

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

18 January 2012

Report of the Chief Solicitor

Part 1- Public

Matters for Information

1 PLANNING APPEAL DECISIONS

- 1.1 Site: **9 Durlings Orchard, Ightham**
Appeal **Against an enforcement notice alleging the failure to comply with a condition namely that a 2 metre high close boarded fence has been erected contrary to condition 13 of planning permission TM/96/00641**
- Appellant **Mr Gary Taylor & Mrs Kerry Taylor**
Decision **Appeal dismissed and enforcement notice upheld with a correction**

Background Papers file : PA/16/11

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The appeals on ground (a)

The reason given for the imposition of condition 13 on planning permission M/96/00641/FL was *"To ensure that should any excavations reveal contamination, suitable remediation works can be undertaken to ensure that the site is safe and fit for human habitation on a continuing basis. Additionally, in the case of Unit 17, to protect the character of the area and prevent unjustified encroachment into the Green Belt."*

The Council confirms that Unit 17 specified in the condition is the appeal property.

The Inspector considered the main issue in this case to be whether it is reasonable and necessary to secure compliance with condition 17, particularly having regard to the objectives of the relevant national and local planning policies concerning development in the Green Belt.

Planning permission TM/96/00641/FL authorised the redevelopment of a former builder's yard to provide 17 dwellings. The layout of Unit 17 included an area of designated open space to the north of the dwelling, which was the subject of a Management Plan as it was necessary to secure the retention of a cobnut orchard of importance to the local environment and ecology of the area. The Council indicates this open space lies within the countryside and the Green Belt. An

associated landscape plan was also approved by the Council, which provided for low post and wire fencing with hedge planting on the north boundary of Unit 17, opposite what is now No's 6-8 Durlings Orchard. The Council says the approved boundary treatment is an integral and important feature of the area, which also lies in an Area of Outstanding Natural Beauty.

The close boarded fence subject of the enforcement notice encloses part of the north boundary of the appeal property. According to the Council, it is about 2.0m high and 15.0m in length. A planning application for the retention of the fencing was refused in December 2010. The appellants' stance is that permission should be granted for the fencing as it would normally constitute permitted development, even within the Green Belt. However, one of the purposes of condition 13 is to remove permitted development rights for such enclosures in order to protect the character of the area.

The Council indicates the fencing is not considered to be inappropriate development (by definition) within the Green Belt; nevertheless, it has a damaging effect on the openness of the Green Belt and its visual amenity. The Inspector shared these concerns. The approved treatment to this boundary of the appeal site provides a relatively soft, naturalised appearance to the margins of the residential layout; it also provides a degree of openness and views of the open space from within Durlings Orchard. The close boarded fence has introduced an uncompromisingly suburban form of boundary enclosure into a location where rustic post and wire fencing, hedging and planting predominate. It has also resulted in an over-assertive, solid sense of enclosure which obscures views of the designated open space and erodes the openness of the area.

The Inspector concluded the fence harms the openness and visual amenity of the Green Belt, contrary to the objectives of Planning Policy Guidance Note 2 ('Green Belts'). It also harms the landscape character of the Area of Outstanding Natural Beauty. He further concluded that it conflicts with the relevant development plan policies including CP1 and CP24 of the Council's Core Strategy (2007), which seek to ensure that all development provides a high quality sustainable environment, proposals should respect their site and surroundings and open spaces should be protected and where possible enhanced.

The appellants infer the land would be suitable for keeping livestock and a lower boundary enclosure would not be sufficient for this purpose. However, in the Inspector's experience close boarded fencing would also be unsuitable. In the circumstances, he concluded on the main issue that it is reasonable and necessary to secure compliance with condition 17 of permission TM/96/00641/FL. The appeals on ground (a) fail.

1.2 Site: **Beech Side, Blacksole Lane, Wrotham**
 Appeal **Against a refusal to grant planning permission for the erection of a detached split level dwelling with associated parking**

Appellant **Mr J Melvin**

Decision **Appeal dismissed**

Background Papers file : PA/31/11

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The Inspector considered the main issue to be the impact of the proposal on the character and appearance of the area and on pedestrian and highway safety.

Reasons

Beech Side is a large house that stands at the back of its plot on the western side of Blacksole Lane. This is a narrow lane that provides access to seven houses all on the western side; the opposite side comprises a primary school and its playing fields. The primary school side is largely hidden by a tall thick hedge, and the houses are also generally in well treed gardens, giving a private and rural feel to the lane. The site is the front garden/drive of Beech Side.

Previously there had been a house on the site, which was demolished and replaced by Beech Side. This was allowed on appeal and the Inspector commented that the existing dwellings did not fit well together and the blend of "differing siting" was an important feature. Hence the demolition of the bungalow on the front of plot and its replacement with the house to the rear would be acceptable.

Nothing has changed since then except the construction of Beech Side has shown the Inspector to have been correct. There are now two houses at the rear of their plots, one in the middle, three at the front and one set roughly centrally in a large square plot. There is thus no obvious frontage to the lane, and the scatter of dwellings helps to create the pleasingly low key nature of the area. The introduction of another dwelling close to the lane, next to two existing ones would increase the sense of a built up frontage, which would be at odds with the prevailing lack of regularity in the pattern of development. It would also make the Lane appear more crowded, and the large house at Beech Side would look more cramped as if it had been squeezed in behind a row of houses. All of this would harm the character and appearance of the area.

The proposed building itself would also appear tall, and from the side, bulky, especially as the land falls away to the rear revealing what would be a three storey house. The appeal plot itself is appreciably smaller than any of the others in the Lane and the oversized house proposed would add to the sense of overdevelopment of the Lane.

Although the County Council are unconcerned about the traffic implications of the proposal, the Inspector shared the concerns raised by the Parish Council. The Lane is a narrow dead end. A public footpath runs along it connecting the northern end of the village with an area of housing to the south and providing a side access to the primary school. The Lane is narrow and only one car can fit down it at a time, with, in places, little room for pedestrians. As the Inspector saw on his site visit, at school pick up time it is crowded with children, parents and dogs, and presumably is in regular use during the day. An eighth dwelling would add to the traffic using the Lane and increase the chances of conflict with pedestrians using it as a public right of way. The access from the Lane onto Pilgrims Way also has very poor visibility to the west, and Pilgrims Way itself has poor visibility when joining the main road in the village. None of this suggested to the Inspector the Lane is suitable for an increase in traffic use, especially from a substantial four bedroom dwelling.

The Inspector noted the appellant's comments on PPS3 and the continued need to make the best use of land in built up areas, but that did not alter his view that for reasons of harm to the character and appearance of the area, over development and pedestrian safety the proposal is unacceptable and contrary to policies CP1, CP13 and CP24 of the Tonbridge and Malling Core Strategy.

Adrian Stanfield
Chief Solicitor