

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 2 PLANNING COMMITTEE**

**10 January 2007**

**Report of the Chief Solicitor**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL DECISIONS**

1.1 Site **13 Medway View, Three Elm Lane, Golden Green**  
Appeal **Against the refusal of permission for a detached chalet bungalow and garage**  
Appellant **Cass Construction Co. (Kent) Limited**  
Decision **Appeal dismissed**  
Background papers file: PA/34/06

Contact: Cliff Cochrane  
01732 876038

1.1.1 The Inspector considered there to be two main issues:

- the effect of the proposal on the character and appearance of the surrounding area
- the effect on the living condition of the occupiers of nearby residential properties in relation to noise and general disturbance and privacy.

*Effect on character and appearance*

1.1.2 There is an overall pattern and strong cohesion to this well established road. The dwellings are uniformly arranged, set back from the road with regular and generally even spacing between them. Most properties have long gardens which back onto open fields beyond. This strong linear form of development reflects and follows the gentle curvature of the road. This characteristic is recognised by LP Policy P6/5.

1.1.3 The proposal is to erect a chalet style dwelling and a detached garage to the rear of No. 13. This would effectively divide No 13's plot into two horizontally which would be completely against the form and grain of the existing pattern of development in the locality. The dwelling would be built unduly close to the boundary with No 14 and would be separated from No. 13 by a turning area. The lack of space around the dwelling and garage, the plot size and its shape and configuration would not follow the established grain and rhythm of the existing development.

- 1.1.4 Additionally the Inspector considered that the dwellings form and design would not reflect and appearance of those around it. It would be a dominant, rather than a subordinate, feature in its setting because of its height and bulk. She therefore concluded that the proposed dwelling would be materially harmful to the character and appearance of the surrounding area contrary to the relevant planning policies.

*Effect on the living conditions of adjacent occupiers*

- 1.1.5 The Inspector considered that introduction of a long access road and the turning area would give rise for an increase in noise and general disturbance for the occupiers of adjacent properties from vehicular and pedestrian movements and general activity associated with residential development. This would detract from the presently secluded and tranquil rear gardens.
- 1.1.6 The Inspector considered that although any direct overlooking is unlikely, the proposal would give rise to a perception of overlooking of the occupiers of No's 12 and 14. Additionally some overlooking may occur or be perceived from people going to and from the proposed dwelling along the access.
- 1.1.7 The Inspector concluded that on the second issue the living conditions of the occupiers of nearby residential properties would be materially harmed by general noise and disturbance and loss of privacy and this would be contrary to the relevant planning policies.

- 1.2 Site **Beechinwood Farm, Beechinwood Lane, Platt**  
 Appeal **Against the refusal of permission for a swimming pool cover and changing rooms**  
 Appellant **Mr W Terry**  
 Decision **Appeal allowed**  
 Background papers file: PA/40/05 Contact: Cliff Cochrane  
01732 876038

- 1.2.1 The Inspector considered the main issues to be:

- Whether the proposal amounts to inappropriate development within the Green Belt;
- The effect of the proposal on the character and appearance of the surrounding rural area and
- Whether the benefits of the scheme would clearly outweigh any harm resulting from the above issues, and thus justify the development on the basis of very special circumstances.

*Inappropriate development*

- 1.2.2 The appeal proposal in conjunction with previous extensions and curtilage buildings would represent an increase of over 70% in the volume of the original dwelling house and would therefore amount to a disproportionate addition to the original dwelling contrary to LP policy and PPG2. The appellant submitted that due to the remoteness of the proposed building from the existing dwelling, the

proposal should be assessed on its own merits, and not by its cumulative impact on the size of the original dwelling.

- 1.2.3 The Inspector agreed that if the building were closer to the original dwelling it would be reasonable to have regard to its cumulative impact on the size of the original dwelling. However, he shared the appellant's view that the distance between the existing house and proposed building is too great to adopt such an approach. PPG2 states that the construction of new buildings within the Green Belt is inappropriate development unless it comes within the exceptions given in paragraph 3.4. These exceptions do not include the erection of curtilage buildings and therefore he concluded that the proposed building would constitute inappropriate development and cause harm by reason of the inappropriateness and the impact on the openness.

*Effect of the proposal on the character and appearance of the surrounding rural area*

- 1.2.4 The proposed building would be located on the boundary of the appeal site adjoining an area of open land owned by the appellant. The proposed building would be a considerable distance from adjoining properties. In the Inspector's opinion, the considerable changes in levels between the proposal and properties in Potash Lane and Pidgeon Green and the relatively low overall height of the proposal would limit views of the proposed building from outside the site.
- 1.2.5 Views of the proposed building from the adjacent commercial properties would be confined to part of the adjoining car park that slopes uphill away from the proposed building. The existing close-boarded fence would partially screen the proposed building, which would not be unduly prominent because it would be at a lower level than much of the car park. The Inspector therefore concluded on this issue that the proposal would not harm the character and appearance of the surrounding rural landscape and to this extent would comply with LP policy P6/10 and SP policy HP5.

*Very Special Circumstances*

- 1.2.6 The appellant submitted that in the absence of planning permission for the appeal proposal, use of the pool would be limited to a few months of the year. Whilst the Inspector acknowledged the appellant's desire to make use of his pool throughout the year, in his view this desire falls far short of being very special circumstances sufficient clearly to override the permanent harm which the scheme would cause to the Green Belt.
- 1.2.7 It was submitted on behalf of the appellant that permitted development rights could be used to construct a building with similar footprint to the proposal, either with a flat roof or a pitched roof just 0.3 metres lower by comparison with the appeal proposal. This was not disputed by the Council and the Inspector gave significant weight to the argument that even if the appeal were to be dismissed, a similar building possibly of an inferior design would be likely to be erected.
- 1.2.8 A replacement pool house was permitted under TM/03/01789. This would be about 35% of the size of the proposal and 5 metres high at its highest point. This

would have simply provided changing rooms and would not enclose the pool. Whilst the appeal proposal would occupy a larger footprint than the permitted pool house, it would be lower than the permitted pool house and about 5 metres further from the rear boundary of the site. Due to its lower height and screening the Inspector found that the proposal would be less prominent within the wider landscape than the permitted pool building.

- 1.2.9 The Inspector concluded that the proposal would not harm the character and appearance of the surrounding area. However, he considered that it would cause intrinsic harm to the Green Belt by reason of inappropriateness and, in addition, would reduce its openness. Balanced against this he found other material considerations that favour the proposal. These are the strong possibility that a marginally lower building would be built as permitted development in any event and the lesser visual impact of the proposal compared to the previously permitted pool building. He found these considerations to be particularly compelling and when added together judged that they clearly outweigh the totality of harm and would amount to very special circumstances sufficient to justify permitting the proposal.

- 1.3 Site **Mayhill Barn, London Road, Addington**  
 Appeal **Against the refusal of permission for a two-storey side extension plus basement and remodelling of existing front elevation to replace boarding finish with ragstone**  
 Appellant **Mr N Muino**  
 Decision **Appeal dismissed**  
 Background papers file: PA/36/06 Contact: Cliff Cochrane  
 01732 876038

- 1.3.1 The proposal would increase the gross floor area by over 80%. The Inspector in taking into account the policies of restraint of development in the Green Belt, considered an increase in floor space of over 80% would be disproportionate. Further, the proposal would double the width of the house and he considered that it would represent a significant increase in the bulk of the building. As a result of the screening vegetation the proposal would not be prominent but it would be visible from public vantage points. However, even if it were not publicly visible its presence would detract from the openness of the Green Belt.
- 1.3.2 The Inspector considered that the proposal would conflict with paragraph 2 of LP policy P6/10 which indicates that within the Green Belt disproportionate extensions to dwellings will not be permitted. That policy also indicates that the extension of dwellings created by the conversion of rural buildings will not normally be acceptable and the Inspector saw no evidence to indicate that a different approach should be adopted in this case.

1.4 Site **Trafalgar Filling Station, 2 London Road, Leybourne**  
 Appeal **Against the refusal of permission for 21 residential units together with associated parking, estate road and access arrangements including minor alterations to London Road**

Appellant **Parkfoot Garage Ltd**

Decision **Appeal dismissed**

Background papers file: PA/31/06

Contact: Cliff Cochrane  
01732 876038

1.4.1 The Inspector considered the main issues to be:

- The effect of the proposed housing on the character and appearance of the surrounding area
- Whether the proposal would result in an overbearing impact on No. 4 London Road
- The adequacy of car parking arrangements
- The effect of traffic noise on the living conditions of the occupiers of the proposed houses.

*Effect on the character and appearance*

1.4.2 The layout would incorporate a row of closely spaced 3 storey pairs of houses with their backs facing towards the road and the countryside beyond. Even taking into account of the proposal to slope the land down away from the road and to provide a landscape strip along the back edge of the footway, this part of the development would, in the Inspector's view, appear out of character with the surroundings and harmful to the appearance of the locality.

1.4.3 The suburban appearance of the row of houses would be exacerbated by the proposed 2 metre high wall bounding the rear gardens. This would be in marked contrast to the development elsewhere along this part of the A20.

*Impact on 4 London Road*

1.4.4 No. 4 is a detached dwelling on a plot of reasonable width and the Inspector did not consider that the irregularities in the building line combined with the different heights of the buildings would give rise to an overbearing impact sufficient to justify the refusal of permission.

*Adequacy of car parking arrangements*

1.4.5 The Council considered that the walking distance between 3 of the houses and their allotted garages and parking spaces could lead to residents' vehicles being parked in the road causing inconvenience and safety hazards to other road users. The Inspector considered the walking distance was not excessive and there is no policy-based or other justification for the refusal of planning permission on this ground.

*Effect of traffic noise on the occupiers of the houses*

- 1.4.6 Due to the noise levels which would be experienced in the rear gardens facing the A20, the Inspector considered the development would suffer material harm from traffic noise on the living conditions of the occupiers of the houses, contrary to the requirements of LP policy P3/17.
- 1.4.7 In summary the Inspector concluded that the lack of objection he found to the scheme in respect of parking arrangements and relationship between the development and the building at No. 4 London Road, is outweighed by the harm the proposal would cause to the character and appearance of the locality and the impact of traffic noise on the living conditions of some of the future occupiers.

**Duncan Robinson**

Chief Solicitor