

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

25 June 2008

Report of the Acting Chief Solicitor

Part 1- Public

Matters for Information

1 PLANNING APPEAL DECISIONS

Site **Plot at end of Ryarsh Lane adjacent to 68 Ryarsh Lane, west Malling**
Appeal **Against the refusal to grant outline planning permission for the erection of two garage blocks to provide 13 lockable car spaces in a secure compound**
Appellant **Mr D Smith**
Decision **Appeal dismissed**
Background papers file: PA/65/07

Contact: Cliff Cochrane
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The Inspector considered the main issue in the appeal to be whether the proposal would result in harm to the Green Belt or any other harm, and if so, whether this would be clearly outweighed by other considerations.

The site comprises an area of mostly overgrown land bounded to the lane by a close boarded fence about 1.8m high.

There is no reference in the relevant policy guidance note to the provision of garaging and therefore the proposal would be inappropriate development in the Green Belt. The proposed garages would be visible from the Lane and the stile and the appellant indicates that the garage compound would be provided with security fencing, CCTV and street lighting. All of this, together with the comings and goings associated with the use of garages would represent an undesirable extension of the urban influence of West Malling into the countryside to the detriment of the character of the area. In addition the presence of the garages would detract from the openness of the Green Belt.

The proposal would result in an increase in the number of vehicles taking access along the Lane thereby increasing inconvenience or danger to pedestrians and drivers of vehicles. In the Inspector's view the benefit that some residents may derive from being able to park in the proposed garages would be far outweighed by the harm caused by the proposal to the Green Belt, the character and appearance of the area and the safety and convenience of those using Ryarsh Lane.

Site **20 Churchfields, West Malling**
 Appeal **Against the refusal of permission for the re-building of the roof of the existing bungalow to create a chalet bungalow**
 Appellant **Richard Evans**
 Decision **Appeal allowed**
 Background papers file: PA/04/08

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The Inspector considered the main issue in the appeal to be the effect of the proposal on the living conditions of the occupiers of No. 21 Churchfields as regards light reaching their ground floor flank window.

No. 20 is a detached bungalow and no. 21 lies to the north-west and as originally built had a "tunnel back" rear addition common in properties of its age. This created a narrow wall between rearward projections of neighbouring houses enabling natural light to reach the centre of the building through a rear-facing window. A rear addition at no. 21 has resulted in that wall being felled at ground floor level and a window has been placed in the flank wall facing no. 20 to light a room that is described as a dining room. A full height window has been installed.

The window of no. 21 would benefit from the removal of the eaves of no.20 which, with the attached guttering, extend to within about 0.36m of the wall; however the increased height of the flank wall would narrow the angle from which natural light would reach the dining room. The Inspector considered that the proximity of the window to the flank wall of no. 20 is such that the outlook from the dining room would not be materially changed by the proposal.

Policy P4/11 of the Local Plan indicates that regard should be had to the Building Research Establishment (BRE) "*Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*" when assessing development proposals. The LP has now been superseded by the Core Strategy of the LDF and whilst this makes no direct reference to the BRE the Council indicates that its adopted supplementary planning documents make reference to BRE guidance and the Inspector considered it reasonable to have regard to that national guidance.

The Inspector considered that the BRE document provides helpful guidance but that its numerical conclusions should be interpreted flexibly taking account of all of the circumstances of the proposal. In this case the existing building at no. 20 already severely restricts the amount of natural light received by the dining room. That room receives some natural light from within the building but he considered it likely that at most times of the day artificial lighting would be needed, and this would be more so if a blind is used to maintain privacy. Whilst the proposal would reduce the light from the window the Inspector considered that this would not materially affect the living conditions within the dining room and its effect would not be sufficiently harmful to justify the refusal of planning permission for the proposal.

Site **The Cottage, 37 Swan Street, West Malling**
 Appeal **Against the refusal of permission for part change of use to form café (Class A3) at ground floor level including minor**

alterations to building and creation of shop frontAppellant **Fishbone Ltd**Decision **Appeal allowed**

Background papers file: PA/68/07

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The Inspector considered the main issue to be the effect of the proposal on the living conditions of nearby residents as regards noise, smell and general disturbance.

The proposal includes a number of minor changes to the exterior of the building that the Inspector considered would at least preserve the character and appearance of West Malling Conservation Area. It also shows the removal of the fenced bin store area from the front part of the site that in his view would enhance this part of the CA.

It is intended to open the café from 08.00 until 17.30 and it appeared to the Inspector that this would be likely to coincide with general activity along and around Swan Street connected with nearby businesses. The side way is already used for deliveries and the storage and collection of refuse and, bearing in mind the wall between the properties, the Inspector considered that the activity associated with customers accessing the café would not be likely to result in disturbance that would unacceptably harm the living conditions of No. 41.

All hot food will be cooked in the Swan. This arrangement would prevent the need for kitchen extraction equipment in the appeal building but it is likely that the café would require general extractor fans or air conditioning. However, this would not be likely to result in unacceptable smells reaching nearby residents and subject to details being approved by the Council the Inspector considered that such equipment would not be harmful to living conditions. Noise levels from within the building would not be sufficient to justify the refusal of permission.

The plans show three parking spaces in front of the café and the appellant indicates that these would be for staff and occupiers of the first floor flat. The Inspector considered that car movements associated with the staff of the café and residents are not likely to result in unacceptable levels of disturbance.

It is intended that the refuse storage area for the Swan would be moved from the access way into the rear garden area next to the boundary with the adjacent car park. The Inspector considered this would be beneficial to the occupiers of No. 41 Swan Street by reducing activity at the front of the appeal building, especially in the evenings and at night.

Residents concerns were noted about disturbance and overlooking arising from the current use of The Swan's rear garden. However, the garden is not within the appeal site and the Inspector considered that the proposed café is not likely to result in unacceptable disturbance from the use of that area.

Site **Woodland Steep, Sevenoaks Road, Ightham**Appeal **Against the refusal of permission for an extension to
"Woodland Steep" to form a two storey dwelling**Appellant **Mr & Mrs Bowman**Decision **Appeal dismissed**

Background papers file: PA/06/08

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The Inspector considered the main issue to be whether the proposal would be inappropriate development within the Green Belt and, if so, whether there are other considerations sufficient to clearly outweigh the harm thereby justifying it on the basis of very special circumstances.

Both parties accepted that the development was inappropriate development. Planning permission was granted in August 2004 to extend the existing bungalow sideways, which is now under construction. This proposal together with that approved would increase the volume of the bungalow by around 280%.

The property is set back from and above the main road on a hillside and is generally well hidden by trees and vegetation. However, glimpses of it can be seen and it is seen by those approaching it. The proposal would add a first floor which would significantly increase its bulk, mass and height, introducing dormer and other first floor windows. In the Inspector's view the overall character and appearance of the bungalow would be noticeably changed. Therefore having regard to the modest size of the original dwelling, The Inspector considered that cumulatively the existing and proposed extensions would be out of proportion with the original structure. The original bungalow would be lost within two very large extensions.

As the proposal would result in a disproportionate addition over and above the size of the original dwelling it would be inappropriate development in the Green Belt. The most important attribute of Green Belts is their openness. The Inspector considered that the openness would be reduced, causing further harm to the Green Belt and would undermine the policies that seek to protect it.

Ian Henderson
Acting Chief Solicitor