

Alleged Unauthorised Development

East Peckham

08/00612/UNAWKS

567217 147456

East Peckham And
Golden Green

Location: The Hop Farm Country Park Maidstone Road Paddock Wood
Tonbridge Kent TN12 6PY

1. Purpose of Report:

- 1.1 To report the unauthorised developments at the Hop Farm site that have taken place recently over the last 12 months. These comprise a number of new structures and buildings, alterations to the listed oast buildings, unauthorised use of land and buildings, various external works and advertisements.
- 1.2 This report is also to identify planning issues that have arisen at the site, some of which have now been resolved, those that are still outstanding and those that will require further investigation or action over the next few months. The applicants and agents have been fully engaged in the discussion of the various planning matters and the breaches and also the unauthorised works to the listed buildings. A number of matters are unresolved some applications are still outstanding and others are yet to be submitted where promised.

2. The Site:

- 2.1 The site comprises the main building complex that includes the five listed oast buildings, the adjoining open land and fields that extend to the north and west, as well as the car parking area to the south. Most of the buildings are situated within the confines of the Hop Farm which is sited on Maidstone Road, Paddock Wood. The site is within the Metropolitan Green Belt and the building complex is defined as a tourist site in TMBLP under saved policy P6/25 that anticipates tourist related development on the site in the context of an up to date master Plan. This policy area is tightly drawn around the main building complex.
- 2.2 There are four Grade II* listed oast buildings and one Grade II listed oast. The group of five oasts is considered to be an important and unique collection of historic oast buildings. There are a number of other buildings on the site which are not listed. Some further structures on the site are the subject of this report as they have been erected without the necessary approvals.
- 2.3 The site is within the designated Flood Zone 3 area.
- 2.4 The site as a whole falls within three District Council Areas, although the building complex and the majority of the events fields is within TMBC boundary. The car park is however, mainly, within Maidstone and the open land and some ex-farm buildings to the west is sited within Tunbridge Wells District.

3. History:

TM/79/10112/FUL Grant with Conditions 19 September 1979

Construction of new vehicular access and closure of existing access in conjunction with realignment of part of the B2015.

TM/82/11025/FUL Grant with Conditions 18 November 1982

Conversion of oast houses to form new farm offices, agricultural museums, craft workshops, refreshment rooms and open recreational uses (including farm walk, picnic area, nature walk and fishing).

TM/85/10541/FUL Grant with Conditions 28 February 1985

Application for continued permanent use of oasthouses as farm offices, agricultural museums, craft workshops and refreshment rooms together with open recreational use for adjoining land, resiting of car and coach parks and associated new access.

TM/89/10900/FUL Grant with Conditions 17 November 1989

Sewage treatment plant

TM/89/10944/FUL Grant with Conditions 10 November 1989

Stable block (revised scheme).

TM/89/11061/FUL Grant with Conditions 16 January 1989

Single storey entrance/administration block (revised scheme).

TM/89/11407/FUL Grant with Conditions 15 February 1989

Stable block with ancillary areas including staff facilities, harness room, farriers and small souvenir shop.

TM/90/11600/LBC Grant with Conditions 13 July 1990

Listed Building Application: Addition of flue and ventilation grills to external walls.

TM/90/11708/ADV Grant with Conditions 15 May 1990

3 No. 'Forthcoming Events' display boards and 2 No replacement entrance signs.

TM/08/02259/LB	Approved	26 November 2008
Listed Building Application: Retrospective application for erection of pergola to south elevation of Bell 1.		
TM/08/02260/FL	Refused	12 January 2009
Retrospective application for the erection of stables and small animal enclosures sited behind Bell 4.		
TM/08/02277/LB	Refused	12 January 2009
Retrospective application for the erection of stables and small animal enclosures sited behind Bell 4		
TM/08/02546/FL	Refused	12 January 2009
Retrospective application for the erection of a children's climbing frame attached to front elevation of Bell 3 at first floor level and placement of additional planks over existing decking		
TM/08/02547/LB	Refused	12 January 2009
Listed Building Application: Retrospective application for the erection of a children's climbing frame attached to front elevation of Bell 3 at first floor level and placement of additional planks over existing decking		
TM/08/02798/FL	Approved	05 November 2008
Retrospective application: alterations to front elevation of former stable building.		
TM/08/02802/FL	Approved	5 November 2008
Retrospective application for the erection of two toilet cabins for a temporary period of 10 years		
TM/08/03700/LB	Undetermined	
Listed Building Application: Insertion of internal lift in Bell 4.		

4. Alleged Unauthorised Development:

- 4.1 It will be seen for Section 3. above that since the inception of the tourist related use that emerged in the mid 1980s a significant planning history has emerged. There has been a significant change in development activity at the site since mid 2007 when the current owners took overall control of the site and sought to re-evaluate the economic operation of the facilities. It is fair to say that the nature and appearance of the site overall has deteriorated recently which is of general concern bearing in mind the importance of the site, buildings and their setting. Specifically it has been necessary for planning staff to investigate many instances where a possible breach of planning

control appeared to be occurring. The investigation led to the submission of a number of applications and the 2008 applications listed in section 3 show where these matters have been submitted and determined.

- 4.2 It will be noted that in respect of a number of small works, the unauthorised development has been found to be acceptable and approved retrospectively under delegated powers.
- 4.3 Following the refusal of permission or consent in the remaining cases there are a number of breaches of planning control and also unauthorised works to the listed buildings to be considered.
- 4.4 The unresolved alleged breaches, whether or not subject to a retrospective application, are listed below.

Breaches of Planning Control

- A.** Erection of Blue marquee/tent and adjoining white tent (application promised but not yet received – requires a flood risk assessment)
- B.** Erection of Red big top/tent
- C.** Erection of White marquee/tent
- D.** Creation of hardstanding to the west of the oast buildings
- E.** Enclosure under deck of Bell 3
- F.** Residential use of the upper floor of Bell 7 (the stable building) (this use may be lawful by virtue of the history of the site but no application for a Lawful Development Certificate has been submitted to allow the Council to formally consider this factor).
- G.** Non-compliance with condition (iv) of planning permission TM/91/0085 relating to the use of the caravan site.
- H.** Permanent residential occupation of existing caravans on site
- I.** Erection of Fencing around the site
- J.** Enclosure under deck of Bell 4
- K.** Hardstanding/concrete adjoining Bell 4
- L.** Children's rides
- M.** Stable buildings to the rear of Bell 4
- N.** Climbing frame to the front of Bell 3

- O. Advertisements
- P. Siting of storage containers
- Q. Change of use and works to entrance building
- R. It also appears that **during 2008** the land as a whole was used for more than 28 days within a calendar year for temporary uses (including the 14 days limit which applies to boot fairs/motor racing etc).

Unauthorised works to the Listed Buildings

- I. Installation of lift and works to Bell 4
- II. Installation of lift and works to Bell 3
- III. Enclosure under deck of Bell 3
- IV. Hardstanding/concrete laid so as to abut Bell 4
- V. Stable buildings to rear of Bell 4
- VI. Climbing frame to the front of Bell 3

5. Determining Issues:

- 5.1 The history section 3 above identifies those applications that have already been submitted and those that have been determined. A number of minor retrospective applications have already been approved on the site for some agreeable elements of the works that have taken place. These include some of the more minor alterations to the listed buildings that have been referred to English Heritage and GOSE (in accordance with statutory provisions) in light of the historical importance of the listed buildings. On all applications English Heritage and GOSE have raised no comments. (7 applications approved).
- 5.2 Of those applications submitted 4 have been refused which includes two planning and two listed building applications for external works to Bells 3 and 4. The works which include the erection of stable buildings adjoining the listed building and a climbing frame attached to the front of a building were considered to have a detrimental impact on the character and appearance of the listed building and the setting of the listed buildings and consequently have been refused. Enforcement action to remove the unauthorised works is proposed below.
- 5.3 Finally there is one application that has been submitted which we are unable to determine at this stage due to the proposal being sited on top of an unauthorised hardstanding. This is an application for a miniature driving school sited to the west of the oast buildings and the decision on that case can only be logically made after a decision is made with regard to the future of the hardstanding.

- 5.4 Within the last month a Listed Building Application for a retrospective application for the installation of a lift in Bell 4 has been submitted.
- 5.5 There have been many communications between the applicant/agent and the Borough Council over the last year, both in writing and face to face, which have identified the works that are unauthorised and thus breaches of planning control. This communication has taken place over a period of months and it is fair to say that the owner has challenged some of the Council's assessments as to the need for planning or listed building approval but generally there has been agreement as to the need for approvals to be obtained. To date very few applications have been submitted to retrospectively apply for the works that have been undertaken and further works continue to take place on the site that may require permission and will need to be the subject of further site inspections. We have been warned, for instance, by the owners agent that works are taking place during the winter closure period to rework and extend the entrance/shop facilities and to introduce a new plant nursery etc. There are also a number of applications that the Council expected to receive in the summer that are still awaited including the outstanding applications in relation to the unauthorised works to the listed buildings, clarification over the residential accommodation in Bell 7 (the stable building) and applications for the red and blue marquees. In respect of the large blue marquee/tent to the west of the main buildings the applicant has stated that this should be submitted by early 2009. In the autumn of last year the owner's agent wrote to the Council indicating that poor cash flow conditions would mean that the owner could simply not afford to have prepared and submit all the outstanding applications (together with the necessary application fees) – yet works continue to be carried-out at the site.
- 5.6 The Hop Farm site is clearly a potentially very important site for tourism in the Borough and also for the very important historical complex of the listed buildings and their setting. The importance as a group of five oasts can not be underestimated. The Hop Farm and its historical farming/hop picking background is an important element of the Kentish countryside that needs to be preserved and adequately protected. In the past the Council has encouraged the promotion and use of the site and buildings to properly enhance and recognise their importance but such an approach must remain within and respect the established planning context for the site.
- 5.7 The site lies within the open countryside and the Metropolitan Green Belt. Therefore any development must be both assessed and justified in respect of the relevant MGB planning policies and guidance in PPG2. These policies largely resist inappropriate development and almost without exclusion, from the point of view of the works requiring planning permission constitute such "inappropriate development" and therefore by definition are harmful to the Green Belt. If it is to be found acceptable it must be justified by very special circumstances – because few applications in respect of current or recent developments that have been made by the owner have not made such submissions of very special circumstances.

- 5.8 General countryside policy also presumes against new development in the countryside and the works on the site do not fall within the normal expectations for such policy and therefore must be justified in their own right on a case by case basis – this has not occurred.
- 5.9 The Master Plan required by Saved Policy P6/25 was adopted in its most up to date iteration at the time of the Inquiry that led to the approval of the holiday units adjoining the built-up part of the site. The works the subject of this report are not dealt with in that Masterplan, which was produced for a previous landowner and the context of the application when it went to Inquiry. We have seen new draft versions of a Masterplan which mention some of the works set out herein – however it is, at best, work in progress and is not close to adoption. So the works mentioned in this report are not in compliance with the adopted Masterplan.
- 5.10 While the site lies within Flood Zone 3 due to the absence of the Flood Risk Assessment, necessary to accompany the promised application for the blue marquee, I am not yet able to assess this aspect in detail.
- 5.11 The bulk of the works requiring planning permission have a visual impact both in themselves and in combination, and have an adverse effect of the Countryside, the openness of the Green Belt and in some cases the setting of Listed Buildings. As found on site at present there are a number of works that I consider to be unacceptable and justify the taking of enforcement action to secure their removal.
- 5.12 The works to Listed Buildings present other problems. The failure to obtain the necessary Listed Building Consent can be subject to a Listed Building Enforcement Notice to require the works to be remedied. However the unauthorised works are also illegal and their execution is an offence for which the Council can prosecute the owner. In my view the key issue here is to get the undesirable works removed and the buildings restored and in light of this I would prefer that the owner direct his resources to remedying these matters rather than diverting monies to defending, in court, any prosecutions that could be brought. Nevertheless this must remain an option that the Council should consider if alternative routes prove fruitless.
- 5.13 In light of all of the above considerations I feel that it is now necessary to proceed towards more formal steps of enforcement to resolve the matters set out in the recommendation where there is a breach of planning or listed building control. I have listed the breaches, the justification for action and any other relevant information.
- 5.14 There are various storage containers around the site together with lorry trailer bodies that are used for both storage and, in the latter cases, the display of advertisements. None of those advertisements have the benefit of express consent. These advertisements are detrimental to the amenity of the rural area and should be removed. The only option for enforcement against unauthorised advertisements is to pursue prosecution in the Magistrates Court.

6. Recommendation:

- 6.1 Enforcement Notices **BE ISSUED** in respect of the following matters with the detailed wording being agreed between the Director of Planning, Transportation and Leisure in consultation with the Chief Solicitor (and subject to the Chief Solicitor being satisfied as to the evidence in respect of each breach).

Breach of Planning Control Alleged and Reason for Issuing Notice.

- A.** Erection of Blue marquee/tent and adjoining white tent: Inappropriate development in the MGB having an adverse appearance in the countryside. (This action being brought forward if a valid planning application is not submitted by 31.01.2009).
- B.** Erection of Red big top/tent: Inappropriate development within the MGB having an adverse appearance in the countryside.
- C.** Erection of White marquee/tent: Inappropriate development within the MGB having an adverse appearance in the countryside.
- D.** Creation of hardstanding to the west of the oast buildings: Impact on setting of Listed Buildings and surface water drainage. Inappropriate development in the MGB having an adverse appearance in the countryside.
- E.** Enclosure under deck of Bell 3: Detrimental impact on the special architectural and historic interest of the Listed Building.
- F.** Non-compliance with condition (iv) of planning permission TM/91/0085 relating to the use of the caravan site: Planning permission is required.
- G.** Permanent residential occupation of existing caravans on site: Inappropriate development within the MGB.
- H.** Erection of Fencing around the site: Visual impact and to be assessed on a location by location basis. Inappropriate development in the MGB having an adverse appearance in the countryside.
- I.** Enclosure under deck of Bell 4: Planning Permission required. Detrimental impact on special architectural, historic interest and setting of Listed Buildings.
- J.** Hardstanding/concrete adjoining Bell 4: Detrimental impact on the special architectural, historic interest and setting of Listed Buildings.
- K.** Children's rides: Planning permission is required. Detrimental impact on setting of Listed Buildings.
- L.** Stable buildings to the rear of Bell 4: Detrimental impact on special architectural, historic interest and setting of Listed Buildings.

- M.** Climbing frame to the front of Bell 3: Detrimental impact on special architectural, historic interest and setting of Listed Buildings.
- N.** Siting of storage containers including lorry bodies: Inappropriate development within the MGB having an adverse appearance in the countryside.

6.2 Listed Building Enforcement Notices **BE ISSUED** in respect of the following matters with the detailed wording being agreed between the Director of Planning, Transportation and Leisure in consultation with the Chief Solicitor (and subject to the Chief Solicitor being satisfied as to the evidence in respect of each breach).

Breach of Planning Control Alleged and Reason for Issuing Notice.

- A.** Installation of lift and works to Bell 4: Detrimental impact on special architectural, historic interest of the Listed Building.
- B.** Installation of lift and works to Bell 3: Detrimental impact on special architectural, historic interest of the Listed Building.
- C.** Enclosure under deck of Bell 3: Detrimental impact on special architectural, historic interest and setting of the Listed Building.
- D.** Hardstanding/concrete adjoining Bell 4: Detrimental impact on special architectural, historic interest and setting of the Listed Building.
- E.** Stable buildings to rear of Bell 4: Detrimental impact on special architectural, historic interest and setting of the Listed Building.
- F.** Climbing frame to the front of Bell 3: Detrimental impact on special architectural, historic interest of the Listed Building.

6.3 Prosecutions **BE TAKEN** by the Chief Solicitor against the unauthorised advertisements displayed on various lorry bodies around the site.

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