.1.9 The plan showing space for 3 vehicles is noted and we are concerned as to whether this will be adequate given the nature of Gilletts Lane with its narrowness and general character.

5.2 TMBC Environmental Protection: I do not believe that there are any Environmental Protection issues raised by this application and I thus have no comments to make.

5.3 Private Reps: 14/0X/14R/0S + site notice. 14 objections raised on the following (summarised) grounds:

- Slightly concerned
- Where will patients park
- 3 spaces insufficient
- Road struggling to cope
- Not right location
- Security threatened
- House prices affected
- Music playing
- Strange location in walking distance of two pubs
- Should remain totally residential
- Submission statement detailed with technical jargon
- TRICS system is not suitable indicator of vehicle movements
- No mention of negative effects of vehicle movements
- No room to manoeuvre on the drive
- Should remain private residence
- Does not reflect local distinctiveness of the area
- Query accuracy of vehicle movement data
- Inappropriate to have alcohol addicts close to families
- Possibility of other changes of use occurring
- More movements than stated
- Will not offer peace and quiet
- Danger to our children
- No business hours outlined
- Increased criminality and noise

- Would restrict our lifestyle in order to pacify occupants of the centre
- Property is overextended and has sold garden for development
- No decent facilities
- Should not be commercial
- Will there be alcohol on the premises?
- What happens if clients get violent?
- Not wanted or needed here
- No public transport through the village
- Lane not one way
- Underlying purpose is to make money
- Query how it complements area
- Foul language can be heard by drivers on street
- Does consent allow for exponential growth
- Applicants failed to maintain property

## **6. Determining Issues:**

6.1 The site is within the settlement confines of East Malling where policy CP13 sets out that minor development appropriate to the scale of the settlement is considered acceptable. Given that no physical development is proposed and the application involves a change of use to another residential institution (within use class C), it is considered that this type of proposal accords with policy CP13 and there is no objection in principle. However, it is still necessary to consider the impact on the character and appearance of the area, the impact on neighbouring amenity, and parking and highways.

### Neighbouring Amenity:

6.2 Third party comments raising concerns over noise increase, potential crime and the unsuitability of the use in this location are fully noted. It is also recognised that surrounding land uses are entirely residential in nature. However, there are also a number of alternative uses that can sit comfortably within residential neighbourhoods without noticeably altering their character. The proposed use class falls within "C2" or "Residential institutions" and includes residential accommodation and care to people in need of care, residential schools, colleges or training centres, hospitals, nursing homes. The nature of the use of the site will be for periods of rest for persons in need of care and is considered to comfortably fit within the definition of class C2.

6.3 A number of third party comments refer to fears of increased noise and disruption, with potential for possibly violent individuals being present in the building or surrounding area, as a result of the nature of the centre in providing recovery for those recovering from alcohol addiction. Generally these would be considered operational matters, not for assessment or control through the planning system. However, in light of the number of comments referring to this, it is recognised that this is a significant concern amongst residents.

- 6.4 In such circumstances, it is important to recognise that the planning system does play a role in maintaining and enhancing well-being amongst individuals and communities, and fear is well documented as being an important contributory factor to diminished levels of well-being. Paragraph 91 of the NPPF states that planning decisions should aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.
- 6.5 In establishing whether local fear of crime and anti-social behaviour can reasonably be a material planning consideration, regard should be given to the case of *West Midlands Probation Committee v Secretary of State for the Environment* [1997]. In this case the High Court dismissed an application to quash a decision of the Secretary of State in dismissing an appeal by the West Midlands Probation Committee against a refusal by Walsall Metropolitan Borough Council. The case concerned the refusal to grant planning permission for the extension of a bail and probation hostel in Aldridge. Part of the initial refusal, which was eventually upheld in the High Court, rested on the conclusion that the expansion of such a use would be unsuitable within a residential area and that the historic experiences of residents in terms of anti-social behaviour and crime and the *genuine fear* [TMBC emphasis] from such activities would be accentuated by the proposed development, to a point that would noticeably impair the living conditions that residents might reasonably expect to enjoy in such an area.
- 6.6 In considering the nature of the use, the type of likely clientele, number of patients at any one time and the strict clinical regime the centre will be required to adhere to, it is considered that it cannot fairly be said that there would be a reasonable fear of crime arising. The centre is primarily for rest and recovery and it is not considered there is a greater likelihood of crime or disorder arising from its operations than any other residential property. If anything the strict regulatory regime it will operate within makes it more likely that patient behaviour will be properly managed. To put in another way, a refusal of planning permission and the dwelling being sold on the open market could result in occupation by noisy and disruptive residents with no such management controls. It is considered that it is impossible to tie the nature of the use of the premises to reasonable perceptions of actual or perceived increases in crime. As a result, it is considered that the scheme would not conflict with paragraph 91 of the NPPF.
- 6.7 The use is also considered to be relatively “low key” in terms of linked activity: the planning statement explains that visitors will be transported to the site rather than drive themselves; whilst in the centre they are monitored by nurses and spend their time resting and recovering. The centre has to be registered and approved by the Care Quality Commission with stringent checks and inspections on its set up and operations. Whilst there would be staff movements on shift patterns, aside from the 24 hour nurses, the comings and goings of the RM and support staff would be in accordance with normal working hours and no different to local residents commuting to and from work. Highways evidence suggests this would

result in less movements than an ordinary dwelling. Ultimately it is not considered that any significant level of disruption or harm to neighbouring amenity would arise through comings and goings.

- 6.8 As such whilst the proposed use is not a private residence, it is considered that it can sit alongside such uses without any measurable change in the character of the area. There is nothing to suggest that the use would result in any greater level of noise or disruption than might reasonably be expected in such an area and, given the strict monitoring and operational controls in place, if anything it is likely to be quieter and less intensive in activity than a typical family home. It is further noted that the Council's Environmental Protection Team have raised no objections on noise grounds and this further suggests that there is no evidence of any harmful levels of disruption to adjoining properties. Given the nature of the use of the facilities and strict controls on behaviour, it is not considered likely that the development would result in increased crime or fear of crime to neighbouring properties.
- 6.9 Overall it is considered that whilst the proposed use may be different, it is unlikely to be noticeably different from any other residential property and there is no evidence before the Council of any actual harm arising to neighbouring amenity. For the same reasons, and given the lack of physical alterations to the property, it is considered that the character and appearance of the area as a predominantly residential neighbourhood would be preserved. As such the development is considered to comply with policies CP24 of the TMBCS and SQ1 of the MDE DPD.

*Parking & Highways:*

- 6.10 Policies CP2 of the TMBCS and SQ8 of the MDE DPD require development to not significantly harm highway safety, and demonstrate that traffic generated by the development can adequately be served by the highway network. This is consistent with the aims of the NPPF at chapter 9. Within this chapter, paragraph 109 explains that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.11 Concerns regarding the narrow access are limited availability of parking are noted. However, given the low number of clients on site at any one time, spaced out with shift patterns, and given that clients are predominantly driven to the site, there is no evidence of any "severe" or "unacceptable" impacts on the safety and operation of the public highway, being the test required by paragraph 109 to refuse planning permission on highways grounds. The evidence supplied by the applicant indicates that the likelihood is for the number of vehicle movements to be comparable to an ordinary residential use, and even with a benevolent reading of these figures, there is no evidence that traffic generation would be harmful or severe even if it fluctuated at times above the supplied figures.

6.12 The Kent Parking Standards SPD sets out that for a residential institution expected parking provision would be 1 ambulance space, 1 space per resident staff plus 1 space per 2 other staff. None of the staff are proposed to be permanent (resident) on site, so for the maximum of 4 staff proposed on site at any one time this equates to a demand for 2 staff spaces which will be provided. Given that residents are not proposed to drive to the centre and that the Parking SPD requires 1 space for residents per 6 beds (there are three beds) it is considered that overall parking provision would be in line with expectations. There is also space on the drive that would be sufficient to meet the demands of ambulance visits on rare occasions.

6.13 Overall the NPPF is clear that highways impacts must be severe before a development can be justifiably refused on such grounds. It is considered that there is simply no evidence that such impacts would occur and therefore the proposal is not considered to conflict with policy SQ8 of the MDE DPD or paragraph 109 of the NPPF.

Loss of residential dwelling:

6.14 The proposal would result in the net loss of 1 residential dwelling through the conversion. The Council cannot currently demonstrate a 5 year supply of housing and the loss of a dwelling is undesirable. However, the adopted development plan does not contain policies resisting the loss of such accommodation.

Conclusion:

6.15 The careful use of conditions can ensure that patient numbers are managed and the use remains as a wellness and recovery centre (and could not be changed to another use falling within C2 without planning permission being obtained). This would prevent any intensification of the use of the site that could be detrimental to neighbouring amenity, without a formal application being made and considered by the Council. Whilst neighbouring concerns are fully noted there is not considered to be any evidence of harmful impacts on amenity or the operation of the public highway. It is therefore recommended that, subject to suitable conditions, the application is approved.

**7. Recommendation:**

7.1 **Grant planning permission** in accordance with the following submitted details: Existing + Proposed Plans and Elevations EMA-2019-93-01 00 dated 27.06.2019, Proposed Plans and Elevations EMA-2019-93-02 00 dated 27.06.2019, Parking Provision EMA-2019-93-01 dated 29.07.2019, Details Further information dated 29.07.2019, subject to the following:

**Conditions**

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 No more than 3 patients shall stay at the centre at any one time.

Reason: In the interests of safeguarding neighbouring amenity.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order), the use hereby approved shall be for a wellness centre only and for no other purpose falling within use class C2.

Reason: To ensure the use is controlled in the interests of safeguarding neighbouring amenity and highways safety.

- 4 The use hereby approved shall not be occupied until the area shown on the submitted layout for a vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a garage or garages) or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure that parking is provided and maintained in accordance with the Council's adopted standards.

- 5 Before the development hereby approved is occupied, a management plan detailing how the facility will be operated shall be submitted to and approved in writing by the Local Planning Authority. The centre will be run in accordance with the approved management plan at all times.

Reason: In the interests of safeguarding neighbouring amenity.

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