

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

13 June 2007

Report of the Chief Solicitor

Part 1- Public

Matters for Information

1 PLANNING APPEAL DECISIONS

1.1 Site **Chart Cottage, Comp Lane, Platt**
Appeal **Against the grant of permission subject to conditions –
(bedroom at first floor level with porch beneath and detached
garage with games room over)**
Appellant **Mr D Ford**
Decision **Appeal allowed and planning permission varied**
Background papers file: PA/61/06 Contact: Cliff Cochrane
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- 1.1.1 The disputed condition no. 5 required the existing garages to be demolished prior to the first use of the garages permitted, if not demolished previously, and all arisings from the site shall be removed from the site.
- 1.1.2 The proposal permitted includes a detached outbuilding of considerable width, depth and height. Having regard to the relevant planning policies the Inspector considered the proposal falls outside any reasonable definition of a limited extension to an existing dwelling. It therefore constitutes inappropriate development in the Green Belt.
- 1.1.3 In deciding whether there are very special circumstances that outweigh the harm to the Green Belt, an important material consideration is that application reference TM/06/01271/FL was for a renewal of a previous permission for the same development granted in 2001. This in turn was a renewal of a permission granted in 1997.
- 1.1.4 Circular 11/95 –The use of Conditions in Planning Permissions indicates that as a general rule, applications for renewal of permissions before the expiry of time limits should be refused only where there has been some material change in planning circumstances since the original permission, or if continued failure to begin the development would contribute unacceptably to uncertainty about the future pattern of development in the area, or if the application is premature.

- 1.1.5 The Inspector considered that none of these circumstances applied. However, in making its decision the Council considered that in order to mitigate harm caused by the proposal to the openness of the Green Belt, condition 5 should be added requiring the demolition of the existing garages on site.
- 1.1.6 Bearing in mind the thrust of Government advice in the Circular and the lack of any material change in planning circumstances, The Inspector considered that it is unreasonable to attach condition 5 at this stage just as it would have been unreasonable to have refused planning permission altogether.
- 1.1.7 Furthermore, in the Inspector's opinion, the existing garages are of modest size and appear inconspicuous in relation to the existing house and the development permitted on the plot. Although demolition of the garages would reduce the overall impact of the proposal on the openness of the Green Belt, the Inspector considered that it is not essential either to prevent overdevelopment of the site or to demonstrate very special circumstances under Green Belt policy. The latter already exists because of the previous permissions and the lack of any change in planning circumstances.
- 1.1.8 For the above reasons, the Inspector considered the condition to be both unnecessary and unreasonable and conflicts with Government advice in Circular 11/95.

Duncan Robinson
Chief Solicitor