

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

7 February 2007

Report of the Chief Solicitor

Part 1- Public

Matters for Information

1 PLANNING APPEAL DECISIONS

1.1 Site **Land to the north of Sandy Lane, Wrotham Heath**
Appeal **Against the refusal of permission for 5 bungalows with
garages on two parcels of land**
Appellant **Sandra Barfield**
Decision **Appeal dismissed**
Background papers file: PA/27/06

Contact: Cliff Cochrane
01732 876038

1.1.1 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;
- The effect of the proposal on the ancient semi woodland, the protected trees and biodiversity;
- The effect of the proposal on highway safety ; and
- Whether there are any material considerations sufficient to clearly outweigh any harm to the Green Belt and any other harm, thereby justifying the proposal on the basis of very special circumstances.

Whether the proposal amounts to inappropriate development within the Green Belt.

1.1.2 The appellant considered that the proposal should be considered as limited infilling or minor development within an existing village, and if the precise boundary of Addington Clearway was revised as part of the LDF process, the proposal would then be appropriate development. The appeal site lies outside of the boundaries of Addington Clearway and the Inspector concluded that the proposal would be inappropriate development which by definition is harmful to the Green Belt.

1.1.3 The proposed dwellings and access would be highly visible within the wider area and the proposed access to the woodland at the rear would be likely to introduce vehicular activity into the woodland to the rear of the appeal site. The Inspector

concluded that the proposal would reduce openness and thereby undermine the fundamental aim of keeping Green Belt land permanently open.

Character and appearance of the surrounding rural area.

- 1.1.4 The overall appearance of Sandy Lane is that of a narrow wooded rural lane. Many trees would need to be removed both to accommodate the dwellings and accesses, and to provide adequate area of useable garden.
- 1.1.5 The existing rural appearance of Sandy Lane would be replaced by a continual line of development extending from The Haven to Woodland and the Inspector concluded that this would harm the character and appearance of Sandy Lane.

Semi ancient woodland, protected trees and biodiversity.

- 1.1.6 The loss of a large number of trees would be inevitable. Whilst individually many of the trees are of limited amenity value, the Inspector considered that as a group they are intrinsic to the character and appearance of this part of Sandy Lane, and their retention is highly desirable. He concluded that the proposal would result in the loss of ancient semi natural woodland, harm the trees on site, and potentially harm protected species and other wildlife, and would fail to comply with LP policies P3/3, P3/8, P3/4 and the advice in PPS9.

Highway safety

- 1.1.7 In places, visibility along the length of Sandy Lane is restricted by hedgerows, trees and boundary fences and walls. The Council considered that due to the narrowness of the road, the absence of a footway, the guidance *Kent Design – a guide to sustainable development* would be insufficient to ensure adequate visibility, and the proposal should comply with the guidance in the DETR's *Places, Streets and Movement*. The Inspector agreed with this assessment. Whilst it may be possible to meet the latter guidance in relation to two of the plots on Parcel A, it would not be possible in relation to the dwelling proposed adjacent to Ivanhay or any of the proposed accesses on Parcel B. In this respect the proposal falls significantly short of the standard required by *Places, Streets and Movement*. With no footpath, the Inspector considered this would be hazardous for pedestrians using Sandy Lane.
- 1.1.8 The Council was also concerned that the additional traffic generated by the proposal would have a harmful effect due to the inadequate visibility at the junctions with St Vincents Lane and Ford Lane, The Inspector considered there to be satisfactory visibility at both junctions and that the traffic generated by the five additional dwellings would not detract from highway safety. Overall he concluded that the proposal would have a harmful effect on highway safety due to the unsatisfactory visibility in terms of access to the proposed dwellings and the land at the rear and would fail to comply with LP policy P4/11.

Whether there are any very special circumstances to outweigh the harm to the Green Belt

- 1.1.9 The appellant stated that the appeal site is located close to an important highway node and related facilities, and these are recognised at the strategic level as having possibilities to receive suitable additional development. Furthermore the site is in a sustainable location suited to housing development. Whilst the Inspector acknowledged that the site is well located in terms of the highway network, this is an argument that could be repeated in relation to many sites within the Green Belt and he attached little weight to it.
- 1.1.10 The appellant stated that the proposal could make provision for a footpath adjacent to the appeal site, and would benefit pedestrian safety. The Inspector agreed that were a footpath provided it may have a beneficial effect on pedestrian safety. However, this would be broken up by the six proposed vehicular accesses, and when balanced against the low traffic speed in Sandy Lane, the overall benefit would be diminished.
- 1.1.11 The appellant suggested that if permission were to be granted a planning obligation could be used to transfer the remaining woodland to a trust or similar body to manage for the benefit of the public. The Inspector considered this to be a clear benefit of the proposal. However, such access would involve the loss of the two areas of woodland that form the appeal site. Moreover, he did not have a planning obligation before him, and in the absence of such an agreement there is no certainty that public access would be provided.
- 1.1.12 The appellant also stated that permission for the proposal would help to finance future coppicing of the woodland to the rear. The Inspector considered that as there was no evidence before him to suggest that coppicing is essential, little weight be attached to this factor.
- 1.1.13 The appellant considered that the Council's approach to her proposal contrast with that to developments at Kings Hill and Isles Quarry West. Both of these developments were identified in the LP for development. The fact that the appeal site has not been considered for housing development is not a matter before the Inspector.
- 1.1.14 Government guidance is supportive of additional homes, to be built on previously developed land and does not alter the general presumption against inappropriate development within the Green Belt. The proposal would cause harm to the Green Belt by reason of inappropriateness. In addition it would reduce the openness of the Green belt, encroach into the countryside, and add to sprawl thereby conflicting with its purposes. It would also result in the loss of ancient semi natural woodland and an area of woodland safeguarded by a TPO, and would potentially harm wildlife and biodiversity.

1.2 Site **20-22 Wrotham Road, Borough Green**
 Appeal **Against the refusal of permission for the demolition of existing dwellings and construction of 6 no. 1 bed apartments, 12 no. 2 bed houses and 4 no. 3 bed houses including altered pedestrian and vehicular access**

Appellant **S E Living, Mr D Martin & Mr P Smith**

Decision **Appeal allowed**

Background papers file: PA/39/06

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1.2.1 The Inspector considered the main issues to be: whether the living conditions of the occupiers of any of the proposed dwellings would be unacceptably harmed by reason of noise from vehicular traffic; the effect of the proposed development on the character and appearance of the area; whether the setting of the adjacent listed building would be harmed as a result of the proposal; and whether the level of car parking proposed would lead to conditions prejudicial to highway safety.

Prospective residents' amenities

1.2.2 The Inspector considered that although Wrotham Road is subject to relatively high volumes of traffic, taking into account mitigation measures, to be covered by conditions, the proposal could be designed so that prospective occupiers' amenities would not be unacceptably harmed by reason of road traffic noise.

Character and appearance

1.2.3 The proposal would be a higher density than neighbouring development but is close to the centre of Borough Green, within a 5 minute walk of the mainline railway station and bus stops to local towns as well as being walking distance from the local primary and secondary schools. The Inspector therefore considered that the site is therefore within a sustainable location where Government advice in PPG13 *Transport* as well as other documents promotes high density, but this should be without compromising the quality of the local environment.

1.2.4 With only the apartment block and part of the front of the terrace on plots 7-10 visible from the road and having regard to the variety of development in the locality the Inspector did not consider that the proposed layout and density would detract from or harm the character of the area.

Setting of the listed building

1.2.5 The Inspector considered that the setting of the listed building would not be compromised by the proposed dwellings. She considered the lack of screening within the appeal site adjoining the listed building curtilage and considered that street lighting would have to be carefully controlled and an adequate and appropriate boundary treatment provided so that the setting of the listed building is not compromised.

Highway Safety

- 1.2.6 The Highway Authority found no harm in respect of the use of and proposed visibility from the access and the Inspector heard no evidence to make her take a different view
- 1.3 **Site** **Ingleside, 34 Maidstone Road, Borough Green**
Appeal **Against the failure of the Council to give notice within the prescribed period of a decision on an application for permission for the construction of 3 no. new houses**
Appellant **Mr & Mrs Jakobson**
Decision **Appeal allowed**
 Background papers file: PA/03/06 Contact: Cliff Cochrane
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- 1.3.1 The Inspector considered the main issue to be the effect of the proposal on pedestrian and vehicular safety with particular regard to traffic from the A25 accessing the car park and pedestrians accessing the new dwellings and adjacent recreation ground.
- 1.3.2 The appeal site fronts the A25 and comprises a two storey detached house and garden together with the car park to the Borough Green Recreation Ground. The proposal would involve the addition of three new houses and garages sited to the eastern side of the existing dwelling with vehicular access via the established route to the host dwelling which is through the parish council owned car park serving the recreation ground.
- 1.3.3 It was agreed by the parties that the proposal would result in 24 additional vehicular movements from the site during the day. At the site visit the Inspector observed that for the most part there would not be sufficient space for two vehicles to pass if more than a few of the car parking spaces were in use. Notwithstanding the fact that the car park is straight with no blind bends, in the Inspector's view this could lead to dangerous manoeuvres with cars needing to reverse out towards the main road. Due to the alignment of the access, in order to turn to the west on the A25, this results in either undertaking a wide sweep when leaving the car park or crossing over to the opposite carriageway in order to exit. These problems are compounded by visibility which is well below the standard 90 metres and the proximity to the pedestrian crossing to the west. Notwithstanding this access is in a 30mph zone it seemed to the Inspector that these manoeuvres could create unacceptable additional hazards to traffic using the main road.
- 1.3.4 In addition there could be conflict with pedestrians walking from the main road down a short steep ramp centrally located or from the vehicle access and across the car park in order to go into the recreation ground or to the proposed development.
- 1.3.5 The Inspector considered that the additional vehicle movements as a result of the proposed development would be likely to increase the hazards for drivers and pedestrians. However, she took the view, that as discussed with Highway Services by the appellants during the consideration of the application, these

problems could be overcome by the imposition of a condition to require additional works to the car park area including a passing bay in the car park and a ramped access for pedestrians. The parish council objected strongly to the application. Nevertheless, in the Inspector's view there is a reasonable prospect of the appellant securing agreement with the parish council to carry out the necessary works to the car park.

- 1.3.6 The inspector concluded that with the imposition of a suitable condition to ensure appropriate measures are secured to the car park area the proposed development would comply with the provisions of the development plan and would not cause a significantly increased risk of crashes or traffic delays.

1.4 Site **Stansted House, Malthouse Road, Stansted**
 Appeal **Against the refusal of permission for alterations to existing garage and replacement of existing flat roof with pitched tiled roof**
 Appellant **Mr & Mrs Bourne**
 Decision **Appeal allowed**
 Background papers file: PA/45/06 Contact: Cliff Cochrane
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- 1.4.1 There was agreement that the existing garage is an incongruous element by virtue of its flat roof and materials. The Council supports the principle of its alteration and extension at roof level to improve its appearance.
- 1.4.2 Although the height of the ridge of the proposed building would exceed that of the eaves of the house, the overall scale of the garage and visual separation by way of a lower section of roof would in the Inspector's opinion ensure that it remained subservient to the house. The Inspector considered that the roof pitch of the proposal as annotated in the application drawing would be in keeping with the local context, and the roof would not appear out of proportion with the eaves height of the garage.

- 1.5 Site **Court Paddocks, Fen Pond Road, Ightham**
 Appeal **Against the refusal of permission for (1) removal of existing caravan. To lay a concrete base 13m x 4m for the positioning of a new caravan marked A on the supplied map. (2) To relocate the existing portable building 6m x 3.2m marked (B) to the position marked (C) on the map (3) To locate a small portable security container 6m x 2.5m marked (D) on the map**
- Appellant **Thomas Parkinson**
 Decision **Appeal dismissed in relation to the location of a small portable security container, appeal allowed in respect of the other proposals**

Background papers file: PA/37/06

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- 1.5.1 The Inspector considered the main issue to be whether the proposal amounts to inappropriate development in the Green Belt and, if so, whether there are any very special circumstances sufficient to overcome the presumption against such development.

Concrete base

- 1.5.2 This would constitute operational development and is inappropriate unless it maintains the openness of the Green Belt and does not conflict with the purposes of including land within it. Although the base would be provided by cutting into the ground some 0.5m at the north eastern end to create a level surface, it would be a permanent feature which, in itself could harm the openness of the Green Belt in the sense of maintaining it undeveloped. The concrete base therefore amounts to inappropriate development.
- 1.5.3 In considering the very special circumstances the Inspector took into account the fact that the existing non residential caravan is in poor condition, due in part to the ground conditions and the steep slope which runs downhill away from the site entrance. The Inspector accepted that this could be replaced lawfully providing that, and as confirmed by the appellant, the replacement would be no larger than the existing one.
- 1.5.4 The concrete base would provide a firm base for the safe replacement of the non-residential caravan and given the topography of the site the Inspector was satisfied that the base is genuinely required. The base would largely be covered by the replacement caravan and consequently, the hard standing would have no greater visual impact than the existing caravan. In this instance the Inspector accepted that this amounts to very special circumstances.

Relocation of portable building

- 1.5.5 The Inspector considered that the relocation of the building within the main group of existing buildings would not amount to inappropriate development and, as it would not result in an additional building on site, it would not have any impact on the openness of the Green Belt.

Security container

- 1.5.6 The appellant submitted that his family had steadily increased the number of carriages and amount of tack they use and asserts that, in accordance with policy advice, the container is necessary to provide improved security for those expensive items. However, the Inspector did not accept that it is essential for the carriages to be stored at the site and considered that the container would exceed what is essential. This would amount to inappropriate development.
- 1.5.7 In addition to the harm from inappropriateness, the container would harm the openness of the Green Belt. It would be located on the edge of the main group of buildings in a prominent position on the side of the valley and have a materially harmful effect on the visual amenity of the Green Belt.

Duncan Robinson
Chief Solicitor