

- a) **3/09/1892/FP – Conversion of existing building to 12 residential units (amended scheme) and**
 - b) **3/09/1893/LB – Conversion of existing listed Maltings building to 12 residential units (amended scheme) at 16 New Road Ware SG12 7BS for Goldstage Ltd**
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Date of Receipt: a) 18.11.2009 **Type:** a) Full permission – Major
b) 18.11.2009 b) Listed Building Consent

Parish: **WARE**

Ward: **WARE CHRISTCHURCH**

RECOMMENDATION

- A. That, subject to the applicant or successor in title entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 by the 19 February 2010 in respect of the following matters:
- (a) Hertfordshire Highways £11,625 towards Sustainable Transport Schemes
 - (b) Herts County Council £1,935 towards Childcare
 - (c) Herts County Council £756 towards Youth Services
 - (d) Herts County Council £2,575 towards Libraries
 - (e) Herts County Council Provision of a fire hydrant within the site
 - (f) East Herts Council £1,481 towards open space provision for Children/Young People
 - (g) East Herts Council £864 towards Recycling Facilities
 - (h) East Herts Council £8000 towards Second Strand accessibility measures

the Director of Neighbourhood Services be authorised to **GRANT** planning permission for application 3/09/1892/FP subject to the following conditions:-

1. Three Year time Limit (1T12)
2. Archaeological work (2E02)
3. Samples of materials(2E12)
4. Lighting details (2E27)
5. Communal TV facilities (2E28)
6. Contaminated land survey and remediation (2E33)
7. Hard surfacing (3V21)

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8. Provision and retention of parking spaces (3V23)
9. Landscape design proposals (4P12)
10. Landscape works implementation (4P13)
11. Landscape maintenance (4P17)
12. Construction hours of working –plant & machinery (6N07)
13. Prior to the commencement of development further details showing proposals for adequate surface water drainage shall be submitted to and approved in writing by the local planning authority. Once agreed they shall be implemented as such and be available for use prior to the first occupation of any of the units of the redevelopment.

Reason: To avoid the risk of surface water flooding and in accordance with policy ENV21 of the East Herts Local Plan.

14. Prior to the commencement of building works a scheme for the insulation of the proposed units against the transmission of noise and vibration between the units shall be submitted to and approved in writing by the Local Planning Authority. Any works which form part of the scheme shall be completed to the satisfaction of the Planning Authority before any of the permitted units are occupied.

Reason: To ensure that adequate precautions are implemented to avoid nuisance and disturbance to adjoining occupants of the proposed units

Directives

1. Other legislation (01OL)
2. Ownership (02OW)
3. Planning Obligation (08PO)
4. Listed building advice (25LB)
5. Groundwater protection Zone (28GP)
Insert 'Musley Lane'

Summary of Reasons for Decision

(a) 3/09/1892/FP and (b) 3/09/1893/LB

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular SD1, EDE2, HSG1, HSG3, HSG6, TR7, TR14, ENV1, ENV2, ENV21, BH6 and IMP1. The balance of the considerations having regard to those policies is that permission should be granted.

B. Where the legal agreement referred to in recommendation A above is not completed by 19 February 2010, the Director of Neighbourhood Services be authorised to **REFUSE** planning permission for the following reason:-

1. The development fails to make the appropriate financial provision for infrastructure improvements considered necessary to support the proposed development. As such, it would be contrary to the provisions of policy IMP1 of the East Herts Local Plan Second Review April 2007.

C. That listed building consent be **GRANTED** in respect of 3/09/1893/LB subject to the following conditions:-

1. Listed Building Three year limit (1T14)
2. Samples of materials (2E12)
3. Listed Building: new windows (8L03)
Insert 'replacement windows and roof lights'
4. Listed Building : new doors (8L04)
5. Listed Building: new rainwater goods (8L09)
6. Listed Building: making good (8L10)

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular policies BH10, BH11 and BH12. The balance of the considerations having regard to those policies is that permission should be granted.

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1.0 Background

(a) 3/09/1892/FP and (b) 3/09/1893/LB

- 1.1 The application site is shown on the attached OS extract and is situated on the eastern side of New Road to the rear of numbers 14 to 22 and an area of EHDC resident's car parking. It forms one of a range of three listed former Maltings buildings situated within the Ware Conservation Area.
- 1.2 To the north of the site are Christ Church, a Grade II listed Church and Christ Church Primary School. To the east is a local Health Centre and residential properties and to the south are the two further Maltings buildings, one used for light industrial operations, the other comprising the Ware Arts Centre and bar/ function centre 'Waggers' backing onto the Kibes Lane public car park.
- 1.3 The building the subject of this application is a Grade II listed three storey building of brick and timber construction. Its current authorised use is for light industrial purposes; the interior space is open, and the property is currently vacant. Access to the site is from New Road, with a historic brick wall fronting the access.
- 1.4 Existing car parking provision occupies areas to the rear (east) of the site and in front of the malting building (on its west side) providing space for approximately 10 cars.
- 1.5 The current proposal involves the conversion of the building to 12 dwellings, 5 two bedroom units and 7 three bedroom units. Eleven of the units would have a home office facility to the second floor, within the roofspace.
- 1.6 The proposal makes provision for individual walled gardens for the residential units to the northern and western elevation with an access drive and pedestrian entrances to the southern elevation (between the site and the adjacent central malting building). An open courtyard at the eastern end of the site would provide 2 allocated parking spaces and 4 visitor parking spaces with covered cycle store.
- 1.7 To the west of the building a further courtyard would provide 10 additional parking spaces, 2 allocated disabled parking spaces and a covered refuse storage building. The area would be landscaped with tree and hedge/shrub planting with additional entrance walls to match the existing brick walls surrounding the frontage of the site.

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2.0 Site History

- 2.1 The building was built in the early 19th century as a range of three Maltings buildings. The site has an established use for light industrial purposes, the building being sub-divided into several units.
- 2.2 Planning history on the site appears to have commenced with a permission granted in 1978 under ref: 3/78/0121/FP for the continued operation of the buildings for light industrial use.
- 2.3 A further planning permission was granted in 1980 under ref: 3/80/0304/FP for the subdivision of the Maltings site from operation as a whole unit to operation as three separate light industrial units.
- 2.4 Since this approval, the site has remained vacant in a state of neglect, dilapidation and disrepair for several years
- 2.5 A planning permission and listed building consent were received in 2008 for the conversion of the Maltings building to 12 residential units, with access driveway and parking under refs: 3/08/1178/FP and 3/08/1179/LB.
- 2.6 Planning permission was refused for two reasons relating to:
 1. *The external treatment of the building including the installation of the stair and balcony features is considered to be harmful and detrimental to the character, appearance and setting of the Listed Building and therefore contrary to Policies BH10 and BH11 of the East Herts Local Plan Second Review April 2007.*
 2. *The introduction of traffic associated with the residential development would exacerbate an existing unsatisfactory access arrangement between the site and New Road given the width of the access, lack of footways and poor visibility at the junction. Therefore this would be contrary to policy TR2 of the East Herts Local Plan Second Review April 2007.*
- 2.7 The listed building consent was refused for one reason relating to:
 1. *The external treatment to the building including the installation the stair and balcony features is considered to be harmful and detrimental to the character, appearance and setting of the listed building and therefore contrary to policies BH10, BH11 and BH12 of the East Herts Local Plan Second Review April 2007.*

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2.8 The planning application and listed building consent were dismissed at an Informal Hearing appeal in August 2009.

The Planning Inspector separated the Council's reasons for refusal into three main issues:-

- Impact on the historic character and appearance of the Listed Building
- Impact on the Conservation Area.
- Impact on highway safety.

2.9 The Inspector supported the refusal based on the first two issues, concluding that the proposed conversion would restore and bring into effective use a neglected and disused building, but that the design was not of a high enough standard or appropriate to the special interest of the listed building and would cause significant harm.

2.10 In concert with this view, the Inspector commented that the proposed scheme would harm the distinctive qualities of the appeal building and its setting, and would have an unacceptable impact on the appearance of the Conservation Area. Therefore he dismissed the appeal based on these two issues.

2.11. However the Inspector felt that the third issue within the Council's refusal (the Highways objection) could not be upheld as he considered that the proposal would not exacerbate existing poor conditions for pedestrians and drivers. He was therefore satisfied that the proposal would meet the requirements of LP Policy TR2.

2.12 The Inspector also commented that the existing highway conditions at the site are likely to be temporary, as there is a very real prospect of improved access arrangements with the redevelopment of the middle malthouse.

2.13 The resubmission applications were received on the 18 November 2009.

3.0 Consultation Responses

3.1 County Archaeology advise that the application site is within an Area which includes the late Iron Age and Roman settlements at Ware, and the medieval and post-medieval town. The development site is on the fringe of medieval town, the Northern Malting one of a complex of three large Maltings erected in the early 19th century, prior to 1845. It is therefore likely that the proposed development would have an impact on significant archaeological remains and an appropriately worded condition would be required in the event of planning permission being granted to provide for

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the appropriate level of investigation.

- 3.2 County Highways do not wish to restrict the grant of permission subject to conditions that prior to occupation all vehicular areas shall be surfaced to the LPA's approval, cycle storage facilities are provided, construction parking and storage shall be on-site, not on the public highway and that lorries leaving the site during the construction of the development have their wheels cleaned prior to leaving the site.
- 3.3 The Highway Authority notes that when dismissing the previous appeal the Planning Inspector concluded that, despite local concern over the access, there was no highway reason to oppose the development of this former commercial development site.
- 3.4 In addition, County Highways comment that planning permission be granted subject to the completion of a Section 106 Agreement between the applicants, East Herts Council and Hertfordshire County Council to secure a financial contribution of £11,625 index linked towards sustainable transport schemes and measures in the vicinity.
- 3.5 The Conservation Section advises that the building is one of the 19th century malting buildings located off New Road in the Ware Conservation Area. There is a long history of consultation and numerous alterations have been made to respective proposals for this site reflecting its historical and architectural importance. The present proposal addresses these concerns raised previously and displays due sensitivity to the original function and character of these industrial buildings, therefore recommend approval subject to conditions regarding internal and external details, finishes and materials, in concert with a repairs schedule.
- 3.6 Environmental Health advises that any permission given shall include conditions for noise insulation, construction: hours of working, air quality issues, contaminated land issues and refuse disposal facilities.
- 3.7 Herts Biological Records Centre comment that a Bat Survey was carried out on 28 May 2008, no evidence of bats or a bat roost was found. In the event of the development being delayed for more than 12 months, a protected species survey must be repeated and submitted to the LPA for their approval.
- 3.8 Thames Water comment that with regard to sewage infrastructure they have no objections to the proposal but draw the applicants attention to the need to address surface water run-off, attenuation and management on site.
- 3.9. The Council's Landscape Consultant recommends consent subject to

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conditions on landscape design proposals, tree and hedge planting, retention and protection, excavations in relation to services and landscape maintenance. The consultant comments that although an indicative drawing has been submitted, the information in detail is insufficient as regards species planting distances and mix of planting. There is additional scope for tree planting at the eastern end of the site. It is recommended therefore that permission is subject to conditions to address these issues.

- 3.10 English Heritage advises that they raise no objection in principle to the residential conversion of the Grade II former Maltings, but would wish to ensure that as much as possible of the historic fabric and character would survive the conversion. A flexible approach to conversion is desirable, retaining significant internal walls wherever possible. The design should respect the plain and functional form, bay divisions marked by the brick pilasters at least on the south elevation. They recommend a simpler treatment with fewer new openings being retained in a large sample area such as the front elevation of plots 6-9, but are content for the scheme to be determined at local level in accordance with the Council's own Conservation advice.
- 3.11 Ancient Monuments comment that they commented on the earlier scheme and would only thereby add other points subject to this amended scheme where notable elements such as the two conical cowls for the kilns are retained as well as the original hoisting frame, weatherboard on the western end, and original windows.
- 3.12 The additional plain windows are necessary for the residential conversion but there is sufficient regularity to them for the building to retain evidence of its former use as a Maltings, the wrap around characteristic of the weatherboarding is also retained. Therefore there are no objections to this application and consent should be subject to the provision of a full photographic record identifying any historic features of the industrial use.
- 3.13 The County Planning Obligations Officer identifies the financial contributions required to minimise the impact of the development on County Council services in respect of Libraries (£2,575), Youth (£756), Childcare (£1,935) and fire hydrant provision.

4.0 Town Council Representations

- 4.1 Ware Town Council advises that they object to the applications on the following grounds:-
- Inadequate access to and egress from New Road
 - Inadequate parking provision and
 - Overlooking and risk to children playing in the adjoining school

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playground.

5.0 Other Representations

5.1 The applications have been advertised by way of press notice, site notice and neighbour notification

5.2 4 letters of representation have been received from 33, 37 and 41 New Road and the owner of the adjoining central Maltings building which can be summarised as follows:-

- Strained parking facilities for residents of new road, competition for parking space for residents from general public.
- Naïve to assume that the town centre location reduces the need for parking.
- Suggest a free parking scheme for New Road residents allowing 2 car spaces
- Require a Section 106 provision be increased to allow for instigation of residents parking scheme
- The owner of the Central Maltings has no objection to the proposed residential development but the vehicular access between the Maltings is exaggerated
- Facing windows at 4.5m intrusive, windows and down pipes endangered by passing traffic
- Radius to central drive inadequate
- The entrance wall not in their ownership
- No access details
- Absence of significant historic doorway in North Maltings

6.0 Policy

6.1 The policies of the East Herts Local Plan Second Review April 2007 that are considered to be most relevant are:-

- SD1 : Making Development more Sustainable
- HSG3: Affordable Housing
- HSG6: Lifetime Homes
- EDE2: Loss of Employment Sites
- TR7: Car Parking Standards
- TR14: Cycling Facilities
- ENV1: design & Environmental Quality
- ENV2: Landscaping
- BH6: New Developments in Conservation Areas.
- BH10: Extensions and Alterations to a Listed Building

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- BH11: Conversion or change of use of a Listed Building
- IMP1: Planning Obligations

In addition to the above it is considered that Planning Policy Guidance 1, (Delivering Sustainable Development)

7.0 Considerations

- 7.1 The application presented is a re-submission application for the conversion of the North Maltings listed building to 12 residential dwellings, taking on board the issues that were highlighted by the members at the Development Control Committee meeting on 22 October 2009 in their reasons for the refusal of the previous scheme ref: 3/08/1178/FP and 3/08/1179/LB.
- 7.2 The proposal also responds to the two issues outlined by the Planning Inspector that were upheld in the appeal dismissal. The third issue as previously mentioned regarding the access, parking and highway matters was not supported by the Planning Inspector.
- 7.3 Therefore the determining issues in this case relate to (a) the external treatment of the building and its impact on the Grade II Listed Building and (b) the impact of the proposal on the character and appearance of the Conservation Area.

Principle of development

- 7.4 The principle of residential conversion of the Maltings building has been previously accepted by members. The Council recognises that although the building does not readily lend itself to conversion into multiple residential units, this use, as in the approved residential conversion of the central Maltings recently, is the most viable and realistic option for the building.

External impact and treatment of the listed building

- 7.5 The Inspector in his dismissal under issue (a) viewed the insertion of *'the upper floor balconies and staircases as inappropriate, while the extent and sizing of new windows in the north and south facing elevation would erode the characteristic pattern of large voids and small openings. Thus the repetitive nature of these domestic features would change the external appearance of the building'*
- 7.6 The Inspector further commented on issue (b) that *'the malthouses represented a link to the towns historic past making a prominent and valuable contribution to the street scene, having concluded that the refused*

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scheme would harm the distinctive qualities of the appeal building and its setting, regardless of the limited views from the churchyard and path to the north, the impact on the Conservation Area would be unacceptable'

- 7.7 The present proposed scheme addresses these issues providing 12 residential units with an altered internal layout removing the inappropriate upper floor balconies and staircases from the northern elevation to create a better reference to the simple industrial functional form of the malthouse.
- 7.8 The proposal removes the somewhat modern domesticated element of the glass canopies over the entrance doors on the southern elevation leaving a simple wooden doorway with segmented arch above, in some instances utilising the existing window opening.
- 7.9 The conversion provides two bedroom and three bedroom units with private amenity walled garden areas, the height of the wall separation reduced along its length to limit the aspect of separation and enclosure. An alternative separation of open fencing or wire separation was rejected as this was felt to reflect a domestic character while affording little security or privacy. The wall divisions for the private garden amenity area at the reduced height remain subservient to the historic rear boundary wall.
- 7.10 English Heritage have concerns that the number of new window and door openings will undermine the plain industrial character of the design, however they recommend that the applications should be determined in accordance with national and local policy and on the basis of your specialist conservation advice.
- 7.11 It is the Council's Conservation Officers opinion that the level of new window openings, which is significantly reduced within the present scheme, is such that the industrial character and appearance of the building is more appropriately preserved and the scheme is therefore considered to be acceptable.
- 7.12 The proposed fenestration retains more original windows than previously and a reduced number of additional new windows (by 11 on the northern elevation at first floor). A further two windows are removed from the western end elevation at ground floor for Plot 1, reinstating the industrial, functional form of the front of the building with the malt hoist above.

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7.13 Officers are of a view that the re-submission proposal with significant alterations; reduced window inserts and reduced garden amenity divisions, largely addresses the previous reasons for refusal, overcoming the issues raised by the Planning Inspector relating to the external appearance of the Listed Malting building and the Conservation Area status.

Access/Highways issues

7.14 The third issue identified in the previous refusal, although not upheld by the Inspector, was the access arrangements to the site. The Inspector considered that parking was not necessarily a requirement of a town centre development such as this, and that with the recent approved central Maltings conversion an improved access provision was a very real prospect.

7.15 The Inspector considered that the inadequate arrangements for the access would probably be only of a temporary nature. He commented that the prospect of a renewed commercial use was remote and that taking into account additional factors, such as the site's sustainable location, the likelihood of drivers exercising caution at the access and low speeds on the highway network, the proposal would not exacerbate existing conditions for pedestrians or drivers. The Inspector was satisfied therefore that it would meet the requirements of Local plan policy TR2.

7.16 In light of the Inspectors view in not upholding this reason for refusal/issue it is the Officer's view that permission could not be withheld on these grounds.

Planning Obligations

7.17 Policy IMP1 states that planning obligations/contributions may be required to mitigate for the impact of any development scheme proposed. As part of the previous application on the site the developers did agree the initial terms of a Section 106 Agreement. A new amended Section 106 Agreement reflecting the current proposal is at present in the process of completion.

7.18 At the previous appeal hearing, the Inspector raised an inquiry about the level of Sustainable Transport contributions where it was felt there had been an element of duplication. At the time officers did not have the necessary information from Herts County Council to correctly advise the Inspector. Therefore, initially only the Second Strand contributions were sought from the applicants, which constitute a contribution of £8,000 (16 X £500).

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- 7.19 However, clarification was sought from Herts County Council who confirm that they also require a contribution of £11,625 towards the First Stand Sustainable Transport Measures in accordance with the County Council's Planning Obligations Toolkit to mitigate for the proposed development.
- 7.20 The provision of a First and Second Strand contribution towards Sustainable Transport Measures is consistent with the Section 106 Agreement contributions sought for the Central Maltings.
- 7.21 Giving due regard to Herts County Council's Planning Obligations Tool Kit and the District Councils recently approved SPD: Planning Obligations and in compliance with the guidance contained in Circular 05/2005, PPG13 and the East Herts Local policy IMP1, the applicants are offering to enter into a Section 106 agreement for financial contributions as set out at the head of the report.

8.0 Conclusion

- 8.1 In summary, Officers consider that the resubmission scheme will result in a redevelopment of the site that comprises an improved high standard of design and improved external appearance and layout that addresses the previous reasons for refusal and those matters upheld by the Planning Inspector in the dismissed appeal. It relates well to the architectural details and historic character and appearance of this industrial listed malting building; the adjacent malting and the surrounding built environment of the Conservation Area.
- 8.2 There would be no significant impact on the neighbouring properties and the re-submitted proposal would improve the aspect and views of the listed building; preserve the character and appearance of the Grade II listed building as part of the larger group of three Maltings, while enhancing the character and appearance of the Conservation area.
- 8.3 Other concerns which the Council had previously raised in relation to access and highway safety were not upheld by the Inspector on appeal and it is not therefore considered appropriate to maintain any objection on these grounds, particularly as the Highway Authority does not object.
- 8.4 The development satisfies the objectives of the Development Plan and accordingly it is recommended that, subject to the timely completion of a legal agreement, planning permission and listed building consent be granted subject to the conditions at the commencement of the report.