

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

17 AUGUST 2005

Report of Chief Solicitor

Part 1- Public

Matters for information

1 PLANNING APPEAL DECISIONS

1.1 Site **Shiralee, Common Road, Ightham**
Appeal **Against the refusal of permission for extension of existing bedroom, add en-suite, add new study, replace flat roof with pitched roof over dining**
Appellant **Mr & Mrs A Hall**
Decision **Appeal dismissed**
Background papers file: PA/03/05

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- 1.1.1 The Inspector considered the main issue to be whether the proposal amounts to an inappropriate development in the Green Belt and, if so, whether there are any very special circumstances sufficient to clearly outweigh the presumption against such development.
- 1.1.2 PPG2 states that the construction of a new building inside the Green Belt is inappropriate unless, amongst other things, it involves limited extension, alteration or replacement of an existing dwelling. The extension or alteration of a dwelling is inappropriate in the Green Belt if it results in disproportionate additions over an above the size of the original building.
- 1.1.3 Since its construction, the subsequent additions to the dwelling on the appeal site have increased its volume by about 80%. The appeal proposal taken cumulatively, in addition to the other approved extensions since 1977, would bring this figure well above 120%. The Inspector considered this to clearly be disproportionate. The proposal would not alter the current footprint of the dwelling. Nevertheless, it would increase its overall bulk and mass, contributing to a substantial cumulative increase in the size of the original building. The Inspector was therefore satisfied that the proposal would constitute inappropriate development in the Green Belt. It would also further reduce the openness of the Green Belt.

1.1.4 The Inspector considered that the proposal would not harm the character and appearance of the area; indeed the replacement of the unsympathetic flat roof with a new pitched roof would improve the visual appearance of the dwelling itself. He also noted that the proposal would not adversely affect neighbours' living conditions. However, in his view, none of these or any other points raised by the appellants, taken separately or together, amount to very special circumstances sufficient to outweigh the presumption against inappropriate development.

1.2 Site **Land south east of Hazeldene Farm Bungalow, Old Lane, Ightham**
 Appeal **Against the refusal of permission for the residential use of one caravan**
 Appellant **Mr J Moore**
 Decision **Appeal dismissed**
 Background papers file: PA/78/04

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1.2.1 The Inspector considered the main issues to be (i) the effect of the development on the openness and character of the Green Belt and on the character of the countryside; and (ii) whether very special circumstances exist to outweigh any identified harm, whether by reason of inappropriateness or any harm arising from other issues.

Effect on the openness and character of the Green Belt and the character of the countryside.

1.2.2 The site has been developed by the siting of one residential caravan, one touring caravan, a toilet and three sheds including a summer house and a children's "Wendy house". Close-boarded fencing has been erected around three sides of the site with additional post and rail fencing erected either side of the access road within the site. A driveway has been constructed and surfaced. A number of trees have been removed.

1.2.3 PPG2 says that the most important attribute of Green Belts is their openness. The Inspector considered that in this case the development has undoubtedly reduced the openness of the site. This loss of openness can be seen from Old Lane, which runs along the western boundary of the site, from within the site and from adjoining private land.

1.2.4 The site has a frontage of about 20m to Old Lane. There are no views into the site, except through the gateway, as there is a close boarded fence along the whole frontage. This is set back behind a row of trees and sited above the level of the lane. In the Inspector's opinion this fence is wholly out of keeping with the character of the lane and constitutes an urbanising feature that detracts significantly from its pleasant rural character. The generator adjacent to the residential caravan is also clearly audible from the lane, contrasting with the generally peaceful quality of the immediate area.

1.2.5 Removal of trees from the site was carried out by a former owner. However, the resultant open nature of the site contrasts with the wooded character of the

immediate surroundings. This contrast is all the more noticeable due to the close boarded fencing that also runs down both sides of the site. The Inspector therefore concluded that the development is significantly harmful to the character of the area.

- 1.2.6 The identified harm relates to the inappropriateness of the development, the loss of openness; and the harm to the character of the area. PPG2 advises that inappropriate development is, by definition, harmful to the Green Belt and very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Very special circumstances

- 1.2.7 The Council conceded that there is a need for Gypsy sites both nationally and locally although there has not been a quantitative assessment, despite the provisions of Circular 1/94, ministerial letters to Local Authorities and Government Advice in PPG3. The Inspector considered this failure to be a serious one while the need for sites weighs in favour of the appellant.
- 1.2.8 The Inspector took into account the fact that the appellant voluntarily left a Council run Gypsy site in Greenwich for personal and family reasons. While these reasons are undoubtedly important, it seemed to the Inspector to be premature to give up a license on a Council site before it had expired, without first having made alternative provision. The Inspector noted that the appellant has not made a thorough search for alternative sites in this Borough or in surrounding districts. The site was purchased without first establishing with the Council the likelihood of planning permission being granted.
- 1.2.9 The appellant argued that most of the Borough lies within the Green Belt and therefore there were few opportunities outside urban areas where this designation does not apply. Sites within the urban area would be too expensive. The Inspector accepted the appellant would, as a landscape gardener, be unlikely to be able to afford an urban site. However, the eastern half of the Borough is largely outside of the Green Belt.
- 1.2.10 The appellant has three children; the two older children have attended Ightham Primary School since January 2004. Neither of these children have any special educational needs that could not be provided at another school and there is no evidence to suggest that the educational needs of the children are out of the ordinary. Nonetheless, their education would be likely to be disrupted by any move and regular attendance at school cannot be guaranteed from a roadside camp. In the Inspector's opinion the education of the children is a material consideration and a strong argument for allowing the family to remain on the site. However, against this must be balanced the legal obligations of the Local education Authority to make appropriate provision for school age children, including these children. The Inspector did not consider that the educational needs of the children amount to very special circumstances.

1.2.11 The appellant's daughter, Emma Jane suffers from asthma and the family is registered with a doctor in Borough Green. The Inspector however saw no reason as to why the appellant could not access health care from another site.

1.2.12 In respect of the identified very special circumstances, the Inspector concluded that there is a need for sites both locally and nationally. The absence of any quantitative assessment of need or any attempt to identify suitable sites weighs in favour of the appellant. There are also clear advantages in continued settled education as the failure of the children to attend school can lead to adult illiteracy. There are also advantages in being registered with a doctor and thus being able to easily access healthcare facilities. These also weigh in favour of the appellant. Against this is the fact that the appellant voluntarily left a Council run site and has made no active search for sites. He failed to consult the Council before his family bought the site, any such consultation would undoubtedly have led to the discovery of the enforcement notices. The Inspector did not therefore find the education or health arguments to be so out of the ordinary as to amount to very special circumstances.

Conclusion

1.2.13 The Inspector concluded that the development constitutes inappropriate development in the Green Belt. In addition to the harm by reason of inappropriateness there is also harm to the openness and character of the Green Belt. There is also significant harm to the character of the countryside. He was not convinced that the identified very special circumstances are sufficient to clearly outweigh the harm to the Green Belt and the countryside.

Duncan Robinson
Chief Solicitor