

East Malling & Larkfield **569642 155419** **4 September 2014** **TM/14/03017/FL**
East Malling

Proposal: Two detached single storey outbuildings to provide a home gymnasium and a garden store, an ornamental pond and garden pergolas
Location: 354 Watringbury Road East Malling West Malling Kent ME19 6JH
Applicant: Mr And Mrs T Binger

1. Description:

- 1.1 The application comprises the erection of two single storey outbuildings which are proposed to be used as a home gymnasium and garden store. The application also includes the erection of garden pergolas and the creation of an ornamental pond.
- 1.2 The intention is to site the outbuildings at the end of the existing garden, one to each corner. The buildings have been designed in brick with tiled roofs. Pergola structures are proposed to link the outbuildings and extend back into the garden towards the dwelling. The ornamental pond is proposed to the front of the outbuildings with a ragstone wall bisecting the garden – the dwelling to the north and the outbuildings, pergola and pond to the south.
- 1.3 Members may recall that planning application TM/13/03492/FL, which proposed the construction of a detached outbuilding for use as a gymnasium and music room, was due to be heard at APC3 in May 2014. That application was withdrawn by the applicant prior to the meeting, but after publication of the Committee Agenda. In that instance, the recommendation was to refuse the application for the following reason.

“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.”
- 1.4 The present scheme seeks to erect two smaller outbuildings rather than a single outbuilding. Members may also recall that the current application was due to be heard at APC3 in January 2015. This application was withdrawn from the agenda by the applicant prior to the meeting, but after publication of the Committee Agenda following receipt of comments from the applicants’ agent regarding inaccuracies in the published report. These have now been investigated and this report addresses the issues.

1.5 For clarity, the creation of the ornamental pond will involve excavation works which would constitute an engineering operation meaning that this would amount to operational development requiring planning permission. It, therefore, forms part of the application to be determined. However, the erection of the proposed ragstone wall is considered to fall within Class A (Minor Operations) of Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). This means that this element of the works alone constitutes permitted development and does not form part of the current application for determination. As such, the ragstone wall forms no further part in the assessment that follows.

2. Reason for reporting to Committee:

2.1 At the request of local Ward Members, Councillors Simpson and Woodger.

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 was a new build utilising the footprint of the original farm buildings. The dwelling is detached with a large rear garden. The existing dwelling is not a Listed Building nor does Heath Farm lie within a CA or an AONB

4. Planning History:

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)

TM/13/03492/FL

Application Withdrawn

29 April 2014

Detached gymnasium and music room for use ancillary to main house

5. Consultees:

5.1 PC: *Original comments:*

5.1.1 The PC note the components of the application and the planning history of the site commenting that the purpose of the original permission was to limit the footprint of the redevelopment in order to maintain the open rural appearance of the site which involved the removal of permitted development rights to erect outbuildings. The PC understands the desire to screen the existing caravan storage area but does not feel this provides sufficient justification for the application. Screening could be provided by additional planting or the proposed ragstone wall moved to the boundary. It is noted that the proposed outbuildings are smaller in floor area than the outbuilding previously proposed under TM/13/03492/FL. However, the buildings are still considered large and breach the original allowed footprint thereby having an adverse effect on the countryside.

Additional comments

5.1.2 The PC seeks confirmation regarding the need for permission for the proposed ragstone wall. The PC reiterates its advice regarding additional planting to achieve screening from the caravan storage site. However, concern remains regarding the overall visual impact on what was intended to be an open spacious layout in a countryside location.

5.2 EMCG: Whilst we acknowledge that the original development site fell within CP14 and was quite rightly judged to have satisfied the criteria of that policy, it appears that TMBC are now faced with a dilemma due to individual homeowners seeking permission or retrospective permission for garden structures that are obviously for the sole enjoyment of the home owners, but appear to fall foul of CP14. We believe all the structures are of good design and for the purposes intended and sensibly sited and in particular the rear garden of 354 is huge and easily accommodates the two proposed buildings without adverse effect upon the surrounding locality. We agree that if the buildings were for commercial use or could be converted for permanent residential use or if further buildings were

erected in the gardens, it would be a different matter. Is there no way a bit of common sense could prevail and a way found to approve these applications? Could they not be re-evaluated under Class E Part 1 Schedule 2 of the Town and Country Planning Act as the buildings are sited in residential gardens as opposed to open countryside?

5.3 Private Reps: 17 + site notice/4X/7R/3S. 7 letters from a total of 3 residents raising the following objections:

- The existing poplar trees provided natural screening from the caravan storage site, however infill trees have been removed and pollarded in contravention of restrictive covenants. Screening can be achieved by replacement planting.
- Why are the buildings proposed to be located at the end of the garden, this is not appropriate siting, and why is a segregating wall between the new structures and the house proposed? Is this a further attempt at back garden development?
- The buildings are permanent structures, again in brick and tile and although disguised as two buildings the overall footprint has little changed from the original application. The previous recommendation for refusal still applies in order to preserve the character of the development.
- The nature of the application has not changed since the previous recommendation for refusal under TM/13/03492/FL. Despite the separation of the building this will remain a significant development in the countryside and is therefore considered inappropriate. The proposed amendments do not overcome the harm that the building will cause.
- Due to the scale and bulk of the proposed development it cannot be considered an appropriate extension and is therefore contrary to policies CP14 and CP24 of the TMBCS and paragraph 58 of the NPPF 2012. The application is also contrary to the original aims of the redevelopment in removing Class E permitted development rights.
- Each building is 23' x 16' = 368' square. The buildings combined = 736' square which is as large as the footprint of two four bedroom houses on the Heath Farm development, and larger than the communal building serving the tennis court. The original redevelopment of Heath Farm restricted the footprint to 1011m² – this leaves no room for additional buildings to be built.
- The application could constitute a precedent as multiple developments at Heath Farm will have an irreversible detriment on other residents and the countryside. Such applications could lead to a change of use for living purposes or as a separate dwelling house to which there would be strong objection.

- Concern about potential disruption during construction, particularly delivery of materials on the narrow and shared roads.

2 letters of support commenting:

- This is the best way to utilise the large garden.
- This will provide screening against the caravan store and improve the site. The outbuildings will add value to the house and therefore benefit the overall development.
- The residents will be sensitive to their neighbours during construction.
- The future use of buildings would need to seek formal permission – garden development should not be refused on the basis of ‘what ifs’ or ‘what nexts’.

6. Determining Issues:

- 6.1 The redevelopment of Heath Farm formed part of the outline planning permission for the Phase 2 Kings Hill development. The Supporting Statement submitted as part of TM/02/03429/OA made specific reference to the re-use of the Heath Farm oast houses and farm house complex. The Statement proposed eight residential units not exceeding the existing farm complex footprint of 1,011m². The full planning permission for the redevelopment was approved in accordance with these requirements. Permitted development rights for outbuildings and garden structures were removed as a condition of the permission for redevelopment. The reason for removing these rights was that the development was in a rural area that was viewed as acceptable due to it being the reuse of a previously developed site and it was considered that there was a need to retain an element of control on the further domestication of the site. It was not imposed to ensure that there were no outbuildings constructed at any point in the future.
- 6.2 The principal consideration in determining this proposal is, therefore, whether the two outbuildings, pergolas and pond would have an adverse impact on the character of the complex and its rural setting.
- 6.3 The redevelopment of Heath Farm predates policy DC1 of the MDE DPD 2010; this policy relates to the re-use of existing rural buildings although Section 3 makes specific reference to subsequent proposals relating to sites such as this where rural buildings have been converted to residential accommodation. It states that planning permission to erect ancillary buildings will not normally be granted, the underlying reason being to ensure the character of the development is not diluted or subject to incremental development that has an unacceptable suburbanising impact on the rural environment. It must be noted, however, that Policy DC1 relates to converted rural buildings. The host dwelling, although forming part of the Heath Farm redevelopment is not a converted rural building but

a new build. Whilst it could be interpreted that the host dwelling, albeit new build, was designed to mirror the existing farm complex it could not be considered to be a converted rural building under policy DC1.

- 6.4 The prevailing character of the existing development and the impact of the proposed works in general on that character would though be a material consideration. The proposal should be considered with regard to Policy CP24 of the TMBCS. 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
- 6.5 Policy CP14 of the TMBCS 2007 seeks to restrict development in the countryside although it does allow for appropriate extensions to existing dwellings. Consequently a significant factor in determining the application is whether the proposed outbuildings can be considered as appropriate extensions to the existing dwelling. The distance between the host dwelling and the proposed outbuildings is considerable – some 45m at its nearest point. The outbuildings cannot, therefore, reasonably be said to be an adjunct to the dwellinghouse.
- 6.6 The outbuildings are proposed to be sited at the end of the rear garden, a significant distance from the main group of dwellings. The applicant's justification for the proposed siting is that the outbuildings should be considered in relation to the wider development, not just the immediate setting of Heath Farm. A commercial site used for the open storage of caravans is to the south, immediately adjacent to the application site but separated by a single line of tall Poplar trees with a close boarded fence beyond. There is also scattered residential development to the east of the application site accessed from Wateringbury Road. The applicant asserts that the proposed outbuildings should be considered in the context of this wider development pattern, rather than their relationship with Heath Farm. The applicant contends that if viewed in this context the impact of the proposed outbuildings on the character of the open countryside would be minimal.
- 6.7 Whilst there may be some merit in this argument, I do not agree that this outweighs the potential adverse impact of the proposal. The large rear gardens of the plots to the southern end of the Heath Farm development were proposed to reflect the original agricultural character of the area and give the impression of open paddocks. The open storage of caravans to the south, whilst covering a large area, is not visually intrusive due to the height of the items stored. The residential development on the west side of Wateringbury Road relates to the piecemeal linear development that characterises this road. In general no development extends back from the road beyond the existing eastern boundary of the application site.

- 6.8 For this reason I disagree with the view of the applicant and I remain of the opinion that the proposed siting should be considered primarily within the context of the existing dwelling and its immediate setting within Heath Farm. The aims of the original farmyard re-development was to retain the layout of the original farm complex - the farmhouse and farm buildings being grouped together to echo the original character. I appreciate that the re-development has inevitably altered the original character. The introduction of entrance gates, fencing and other domestic paraphernalia has already greatly altered the appearance and ambiance of Heath Farm. However I remain of the opinion that the introduction of additional structures at such a distance 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 and policy CP24 of the TMBCS.
- 6.9 It should be noted that the previous planning application (which was withdrawn prior to determination) originally proposed a single outbuilding with a footprint of approximately 116sq.m and a ridge height of 5.1m (subsequently amended to propose a footprint of 98sq.m and a ridge height of 4.8m). The current application proposes two outbuildings of 35sq.m each and ridge heights of 4.2m. Although I appreciate that this represents a reduction in overall size from the earlier (withdrawn) scheme, the proposed outbuildings are still both substantial in scale and of a size and design which will have a clear suburbanising impact on the countryside and the character of the Heath Farm development. This is exacerbated further by the proposed pergolas. Whilst I am aware that these are of a standard design in their own right, when viewed cumulatively with the outbuildings they accentuate the detrimental impact of the proposed development. I appreciate the applicant has stated that the siting of the outbuildings and pergola have been proposed to shield the view of the adjacent caravan site. In my view, however, this is not an overriding justification for the development.
- 6.10 The original planning permission for the re-development of Heath Farm removed the permitted development rights for householders to erect domestic outbuildings. This was intended to retain the character of the development. The removal of permitted development rights was not, however, necessarily intended to preclude all further development at Heath Farm but to ensure that any additional development could be considered by the Council in light of the prevailing policies at the time of determination. Notwithstanding the current proposal does not comply with the requirements of Class E as the proposed ridge height exceeds 4m. This means that the outbuildings could not otherwise be erected under permitted development, if those rights remained in place. I remain, however, of the opinion that the erection of small, suitable sited and designed, domestic outbuildings may be acceptable at Heath Farm. The current application does not propose such a scheme.

- 6.11 The separation distance between the existing dwelling and the proposed outbuildings is over 40m and this renders the application unacceptable. The siting fails to respect the design aims of the original redevelopment and leads to a dispersed development, suburban in appearance, which increases the impact on the countryside.
- 6.12 Members will note that the view being taken on these outbuildings is different from the previous two cases in the vicinity which appear elsewhere on this Agenda. It is considered that whilst those applications related to modest outbuildings of an appropriate size, design and siting it is contended that the two outbuildings and the pergolas proposed under this submission are considerably greater in all dimensions which results in an altogether different conclusion concerning their impact. The application site is considerably more open than that of either of the previous applications with the development set prominently into the centre of the plot. There has been no attempt to reduce the impact of the buildings by positioning them against an existing feature or relate them to the original house to mitigate their impact on the open character of this part of the development.
- 6.13 The overall size and massing of the proposed outbuildings, having a ridge height of 4.2m and a combined floor area of 70m², renders the application unacceptable. The height and floor area of the proposed outbuildings is greater than would usually be expected for domestic outbuildings and as such would have a detrimental impact on the rural character of the site and its surroundings. I reiterate that the erection of suitably sited and designed outbuildings may be acceptable at Heath Farm but this proposal does not represent such a scheme. The current proposal is contrary to policies CP14 and CP24 of the TMBCS and paragraph 58 of the NPPF and I therefore recommend that planning permission be refused.

7. Recommendation:

7.1 Refuse Planning Permission for the following reason:

- 1 The proposed development, by virtue of its specific siting, overall size and detailed design, would fail to respect the site and its surroundings as it would result in an incremental suburbanising impact on the Heath Farm development to the detriment of the rural character of the site and its surroundings and the rural amenities of the wider locality. As such the proposed development is contrary to paragraph 58 of the National Planning Policy Framework 2012 and Policies CP14 and CP24 of the Tonbridge and Malling Core Strategy 2007.

Contact: Maria Brown