

Enforcement Report:

Update on Unauthorised Developments in East Malling

13/00028/WORKM Ivy House Farm, 42 Chapel Street, East Malling

14/00289/WORKM Invicta Works, Mill Street, East Malling

14/00365-370/USEM 6 – 11 Darcy Court, East Malling

1. Purpose of Report:

- 1.1 To provide an update to members on the current situation regarding the works to the listed section of ragstone wall, the new section of ragstone wall and the fence at Ivy House Farm, Chapel Street, East Malling and;
- 1.2 To update members on the current progress of the enforcement action, following the authorisation to serve enforcement notices for the works to the converted oast house and the extensions of the residential curtilage of the properties in Darcy Court at the area planning committee on the 20 November 2014.

2. Update: Ivy House Farm:

- 2.1 As Members will may recall an enforcement notice has been served on the owner of Ivy House farm requiring the reduction of the fence to a height not exceed 2 metres in height. The enforcement notice was served on the 11 September 2014 and came into effect on the 16 October 2014. The Notice required that the fence be reduced in height within one calendar month of the date the notice comes into effect. Having recently reviewed the situation, and taken further measurements, it can be confirmed that works have been undertaken to reduce the height of the fence to within the limits allowed under 'permitted development'. As such the fence no longer exceeds 2 metres in height by reference to the level of land on which it stands and the requirements of the enforcement notice served on the 11 September 2014 have been satisfied.
- 2.2 Some concern has been raised by a local residents that raising of the land levels around the fence has taken place in order to comply with the height requirement under Class A, of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). However, measurements were taken of the fence from firm ground shortly after its reduction in height to confirm that it is within the limits of permitted development. A very recent inspection confirms that there has been some minor earth movement around the fence, possibly to enable some planting to take place, which might have raised the ground level by approximately 5cm in places. This has been done subsequent to the erection of the fence and after measurements were taken to confirm the 'permitted development' tolerances had not been exceeded.

- 2.3 A meeting has been held recently with the owner to discuss the remodelling of the section of the wall that abuts the fence with a view to improving its appearance. Following further correspondence remedial works have been agreed to improving the appearance of this section of wall. The wall is to be brought back in line with the northern end post of the fence and is to be finished with a straight vertical edge rather than the curving edge which is currently in place. Works commenced in late November to cut back the wall and further pointing work is due to take place to complete the job.
- 2.4 Turning to the part of the wall that forms part of the curtilage of the Listed Building, the owners have provided further information about its historic form. Two photographs, which appear to be from the inter-war period, show the then existing ragstone wall. Having studied these photographs it is apparent that the sporadic 'tooth' stones are a historic feature of the wall, as is the mortar render capping above the arch. As these are historic features of the wall the Council does not have any justification now to seek the removal of the recent works to the arch. Having reviewed all the available historical photographs, including those that have recently been provided, there is no clear evidence of a formal capping of either stones or saddleback bricks in place on the top of the wall. The owner's intention is to remove the top line of dressed capping stones and replace with random rubble ragstone to create an uneven top of the wall to reflect the evidence in the historical photographs now available. This is an appropriate solution to remediate the recent works which will have the added benefit of providing a suitable weather integrity if a suitable mortar capping is used rather than the simple use of line mortar that will fail and wash out if used on the top of the wall.
- 2.5 The owner of Ivy House Farm has been in contact with the planning enforcement team and is due to start works shortly on the listed section of the ragstone wall. He is also due to meet the Conservation Architect in the week commencing the 16 March 2015 to discuss details prior to the commencement of the works.

3. Update: Invicta Works:

- 3.1 As Members will recall planning permission was granted on the 19 January 2007 for the redevelopment of the site to include the conversion of the existing works building to provide four apartments, 9 terraced dwellings and 7 flats under application reference TM/06/02433/FL. A reserved details application was submitted under application reference TM/08/03540/RD.
- 3.2 Following an enforcement investigation it was noted that the works have not been carried out in accordance with the approved plans of TM/06/02433/FL & TM/08/03540/RD. This includes the installation of upvc windows and doors in place of the wooden conservation casement style approved; the alteration to the front elevation of the building including the use of a single entrance doors rather than a double door; the omission of a false door to first floor level and the omission of the Darcy Product and Invicta Works signage.

- 3.3 An enforcement notice was served on the 5 January 2015 that required the following works to be undertaken within 3 months the date the notice take effect.
- (1) To replace the windows installed to all elevations with conservation casement windows in accordance with the specification of plan reference 08.77.09 of planning permission TM/08/03540/RD attached to this notice as TMBC2.
 - (2) To replace the single doors to all elevations with a conservation door in accordance with the specification of plan reference 08.77.10 of planning permission TM/08/03540/RD attached to this notice as TMBC3.
 - (3) To replace the single door to ground floor level of the front elevation of the building with a double door in accordance with plan reference 05.22.SK.4A of planning permission TM/08/03540/RD attached to this notice as TMBC4. The door should be a conservation entrance door in accordance with the specification of plan reference 08.77.11 of planning permission TM/08/03540/RD attached to this notice as TMBC5.
 - (4) To replace with window, to first floor level of the front elevation of the building with a false door in accordance with plan reference 05.22.SK.4A of planning permission TM/08/03540/RD attached to this notice as TMBC4. The false door should be a conservation false door in accordance with the specification of plan reference 08.77.10 of planning permission TM/08/03540/RD attached to this notice as TMBC3.
 - (5) To install the 'Invicta Works' and 'Darcy Products' signage in accordance with plan reference 05.22.SK.4A of planning permission TM/09/03540/RD attached to this notice as TMBC4.
- 3.4 Following the service of the enforcement notice Clarendon Construction Ltd contacted the planning department to discuss breaches of planning control. They informed us that they would install the signage as approved however did not appear to be willing to address the other matters raised.
- 3.5 We have received confirmation that the freeholder, Clarendon Construction Ltd, has lodged an appeal against the requirement of the notice. For that reason further action will be held in abeyance until the appeal has been determined.
- 3.6 With regard to the properties in Darcy Court, Members will be aware that six of the individual householders had extended their gardens to incorporate parts of the adjoining paddock, with subdivision having taken place, along with boundary planting extending along the entire west and south sides of the site and turf laid up to the new extended boundary. 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.

- 3.7 Enforcement notices have been served on 6, 7, 8, 9, 10 & 11 Darcy Court requiring that a 900mm high palisade fence is erected to delineate the boundary. The period for compliance with the enforcement notices was one month from the date the notices take effect.
- 3.8 The owner of 6 Darcy Court has contacted the planning enforcement team to inform them that the palisade fence has been erected as requested by the notice. As the fence was erected prior to the notice taking effect it was decided that the notice should be withdrawn as the requirements had already been met and the notice would serve no purpose.
- 3.9 We have received notification that the owners of 7 Darcy Court and 11 Darcy Court have lodged appeals against the enforcement notice. For that reason further action will be held in abeyance until the appeal has been determined.
- 3.10 To date no appeal has been received for the enforcement notices served on 8, 9 & 10 Darcy Court who are all under the ownership of a property developer. These enforcement notices come into effect on the 23 March 2015 and the period for compliance is one month from the date the notice taken effect.

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