

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

12 OCTOBER 2005

Report of Chief Solicitor

Part 1- Public

Matters for information

1 PLANNING APPEAL DECISIONS

- 1.1 Site **Fre Mell Farm, Comp Lane, Offham**
Appeal **Against the refusal of permission for cessation of existing industrial and commercial uses and redevelopment of the site by the erection of 10 new dwellings with associated access garaging and ancillary works**
Appellant **Millwood Designer Homes Ltd**
Decision **Appeal dismissed**
Background papers file: PA/52/04

Contact: Cliff Cochrane
01732 876038

1.1.1 The Inspector considered the main issues to be:

- whether the proposal would constitute inappropriate development harmful to the functions and purpose of the Green Belt;
- the effect of the proposal on the character and appearance of the countryside, with particular reference to the landscape quality of the Greensand Ridge Special Landscape Area (SLA);
- the adequacy of the living conditions of any future occupiers of the proposed dwelling on plot 6;
- the implications of the proposal for sustainability objectives; and
- whether there are any very special circumstances sufficient to clearly outweigh any harm arising from the above issues.

Green Belt

- 1.1.2 Structure and local plan policies set out circumstances in which the construction of new buildings inside the Green Belt is not inappropriate development. The appeal proposal would not fulfil any of the exceptions listed therein and the Inspector therefore found it to constitute inappropriate development.
- 1.1.3 Were the site presently undeveloped, the proposed dwellings would also significantly erode the openness referred to in 1.4 of PPG2 as being the most important attribute of Green Belts. Moreover, the development would constitute encroachment into the countryside in such circumstances and thus conflict with

one of the 5 purposes for including land in the Green Belts. However, car storage at this site is extensive, already erodes openness and in the Inspector's judgement amounts to encroachment into the countryside on a considerable scale.

- 1.1.4 The amount of land the houses would cover would be considerably less than the area presently occupied by buildings and vehicles, due to the spacious layout of the development. In the Inspector's judgement the negative consequences of the proposal for the vertical component of openness and encroachment arising from the proposal would thus be countered by an improvement to their lateral component.
- 1.1.5 Overall, the Inspector did not consider that the proposal would have serious implications for openness or encroachment or conflict significantly with the objectives of PPG2. However, nor did he find that it would contribute materially to the achievements of those objectives and, in any event, the proposal amounts to inappropriate development.

Character and appearance of the countryside

- 1.1.6 The Inspector considered the car breakers yard and other uses on the site to be unsightly at close quarters. It was apparent to him that much thought had gone into the design of the proposed dwellings and that they would be an improvement on the existing situation in aesthetic terms. However, the site is barely visible from public viewpoints, being accessible only via private rights of way. He found no public viewpoint from which the appeal site's commercial activity or buildings have a serious adverse impact on the appearance of the area.
- 1.1.7 In such circumstances, he found the design qualities of the houses and any additional landscaping associated with them to offer little in the way of planning gain. He therefore concluded on this issue that the proposed housing, regardless of its bulk, height or design qualities, would not have a significant effect, either positive or negative, on the appearance of the countryside or the landscape quality of the SLA. Accordingly he did not find the proposal to conflict significantly with SP Policy ENV4 or LP Policy 3/6.
- 1.1.8 The Appellants contended that the proposal would result in a reduction in traffic travelling to and from the site, particularly with regard to lorry traffic. The Inspector accepted that a reduction in lorry traffic would be likely, and that this alone would be a positive consequence of the proposal in the context of SP Policies RS1 and ENV13, emerging Structure Plan Policy E14 and the Quiet Lanes project.
- 1.1.9 Notwithstanding this the Inspector considered that the appeal scheme fails to comply with any of the exceptions to the presumption against development in the countryside and in his judgement, runs contrary to the national principles of strictly controlling new house building in the countryside away from established settlements set out in PPS7.

Living conditions

- 1.1.10 The Council contended that the occupiers of the dwelling proposed for plot 6 would experience unacceptable living conditions due to the close proximity of the existing livery stables. Flies and odours generated by the stables would have an unacceptable impact on neighbouring residents in circumstances where the dwelling in question is less than 30 metres away.
- 1.1.11 The Appellants indicated that they would be prepared to relocate the stables, which occupy land within their ownership, to a position that would comply with the Council's advice. Accordingly, the Inspector was satisfied that this measure could be secured by condition and he concluded that acceptable living conditions for the occupiers could be assured in this way.

Sustainability

- 1.1.12 The Inspector considered three aspects; the implications of the appeal scheme for biodiversity, the distance of the site from local facilities and the density of the proposed housing. Concerning the question of biodiversity the Appellants contended that the environmental enhancements associated with the nature conservation management of the disused quarry and surrounding woodland and opportunities for additional landscaping would contribute to sustainability objectives. The Inspector accepted this but found that these factors represented only limited planning gain in the context of the case as a whole.
- 1.1.13 On the second issue the Inspector considered it inevitable that anyone living on the appeal site would be heavily dependant on the private car on a daily basis. This would be an unsustainable situation contrary to the objectives of the relevant policies.
- 1.1.14 As far as housing density is concerned, the development proposed would, by reason of the large size of the properties and their spacious layout, be built at something in the region of 7 dwellings per hectare. This is far below the minimum threshold of 30 dwellings per hectare prescribed in PPG3: Housing and contrary to sustainability objectives, despite the fact that the proposal would re-use previously developed land.

Very special circumstances

- 1.1.15 Any positive implications of the proposal for the appearance of the countryside, landscape quality of the SLA and openness of the Green Belt, would in the Inspector's judgement be very limited for the reasons given above. He did not find these arguments to outweigh the presumption against new housing development in the Green Belt and the countryside generally.

- 1.2 Site **5 Sobraon Villas, Long Mill Lane, Platt**
 Appeal **Against the refusal of permission for the construction of a crossing for vehicles across a footway (drop kerb) together with hard standing for one vehicle in front garden**

Appellant **Ms J Chant**

Decision **Appeal dismissed**

Background papers file: PA/06/05

Contact: Cliff Cochrane
01732 876038

- 1.2.1 The proposal would form a vehicular access from a classified road to part of the front garden, which would be paved. Neither the paved area nor the whole front garden is of a size that would allow vehicles to turn round within the site. Vehicles would therefore have to enter or exit in reverse gear. This would, in the Inspector's opinion, be likely to interrupt the free flow of traffic and prejudice highway safety.
- 1.2.2 Having regard to the frontage width of the site, the maximum achievable dimensions for the sight lines falls significantly short of the normal requirements for safe visibility. The Inspector considered this particularly important in the easterly direction as the proposed access would lie some 25 metres from the junction with Greenlands which serves a significant number of dwellings. He considered the lack of visibility would adversely affect highway safety.

- 1.3 Site **249 London Road, West Malling**
 Appeal **Against the refusal of permission for the construction of 5 No. detached houses with garaging and alteration of the existing access**

Appellant **Millwood Designer Homes Ltd**

Decision **Appeal dismissed**

Background papers file: PA/18/05

Contact: Cliff Cochrane
01732 876038

- 1.3.1 The Inspector considered there to be two main issues in the appeal. These are the effect of the proposed development on firstly, the character and appearance of the surrounding area, including trees protected by a TPO; and secondly, the living conditions of neighbouring and future residents with particular regard to outlook, privacy and noise and disturbance.

Effect on character and appearance

- 1.3.2 The appeal site is situated within a Low Density Residential Area and contains a single detached house on a plot that is somewhat larger than those of neighbouring properties. Although No. 237 is exceptionally located to the rear of 253, the surrounding area is characterised by a linear development of predominantly detached dwellings on large deep plots.
- 1.3.3 Despite the existence of No. 237, back land development did not appear to the Inspector to be a prevailing characteristic of the surrounding area. The location of the proposed dwellings in a residential cul-de-sac formed within the existing site would not in the Inspector's view be appropriate in terms of the preservation or

enhancement of the character of the settlement. Neither would be the design, which although of high quality, is based on 16th century farmhouses, a style not found in the vicinity of the site.

- 1.3.4 The plots would be significantly smaller than others in the area, and, in the Inspectors opinion, out of keeping with the established pattern of development in this Low Density Residential Area. The houses would be large buildings, occupying much of their respective plots and with limited separation. Having regard to the special character of West Malling, the Inspector considered these factors would emphasise the inappropriateness of the proposal in terms of scale, density and form with respect to the surrounding area.

Effect on living conditions

- 1.3.5 The proposed houses would be highly prominent from neighbouring properties due to their back land location and higher ground levels. They would dominate the outlook from the rear of No's 249 and 251, from the rear garden of No. 245 and from the front of No. 237, detracting from the existing spaciousness of the area and introducing an overbearing line of urban development.
- 1.3.6 The Inspector concluded on this issue that the proposed development would adversely affect the living conditions of the residents of 249 and 237 London Road by way of visual impact, overlooking and loss of privacy; 245 London Road by way of visual impact, overlooking and loss of sunlight; and plot 1 by way of overlooking and loss of privacy.

Duncan Robinson
Chief Solicitor