

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

9 January 2008

Report of the Chief Solicitor

Part 1- Public

Matters for Information

1 PLANNING APPEAL DECISIONS

- 1.1 Site **Appeal A – 1 & 3 The Street, Plaxtol**
Appeal B – 5 The Street, Plaxtol
Appeal **Appeal A – against the refusal of planning permission for the conversion of two dwellings with a rear extension**
Appeal B – a rear extension
Appellant **Appeal A – Roy Kirby**
Appeal B – Mr & Mrs Olley
Decision **Appeals allowed**
Background papers file: PA/44/45/07

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- 1.1.1 The Inspector considered the main issues in appeal A to be whether the development would preserve or enhance the character or appearance of the Plaxtol Conservation Area. In appeal B she considered the main issues to be whether the development would preserve or enhance the character or appearance of the Plaxtol Conservation Area and secondly, the effect on the living conditions of the occupiers of No. 7 The Street, in relation to light and privacy.

Appeals A & B – Conservation Area

- 1.1.2 The Inspector concluded that the proposals would have a neutral effect on the Conservation Area, and therefore its character and appearance would be preserved

Appeal B –Living Conditions

- 1.1.3 The flank wall of the extension at No. 5 would be very close to the common boundary with No. 7. Due to the existing extension at no. 7, a tunnelling effect would arise which would seriously limit the light reaching two small windows in the main rear wall of no. 7. The first floor bathroom window does not serve a habitable room and the ground floor window is a secondary window to the kitchen/dining room, which appears to have obscure glazing. The room also has large French doors in the south-facing elevation of the extension and the proposal would not therefore result in a significant harmful loss of light.

- 1.1.4 The first floor windows in the extension would face into the gardens of the appeal premises and would not directly overlook the rear garden of no. 7.
- 1.1.5 The Inspector concluded on this issue that the proposal would not have a materially harmful effect on living conditions of the occupiers of no. 7 in relation to light and privacy. As such it would not conflict with Policy P4/12 of the Local Plan.

1.2 Site **Fremlins Dell, Comp Lane, Offham**
 Appeal **Against the refusal of permission for a first floor extension over bungalow**

Appellant **Mr P Garrod**
 Decision **Appeal allowed**

Background papers file: PA/40/07

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- 1.2.1 The Inspector considered the main issue in the appeal to be the effect of living conditions at the two adjoining properties, with particular regard to sunlight, daylight and outlook.
- 1.2.2 Fremlins Dell is a modern single storey dwelling. To either side are Maple Court and Alexander House, both two- storey houses, the latter including rooms in its roof. All three are situated on sloping land, well below the level of Comp Lane.
- 1.2.3 On his site inspection the Inspector noted that Maple Court has three ground floor windows in its south- west side elevation, close to the boundary of the appeal site. He accepted that the two lounge windows would suffer a significant reduction in available daylight and in the afternoons there would be a loss of direct sunlight to these same two windows for much of the year. However, he noted that the lounge also has a wide patio window which would continue to receive largely unobstructed light from a south-easterly direction. Consequently, it appeared to him that the level of natural light within the lounge as a whole would be likely to remain generally acceptable.
- 1.2.4 In the case of the dining room, the reduction in available daylight would not be so substantial as to fail the BRE guidelines, and any loss of direct sunlight would be of short duration. He accepted that the existing level of light in the dining room may be less than ideal, but this does not justify refusing permission where the proposed development would cause only a slight worsening of these conditions.
- 1.2.5 The Inspector accepted that the view of the sky from all three windows would be reduced to some extent. However, given the relationship between the two properties, it would be somewhat inequitable in his view to expect the outlook from Maple Court across the appeal site to be preserved at the expense of otherwise acceptable proposals. In any event the gap of around 3.5m between the two buildings would be unchanged and in this case he considered this sufficient to avoid any overbearing effect or undue sense of enclosure.
- 1.2.6 Alexander House lies to the south-west of the appeal site, and would be separated from the proposed development by the width of two double garages.

Given this combination of distance and orientation, he did not consider that the occupiers of this property would suffer any significant effects.

1.3 Site **Barn adjacent to Janes Farm, Hatham Green Lane, Stansted**
 Appeal **Against the refusal of permission for conversion of
 redundant agricultural barn to a self contained residential
 dwelling**
 Appellant **Mr L King**
 Decision **Appeal dismissed**
 Background papers file: PA/32/07

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- 1.3.1 The Inspector considered that the main issue in the appeal was whether the proposal amounts to inappropriate development in the Green Belt and, if so, whether there would be any other harm to the Green Belt.
- 1.3.2 Government advice is that the re-use of buildings in the Green Belt is not inappropriate providing it accords with all the criteria in paragraph 3.8 of PPG2 *Green Belts*.
- 1.3.3 The Inspector considered that although the size of the building would remain unchanged, the converted building would have a notably greater impact on the openness of the Green Belt than its present use, due to the domestic trappings. The development would not, therefore, meet all the criteria in paragraph 3.8 of PPG2. It would amount to inappropriate development in the Green Belt. This is by definition, harmful to the Green Belt.
- 1.3.4 In addition to the harm from inappropriateness, the proposal would harm the openness of the Green Belt. The site is partially visible from Ash Lane and Hatham Green Lane. As well as altering its setting, the conversion would change the appearance of the building. The removal of the flint panels would diminish its rustic character, and the introduction of a large number of windows and roof lights would have an urbanising effect. These changes would materially detract from the visual amenity of the Green Belt.
- 1.3.5 PPS7 *Sustainable Development in Rural Areas*, provides that the re-use of buildings for economic development purposes will usually be preferable to residential conversion. A further business use would not harm residential amenity. As this has not been considered the proposed development is not necessary to prevent the building becoming derelict.
- 1.3.6 The Inspector concluded that the proposal is not acceptable given the strict control over development in the Green Belt.

1.2 Legal Implications

1.2.1 None

1.3 Financial and Value for Money Considerations

1.3.1 None

1.4 Risk Assessment

1.4.1 Not applicable

Duncan Robinson

Chief Solicitor