

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 2 PLANNING COMMITTEE**

**24 October 2007**

**Report of the Chief Solicitor**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL DECISIONS**

1.1 Site **Parkfoot Garage, 2 London Road, Leybourne**  
Appeal **Against the refusal of permission for 24 residential units,  
associated parking, access and roads.**

Appellant **Parkfoot Garage Ltd**

Decision **Appeal dismissed**

Background papers file: **PA/28/07**

Contact: **Cliff Cochrane**  
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- 1.1.1 The Inspector considered there to be 2 main issues, firstly, whether the development would seriously harm the character and appearance of the area and secondly, whether there would be a significant impact on the living conditions of occupiers of nearby dwellings.
- 1.1.2 The ambience of the area is one of low density, well set back frontage development which complements the rural scene to the south of London Road. In December 2006 on a previous appeal the Inspector noted that this part of the road had retained a semi-rural character. Despite the noise from the substantial flows of traffic passing the site, the width of the carriageway and the street lights, the Inspector agreed with his description and considered the character well worth preserving.
- 1.1.3 The appeal proposal is well in line with certain national and local policies in that it would result in a more efficient use of well-located previously-developed land for housing. Those considerations, however, are not the only ones in the determination of the appeal.
- 1.1.4 The appeal proposal would differ sharply from neighbouring frontage development in a number of ways. The dwellings on plots 17-24 would be well forward of existing dwellings to the west. The limited set back, together with the hard surfaces in front of them comprising driveway and access to garages, much reduces the opportunity for the substantial amount of greenery and other landscaping which is needed to complement the form of the established frontage development to the west. The siting of the forward-most dwellings well proud of their neighbours would make the development unduly prominent in the locality.

The Inspector considered that this visual effect would be accentuated by their two and a half storey style and their type of development is more akin to estate development than to a more spacious semi-rural setting as is the case here.

- 1.1.5 The Inspector's view was that the development would be discordant and alien in its surroundings and serious harm would be caused to the appearance and effect on character. The proposal does not accord with local and county planning policies, which reflect national policy and in Planning Policy Statement 1 that design which is inappropriate in its context should not be accepted.
- 1.1.6 On the second issue, the proposed dwellings would be at an appreciable distance from those to the north in Baywell. Two or 3 parking spaces are closer to No. 107 but the Inspector did not consider that any noise, overlooking or loss of privacy would be so great that living conditions in either the existing or the proposed dwellings would be unduly affected. There would be no significant impact upon living conditions in the surroundings and no conflict with national and local policies concerning the protection of residential amenity. He considered the effect on character to be a more compelling reason for the dismissal of the appeal.

1.2 Site **Land adjacent to Kingscot, Tower Hill, Offham, West Malling**  
 Appeal **Against the refusal of permission for the demolition of a garage and the erection of a new pair of semi-detached dwellings and a replacement garage**

Appellant **D L & J P Hitch Associates**

Decision **Appeal dismissed**

Background papers file: PA/17/07

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- 1.2.1 The appeal site lies within the Offham Conservation Area and the Local Plan allows for minor residential development, provided that proposals conserve and enhance the special character of the settlement. The Inspector considered that the network of gardens, greenery and incidental open spaces at different levels within Offham to be an integral essential part of its special character and injudicious and cumulative infilling of these spaces will unquestionably fail to conserve that character and conflict with the Local Plan policy.
- 1.2.2 The Inspector considered that the site contributes to the appearance of the conservation area and play a part in the transition from village to countryside when passing south from the main street, signalling the opening out of the village.
- 1.2.3 The pair of dwellings together with substantial parking and hard surfacing would cause the loss of most of the open character of the site. The dwellings would encroach on views of Kingscot and largely destroy its open setting, and the transition from village to countryside would be lost. Whilst the dwellings would be designed in a cottage style with a hipped roof and dormer windows, the Inspector considered that this makes no difference to the fundamental objections to the scheme. He concluded that the proposal would fail to preserve the character and appearance of the Offham Conservation Area and would harm the setting of Kingscot.

1.3 Site **Meadow Cottage, Maidstone Road, Wrotham Heath**

Appeal **Against the refusal of permission for the erection of a two-storey side extension and roof dormers**

Appellant **Mr A Palmer**

Decision **Appeal dismissed**

Background papers file: PA/25/07

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- 1.3.1 The Inspector considered the main issue in the appeal to be the effect of the development on the openness, character and appearance of the rural area, having regard to the location of the site within the Metropolitan Green Belt.
- 1.3.2 PPG Note No. 2 states that an extension to a dwelling is not inappropriate development within the Green Belts unless the additions are disproportionate, compared to the size of the original building. Policy P6/10 of the Local Plan reflects this approach. In this case the size of the original dwelling was increased by the erection of a garage. The Council estimated that the footprint area of the original dwelling would be increased by about 90% if it were to be extended now in the manner proposed. Additionally, with the extension in place, the height, scale and bulk of the bungalow would be significantly greater than exists now, even with the garage.
- 1.3.3 Whilst the garage accounts for a substantial proportion of the ground covered by the extension, the correct test is a comparison between the size of the original dwelling and that which would be created with the new extension in place. The Inspector considered that the proposed increase in site coverage, building mass and height would be disproportionate in scale to that of the original dwelling. As such the development would be inappropriate within the Green Belt and harmful for that reason.
- 1.3.4 The Inspector considered the presence of the garage to be a material consideration in the appeal. However, in terms of the main issue the impact of this proposal would be a discernible diminution in the prevailing level of openness of the area with the building being exposed and readily visible, particularly from the west. Similarly, the greater building mass, particularly with the increased height of the roof line by about one metre, would cause appreciable harm to the character and appearance of this rural area, contrary to Local Plan policy.

1.4 Site **Land at Mill Yard, Swan Street, West Malling**  
Appeal **Against the refusal of permission for erection of 2 no. 2-bedroomed houses and a commercial unit (class A1) with parking, revised access and associated works**

Appellant **Bedlar Holdings Ltd**

Decision **Appeal dismissed**

Background papers file: PA/51/06

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- 1.4.1 The appeal site is occupied by a group of buildings, which form a complex of predominantly retail and commercial units, though part of the site is unkempt and rather overgrown, where an outbuilding previously stood. Residential properties adjoin the appeal site to the east and the rear gardens of dwellings in Swan Street also bound the appeal site, where the proposed new building would be erected.

- 1.4.2 The Inspector acknowledged that the current scheme is different from the scheme that was refused planning permission, previously. It is now proposed that the existing building complex should be extended by building over the presently unused area, with two additional dwellings and a linking commercial unit.
- 1.4.3 The layout of the residential units incorporated into the current proposal has been designed to avoid intruding on the privacy of neighbours, with first floor bedroom windows, looking into the common courtyard rather than across neighbouring gardens to the west.
- 1.4.4 Nevertheless, the Inspector considered that the proposed new building would be unduly cramped on its site. The garden areas to be provided would be very small and the residential units would share the courtyard access with commercial users. The courtyard would be dominated by cars with “undercroft” parking dominating the front of the dwellings themselves. There would be inadequate space left on site for significant planting, although the trees around the site have, hitherto, been an important feature of the setting. He was convinced that the scheme as proposed would erode the open character of the appeal site and of this part of the Conservation Area and, hence, that it would harm the character of the Conservation Area as a whole.
- 1.4.4 The scheme has the merit of retaining the existing buildings on the site and, in reaching his decision the Inspector took into account the need to achieve higher densities within settlements. Even so, he was convinced that a balance needs to be struck between the different aims of increasing densities while protecting the quality of the environment, especially in sensitive locations. In this case, he was persuaded that the harm done to the West Malling Conservation Area would outweigh the benefits of the project.

1.5 Site **Wealden House, Long Mill Lane, Dunks Green**  
 Appeal **Against the refusal of permission for a replacement single storey garage and store**  
 Appellant **Mr & Mrs Handley**  
 Decision **Appeal allowed**  
 Background papers file: PA/12/07

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- 1.5.1 The proposed garage would be at the front of Wealden House, a modern detached house on the western side of Long Mill Lane. It would be larger than the existing garage in that position, and larger than a triple garage that has been permitted for the same site.
- 1.5.2 The house to which the garage would belong has a wide frontage and in this context the proposal, though larger than the existing single storey structure and permitted structure, would in the Inspector’s opinion neither dominate the house nor the road. He considered it would have little impact, and the proposed side store would equally have a minimal visual effect, being tucked between the house and the boundary. The visual effect would be confined to a very short stretch of the lane and there would not be any longer views of the development. He considered that the proposal would not affect the openness of the Green Belt and

would be appropriate development within the Green Belt. There would be no material effect on the appearance of the Area of Outstanding Natural Beauty.

- 1.6 Site **Land south-west of 1-4 Dutts Cottages, Teston Road, Offham**  
 Appeal **Against (1) the refusal of planning permission for the retention of summer house/garden amenity building and (2) an enforcement notice issued by the Council alleging the unauthorised erection of a wooden building and requiring removal of the structure and all its arisings from the site**
- Appellant **Mrs R Jeffrey**  
 Decision **Appeals dismissed and the enforcement notice upheld**  
 Background papers file: PA/ 03/07 Contact: Cliff Cochrane  
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- 1.6.1 The building sits within an enclosed plot of land which also incorporates some domestic garages but, for the most part is laid to grass. A Certificate of Lawful Existing Development was granted in May 2002 for the use of the land as domestic garden. The granting of the certificate does not however endow the land with permitted development rights for the erection of outbuildings and accordingly the erection of the garden amenity building amounts to a breach of planning control.
- 1.6.2 The main issue in determining the appeal is whether the erection of the building constitutes inappropriate development in the Green Belt and, if so, whether there are any other considerations sufficient to outweigh the harm, thereby justifying it on very special circumstances..
- The Appellant contended that the erection of the garden amenity building falls within the exception category set out at PPG2 on the basis that even if it lies outside the residential curtilage of the Old Oast it is still part of the same planning unit.
- 1.6.3 However, the Inspector considered that this is only a valid stance in the case of genuine curtilage development in close proximity to the principal residential building. The Inspector considered that such a situation does not exist here.
- 1.6.4 None of the exceptions listed in PPG2 justifies the erection of a freestanding outbuilding for domestic purposes. The Inspector therefore found the appeal development amounts to inappropriate development in the Green Belt, which by definition is harmful.
- 1.6.5 Turning to other considerations the Inspector considered that the appeal development is well screened from public vantage points and has no significant adverse impact on the character or appearance of the locality or the setting of the adjacent Offham Conservation Area. However, he considered that the fact that the building is visually unobtrusive is not by itself a good argument, as it could be repeated too often. Moreover, despite its low profile the Inspector found that the building inevitably compromises the openness of the Green Belt, referred to in paragraph 1.4 of PPG2 as being its most important attribute, by simple reason of its height and bulk, albeit to a limited degree.
- 1.6.6 The Appellant pointed out that the building had replaced a somewhat dilapidated former agricultural barn and is slightly smaller than that earlier building. However,

the removal of the previous structure brought an end to an earlier chapter in the planning history of the site. It no longer provides the Appellant with a fall back position and, accordingly the present building must be assessed afresh.

- 1.6.7 The Inspector was satisfied that the development has not led to an increase in vehicular traffic and he also noted the support the appeals have drawn from a number of local residents. However, he found neither these nor any other matters outweigh the harm to the Green Belt arising from inappropriate development. He therefore concluded that the development is not justified by reason of very special circumstances and is contrary to LP Policy P2/16 and national policy PPG2.

**Duncan Robinson**

Chief Solicitor