

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 2 PLANNING COMMITTEE**

**19 January 2011**

**Report of the Legal Services Partnership Manager**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL DECISIONS**

- 1.1 Site **East side of former Arnolds Business Park, including 51 & 57 Branbridges Road, East Peckham**
- Appeal **Against the refusal of permission for redevelopment of site to provide Class B1 office building (920 sq m), a class B1 light industrial unit (2,154 sq m) and three units for Class B8 storage and distribution use (1.565 sq m), creation of new access, demolition and part replacement of 57 Branbridges Road**
- Appellant **Civils Contracting Ltd**
- Decision **Appeal dismissed**
- Background papers file: **PA/32/10** Contact: **Cliff Cochrane**  
**01732 876038**

The Inspector considered the main issues to be (i) the character and appearance of the area; (ii) the living conditions of the occupiers on No 55 Branbridges Road with particular regard to the effect on outlook; (iii) the setting of No 51 Branbridges Road, a Grade II listed building; (iv) highway safety within the site; and (v) whether the loss of a dwelling house is justified by the proposed development.

**Reasons**

The site is located within a predominantly industrial area that extends either side of Branbridges Road. There are new industrial/ warehouse units immediately to the south while immediately to the north lies the River Medway, beyond which are more commercial premises. To the east lies open land within the Green Belt and a dual carriageway road (A228). The site is unused, save for a few vacant buildings; the last use was for storage and distribution (Class B8). Photographs of the site show it to have been used primarily for the storage of containers, many being double stacked. There is a public footpath that runs through the site although its route is not defined on the ground. To the west lies No 51 Branbridges Road, a Grade II listed building. This is in the appellants' ownership

but, notwithstanding the site address on the appeal form and decision notice, lies outside the appeal site.

*Effect on the character and appearance of the area*

The site lies within an area identified in Policy E1 of the Council's Development Land Allocations Development Plan Document (DLA DPD) as an area suitable for uses within Classes B1, B2 and B8. Policy CP24 of the Council's Core Strategy (CS) requires new developments to be designed to respect the site and its surroundings. The principle of the development now proposed is therefore acceptable; it would respect the commercial character of the area. On the southern boundary the proposed offices and Unit 4 would be close to the large-scale buildings within Archers Park and they would be in keeping with this established character.

CS Policy CP24 also requires the conservation and enhancement of the environment within river corridors. In this case the proposed units close to the River Medway (Units 1-3) would be very large and would not respect the scale of other developments near the river. The public footpath that currently crosses the site would be re-routed adjacent to the river. However, within the site and for a distance of over 60m it would run between the river and the backs of the proposed units. These would form a tall, continuous barrier very close to the river and the re-routed footpath. Only 8m would be available to accommodate the footpath and new planting so the units would be likely to remain highly visible. They would visually dominate the footpath and be seriously harmful to the character of the river corridor.

The site itself would be developed to a high density; the only planting of any consequence would be within the odd corners that could not readily be developed. This would give the site an appearance of being overdeveloped which would be out of keeping with the character of the area. The re-routing of the public footpath so that it would run adjacent to the river, thereby increasing public access to the riverside, would be beneficial. However, due to the scale and siting of the storage units the development would fail to accord with Policy CP 24 of the CS and Policy E1 of the DLA DPD.

*Effect on the living conditions of the occupiers of No 55 Branbridges Road*

Nos 55 and 57 are a pair of semi detached houses sited to the east of the site; No 57 lies within the site and would be demolished as part of the development. It would be replaced by a small cycle store that would replicate the design of the northern half of the existing house, albeit with a narrower width. No 55 lies outside the appeal site and so would continue in residential use. It is accessed through the appeal site and the photographs show that when the site was used for container storage, that storage took place immediately adjacent to its curtilage.

The proposed development would result in the removal of that open storage, although it would be replaced by car parking along the western and southern boundaries and storage units to the north. While the appellants have stated that the comings and goings from this car park would be relatively limited, there is no mechanism to control how the parking would be organised and used by future occupiers. Concerning the proximity of Unit 4, this would be a substantial building, equivalent in height to a 3 storey house but with a width of over 50m. However, this unit would be sited to the south of No 55 and the house has no windows directly facing in that direction; at present No 57 is to the south. The new unit would only be visible at an oblique angle from its west facing windows and there are other main windows to the north and east. The garden of No 55 lies to the north of the house, away from Unit 4. The house lies within an industrial/commercial area and residents would be familiar with the commercial activity associated with the open storage of the containers.

The substantial scale of the proposed unit needs to be weighed against the benefits of the removal of storage containers close to the property. In these circumstances, the living conditions of the occupiers of No 55 would not be unacceptably harmed by the development. There would be no undue conflict with Policies CP1 or CP24 of the CS.

*The effect on the setting of the listed building*

The former Joiner's Workshop was Grade II listed in April 2010. It lies immediately outside the appeal site, being surrounded by the site on three sides. The proposed re-routing of the public footpath would take it around the building and within a couple of metres of its walls. The car parking would be set away from the building and be separated by some limited landscaping which would reduce the visual impact of the parked vehicles. The building would be visible from all directions and members of the public walking through the site would have good views of all sides of it. From both the south west and from the north, which would be the main viewpoints for walkers on the rerouted footpath, it would be seen at close quarters without vehicles in the foreground.

This benefit needs to be considered in the light of the proximity of Unit 3. This unit would be sited only a little over 10m away and the scale of this building would visually dominate the listed building. The suggested cladding of the unit would not overcome the harm arising from its scale and siting. The removal of the containers would undoubtedly be beneficial to its setting, although as these are not fixed their visual impact would be likely to be intermittent. Overall, on this issue the Inspector concluded that the development would fail to respect its surroundings or the setting of the listed building. This would be both harmful and contrary to Policy CP24 of the CS.

### *Effect on highway safety*

There are two strands to the Council's fourth reason for refusal; HGV manoeuvres within the site and conflict with users of the public right of way. Concerning HGV movements, the swept paths show how tight the site is. Some of the HGV parking bays, such as the westernmost bay outside Unit 4, would involve reversing manoeuvres to enter and then a longer manoeuvre (not shown on Drawing No 9512 HGV04) to leave the site. While the HGV parking bays can all be accessed within the internal road system, some of the necessary reversing manoeuvres appear to be quite lengthy. The use of the bay at Unit 1 would be particularly difficult to access although exiting that space would be straight-forward. The plans submitted with the appeal also show some of the indicative planting to be optimistic and in conflict with some manoeuvres. Overall, the Inspector shared the Council's concerns that due to the tight layout within the site, the manoeuvring of HGVs would give rise to highway safety concerns. This would be contrary to Policy CP24 of the CS.

Concerning users of the public footpath, the present situation is clearly unacceptable in that there is conflict throughout the site between commercial vehicles and pedestrians. If the path were to be formally diverted to the route shown on Drawing No 529.03.Rev H, there should be no conflict between footpath users and vehicles within the site. While HGVs manoeuvring around Unit 3 could be within about 3m of the path, it would be possible to provide bollards or some other means of protection. This could be the subject of a condition. There is also room within the site to relocate the path further from the HGV parking space. The re-routing of the footpath would be beneficial to highway safety within the site.

### *The loss of No 57 Branbridges Road*

Policy E1 of the DLA DPD says that in the areas safeguarded for employment uses, proposals for non-employment uses will not be permitted. This is an existing dwelling within the employment area. It is currently vacant, but previous occupiers have undoubtedly suffered from various impacts, such as noise, dust and loss of outlook, associated with the commercial use of the adjoining land. The Inspector already concluded that the benefits of the development would outweigh the limited harm to the occupiers of No 55. However, he saw no virtue in keeping a house in such an unsuitable location. The Council is concerned that it would only be demolished to allow the provision of car parking and a cycle and maintenance store. However, it would also allow the construction of Unit 4. If the house were to remain, then that unit would have an unacceptable impact on the living conditions of the occupiers No 57, with particular regard to the impacts on outlook and sunlight. The outlook from the house and garden would be dominated by the building and the garden would lose most of its sunlight for much of the day. In these circumstances, the loss of this dwelling would enable better use to be made of land allocated for employment purposes. He did not consider that this would give rise to unacceptable conflict with Policy E1.

## **Conclusions**

Overall, the Inspector concluded that the development would be harmful to the character and appearance of the area, and in particular to the river corridor. It would be harmful to the setting of a listed building and would be likely to result in poor conditions of highway safety within the site. Together this amounts to a considerable amount of harm. He took account of the benefits of the scheme, including the provision of new commercial units; the re-routing of the public footpath to open up more of the riverside and provide a safer route through the site; and the removal of containers from close to the listed building and a house. He also concluded that the development would not result in unacceptable harm to the living conditions of the occupiers of No 55 Branbridges Road and that the loss of No 57 Branbridges Road would be acceptable. However, these other material considerations do not outweigh the identified harm and he concluded that the development would not accord with the development plan.

**Adrian Stanfield**

Legal Services Partnership Manager