

Alleged Unauthorised Development

East Malling
East Malling

14/00289/WORKM

010002 916143

Location: Invicta Works Mill Street East Malling Kent

1. Purpose of Report:

- 1.1 To report unauthorised works undertaken in association with the conversion of the Invicta Works building which do not accord with the plans approved under TM/06/02433/FL and TM/08/03540/RD. The works include a number of different elements which considered on a cumulative basis have detracted considerably from the appearance of the converted rural building and the character of the Conservation Area.
- 1.2 To report the unauthorised change of use from paddock to individual residential curtilages in association with 6, 7, 8, 9, 10 and 11 Darcy Court, Mill Street, East Malling.

2. The Site:

- 2.1 The site lies to the west of Mill Street at the western edge of the village. It is located within the Mill Street Conservation Area and comprises predominantly new build dwellings set back from Mill Street and also includes the conversion of the Invicta works building which now comprises four apartments. The site is bordered to the south and the west by an area of agricultural land with a public right of way running to the north of the site.

3. Alleged Unauthorised Development:

- 3.1 (1) The conversion and extension of the historic works building to provide four apartments not in accordance with the plans approved under TM/06/02433/FL and TM/08/03540/RD. (2) The unauthorised change of use of the paddock to residential curtilage associated with 6, 7, 8, 9 and 10 Darcy Court, Mill Street, East Malling.

4. Determining Issues:

- 4.1 Planning permission was granted on 19 January 2007 for the redevelopment of the site to include the conversion of the former works building to provide four apartments, 9 terraced dwellings and 7 flats under application reference TM/06/02433/FL.
- 4.2 Condition 3 of the planning permission required that, '*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*'. The details pursuant to

this condition were subsequently approved on 27 April 2009 under reference TM/08/03540/RD. The approved details indicated that the windows to be installed in the converted works building would be double glazed wooden frame windows of a conservation-style casement (as shown in drawing no 08.77.09 of TM/08/03540/RD).

- 4.3 Rather than installing windows in accordance with the approved details, the windows in place are white upvc windows. In total, the windows which have not been installed to the required specification include seven windows to the front elevation of the building, two windows to the side (south) elevation of the building, four windows to the rear elevation of the building and four windows to the side (north) elevation of the building.
- 4.4 The approved doors were shown on the plans as wooden conservation-style doors with a "false" door of a similar specification to be located at first floor level of the front elevation of the building, which has not been provided. The doors which have been installed are all upvc doors and do not meet the specification of the approved joinery details.
- 4.5 In addition, there are a number of further alterations to the building which do not accord with the approved plans which are summarised below.
- 4.6 Most significantly, to the front elevation of the building the approved plans proposed double doors to the ground floor and a wooden false door to the first floor level, which was a prominent feature of the original building. The development does not incorporate the false door to first floor level and instead has been replaced with a small window to match those on the front elevation of the building. The double door to ground floor level has not been installed and instead a smaller single door has been incorporated.
- 4.7 A main character feature of the building was considered to be two painted signs displaying the words 'Darcy Products' and 'Invicta Works', which were proposed to be retained as part of this scheme for conversion. The signage has been removed, most probably as a result of the wider building having been cleaned and to date those signs have not been reinstated.
- 4.8 There has also been some repositioning of doors and the windows to the rear elevation of the building from their approved locations. The original report to the Planning Committee, when recommending the scheme for conversion for planning permission, made reference to the importance of retaining the position of the original openings within the building in ensuring the development was of an acceptable quality.
- 4.9 When viewed cumulatively, the works undertaken, as described above, have amounted to a development which has undoubtedly caused harm to the appearance of the converted building and the character of the Mill Street CA. Furthermore,

Members will be aware that policies governing the conversion of rural buildings seek to ensure that such conversions are undertaken in a suitable manner to ensure they do not become overly domestic in appearance, thus losing their historic character or significance within the landscape. This includes for example a requirement to, as far as reasonably practical, reuse existing openings rather than to create additional windows and doors.

4.10 For these reasons in its current form the development as built is in conflict with paragraphs 131 of the NPPF 2012, Policy CP24 of the TMBCS 2007 and Policies DC1 and SQ1 of the MDEDPD 2010. As such I believe that it is expedient to take enforcement action to require:

- Reinstatement of the signage as shown on approved plan number 05.22.SK4A in accordance with a detailed specification to be included in the Notice;
- Installation of windows and doors in a form that accords with the approved plans in planning applications TM/06/02433/FL and TM/08/03540/RD along with the carrying out of any associated remedial work to brickwork and window cills in accordance with a detailed specification to be included in the Notice.

4.11 The nine dwellings on the southern side of the site were approved with moderately sized private gardens, with open paddocks beyond in order to ensure that the wider countryside and open landscape would not be encroached upon in a harmful way as a result of this development. However, it has become clear that six of the individual householders have extended their gardens to incorporate parts of the paddock, with subdivision having taken place, along with boundary planting extending along the entire west and south sides of the site and turf has been laid up to the new extended boundary.

4.12 The use of the paddock as residential curtilages serving the individual properties is a material change of use of the land which requires the benefit of planning permission. In this instance, such planning permission would not be forthcoming as the change of use is considered to have caused direct harm to the open and rural character of the countryside by virtue of the encroachment of a more suburban use of the land. The change of use is therefore contrary to policies CP14 and CP24 of the TMBCS 2007 and Policy SQ1 of the MDEDPD 2010.

4.13 As such I believe that it is also expedient to take enforcement action to require the use of the paddock as residential curtilage to cease including the removal of any associated domestic paraphernalia and the reinstatement of the approved site boundary.

5. Recommendation:

- (1) An Enforcement Notice **BE ISSUED**, the detailed wording of which to be agreed with the Director of Central Services, to reflect paragraph 4.10 of this report.
- (2) Enforcement Notices **BE ISSUED**, the detailed wording of which to be agreed with the Director of Central Services, to reflect paragraph 4.13 of this report.

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