

**East Malling &  
Larkfield**  
East Malling

**570181 157086**

**9 April 2009**  
**16 February 2009**

**(A) TM/09/00233/FL**  
**(B) TM/09/00234/LB**

Proposal:

(A) Conversion of existing residential accommodation on first and second floor to create two self-contained apartments with amenity space, parking and the erection of a terrace of three one bedroom dwellings with amenity space, parking, access and staff parking for existing restaurant.

(B) Listed Building Application: Conversion of existing residential accommodation on first and second floor to create two self-contained apartments with amenity space and parking.

Location:

1 High Street East Malling West Malling Kent ME19 6AJ

Applicant:

Mr Paul Wakenell

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## **1. Description:**

(A) TM/09/00233/FL:

1.1 This full application proposes the continuation of the lawful use as an A3 restaurant use on the ground floor with some works and the subdivision/conversion of the existing residential accommodation at first and second floors to create two self-contained apartments. Each apartment is to be served by two parking spaces and there would be three parking spaces available for restaurant staff.

1.2 A terrace of three one bedroom cottage style dwellings are proposed on land to the rear. The buildings are proposed to be one and a half storeys high and have private amenity space to the rear and a dedicated parking space each. No windows serving habitable rooms are proposed in the rear elevation of the roof space. A number of trees to the rear of the site including a pair of sycamores, a cherry and a number of apples are indicated to be removed but the willow is proposed to be retained and pollarded.

(B) TM/09/00234/LB:

1.3 The Listed Building application proposes internal alterations to the Listed Building including the works of subdivision/conversion of the existing residential accommodation at first and second floors to create two self-contained apartments. The internal changes to the building are confined mainly to the removal of modern stud work partitions and the insertion of a new staircase on the first floor to provide separate access to the second floor. Two customer toilets are proposed for the restaurant area and the kitchen extract flue is to be run up the existing chimney as at present.

1.4 External changes involve the removal of a lean-to addition and a free standing outbuilding. It is proposed to reinstate the glazed dormer windows to the north elevation as shown in photos dating from the 1920's and remove a small pitched roof link addition at roof level.

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

2.1 A request has been made to report the application to Committee by Cllr Mrs Simpson "as the site is an important focal point in the centre of the Conservation Area and it is crucial that this application is as good as we can possibly make it."

**3. The Site:**

3.1 The application site lies within the rural settlement confines of East Malling and its Conservation Area. The site lies on the southeast corner of the junction of New Road, Church Walk, High Street and Mill Street. The existing building is Grade II Listed Building dating from around 1840 and would appear to have originally been constructed as two separate properties that have later been combined. The property is currently vacant but was last used as a Tandoori Restaurant and has been subject to repairs recently due to the fact it was falling into disrepair. The full application also includes the area to the rear of the building which has been used as an informal parking area and also a raised garden. From historical maps the area to the rear is shown as including a building. An open stream runs to the rear of the site and features a number of trees. The area currently available for parking is not protected or controlled under planning powers in respect of restaurant use. The Council could not stop it being taken out of use.

**4. Planning History:**

TM/75/10282/FUL      Grant with Conditions      23 October 1975

Use of premises formerly used for residential purposes as a guest house with car parking.

TM/92/00225/LDCE      Lawful Development      18 September 1992  
   Certifies

Application for Certificate of Lawfulness for an existing use of premises as a restaurant open to non-residents and guest house.

TM/93/00361/LB      Grant with Conditions      9 July 1993

Installation of extraction and filtration equipment.

TM/07/04048/LB      Approved      21 December 2007

Listed Building Application: Remedial works to provide additional support to the beam over the shop front and to stabilise the brickwork over.

**5. Consultees:**

(A) TM/09/00233/FL:

- 5.1 PC: No objections subject to provision of customer toilets.
- 5.2 DHH: Comments awaited.
- 5.3 KCC (Highways): Parking accords with KCCVPS in relation to residential use. Given the lack of control over the informal parking area to the rear of the restaurant this area could be lost resulting in no off-street parking being available. On this basis the proposal is considered to be acceptable subject to conditions.
- 5.4 KCC PROW: No objections.
- 5.5 English Heritage: no comments to make
- 5.6 EMCG: "Request that glazing on the dormer windows is amended to match the submitted plans and that the shop window has an unobstructed view". No details have been submitted of the proposed restaurant signage, the use of the restaurant, lack of parking for the restaurant and potential overlooking from the terrace to properties in the Grange.
- 5.7 Private Reps: 18/0X/7R/0S + site + press notice. Seven letters received raising the following concerns:-
- Development would increase traffic flows, congestion and increase pressure for parking as none is proposed on the site for restaurant customers.
  - Restaurant would appear to support a takeaway which would lead to problems of litter.
  - Parking issues in the vicinity should be addressed before development is determined.
  - Parking provision is inadequate for the development and the access is too narrow.
  - Development to the rear of the site would result in overlooking of the properties to the rear and a general loss in residential amenity through noise, disturbance and light pollution. Whilst the works to the existing building are welcomed it is considered that the new building works constitute overdevelopment of the site.
  - Boundary wall to the south of the site should be raised in height by approximately 0.9m to retain privacy for the adjoining properties.

(B) TM/09/00234/LB:

- 5.8 PC: No objections subject to provision of customer toilets.
- 5.9 English Heritage: No comments to make.
- 5.10 SPAB: Works should be inspected carefully to ensure that the subdivision does not adversely impact on or lead to the replacement rather than the repair of historic fabric.
- 5.11 EMCG: "Request that glazing on the dormer windows is amended as plans" and that the shop window has an unobstructed view. No details have been submitted of the proposed restaurant signage.
- 5.12 Private Reps: 18/0X/7R/0S + site + press notice.
- Permission not granted for the works although they have started on site.
  - No parking for the restaurant.
  - Support the works to the listed building but these should not be at the expense of car parking provision.

**6. Determining Issues:**

(A) TM/09/00233/FL:

- 6.1 The principal considerations with this full application are the principle of the development within the Village and the Conservation Area, the proposed use of the building, development within the parking area, impact on the residential amenity of the surrounding properties and the proposed works to the trees in the conservation area.
- 6.2 The site lies within the rural settlement confines of East Malling, where minor residential development is deemed acceptable under policy CP13 of the Tonbridge and Malling Borough Core Strategy. Government advice in PPS3: Housing also lends support to this form of development. Therefore, the principle of residential development on this site is acceptable.
- 6.3 The recommencement of the lawful use of an A3 restaurant at the ground floor does not require planning permission in its own right as although the restaurant has closed, the use itself in planning terms has never ceased.
- 6.4 The subdivision of the residential accommodation on the upper floors of the building requires minimal changes to the fabric of the building apart from the addition of two dormer windows to the north elevation. These are very similar to dormers that appear on the building in historic photographs. The dormers have

already been inserted into the building and following detailed inspection I do not consider them to have a detrimental impact on the character and appearance of the building or the conservation area in general.

- 6.5 As noted above there are no objections in principle to the development of a terrace of three houses on the area to the rear of the building. The terrace is proposed as enabling development to fund the renovation of the Listed Building. For this reason it is not considered appropriate to seek the normal affordable housing provision on the site as although the works would result in five residential units in this instance it is considered that the priority should be the renovation of the Listed Building given its prominent position in the Conservation Area. The building had deteriorated over time in the previous ownership and the market for the new development is much less strong than when the project was conceived. It is crucial that the long term protection of the Listed Building is secured through this overall project.
- 6.6 With regard to the use of the land historically there was a building on the rear of the site when the land was most recently used as an informal parking area and a raised overgrown garden area. There are no restrictions on this area requiring it to be solely used as parking for the restaurant and consequently could be closed at any time. The existing restaurant use therefore has to be considered as having no parking provision at present.
- 6.7 The terrace of three one bedroom houses to the rear are proposed to be one and a half storeys in height and are designed in such a way to ensure that there would be no overlooking of the properties to the east. The upper floor windows on the rear elevation of the terrace serve only bathrooms and would be obscure glazed ensuring that the development would not result in overlooking to the detriment of the residential amenity of the surrounding properties. The design of the terrace itself is small scale and subordinate to the surrounding buildings. The detailing is considered appropriate in the Conservation Area setting. Concerns have been raised regarding the use of tile hanging on the development however there a number of tile hung buildings in the Conservation Area so the use of this finish could not be considered to be unique and out of keeping with the built form in general.
- 6.8 The properties to the rear would not result in direct overlooking between windows. Although the proposed amenity areas would be introduced adjacent to the gardens of the surrounding properties it is not considered that this would be detrimental to the residential amenity given the close knit nature of the surrounding gardens. There would also be no restrictions on this area being used as garden for the existing residential use above the restaurant. It is though considered appropriate to seek the increase in height of the southern boundary wall to reduce the potential impact of the parking areas on the adjacent properties.

- 6.9 Given the size of the gardens it is considered appropriate to restrict permitted development rights for extensions and outbuildings so that any impact on the surroundings can be assessed prior to any construction being allowed.
- 6.10 Adequate parking provision is indicated for the residential development and also for the restaurant staff. Provision is made for one space per dwelling to the rear and two spaces per unit above the restaurant, with three spaces made available for staff. This provision accords with the adopted Kent Vehicle Parking Standards and is therefore considered acceptable.
- 6.11 Concerns have been raised regarding the suitability of the access. It is considered that with the removal of the existing piers the access would be wide enough for two cars to pass each other and not have an adverse impact on highway safety. Given the nature of the proposed use and the size of the resultant units it is not considered that there would be a significant increase in traffic generation that would lead to an unacceptable increase in congestion in the area.
- 6.12 The development proposes adequate storage and collection space for both residential and restaurant refuse. No details are provided of the refuse storage enclosures but this can be controlled by condition. No changes are proposed to the existing extract flue so there are no issues regarding the installation of new extract equipment to consider.
- 6.13 The development would involve the removal of a number of trees; 2 sycamores, a cherry and a number of apples. The largest tree on the site, the Willow to the south eastern corner is proposed to be pollarded and retained. These works are considered to be acceptable as the Willow is the most important tree on the site and the proposal enables its retention.
- (B) TM/09/00234/LB:
- 6.14 This application relates solely to the works to the listed building and therefore the principal consideration is the impact of the works on the fabric of the listed building.
- 6.15 The internal works to the building are limited to the removal of some modern stud partitions and the inclusion of a staircase between the first and second floors to facilitate the sub-division of the building. The works to the restaurant include the provision of two customer toilets and staff facilities. The staff toilet is proposed to be sited behind the existing door on the southern end of the front elevation. This door will be retained but permanently fixed shut to ensure that there is no change to the external appearance of the building. The existing shopfront windows are not blocked by partitions and retain the open appearance of the ground floor when viewed from the street.

- 6.16 The works propose the removal of some poor quality extensions and outbuildings. These additions are of no historic significance and the removal of these elements would not be detrimental to the character of the listed building. The inclusion of the two dormer windows is acceptable subject to the addition of glazing bars on the dormer cheek windows. The detail of the dormers is considered to be a suitable replication but not slavish copy of those shown in historic photographs of the site and on this basis are considered to be acceptable.
- 6.17 The comments of SPAB are noted. The works to the building have been closely inspected by both our Conservation Architect and Building Control colleagues and it is considered that the works undertaken have lead to a successful renovation of a property that was rapidly falling into a state of disrepair. With regard to the comments of the EMCG concerning the lack of detail of the proposed restaurant signage this is something that should be dealt with under separate advertisement and Listed Building Consent applications at a later date. These details are not fundamental in the judgement as to whether or not the works proposed to the Listed Building are acceptable.

**7. Recommendation:**

(A) TM/09/00233/FL:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 05.02.2009, Design and Access Statement dated 05.02.2009, Planning Statement dated 05.02.2009, Location Plan DHA/6549/01 dated 05.02.2009, Site Layout DHA/6549/02 dated 05.02.2009, Site Layout DHA/6549/03 dated 05.02.2009, Section DHA/6549/04 dated 05.02.2009, Section DHA/6549/05 dated 05.02.2009, Proposed Plans and Elevations DHA/6549/06 dated 05.02.2009, Existing Plans EM/08/004 dated 05.02.2009, Floor Plan EM/08/012 A dated 05.02.2009, Floor Plan EM/08/013 A dated 05.02.2009, Elevations EM/08/015 A dated 05.02.2009, Elevations EM/08/016 A dated 05.02.2009, Floor Plan EM/08/022B dated 19.06.2009, Floor Plan EM/08/011D dated 19.06.2009, Details EM/08/017A dated 19.06.2009, Letter dated 19.06.2009, Email dated 12.05.2009, Tree Report dated 12.05.2009, Email dated 16.02.2009, Letter dated 09.04.2009, Email dated 09.04.2009, Tree Report dated 09.04.2009, Letter dated 14.04.2009, Tree Protection Plan EM/TPP/001 dated 14.04.2009, 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 development shall take place until details and samples of materials to be used externally 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. The uses shall not be commenced, nor the premises 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 or 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 of vehicles is likely to lead to hazardous on-street parking.

4. No part of the buildings shall be occupied until the area shown on the submitted plan as 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.

5. No development shall commence until details of a scheme for the storage and screening of refuse 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.

6. The windows above ground floor level on the east elevation of the terrace of three houses shall be fitted with obscured glass and, apart from any top-hung light shall be non-opening. This work shall be effected before the dwelling concerned is occupied and shall be retained thereafter.

Reason: To minimise the effect of overlooking onto adjoining property.

7. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. 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. The submitted details shall include increasing the height of the southern boundary wall to the site to a height of 2 metres.

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. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing willow tree, 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.

9. Prior to the development hereby approved commencing, details of the slab level of the new dwellings shall be submitted to and approved in writing by the Local Planning Authority. Such details as are agreed shall be carried out concurrently with the development.

Reason: In the interests of the visual amenities of the area and in order to secure a satisfactory standard of development

10. 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 to E (inclusive), of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

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

### **Informatives**

1. 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.
2. Surface water from private areas is not to discharge onto the public highway
3. The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited 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](mailto: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.
4. The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
5. If the development is to include a security light or a lighting scheme, advice should be followed from The Institute of Lighting Engineers leaflet: "Domestic Security Lighting, Friend or Foe". Following these recommendations should avoid complaints at a later date of excessive lighting for which formal action could be taken under the Clean Neighbourhoods and Environment Act 2005.
6. You are recommended to take full account of the advice given by the Department of the Environment, Transport and the Regions in PPG 23 Planning and Pollution Control. This advice (in Paragraph 14 of Annex 10) indicates that "the responsibility for safe development and secure occupancy of the site rests with the developer." You should note that this Council, acting as Local Planning Authority, has determined the application on the basis of the information available to it - this does not mean that the land is free from contamination.

(B) TM/09/00234/LB:

- 7.2 **Grant Listed Building Consent** in accordance with the following submitted details: Email dated 16.02.2009, Letter dated 05.02.2009, Other dated 05.02.2009, Design and Access Statement dated 05.02.2009, Planning Statement dated 05.02.2009, Photographs dated 05.02.2009, Location Plan DHA/6549/01 dated 05.02.2009, Site Layout DHA/6549/02 dated 05.02.2009, Site Layout DHA/6549/03 dated 05.02.2009, Existing Plans EM/08/004 dated

05.02.2009, Floor Plan EM/08/010 dated 05.02.2009, Floor Plan EM/08/012 A dated 05.02.2009, Floor Plan EM/08/013 A dated 05.02.2009, Proposed Roof Plan EM/08/014 dated 05.02.2009, Elevations EM/08/015 A dated 05.02.2009, Elevations EM/08/016 A dated 05.02.2009, Details EM/08/018 dated 05.02.2009, Section EM/08/019 dated 05.02.2009, Elevations EM/08/020 dated 05.02.2009, Floor Plan EM/08/005 A dated 08.05.2009, Details EM/08/017 A dated 08.05.2009, Floor Plan EM/08/011 D dated 19.06.2009, Floor Plan EM/08/022 D dated 19.06.2009, 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. The standard of workmanship achieved in the carrying out of the development shall conform with 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.

3. All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

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

Contact: Robin Gilbert