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**East Malling & Larkfield**                      **569910 155911**    **15 January 2014**                      **TM/13/03793/FL**  
East Malling

Proposal:                      New gates to paddock and creation of a new access  
Location:                      238 Watringbury Road East Malling West Malling Kent ME19  
   6JD  
Applicant:                      Mr Dave Smith

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**1. Description:**

1.1 Full planning permission is sought retrospectively for the construction of 2 metre high entrance gates and the creation of a new vehicular access into a paddock area. The gates are set back from the highway by 2.5 metres with a hardstanding apron in front. The access is approximately 7m wide.

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

2.1 The application is being reported to the Planning Committee as there is an accompanying recommendation for an enforcement notice.

**3. The Site:**

3.1 The lawful use of the area of land which the gates and access serve is as a paddock which is situated directly adjacent to the residential curtilage and within the same ownership as 238 Watringbury Road. The paddock is located on a crossroads between The Heath which runs to the south and Watringbury Road which is situated to the east and with approximately 3 metre high deciduous hedgerows along both sides which front the public highway. The access and gates are onto The Heath and are situated close to the crossroads.

3.2 The application site is located outside the built up confines of both Watringbury and East Malling villages and is therefore in the countryside for development plan purposes. This rural landscape is of no special designations.

**4. Planning History:**

TM/59/10386/OLD    grant with conditions                      27 August 1959

Kitchen Extension.

TM/59/10624/OLD    grant with conditions                      26 October 1959

Garage, Access, Layby W.C. additional Extensions.

TM/77/10870/FUL	grant with conditions	30 May 1977
Erection of single storey extension to rear.		
TM/79/10767/FUL	grant with conditions	26 October 1979
Erection of loft conversion to rear.		
TM/79/10853/FUL	grant with conditions	22 June 1979
Erection of single storey extension to side.		
TM/87/10810/OUT	Refuse	30 September 1987
Outline application for two detached dwellings.		
TM/91/10630/FUL	grant with conditions	11 February 1991
Pitched roofs over existing flat roofed extensions and loft conversion (incorporating dormers).		
TM/13/03949/FL	Approved	14 February 2014
Erection of one and a half storey side and rear extensions		

## 5. Consultees:

### 5.1 PC: strongly object to the application for the following reasons:

“The gates are actually in position and are right on the boundary of the road and set into the hedge line. We are concerned that cars will stop in the road when the gates are opened. Any other access gates have been required to be recessed from the road to enable a vehicle to stop off the road without causing obstruction.

The gates are 7ft high by about 23 ft wide and we do feel are out of scale to the area of the land they will serve.

Any gates in this location should open inwards.”

### 5.2 KCC (Highways): The shape of the vehicle crossover proposed is unusual and therefore does not appear to be any specific reasoning or circumstances for this. Vehicle speeds on The Heath at the approach to (and coming from) the cross roads should be low and the general location is therefore considered to be suitable. Whilst the larger than normal width proposed is not considered to be

necessarily problematic, it is customary however for field gates to be set back at least 5m from the road so that attention to gates and entry and exit manoeuvres can be undertaken off the highway. It is considered that a redesign should therefore be submitted accordingly and I would be grateful if the applicant could be advised. In order to minimise the migration of loose materials onto the highway, at least the first 6m of an access should be constructed of a bound material.

5.3 Private Reps: 2/0X/1R/0S + site notice;

Letter of objection:

- The application appears to be for a small lorry park for which the location is unsuitable.
- The existing traffic on the Wateringbury Road and Chapel Street is a matter of serious local concern and is the subject of height and width restrictions.

5.4 East Malling Conservation Group: Two sets of comments received making the following points:

- Whilst we have no objection to the design of the gates, we note that the application refers to providing additional parking for cars and a light goods vehicle/public carrier vehicle - is this a change of use? Should the provision of this parking be taken into account, particularly for the light goods vehicle as there is a 6'6" width restriction through the village?
- Perhaps an informative could be included advising that light goods vehicles using the paddock should not travel through the village, as currently there are many over width vehicles coming through the village?
- The application states that the gates are required to provide additional parking for cars and a light goods vehicle/public carrier vehicle, as can be seen from photographs it is being used for substantial commercial vehicles and trailers.
- Taking into consideration the input from KCC Highways that the gates should be moved back to 5.5m from the highway which we believe is a domestic vehicle requirement, should this distance be even greater for the vehicles currently using it.

**6. Determining Issues:**

- 6.1 The NPPF (2012) along with policy CP1 of the TMBCS (2007) and policy CC1 of the MDEDPD (2010) place sustainability at the heart of decision making, ensuring that new development does not cause harm to either the present or future residents or cause irrevocable harm to the rural environment.

- 6.2 Policies CP1 and CP24 of the TMBCS 2007 and Policy SQ1 of the MDEDPD 2010 require high quality design which reflects the local distinctiveness of the area and respects the site and its surroundings in terms of materials, siting, character and appearance.
- 6.3 Policy DC6 of the MDEDPD relates to the impact of the development upon rural lanes. The pre-amble to the policy advises that rural lanes have historic value, contribute to nature conservation and to the distinctive character of the countryside and are coming under pressure from inappropriate upgrading. As such, they need to be protected and enhanced. It is stated that the use of urbanising features such as inappropriate fencing and walls should be avoided and the design of entrances and gates should be appropriate to the rural location. This would ensure that the character of rural lanes is protected.
- 6.4 Point 3 of policy SQ8 of the MDEDPD requires that the creation of a new access onto the highway network would not result in a significant increase in risk of crashes or traffic delays.
- 6.5 The gates are relatively large and of a close board design which is not a typical rural form; a more typical form would be a low level five bar gate for example. The access is wide and has resulted in a significant loss of hedgerow, instead introducing a wide concrete apron. Neither feature contributes to nor enhances the historic appearance of the rural lane which is generally verdant with a soft hedgerow edge. The proposed gates by virtue of their height, location and design and the access by virtue of its width, amount of hardstanding and loss of hedgerow appear as visually incongruous and suburban features within the rural street scene, detracting from the historic character of the rural lane and are as a result, harmful to the visual amenity of the locality and wider rural landscape.
- 6.6 The development proposes the installation of new gates and an access onto The Heath which is an unclassified road. The access is on the northern side of the road 5 metres from the junction with Wateringbury Road which is a classified 'C' road and set back by 2.5 metres from the edge of the carriageway. This limited set back necessarily results in vehicles turning into the access blocking the northern side of the carriageway. Vehicles overhanging the highway cause an obstruction to traffic and result in the need for vehicles approaching the junction to enter onto the opposite side of the carriageway. The proximity of the access to the junction with Wateringbury Road, which includes a triangle as The Heath approaches the main road, limits visibility and therefore vehicles manoeuvring around any user of the access results in significant highway safety issues leading to the potential for head on crashes.
- 6.7 Advice from KCC Highways states that the entrance gates should be set back by 5 metres from the carriageway edge in order to provide space for vehicles to pull off the road and open the gates. The access which has been created has a

hardstanding area in front of the gates with a 2.5 metre depth. Although the gates themselves do not open over the highway vehicles awaiting the opening of the gates hang over the highway causing a detriment to highway safety.

- 6.8 Although the highway safety issues could be overcome by increasing the set back of the gates from the road, this would have an increased visual impact upon the appearance of the rural street scene, augmenting the amount of hard surfacing, deepening the gap in the hedgerow and increasing the incursion of built development into the agricultural field. This would be further detrimental to the undeveloped and verdant nature of the street scene and rural landscape.
- 6.9 The application relates to works that are retrospective. As I am recommending that the application is refused there is also a need to serve an enforcement notice on the site to seek the removal of the unauthorised works.
- 6.10 Several of the objections raise concern with regard to the use of the land behind the gates as a lorry park or for parking commercial vehicles. This current planning application relates to the gates and access only; however the works to create the hardstanding (both inside and outside the gates) and the storage of lorries on the land are also unauthorised. The development has completely altered the character of the paddock area, removing the grassed area and instead laying hard development by the installation of hard-core. This is harmful to the appearance of the rural landscape by allowing the incursion of built development into the undeveloped countryside, undermining its intrinsic importance. The storage of lorries on the land is also unacceptable both due to the need for the hardstanding area and the inadequacy of the access serving the site. The unauthorised development is therefore contrary to policies CP1 and CP24 of TMBCS and policies SQ1, SQ8 and DC6 of the MDEDPD, as described above. In the circumstances, I believe it is expedient to serve an Enforcement Notice requiring the removal of all the unauthorised works and the cessation of the use, and the reinstatement of the roadside hedgerow.

## **7. Recommendation:**

### **7.1 Refuse Planning Permission** for the following reasons:

- 1 The proposed gates, by virtue of their height, location and design, and the access, by virtue of its width, amount of hardstanding and loss of hedgerow, appear to be visually incongruous and suburban features within the rural street scene, detracting from the historic character of the rural lane and are as a result harmful to the visual amenity of the locality and wider rural landscape. The proposal is therefore contrary to policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, policies SQ1 and DC6 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010 and paragraphs 17, 56, 57, 60 and 64 of the National Planning Policy Framework (2012).

- 2 The 2.5 metre set back of the gates combined with the location of the access within 5 metres of the junction of The Heath and Wateringbury Road results in a significant highway safety hazard. The development is therefore contrary to policy SQ8 of the Managing Development and the Environment DPD 2010.
  
- 7.2 **An Enforcement Notice BE ISSUED**, the detailed the wording of which to be agreed with the Director of Central Services, requiring the cessation of the use of the land for the storage of lorries, the removal of the access and gates and the removal of the hard-core hardstanding from the land.

Contact: Kathryn Holland