

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 2 PLANNING COMMITTEE**

**24 February 2010**

**Report of the Chief Solicitor**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL DECISIONS**

- 1.1 Site **1 Epsom Close, West Malling**  
Appeal **Against the refusal of permission for a first floor side extension to bedroom**  
Appellant **Mr Tim Ford**  
Decision **Appeal dismissed**  
Background papers file: PA/35/09

Contact: Cliff Cochrane  
01732 876038

The Inspector considered the main issue in the appeal to be the effect of the proposal on the character and appearance of the surrounding residential area.

The appeal property is a semi-detached 2 storey gable-ended house with a single storey element to the side, located on the corner of Epsom Close and Sandown Road. Planning permission has been granted for a two storey addition over part of the single storey element. The appeal proposal would provide a two storey extension over the whole of the single storey part of the house, bringing it close to the boundary with the footway on Sandown Road.

The appeal site is prominent in views from Sandown Road. Houses on either side of Sandown road in the vicinity of the site have their two storey parts well set back from the road, and this provides a spacious quality to the street scene, aided by the fall in ground levels which, when looking to the north-east from Sandown Road, adds to a feeling of openness.

The proposal would result in a blank two storey gabled wall close to the footway, which would present a forbidding façade in full view of users of the road and footway. It would impede views up and down Sandown Road, and fail to respect the spacious relationship to which the Inspector referred above. The closer position of the two storey element to the footway would be materially different and significantly more harmful than the extension already allowed.

Whilst the proposal would amount to a substantial addition to the dwelling, the Inspector did not consider that it would appear over-developed, as there would still

be adequate space around the dwelling. But this does not outweigh his concerns about the effect of the proposal on the street scene.

The Inspector therefore conclude that the proposal would damage the character and appearance of the surrounding residential area and would conflict with Tonbridge and Malling Borough (TMB) Council Core Strategy Policy CP24 and TMB Local Plan Policy P4/12, both of which, amongst other things, require development to respect the site and its surroundings.

The Inspector weighed in the balance of arguments the benefit that the proposal would bring in providing additional accommodation for the appellant's family and that the proposal would be easier to construct than the approved extension, but these did not outweigh his concerns. He also had regard to the absence of local objection, but this was not sufficient to alter his conclusion.

- 1.2 Site: **Land south of Walnut Tree Farm, Addington Lane, Trottiscliffe**  
 Appeal **Against the refusal of permission for the use of land for livery purposes incorporating the erection of new stables, provision of a 60m x 20m manege and provision of hardstanding for access, parking and turning**  
 Appellant **Mr D Dryden**  
 Decision **Appeal allowed**  
 Background Papers file : PA/26/09 Contact: Cliff Cochrane  
01732 876038

The Inspector considered the main issues to be:

- i) the effect of the proposal on the character and appearance of the surrounding area which lies in the Metropolitan Green Belt and the Kent Downs Area of Outstanding Natural Beauty (AONB), and
- ii) the effect of the proposal on protected species of wildlife.

### **Reasons**

The appeal site comprises a large open field to the south of Addington Lane, and to the east of the village of Trottiscliffe. The site lies in the open countryside, clearly outside of the built up limits of the village. The Council does not dispute that the stables would be small scale, and therefore they would not amount to inappropriate development in the Green Belt as defined by Planning Policy Guidance Note 2: Green Belts (PPG2). The manège would comprise an area of some 60m by 20m, located adjacent the western boundary of the site. PPG2 says that engineering operations are not inappropriate if they maintain the openness of the Green Belt and do not conflict with the purposes of including land within it. The manège would be constructed at ground level and enclosed by what the

Inspector considered to be a low-key 1.2m post and rail fence, would maintain openness, and the use would not conflict with any of the purposes for including land within the Green Belt.

However, the advice in paragraph 3.15 of PPG2 says that the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt. Other policies, including Policies C3 and CC6 of the South East Plan (SEP), and Policy CP7 and CP24 of the Tonbridge and Malling Borough Core Strategy (CS), as well as saved policies in the Tonbridge and Malling Local Plan Borough Local Plan (LP) aim to protect the AONB or the character and appearance of the countryside.

The advice in Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) is that planning authorities should develop policies supportive of horse related enterprises which maintain environmental quality and environment character. Saved LP Policy P6/13 provides that stables will be permitted provided that there is no adverse impact on the character of the countryside. CS Policy CP14 also allows for certain kinds of development in the countryside, including predominantly open recreation uses together with essential built infrastructure, or any other development for which a rural location is essential. The Inspector considered that the proposal is consistent with this policy.

The amended plan provides for a compact U-shaped stable. A hedge along the roadside boundary would shield much of the stable block from public view, even in winter, although the Inspector accepted that the roof would be visible from the lane and from more distant houses to the north. Even so, he considered that the design of the stables would be appropriate in a countryside location, and because of the extensive shielding, the cumulative visual impact of the stables, manège and hardstanding would not be significant.

The Council also argues that the proposal would lead to the degradation of the field through overly intensive grazing. The appellant refers to the British Horse Society's pasture guideline of 0.44 ha per horse, and as the stables would accommodate a maximum of 7 horses and the field is some 4.4ha, that guideline would easily be met. He accepted that additional paraphernalia often associated with horse related recreation may result from the proposal, but again, he considered that it would not have a significant visual impact.

The Inspector noted the Inspector's findings in the appeal decision for the proposed conversion and extension of a building at Walnut Tree Farm to the northwest of the current appeal site but he considered that the two cases can be readily distinguished because of the different site characteristics, and the nature of the two developments. He therefore concluded that the proposal would not have a harmful effect on the character and appearance of the surrounding area, the Green Belt or the AONB, and would not conflict with the development plan policies to which he referred.

The Parish Council referred to the presence of greater crested newts, a protected species under Schedule 5 of the Wildlife and Countryside Act 1981 as amended and Regulation 39 of the Habitats Regulations 1994. Two breeding ponds have been identified in a mitigation report prepared in connection with a proposed expansion of Wrotham Quarry. These ponds are about 300m to the south of the nearest part of the manège, and were found to support small newt populations.

Circular 06/05 Biodiversity and Geological Conservation- Statutory Obligations and their Impact within the Planning System says that it is essential that the presence or otherwise of protected species, and the extent to which they may be affected by a proposal is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision. It also goes on to say that bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.

The Inspector was referred to a letter from English Nature (EN) to the Council in relation to another application, where EN say that Greater Crested Newts can travel up to 500m from breeding ponds, and that land within this distance may form part of the terrestrial habitat. However, the Wrotham Quarry mitigation strategy notes that mowed grass fields offer little shelter value to newts, and would be unlikely to be used by them in preference to sheltered vegetated land. The Inspector noted on his visit that there were extensive belts of thick hedgerow and a small woodland which border the site, whereas the application site is a level, closely mowed field offering no shelter. He therefore considered that the proposal would be unlikely to affect the small population of newts.

The Inspector noted on his visit that a new pond to the east of the appeal site has been constructed, which assume has been done as part of the mitigation strategy for the quarry extension. Whilst the strategy aims that the pond should be “newt-friendly”, he did not know whether newts are present.

In these circumstances he considered that there is insufficient likelihood of a protected species being affected by the proposal, and that there would not be a conflict with CS Policy CP8 or LP Policy P6/12, both of which include aims of protecting wildlife.

1.3 Site: **Wealden House, Long Mill Lane, Dunks Green, Plaxtol**  
 Appeal **Against the refusal of permission for the erection of an  
 annexe, games room and triple garage including front  
 boundary wall and entrance gates**

Appellant **Mr Howard Handley**

Decision **Appeal dismissed**

Background Papers file : PA/32/09

Contact: Cliff Cochrane  
 01732 876038

The Inspector considered the main issues to be:

- a) whether the proposal constitutes inappropriate development in the Green Belt;
- b) its effect on the openness of the Green Belt and on the character and appearance of the area, and
- c) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

The site is occupied by a large detached dwelling and garage of modern design in a hamlet comprising a mix of dwellings of various ages, types and sizes. The site lies in the Metropolitan Green Belt, and the advice in Planning Policy Guidance Note 2: Green Belts (PPG2) is that building in the Green Belt is inappropriate with certain exceptions. One of those is the limited extension, alteration or replacement of existing dwellings. Paragraph 3.6 goes on to say that provided that it does not result in disproportionate additions over and above the size of the original building, the extension or alteration of dwellings is not inappropriate in Green Belts.

In this case the proposal would replace an existing double garage, located in a forward position to the side of the house. The Council says that the footprint of the new extension would amount to 80% of that of the existing house. However, the Inspector considered that the footprint is not the only relevant indicator of size. The existing house has three floors, including some room in the roofspace. He considered that floorspace is an important indication of size, and in his estimation, the proposed extension would be well over half the size of the existing dwelling.

In saying that, an existing double garage is to be removed, which he understood to have been built at the time of the house. Although it is detached, the close relationship between the garage and the house means that it should be taken into account in assessing size. Taking that into account, he estimated that the increase in floorspace would still be over 45% of the size of the original. The proposed dormers on the front elevation of the existing dwelling would also result in an increase in the building. In the absence of any local policy dealing with the size of extensions, he considered that the proposal would be a disproportionate addition over and above the size of the original dwelling and is therefore

inappropriate development, which PPG2 says is, by itself, harmful to the Green Belt.

The extension would be forward of the house and close to the boundary with the road that runs through Dunks Green. With rooms in the roofspace, the height and length of the extension would be highly noticeable and would inevitably result in a loss of openness, which PPG2 notes is the most important attribute of the Green Belt. The addition of a boundary wall would also contribute to a loss of openness.

The Inspector also shared the Council's concerns that the proposal would be harmful to the street scene. Whilst he did not agree that it would amount to over-development, having regard to the large size of the plot, he considered that even with a dropped gable, the combination of extension's closeness to the road, and its height, width and depth would create a prominent and intrusive building that would be out of character with the more restrained layouts elsewhere in the hamlet.

In respect of the proposed enclosures, the area is characterised by open frontages or low walls, fences and hedges. The closest example to the appeal proposal that he noted on his visit was the metal gates to Maplecroft, but these are well set back from the highway, and are abutted by large trees and the remainder of the large highway boundary is a more characteristic beech hedge.

Notwithstanding proposals to plant behind the fence, the Inspector considered that the proposed high brick piers and wide, high metal gates would inject a highly suburban form of development which would be at odds with the rural character of the area. He therefore found that the proposal would conflict with saved Tonbridge and Malling Core Strategy Policies CP1 and CP24, which respectively seek high quality development and development which respects the site and its surroundings.

- 1.4 Site **Dianella, North Meadow, Offham**  
 Appeal **Against the refusal of permission for the construction of a single storey four bedroom house to the north of Dianella**  
 Appellant **Mr G Goodwin**  
 Decision **Appeal allowed**

Background Papers file : PA/31/09

Contact: Cliff Cochrane  
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The Inspector considered the main issues to be the effect of the proposal on the setting of the adjacent Grade II listed building and on the character and appearance of the wider area.

The appeal site forms the side garden of a detached house on the west side of North Meadow. To the north of the appeal site is a listed building, Walnut Tree

Cottage, which has been divided into two dwellings. It dates from the 16<sup>th</sup> century and is constructed with exposed timber framing with plaster infilling with a slate roof. Rear extensions of varied design have been constructed to both of the dwellings which comprise the listed building.

The building has extensive rear gardens, and to the north, it abuts open fields. The proposal would infill much of the gap between Dianella and the listed building. Advice on the setting of listed buildings is given in Planning Policy Guidance Note 15: Planning and the Historic Environment (PPG15). At paragraph 2.17, it notes that the setting may be limited to obviously ancillary land, but may often include land some distance from it, and encompass a number of other properties. It goes on to say that the setting of individual listed buildings very often owes its character to the harmony produced by a particular grouping of buildings (not necessarily all of great individual merit) and to the quality of the spaces created between them.

Whilst historically Walnut Tree Cottage may have been set apart from other buildings, Dianella, a modern dwelling has been sited fairly close to it. The appeal site looks like a side garden and is an obvious part of the curtilage to Dianella. Whilst views of hills and trees can be seen as a backdrop to the site from immediately in front of the site, the cricket ground and from Church Road, the Inspector did not regard them as being important and better views can be obtained from nearby. Unlike the land to the north of Walnut Tree Cottage the site does not contribute significantly towards a rural setting to the listed building.

The front elevation of the proposed dwelling would be set well back from that of Walnut Tree Cottage, and because of the shape of the house, the part nearest to the listed building would be about 7.5m behind its front elevation. There would be a gap of some 4.8m between the closest parts of the respective buildings, and the Inspector considered that this relationship would be satisfactory to preserve the special identity of Walnut Tree Cottage. The proposed dwelling would be lower than the listed building, and its smaller mass would be broken up into two parts, the rearmost being lower, with a hipped roof which would ensure that it would not compete with or dominate the listed building.

The Inspector also had regard to the planning history of the site, which includes several permissions for dwellings on the site, and the more recent refusals, which did not turn on the principle of the development, but rather on the detailed design of the proposed house. This reinforced his conclusion on this issue that the proposal would not materially harm the setting of the listed building, or conflict with South East Plan Policy BE6 which seeks to protect the historic environment.

The proposal would infill a gap in a line of dwellings of various sizes and designs. The site does not lie in a conservation area, nor are there any other designations in respect of character or appearance which apply to the site. In the Inspector's

view, the proposal would be well designed and would reflect vernacular architecture in the area. The proposal would relate well to the line of dwellings in North Meadow in terms of height, bulk, position and design. He therefore found that the proposal would not harm the character and appearance of the area, nor conflict with South East Plan Policy CC6 or Tonbridge and Malling Borough Core Strategy Policies CP13 and CP24, all of which deal with design and character and appearance.

The Inspector had regard to the concerns expressed by local residents concerning pedestrian safety, loss of light and the effect on the stability of Walnut Tree Cottage, but none of these, either on their own or cumulatively altered his findings that the appeal should be allowed.

**Ian Henderson**  
Chief Solicitor