

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

26 March 2008

Report of the Chief Solicitor

Part 1- Public

Matters for Information

1 PLANNING APPEAL DECISIONS

1.1 Site **65 Annetts Hall, Borough Green**
Appeal **Against the refusal of permission for a 3 bedroom detached house**
Appellant **Mr J Tyler**
Decision **Appeal dismissed**
Background papers file: PA/52/07

Contact: Cliff Cochrane
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- 1.1.1 The Inspector considered the main issues in the appeal to be the effect of the proposal on the character and appearance of the area and the effect of the living conditions of the occupiers of 64 and 65 Annetts Hall in terms of sunlight and outlook.
- 1.1.2 The appeal site is a corner plot that is currently the side garden of 65 Annetts Hall.
- 1.1.3 The proposed house would be close to, and in line with no. 65 and the side elevation would be in line with the front of no. 64. Despite the lower ground level, the proposed house would be prominent and, due to its size and proximity to the road, would detract from the openness of the corner. The height, bulk and man made nature would be obtrusive in this position.
- 1.1.4 Other corner houses in the area are set at an angle to the properties on either side and the proposal would result in a limited private garden area and no. 65 would also have a smaller garden than others nearby. These aspects would also contribute to a sense of overcrowding on the site and the proposal would detract from the open regular character and appearance of the area.
- 1.1.5 The gardens of no's 64 and 65 would be overshadowed during the early afternoon. This would be particularly harmful to the occupiers of no. 65 as the garden would already be overshadowed for most of the day.
- 1.1.6 The proposed house would be to the south of no. 64 and would be a prominent feature occupying a large amount of the outlook from the garden and the main entrance. Although the proposed house would be in line with no. 65, the garden at

that house would be very small and the proposal would restrict the outlook from the garden.

- 1.1.7 The Inspector concluded that the combination of the effects described above would be detrimental to the living conditions of the occupiers of no's 64 and 65. The proposal does not respect the site and its surroundings and would be detrimental to the character and appearance of the area and living conditions of neighbours.

- 1.2 Site **Spring Cottage, Bewley Lane, Plaxtol**
 Appeal **Against the refusal of permission for the demolition of Spring Cottage and outbuildings and construction of replacement dwelling with new access, parking and turning space with landscaping and improved visibility at junction of Bewley Lane and the Tonbridge Road (A227)**
- Appellant **Gary Aldridge**
 Decision **Appeal dismissed**
 Background papers file: PA/22/07
- Contact: Cliff Cochrane
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- 1.2.1 The Inspector considered the main issues in the appeal to be:

- With regard to national and development plan policy, whether or not the proposal is inappropriate development in the Green Belt;
- The effect of the proposed development on the character and appearance of the Area of Outstanding Natural Beauty and the openness of the Green Belt; and
- If inappropriate development, whether there are any other consideration which clearly outweigh the harm to the Green Belt, by way of inappropriateness and any other harm, thereby justifying development on the basis of very special circumstances.

Green Belt/Inappropriate Development

- 1.2.2 Inappropriate development is, by definition, harmful, and very special circumstances which clearly outweigh the harm to the Green Belt by way of inappropriateness and any other harm must be demonstrated if such development is to be allowed. PPG2 advises that the replacement of existing dwellings in the Green Belt need not be inappropriate provided the new dwelling is not materially larger than the dwelling it replaces.
- 1.2.3 The replacement dwelling would be significantly larger in comparison with the original dwelling and the Inspector concluded on this issue that the proposal amounts to inappropriate development.

Character and Appearance/Openness

- 1.2.4 PPG2 also states that the most important attribute of the Green Belt is its openness. In the Inspector's opinion the building of a much larger structure on site would compromise that openness. Furthermore, the drawings indicate that a previously permitted detached garage/tractor store would not be built, but no garaging is shown for the new house and only a small integral garden store is included in the appeal scheme. Even if permitted development rights were to be withdrawn, it was the Inspector's view that it would be highly likely that there would be pressure from future occupiers for new garaging/storage which the Council may find it unreasonable to resist. Thus the effect of not continuing to construct an already permitted garage/tractor store as proposed by the appellant, would be negated.
- 1.2.5 Although the Inspector agreed with the appellants view that the existing dwelling has no significant architectural merit, as a former toll house she considered that it makes a certain historical contribution to the character and appearance of the rural area within the AONB. The size and bulk of the proposed dwelling would, to her mind, have a more urbanising effect, detracting from the landscape character of the area.
- 1.2.6 Overall the Inspector considered that the greater mass of building on the site would be detrimental to the openness of the Green Belt and the rural character and appearance of this part of the AONB. As such the proposal would not accord with Core Strategy policy CP24, nor LP policy EN4 whose objective is to protect, conserve and enhance the landscape character and natural beauty of the AONB or policy QL1, which indicates that development which would be detrimental to the character of the countryside will not be permitted.

Other considerations/Very Special Circumstances

- 1.2.7 Since the appeal was lodged the Council has granted planning permission for a dwelling in a similar position on the site. The appellant contends that the appeal proposal is only a little bigger than the approved design and that the 2 schemes would not be perceived as being materially different in the landscape. However, the approved dwelling, among other things, would have a reduced ridge height and slab levels compared with the appeal scheme and would also incorporate an integral garage. The Inspector agreed with the Council that the approved dwelling would appear less dominant in the landscape than that proposed in the appeal.
- 1.2.8 Other arguments put forward in support of the scheme include the fact that the appeal proposal would replace a poor quality dwelling with a modern house of a sustainable construction and fully insulated against road noise from the adjoining A227, and would provide an opportunity to improve the junction between Bewley Lane and the main road. The Inspector agreed with this but considered such objectives could be fulfilled by building the scheme already permitted. She did not consider that they serve as a justification for an unacceptably large dwelling on the site.

1.3 Site **Ryarsh Lane, West Malling**
 Appeal **Against the refusal of permission for a disabled persons residence**

Appellant **Mr Raymond Smith**

Decision **Appeal dismissed**

Background papers file: PA/58/07

Contact: Cliff Cochrane
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- 1.3.1 The Inspector considered the main issues to be (1) whether the development would constitute inappropriate development in the Green Belt; (2) whether the proposal would accord with national and local policy relating to development within the countryside; and (3) whether there are very special circumstances which would justify the grant of planning permission.
- 1.3.2 PPG2 "Green Belts" provides that the construction of new buildings within the green belt is inappropriate unless it is for one of the purposes specified in that paragraph. Even if development of the site could be regarded as infilling, the Inspector considered it would not be "appropriate" for the purposes of paragraph 3.4 because the site lies outside the built confines of West Malling.
- 1.3.3 The Inspector also concluded that the proposal would not accord with either national or local policies relating to development in the countryside.
- 1.3.4 Very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The construction of a new dwelling on this otherwise undeveloped site would reduce the openness of this part of the MGB. The Inspector attached substantial weight to the harm by reason of inappropriateness and to the harm to openness that would rise from this development. If the proposal were allowed she considered that there would also be harm arising from the proposal's conflict with national and local policies relating to development in the countryside, and harm to the character and appearance of the countryside.
- 1.3.5 The appellant relied on his medical circumstances and those of his wife. The Inspector acknowledged that these make the use of the stairs in their current property difficult, and that both would benefit from living in a bungalow. She also noted the appellant's desire to continue living in West Malling. However, there is no evidence that the appellant has looked elsewhere within the settlement for a suitable dwelling, or that this is the most suitable location from the point of view of the appellant's medical conditions. The Inspector was not satisfied that the construction of a bungalow on the appeal site would represent the only or most suitable possibility of providing more appropriate accommodation for the appellant and his wife. She therefore attached only limited weight to the appellant's personal circumstances.

1.4 Site **Camelot, Teston Road, Offham**
 Appeal **Against the refusal of permission for the demolition of existing police house and erection of 2 detached dwellings, a shared car port and form external parking spaces**
 Appellant **Kent Police**
 Decision **Appeal allowed**
 Background papers file: PA/57/07 Contact: Cliff Cochrane
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1.4.1 The Inspector considered the main issue to be the effect of the proposal on the character and appearance of the Offham Conservation Area.

1.4.2 The existing dwelling does not make a positive contribution to the character or appearance of the Conservation Area. The Inspector considered that the proposed dwellings would not appear cramped on the site or out of keeping with other development in this part of the conservation area. In the Inspector's view the design of the development would adequately reflect the character and materials of development elsewhere in the conservation area, would respect the site and its surroundings and would not be harmful to the character or appearance of the conservation area.

1.4.3 The Inspector was not satisfied that the increased use of the access would be detrimental to highway safety and the highway authority made no objection to the proposal.

1.5 Site **Martins, St Mary's Road, Wrotham**
 Appeal **Against the refusal of permission for extensions (front, rear and side) and alterations –single and two-storey**
 Appellant **Mr & Mrs P Garland**
 Decision **Appeal dismissed**
 Background papers file: PA/60/07 Contact: Cliff Cochrane
 01732 876038

1.5.1 The Inspector considered the main issue in the appeal to be whether the proposed development would preserve or enhance the character or appearance of the Wrotham Conservation Area.

1.5.2 Martins and Tall Trees appear to be detached properties which are mirror images of each other, However, they are connected by single-storey flat roof utility rooms on the side of each house. These are set towards the rear of both properties and cannot be seen from the wider street scene.

1.5.3 The proposal would include a forward projecting extension with a gable on the north side of the building. In the Inspector's opinion the introduction of a gable in this location would not only be an alien feature into the street scene but would also significantly erode the gap between it and the neighbouring property, no. 17 as a consequence of the increased width of the building. The new gable would also adversely affect the symmetry of Martins and Tall Trees as a mirror –image pair of properties. The Inspector therefore considered that the design of this

element of the proposal would not harmonise with the original and the extension would not appear to be subservient to the host property.

- 1.5.4 Although the extension to replace the utility room is only single-storey it would be both higher and deeper than the existing modest structure and include a pitched roof of significant proportions. This would introduce a bulky form of development immediately adjacent to the boundary with Tall Trees. In the Inspector's view the result would be a significant erosion of the gaps between the existing dwellings. Its increased size would make it more visible in the street scene and would further disrupt the symmetry of the pair.
- 1.5.5 The Inspector considered the combined effect of extending on both sides of the property would give rise to an over-complicated design. This would not only be harmful to the proportions and simplicity of the host building but would also be incongruous with other properties in the immediate vicinity. She considered that all these factors would combine to be harmful to the character and appearance of the conservation area. For these reasons she concluded that the proposed development would fail to preserve the character and appearance of the Wrotham Conservation Area, contrary to government policy as set out in PPG15, Policy CP24 of the Core Strategy, and saved policy P4/12 of the Local Plan.

Duncan Robinson
Chief Solicitor