

Alleged Unauthorised Development

**East Malling &
Larkfield**
East Malling

15/00131/WORKH

569502 157314

Location: Invicta Works Mill Street East Malling West Malling Kent

1. Purpose of Report:

- 1.1 To report unauthorised works undertaken to erect a brick wall to the south eastern boundary of the converted oast building and the construction of 1.8 metre fences around the southern and western boundaries.

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 Without the benefit of planning permission the erection of a brick wall to the south eastern boundary of the converted oast house and the construction of fences to the southern and western boundaries.

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 19 of the planning permission required that,

'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.'

4.3 Condition 20 of the planning permission stated that,

'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 and H of Part 1 and Classes A and C of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.'

- 4.4 The scheme of landscaping and boundary treatment was subsequently submitted to and approved under reserved details application TM/08/03540/RD. The approved landscaping scheme proposed hedging to be planted around the perimeter of the converted oast building.
- 4.5 Rather than planting the boundary hedging as approved, a substantial brick wall has been constructed along the south eastern boundary of the converted oast building. The wall is of a red brick construction, is 1.65 metres in height and has been built directly adjacent to the entrance road to the development.
- 4.6 In addition to the brick wall, various types of boundary fence have been constructed, again in place of the approved hedging having been planted. The fence running along the south western boundary is a 1.8 metre high horizontal 'hit and miss' style fencing with a convex trellis on top. The fence running along the north west boundary is a 1.8 metre high standard close boarded fence.
- 4.7 TMBCS policy CP24 sets out the general criteria for all new development including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD which states that all new development proposals should protect, conserve and where possible enhance:
- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
 - the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views
- 4.8 Paragraph 131 of the NPPF states that LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets (in this case an adjacent curtilage listed wall and the Conservation Area). Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance of such an asset can be harmed or lost through alteration of the asset or through development within its setting.

- 4.9 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that there is a general duty when carrying out any functions under the Planning Acts with respect to any buildings or other land in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 4.10 The wall is located in a prominent position within the development, which lies within the Conservation Area. It is also located within close proximity to the curtilage listed ragstone wall that forms part of the boundary with 165 Mill Street. It is considered that the wall by virtue of its size and scale, and its stark domestic appearance is visually unacceptable in this location and significantly detracts from the character and appearance of the Mill Street Conservation Area and the rural locality more generally.
- 4.11 Similarly, the fencing, by virtue of its height, position and appearance is visually unacceptable in this location and significantly detracts from the character and appearance of the Mill Street Conservation Area and the rural locality more generally.
- 4.12 For these reasons in its current form the development as built is in conflict with paragraphs 131 of the National Planning Policy Framework 2012, Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and Policies DC1 and SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010. As such I believe that it is expedient to take enforcement action to require:
- The removal of the brick wall and boundary fencing
 - The planting of the boundary hedging as shown on the approved landscaping scheme.

5. Recommendation:

- 5.1 An Enforcement Notice **BE ISSUED**, to seek the removal of the unauthorised wall and fences, the detailed wording of which to be agreed with the Director of Central Services.

Contact: Paul Batchelor