

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 2 PLANNING COMMITTEE**

**03 August 2011**

**Report of the Chief Solicitor**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL DECISIONS**

Site: **East Street, Addington**  
Appeal **Against the refusal of permission for 3 x 3 bedroom detached houses and associated detached garages**  
Appellant **Mr R Hayward**  
Decision **Appeal dismissed**  
Background Papers file : PA/02/11

Contact: Cliff Cochrane  
01732 876038

The Inspector considered the main issues in the appeal to be:

- whether the proposal would be inappropriate development for the purposes of Planning Policy Guidance Note 2: Green Belts (PPG2) and development plan policy;
- the effect of the proposed development on the openness of the Green Belt and the purposes of including land in it;
- the effect of the development on the character and appearance of the Area of Outstanding Natural Beauty (AONB) and the visual amenities of the Green Belt;
- if the development is inappropriate, 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 and
- whether the proposal would constitute a sustainable form of development in the countryside.

**Reasons**

*Whether inappropriate development*

Paragraph 3.4 of Planning Policy Guidance Note 2: Green Belts (PPG2) indicates

that the construction of new buildings in the Green Belt is inappropriate unless it is for certain categories of development. The proposed residential development does not fall within these categories and would therefore constitute inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt. The proposed development would also conflict with policy CP14 of the Tonbridge and Malling Local Development Framework Core Strategy which restricts development in the countryside.

#### *Effect on openness*

The site appears to be part open land and part used for scrap yard purposes. It is located next to a recently developed site known as The Willows. This adjoining development, and the appeal site, is located within a rural setting.

The proposed housing development would increase the loss of openness in the Green Belt because of the introduction of substantial built development. Although the proposed dwellings would only be as big as the smallest dwelling on the Willows site, they would still have an unacceptable impact on the openness of this sensitive Green Belt location. The Inspector accorded significant weight to the harm resulting from the increased loss of openness.

#### *Character and appearance*

The proposed development would result in the encroachment of built development into the countryside. It would detract from the natural beauty of the AONB and would fail to preserve or enhance the quality of the countryside contrary to Core Strategy policies CP1 and CP24.

#### *Whether very special circumstances exist*

The appellant claims that the site is an existing and lawful scrap yard and storage for motor vehicles and within a cluster of developments. The site was purchased from the original scrap yard owners around twenty years ago and was known as scrap yard 1 and scrap yard 2. The appeal site is based on scrap yard 2.

The appellant informed the Inspector that development at both the adjoining Willows site and nearby Meadows site was argued as development under exceptional circumstances. It is contended by the appellant that special circumstances should also apply to the appeal site because of the existing non-conforming use and that the appearance of the site has a negative impact on the rural and AONB locality and existing residential development. Also that three detached properties and associated garages would have a vastly improved impact both visually, in terms of traffic generation and environmentally on the Metropolitan Green Belt compared to the existing scrap yard. The appellant has submitted a copy of an Environment Agency permit in support of his claim that the appeal site has lawful use as a scrapyard.

The Willows site was based on scrap yard 1 and was granted permission for housing (ref: TM/08/03218/FL) subject to conditions. Condition 7 stated that: "All

land within the red line application site, including that which lies to the north of the close boarded fence shown on drawing no. 553/08-LDO1RevP7, shall be cleared of all chattels, structures and other paraphernalia and any scrap yard use shall cease within three months of the date of this consent and so retained thereafter”.

Condition 8 stated that: “Details of a supplementary landscaping scheme covering land on drawing 553/09/SP01 Rev P1 north of the vehicular right of way, and the area of land hatched in green, shall be submitted to the Local Planning Authority for approval within one month of the date this decision and shall be implemented during the first planting season following approval of the scheme by the Local Planning Authority. Any trees or shrubs which are removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of a similar size and species, unless the Authority gives written consent to any variation”.

The plan from the Environment Agency dated 9 April 2009 indicates that the scrap yard that was subject to a valid licence and registration was located at the southern part of the site. Much of this area is included within permission ref: TM/08/03218/FL and is therefore subject to conditions 7 and 8 above. The Council indicates that it is pursuing enforcement investigations in relation to these two conditions.

In view of the existence of these undischarged conditions little weight can be accorded to removal of the scrap yard use on that part of the appeal site that is coincident with permission ref: TM/08/03218/FL. Any additional land with a claimed lawful scrap yard use within the appeal site would be small in area and the cessation of its use would result in limited benefits in terms of the reduction in traffic generation and improvement of the environment.

#### *Sustainability*

The appellant considers that the proposal would be no less sustainable than development at the Willows, Meadows and other residential property in the vicinity. Nevertheless, the site would not have good access to shops or community facilities. It is not well served by public transport and the occupants of the proposed houses would inevitably rely upon private vehicles. The proposal would conflict with national planning policy in Planning Policy Statement 3: Housing and PPS7, together with Core Strategy policy CP1 which, amongst other things, seeks to reduce the need for travel.

#### **Conclusion**

The harm by reason of inappropriateness, increased harm to the openness of the Green Belt and from the unsustainable location of the proposed development, would not be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Site **Cob Trees, Hatham Green Lane, Stansted**  
 Appeal **Against the refusal of permission for a replacement dwelling  
 with revised elevations to that approved under TM/10/02518**

Appellant **Mr Nathan King**  
 Decision **Appeal dismissed**

Background papers file: PA/13/11

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 rural locality.

### **Reasons**

The appeal dwelling of Cob Trees was under construction at the time of the Inspector's site visit. It is located within a cluster of dwellings at the edge of the village. The front elevation appears prominent at a lower level when approached from the west, down the slope of Hatham Green Lane.

The new building is seen in the context of Hatham Green Cottage and The Beeches. These dwellings are of a domestic scale. They are characterised by the use of traditional external materials, including tile hanging, tiled roofs and brick chimneys.

The reconstructed Cob Trees building has a significant bulk and massing. The proposed use of cream render and green oak at first floor level would make the front elevation appear overly strident and further emphasise its prominence in the street scene, to the detriment of the character and appearance of this group of rural dwellings. In this respect the Stansted Parish Council has objected to the proposed design because it does not sit within the vernacular of the village envelope that Cob Trees occupies and within the group of three houses that were all hung with peg tiles.

The proposed external materials of green oak and cream render would not complement the external materials used in the neighbouring dwellings that are part of the immediate setting of Cob Trees. Although a range of materials is to be seen elsewhere in the village, this part of Stansted has a locally distinctive rural character which would be unduly harmed by the introduction of the proposed external materials.

The proposal would conflict in this respect with policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document. It would conflict with Core Strategy policy CP24 that seeks to ensure that development is designed to respect its site and its surroundings. It would also conflict with paragraph 34 of PPS1: Delivering Sustainable Development, which indicates that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way in which it functions, should not be accepted.

The appellant submits that the Council allowed a similar design and use of materials when approving a first floor extension to the building and a double garage under ref: T/10/01508/FL. However, during construction work the building was demolished for structural reasons. Demolition of the building constituted a material change in circumstances. Prior to its demolition the building was subject to permitted development rights which would have allowed the appellant to alter the external materials without the need for permission.

The officer report to the Area 2 Planning Committee of 13 September 2010 (ref: TM/10/02518/FL) confirms that the Council regarded the elevation details proposed in application ref: TM/10/01508/FL as something that it could not object to. In response to the appellant's claim for costs the Council submits that the fall back position of permitted development rights was a material consideration in its determination. The demolition of the dwelling meant that the fall back position of being able to change the external materials was no longer relevant.

The appellant refers to a similarly designed timber and render dwelling at the junction of Hatham Green Lane and Ash Lane (Jane's Farm). However, it is around 0.9 kilometres from the appeal site and has a different context in terms of the grouping of adjoining buildings, compared to the appeal site. The existence of that development would be insufficient reason to allow similar external materials for the appeal building.

### **Conclusion**

For the reasons given above and having regard to all other matters raised, the Inspector dismissed the appeal.

The appellant's application for an award of costs against the Council was also dismissed on the grounds that unreasonable behaviour resulting in unnecessary expense, was not demonstrated.

### **Adrian Stanfield**

Chief Solicitor

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	Information report

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	Information report
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*