

1.5 The legal advice of the Chief Solicitor is contained in a Confidential Report in Part 2.

2. Consultees:

2.1 No further representations received since previous Committee.

3. Determining Issues:

3.1 Members will recall that the above applications were deferred to enable further information on the legal and financial matter that surrounds the development to be reported (in Part 2 where necessary).

3.2 The legal implications of the proposal have been addressed within a Part 2 Report (for Members' and Officers' use only – not publicly available).

3.3 As mentioned above the applicants have concluded that they now wish to allow all of the financial information in support of their enabling development proposal to be publicly available. Although there are other documents, the final Savills' Appraisal has been Annexed to this report, along with an update note on the Holding Costs associated within the development to date. The Council has sought independent advice on the financial justification from its retained Valuer, BPS Surveyors. The full assessment from BPS is now attached as an Annex in light of the applicants' decision to make the Savill's work public.

3.4 The determining issues relating to these applications are set out fully in the December Committee and Supplementary Reports.

4. Recommendation

(A) TM/08/03638/FL:

4.1 **Grant Planning Permission** subject to:

- **referral to GOSE after**
- **the completion of a Section 106 Agreement:**

The S106 Agreement shall ensure that the following matters are adequately dealt with:

- The applicants to undertake to commence the programme of underpinning, structural restoration and essential repairs to Oast as a matter of priority and before the submission and approval of details in respect of the other units to be created/renovated on the site.

- The practical completion of the refurbishment of the Manor, Granary and the Oast to occur before first occupation of any new build or conversion of units.
- A management plan for the estate both during construction and after completion shall be submitted before development is commenced. This shall demonstrate good husbandry in terms of the development period and show how residual land within the application site will be held and maintained by the developer and then transferred to the new owners depending on the extent and terms of the transfer.
- Details of a management company to be set up to deal with general maintenance and shared infrastructure, including surrounding agricultural land, in the long term after the development is complete.
- In relation to any agricultural land included with the 2007 purchase of the Yaldham Manor Estate, all proceeds from any subsequent disposal/income from the land shall be vested with the management company for ongoing maintenance of heritage assets, the Manor gardens, shared infrastructure and any retained surrounding agricultural land.
- A master plan and management plan for agricultural land within the 2007 purchase of the estate, but outside the application site, shall be submitted to and approved by the LPA. This shall demonstrate how the wider setting of the Listed Buildings is safeguarded from potentially damaging agricultural buildings, uses or chattels over the long term.
- **And subject to the following conditions:**

Time and General 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 development of any plot shall take place until details and samples of all materials to be used externally related to that plot have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C, D, E, F and G of Part 1 of Schedule 2 of that Order on any plot unless planning permission has been granted on an application relating thereto.

Reason: In the interests of preserving the openness of the Green Belt.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no boundary enclosures shall be carried out within Class A, of Part 2 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In the interests of preserving the rural amenities of the locality.

- 5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in the south elevation of Unit C (Plot 5) other than as hereby approved, without the prior written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy of adjoining property.

Pre-conditions:

- 6 No development of Plot numbers 2, 3, 4, 5, 6, 7, 10 and 12 shall take place until details of any joinery to the relevant plot have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 7 No development of Plot numbers 2, 3, 4, 5, 6, 7, 10 and 12 shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment to the whole site which shall include a timetable of implementation and a maintenance regime. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented in accordance with the approved scheme and timetable. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any

variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate and retained thereafter.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 8 No development of any plot shall take place until details of the size and external appearance of the garden store for that plot have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 9 No development shall be commenced until:

(a) Further investigation has been undertaken using the information obtained from the preliminary risk assessment report prepared by Bureau Veritas (dated August 2007) to determine the nature and extent of any contamination, and

(b) the results of the investigation, together with a risk assessment by a competent person, and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme (method statement) submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted.

(c) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied and upon completion of the remediation a report shall be submitted to the LPA that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.

(d) a Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use.

(e) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted, and obtained written approval from the LPA, for an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with and from the date of approval the addendum(s) shall form part of the Method Statement.

Reason: To ensure that the development complies with the approved details in the interests of protection of the environment and harm to human health.

10 No development shall take place until:

i) archaeological field evaluation work has been carried out in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

ii) following on from the evaluation, the development shall include any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

11 Prior to the commencement of any works which may affect Great Crested Newts or their habitat, a detailed mitigation strategy shall be submitted to, and approved in writing by, the Local Planning Authority. All works shall then proceed in accordance with the approved strategy with any amendments agreed in writing.

Reason: In the interests of safeguarding protected species.

12 Prior to the commencement of any works which may affect Bats or their habitat, a detailed mitigation strategy shall be submitted to, and approved in writing by, the Local Planning Authority. All works shall then proceed in accordance with the approved strategy with any amendments agreed in writing.

Reason: In the interests of safeguarding protected species.

- 13 No occupation of any unit shall commence until details of a scheme for the storage and screening of refuse for that unit has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

- 14 No development of Plots 2, 3, 4, 5, 6, 7, 10 and 12 shall commence until details of the method of construction and proposed materials for the access road and driveways for those units have been submitted to and approved by the Local Planning Authority. The access road and driveways shall be provided surfaced and drained prior to the first occupation of any unit, other than the main Manor house.

Reason: In the interests of ensuring safe vehicular access.

- 15 No development of Plots 2, 3, 4, 5, 6, 7, 10 and 12 shall take place until details of a scheme of external lighting for the whole development have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

Other conditions:

- 16 No dwelling shall be occupied, until the area shown on the submitted layout as 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 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

- 17 The garage(s) shown on the approved plan shall be kept available at all times for the parking of private motor vehicles.

Reason: In the interests of reducing the number of visible vehicles on the site in the interests of the rural amenities of the locality.

- 18 No building shall be occupied until the area shown on the approved plan as a turning area 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 1995

(or any order amending, revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved turning area.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

- 19 The garages hereby approved for Plots 5, 6 and 7 shall be open fronted and no garage doors shall be inserted without the prior written consent of the Local Planning Authority.

Reason: In the interests of ensuring a vehicle can access the parking area without waiting on the access road, and to ensure the garages are used for the parking of vehicles.

- 20 Prior to first occupation, Plot numbers 2, 3, 4, 5, 6, 7, 10 and 12 together with the extension to Plot 1 shall have installed energy efficient measures and air source heat pumps. These measures shall be as detailed in the Renewable Energy Statement hereby approved unless otherwise agreed by the Local Planning Authority.

Reason: In the interests of sustainable development and the environment.

- 21 The existing trees and shrubs shown on the approved plan, other than any specifically shown to be removed, shall not be lopped, topped, felled, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of ten years.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 22 The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

(b) No fires shall be lit within the spread of the branches of the trees.

(c) No materials or equipment shall be stored within the spread of the branches of the trees.

- (d) Any damage to trees shall be made good with a coating of fungicidal sealant.
- (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.
- (f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 23 All soil, vent and waste pipes, except for the termination, shall be constructed within the buildings.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 24 None of the buildings hereby permitted shall be occupied until underground ducts have been installed by the developer to enable telephone, electricity and communal telephone services to be connected to any premises within the site without recourse to the erection of distribution poles and overhead lines and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no distribution pole or overhead line shall be erected within the area except with the express written consent of the Local Planning Authority.

Reason: In the interests of visual amenity.

- 25 Any replacement windows required in the future of the development on any un-listed unit shall be in exact accordance with the joinery details approved under condition 6 above, unless otherwise agreed by the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity.

Informatives

- 1 The plot numbers referred to in the conditions above are those shown on plan no. 09/1539/10 date stamped 15.09.2009.
- 2 The proposed development is within a road which does not have a formal street numbering and, if built, the new property/ies will require new name(s), which are required to be approved by the Borough Council, and post codes. To discuss suitable house names you are asked to write to the Chief Solicitor, Tonbridge and

Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or contact Trevor Bowen, Principal Legal Officer, on 01732 876039 or by e-mail to trevor.bowen@tmbc.gov.uk. To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.

- 3 Where a development affects great crested newts, their breeding sites or their places used for shelter or protection, work may need to be conducted under a Regulation 44(2)(e)3 overriding public interest licence. These licences are administered by the Wildlife Management and Licensing Unit of Natural England who can be contacted on 0845 601 4523 for further information on the licensing process.
- 4 Where a development affects bats or their places used for shelter or protection, work may need to be conducted under a Regulation 44(2)(e)2 overriding public interest licence. These licences are administered by the Wildlife Management and Licensing Unit of Natural England who can be contacted on 0845 601 4523 for further information on the licensing process.
- 5 It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the applicant should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation. Failure to do so may result in fines and potentially, a custodial sentence.
- 6 To reduce the severity of domestic property fires and the number of injuries resulting, the Fire Officer recommends that consideration should be given to the installation of a sprinkler system in all new properties.
- 7 Tonbridge and Malling Borough Council operate a two wheeled bin and green box recycling refuse collection service from the boundary of the property. Bins/boxes should be stored within the boundary of the property and placed at the nearest point to the public highway on the relevant collection day.
- 8 The applicant is advised to contact the Health and Safety Executive for advice regarding asbestos and its safe removal. Any asbestos found on site must be removed in a controlled manner by an appropriately qualified operator.
- 9 The applicant is reminded that it is a legal requirement to have a Site Waste Management Plan for all new construction projects worth more than £300K.
- 10 The applicant is reminded that the disposal of demolition waste by incineration is contrary to Waste Management Legislation.
- 11 The applicant is reminded that any new gates or entrance feature would require separate Planning Permission as they would affect an enclosure around a Listed Building.

- 12 You are advised that any hardstandings should be made of porous material or provision should be made to direct water run-off from the hard surface to a permeable or porous area within the curtilage of the site.
- 13 Any public right of way which crosses the site shall be retained on its existing line or on such other line as may be legally established and be kept free from physical obstruction.
- 14 With regard to the diversion of the footpath/bridleway, the applicant must contact Kent County Council, Strategic Planning, West Kent PROW, 8 Abbey Wood Road, Kings Hill, West Malling, Kent, ME19 4YT. Tel: (01732) 872829.
- 15 With regard to works within the limits of the highway, the applicant is asked to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 08458 247 800.

(B) TM/08/03639/LB:

4.2 **Grant Listed Building Consent** subject to:

- **referral to GOSE,**
- **subject to the following conditions:**

- 1 The development and works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In pursuance of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 No development of the extension to the Manor or partial demolition of the Posset hereby approved shall take place until a method statement and details and samples of all materials to be used have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 3 No development of Plots 1, 8, 9 and 13, shall take place until details of any joinery to be used within the related plot have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 4 No development of Plots 8, 9 and 13 shall take place until details of all new internal materials, including new or upgraded floors, ceilings, walls and internal joinery to be used within the related plot, have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the character and appearance of the existing buildings

- 5 No development of Plots 8, 9, 11 and 13 shall take place until details of a method statement for new services and new insulation within the related plot have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 6 The standard of workmanship achieved in the carrying out of the development of Plots 8, 9, 11 and 13 shall conform to the best building practice in accordance with the appropriate British Standard Code of Practice (or EU equivalent).

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 7 No development shall commence until details have been submitted to and approved by the Local Planning Authority to ensure that precautions are taken to secure and protect interior features (other than those for which specific consent is granted) against accidental loss or damage or theft during the building works. No such feature shall be disturbed on removal, either temporarily or permanently, except as indicated on the approved drawings or with prior approval in writing of the Local Planning Authority.

Reason: To ensure that special regard is paid to specific architectural features or fixtures and to ensure these are protected from damage or loss during the course of works.

- 8 No development shall commence until a Fire Safety Strategy and Method Statement has been submitted to and approved by the Local Planning Authority and works shall be carried out as approved.

Reason: To ensure that special regard is paid to the interests of protecting the special character and architectural interest and integrity of the building under section 16 of the Planning (Listed Buildings & Conservation Areas) Act 1990.

- 9 Demolition work hereby approved on Plots 8, 9 and 13 shall be carried out by hand or by tools held in the hand other than power-driven tools.

Reason: In the interests of ensuring that no damage is caused to the part of the building which is to be retained.

- 10 Any hidden historic features revealed during the course of works in the principal building and in the excavation to facilitate the new wing shall be retained in-situ. Works shall be suspended in the relevant area of the building and the Local Planning Authority notified immediately. Provision shall be made for their retention and/or proper recording, as required by the Council.

Reason: To ensure that special regard is paid to the interests of protecting the special character and architectural interest and integrity of the building under section 16 of the Planning (Listed Buildings & Conservation Areas) Act 1990.

Informatives

- 1 The plot numbers referred-to in the conditions above are those shown on plan no. 09/1539/10 date stamped 15.09.2009.

Contact: Lucy Stainton