



SOUTH EAST OFFICE

Mr Mark Fewster
Tonbridge and Malling Borough Council
Development Control
Gibson Building, Gibson Drive
Kings Hill, West Malling
KENT
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Direct Dial: 01483 252078

Our ref: P00970110

26 November 2018

Dear Mr Fewster

**T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990**

**FIELD AT CORNER OF LAVENDERS ROAD AND SWAN STREET WEST
MALLING KENT
Application No. 18/02093/OA**

Thank you for your letter of 18 September 2018 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

Historic England Advice

This application seeks outline permission for up to 80 residential dwellings on land east of Lavender Road and south of Swan Street in West Malling. The site is sensitive in heritage terms for two reasons. Firstly the north-west corner of the site is within the West Malling conservation area while the remainder is within land forming part of the setting of the conservation within which are a number of listed buildings and a scheduled monument. Of most relevance to this application, because the development is within the setting of this group is the scheduled monument St Mary's Abbey. There are listed buildings within the monument including the chapter house and library, the convent building, gatehouse and St Mary's Abbey North Wall and St Mary's Abbey Tower (all grade I) the tithe barn and the post-war abbey church (both grade II*) and the monastery guesthouses and refectory (both grade II).

Significance of West Malling Abbey and West Malling Conservation Area

Nunneries were founded by all the major religious orders and were essentially settlements built to sustain a religious community and so usually included buildings for worship, accommodation and subsistence within a large enclosure or precinct. This was normally divided into an inner precinct with a church, cloister, accommodation,



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refectory and chapter house and usually an outer precinct with visitor lodgings and other ancillary buildings to support monastic life. An enclosure usually also contained gardens used by a community, some functional for growing food and others as a place for contemplation and exercise. Religious communities also usually contain a place for burial of their members which would often be a place for seclusion.

A Benedictine nunnery was founded in West Malling in 1090 by Gundulf, the first Bishop of Rochester and the abbey buildings including a magnificent church were erected soon after. The abbey was then dissolved in 1538 and by the 18th century was partly ruinous. However, its fortunes were reversed when Frazer Honeywood built a house among and incorporating some of the ruins in the mid-18th century. In the late 19th century, Anglican Benedictine nuns returned to the site and began transforming it back into a monastery establishing a Benedictine community which has thrived here now for more than a century.

West Malling Abbey is remarkable for several reasons and consequently also of outstanding significance. Firstly, despite falling into a ruinous state by the early 18th century a significant amount of medieval work survives including the fine tower of the abbey church giving us a tangible insight into the wealth of the medieval Benedictine community. Secondly, as these buildings were added to, first by Honeywood and then by the modern community of Anglican Benedictine nuns, it is possible to interpret both how a monastic community lived in the medieval period and continues to live now within an enclosure focussed on worship but relying on the spaces around those buildings to help sustain that community. There are still both productive and ornamental gardens at West Malling Abbey. The latter are especially important as a private space used for exercise and contemplation but also incorporating a small cemetery which holds particular significance for the community.

The wider conservation area covers the core of the settlement of West Malling, the abbey and the key historic routes into the town. West Malling developed from the medieval period when an abbess was granted a charter to hold markets. These were focussed on land west of the abbey and the distinctive wide High Street is illustrative of this historic use.

As the town grew up, development was historically confined to the High Street and Swan Street (which runs north of the Abbey) with land east of the abbey largely undeveloped. This pattern of development is sustained because modern extensions to the town have largely been to the west of the High Street and north of Swan Street. This means the distinctive morphology and spatial relationships between the town, abbey and the surrounding countryside have been sustained. The way in which the historic morphology of the town remains legible on its eastern edge including for the



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undeveloped character of the land east of Lavender Road therefore contributes to the character and appearance and thus also to the significance of the conservation area.

Proposal

It is proposed to build up to 80 houses on the field east of Lavender Road. A parcel of land in the north-west corner of the site would remain undeveloped and be managed as green open space while the remainder would be built upon. While the scheme is in outline, indicative plans are provided which give some idea of the probable densities and distribution of housing across the site. A new access would be created off Swan Road.

Impact of the Proposal on the significance of West Malling Abbey and the West Malling Conservation Area

We have reviewed the information submitted to support this application and have serious concerns about the impact it would have on the significance of the outstanding ensemble at West Malling Abbey and to an extent on the character and appearance and thus also the significance of the West Malling Conservation Area.

Our principle concern for the Abbey is two-fold. Firstly, the development would almost certainly be visible from within the abbey complex, both from the lodgings range on the eastern arm of the cloister and from the abbey's private garden to the south of this. The development would also be visible in views towards the abbey from the site (in which the lodgings are visible) and in which the undeveloped character of the land east of the abbey can be appreciated. This would harm an appreciation of the historic setting afforded to the abbey since its founding whereby land to its east has remained open and undeveloped. We also think the presence of housing as experienced from within the abbey grounds would be increased by higher ground levels within the development site.

Secondly, such a large number of houses in close proximity will have a detrimental impact on the peace, tranquillity and privacy afforded to the abbey gardens and the cemetery within this. Historic England's guidance, Good Practice Advice Note 3 on the Setting of Heritage Assets is clear that setting is experienced in many ways, not just in visual considerations. It notes that "although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environment factors such as noise, dust and vibration from other land uses in the vicinity and by our understanding of the historic relationship between places." (p.2) We think this is applicable here as the increased noise, light pollution and activity in close proximity to the abbey site will impact on its historic character as containing places of peace and tranquillity; thus causing harm to the significance of the



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abbey ensemble including for the scheduled monument and the listed buildings within it.

Building on land within the setting of the conservation area will also cause harm to an appreciation of its distinctive morphology and thus cause harm to the significance of the conservation area. This is because it will no longer be possible to understand that the town developed west of the abbey site and on Swan Street while land to its east remained undeveloped and in an agricultural use.

Policy and Position

In assessing this application your Council will need to take account of the relevant policies for decision taking in the National Planning Policy Framework (NPPF). We think the first of these relevant here is Paragraph 189 which requires an applicant to describe the significance of any assets affected by a proposal including any contribution made by their setting. It notes the level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact on that significance.

Historic England strongly disagrees with the conclusions of the Heritage Statement. While this acknowledges there would be change within the setting of the listed buildings in the abbey complex and the conservation area (p.27 and 30) it concludes that the development would not harm the significance of either. We think this assessment is flawed and does not take account of the effects of setting beyond a visual consideration. Nor does it give sufficient weight to the distinctive morphology of the town and the way in which this can be understood as a contributor to the significance of the conservation area and to our understanding and appreciation of the abbey complex for its historic relationship to open undeveloped land to its east. The assessment places too much weight on the impacts to individual listed buildings within the complex without assessing the ensemble as a whole and the way in which the interrelated parts, including the open spaces within the enclosure, contribute to the exceptional significance of West Malling Abbey. The heritage statement also fails to assess the impact to the scheduled monument which includes for some upstanding remains. We therefore conclude that the heritage statement fails to meet the requirements of Paragraph 189 of the National Planning Policy Framework (NPPF).

Paragraph 190 notes that harm should be avoided or minimised to avoid conflict between the conservation of a designated asset and any aspect of a proposal. Where a proposal causes harm to heritage significance, Paragraph 194 requires clear and convincing justification for that harm. Finally, where a proposal leads to less than substantial harm, that harm should be weighed against the public (including heritage) benefits of the proposal in the manner set out in Paragraph 196.

Turning to the requirement for avoiding or minimising harm, we do not think this has been demonstrated because the applicant has not shown that the public benefit of 80



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residential dwellings cannot be provided on another site which avoids harm altogether. On this basis, we also do not think there is clear and convincing justification for the harm as required by Paragraph 194. It is for your Council to weigh the public benefits of the proposal, which here are principally about the contribution of housing to your overall need, against the harm entailed to designated heritage in the manner suggested in Paragraph 196. In this case we think it helpful to note that in our view the application does not propose any heritage benefits. In reaching a decision on this proposal we also draw your attention to Paragraph 193 of the framework which highlights a requirement to give great weight to the conservation of an asset (and the more important the asset, the greater the weight). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm.

Recommendation

Historic England has concerns regarding the application on heritage grounds and consider that the application fails to meet the requirements of the NPPF, in particular paragraph numbers 189, 190, 194 and 196. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Yours sincerely



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20 March 2019

Dear Mr Fewster

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& Planning (Listed Buildings & Conservation Areas) Regulations 1990**

**FIELD AT CORNER OF LAVENDERS ROAD AND SWAN STREET WEST
MALLING KENT
Application No. 18/02093/OA**

Thank you for your letter of 15 February 2019 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Historic England Advice

Historic England has received updated information on heritage impacts arising from an outline application for up to 80 dwellings on land adjacent to West Malling Abbey. This was submitted in the form of a 'heritage rebuttal' following receipt of our advice of 26 November 2018 which raised a number of concerns about the harmful impacts of the scheme on designated heritage including the scheduled West Malling Abbey (and standing scheduled buildings), listed buildings in the Abbey complex and the West Malling Conservation Area.

Since receiving a consultation on the amendments we have also met the applicant's heritage consultant for a constructive discussion about the concerns raised by Historic England. As a consequence of this meeting we expect the applicant to update their heritage statement and/or rebuttal statement and therefore suggest it would be appropriate for us to advise only when these updates are complete and request that your Council re-consult us on this matter in due course. We note that it would be helpful for the consultants to access the abbey site in order to make their assessment and to fulfil the requirements of Paragraph 189 of the NPPF.

Since our advice of 26 November 2018 we have also reviewed the archaeological aspects of the proposal following a request by KCC. We concur with KCC that there is potential for prehistoric, Roman and Medieval origins on the proposed development



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site given the general archaeological context and the proximity to St Mary's Abbey. We note the speculation that this open ground may have been used for trading and market activities by the Abbey and that there is a historic gateway at the south west corner of the proposed development site that might suggest a connection to the abbey precinct, which might itself have been a focus for historic activity. We also note that a Second World War aircraft crashed on the proposed development site, the remains of which might survive.

In view of the archaeological potential of the proposed development site and the potential for remains to be of considerable heritage significance we consider that it should be considered a heritage asset of archaeological interest and that the applicant has not yet adequately described its heritage significance. We concur with KCC that further archaeological assessment of it would be appropriate prior to determination of the application and we recommend that the Council should advise the applicant that archaeological evaluation in accordance with a Written Scheme of Investigation approved by the Council will be necessary before the application is determined, in accordance with paragraph 189 of the NPPF.

Recommendation

Historic England continues to have concerns regarding the application on heritage grounds. We consider that the application fails to meet the requirements of the NPPF and in particular paragraphs 189, 190, 194 and 196. We would welcome the opportunity to continue engaging on this proposal and look forward to receiving further information in due course. That notwithstanding if your Council chooses to determine this application our advice of 26 November 2018 should be treated as Historic England's formal position on this proposal. In determining this application your Council should also bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Yours sincerely



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Our ref: P00970110

9 May 2019

Dear Ms Keefe

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 & Planning (Listed Buildings & Conservation Areas) Regulations 1990**

**FIELD AT CORNER OF LAVENDERS ROAD AND SWAN STREET WEST
 MALLING KENT
 Application No. 18/02093/OA**

Thank you for your letter of 29 April 2019 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Historic England Advice

Thank you for consulting Historic England on revised proposals for an outline application for up to 80 dwellings on land at the corner of Lavenders Road and Swan Street. Updates were provided following Historic England's initial advice of 26 November 2018. In this we highlighted a high level of harm to the heritage significance of the scheduled monument and highly graded listed buildings which collectively form the medieval monastic site at West Malling Abbey and part of the West Malling conservation area (of which the abbey is an important component). Harm arises from development proposed in the setting of these designated heritage assets.

The revised proposal increases the landscape buffer between the eastern boundary of the abbey and the development. This will reduce the presence of new housing from within the abbey complex, but we are not convinced that it would remove that presence altogether. While we note the comments provided by the applicant's heritage consultant in Addendum Heritage Statement (dated stamped 17 April 2019), we do not agree that there would be no harm to designated heritage and thus that the engagement of S.66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 is questionable. Nevertheless, we do, as noted above, accept that the level of harm to heritage significance is reduced by the amendment but in respect of



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designated heritage at West Malling Abbey, we do not think this removes harm altogether.

For the avoidance of doubt we think the harm to designated heritage at West Malling Abbey is chiefly about two factors. Firstly, though the presence of the development will be reduced by recent amendments, as noted above, we think it likely it would still have some presence from within the abbey site. We say this as setting is not exclusively about views but is also about all ways in which a heritage asset is experienced. In our view this revised proposal would harm an appreciation of the historic setting for the abbey which to its east has always been open and undeveloped. This can be appreciated in views from the site towards the abbey and from views within the abbey complex looking back towards the site. This would in our view cause harm to the significance of the abbey site including for the scheduled monuments and highly graded buildings within it which collectively continue to illustrate how a medieval monastic site functioned and developed with countryside to its east. Secondly, though the housing will be further from the abbey site, it is still possible that the development will impact on the tranquil and peaceful character of the abbey site, an aspect of its historic character which helps illustrate its medieval and modern function as a monastic site (including a burial ground for which tranquillity takes on added importance). We note the updated heritage report highlights three views from within the abbey to illustrate the impact of the development which are then used as evidence for the claim of no harm to heritage significance. However two of those illustrations do not include the site, but are views of the core buildings in the abbey and thus in our view cannot illustrate the level of impact. We accept the point made that in summer months the visibility of the development is likely to be reduced but note that an assessment of impact here should take account of the worst case scenario, i.e. when the visibility of the development is at its greatest in winter. Overall, we think the harm has been substantially reduced but we still conclude that there is remaining harm to the significance of designated heritage within West Malling Abbey arising from this revised development.

We also conclude that the amendments also reduce harm to the significance of the West Malling Conservation Area but again do not remove it altogether. Harm arises from the way in which development on this field harms an appreciation of the distinct morphology of West Malling where urban development was historically focussed to the abbey's west and in ribbon development on the principal historic routes in to the settlement. An understanding of West Malling's distinctive development pattern which makes an important contribution the character and appearance of the conservation area, would thus be harmed to a degree by an essentially suburban housing development as proposed. We accept that this understanding will be limited to views of the conservation area as it is approached along Swan Road from the east and in views of the conservation area from within the site and thus that overall the harm to the significance of the conservation area will be low.



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The National Planning Policy Framework (NPPF) places great weight on the conservation of heritage assets noting that heritage assets are “an irreplaceable resource, and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations (Paragraph 184). The framework goes on to highlight a requirement to avoid or minimise harm to heritage assets (Paragraph 190), that great weight should be given to the conservation of designated heritage assets (Paragraph 193) and to require that any harm to the significance of designated heritage should have clear and convincing justification (Paragraph 194). Paragraph 193 also explains that the more important the asset the greater the weight should be and explains that this applies irrespective of the level of harm that is applicable. Your Council will also need to consider whether the harm, which we assess as less than substantial, is outweighed by public benefits in the manner described in Paragraph 196.

In this case we think the harm has been significantly reduced by the amendments. Nevertheless we do not think the requirement of Paragraph 190 - to avoid or minimise harm to designate heritage - is fulfilled by this change because the applicants have not demonstrated that the public benefit, including up to 80 new dwellings, cannot be provided on another site within the borough and thus that the harm might be avoided altogether. If the harm to designated heritage does not have clear and convincing justification we question whether the application meets the requirements of Paragraph 194. This includes taking note of the great weight needed for conservation of the high grade designated assets, which takes in the contribution to their significance made by their setting.

For clarity we would also like to address statements in the addendum to the heritage statement which questions the reliability of Historic England’s views for this proposal on the basis that we have previously raised no objection to other development within the abbey confines in 2006 and 2008. We think the two types of development referred to here are not directly comparable to this application; Historic England has engaged in detail for proposals within the abbey complex over many years and where we have not raised an objection this has been on the basis that we thought any harm was justified by the need to sustain the abbey buildings in their optimum viable use, including by extending built areas of the site. That is not the case for residential development in the setting of the abbey not linked to the needs of the abbey site and its community.

Recommendation

Though we recognise that harm to the significance of designated heritage has been substantially reduced Historic England still raises concerns about this application on heritage grounds. We do not think the changes made have fully removed harm



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altogether and on this basis that the applicant has not made a case to show how the harm has been avoided or minimised. This is because they have not demonstrated that the public benefits (new housing) cannot be provided elsewhere in the borough. We conclude that the requirements of Paragraph 190 appear not to be met and that the admittedly low level of harm does not have clear and convincing justification in line with the requirements of Paragraph 194.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Yours sincerely



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