

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 3 PLANNING COMMITTEE**

**19 January 2006**

**Report of the Chief Solicitor**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL DECISIONS**

- 1.1 Site **Park House, Mill Street, East Malling**  
Appeal **Against (A) the decision of the Council to refuse permission for conservation area consent for demolition of existing building and against (B) the refusal of permission for the existing building to be demolished and the erection of 5 houses**

Appellant **Mr J Ropkins**

Decision **Appeals dismissed**

Background papers file: PA/05/05

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- 1.1.1 The Inspector considered the main issues in both appeals to be the effect of the proposal on the character and appearance of the Mill Street East Malling Conservation Area.
- 1.1.2 Park House is a detached Edwardian building set close to the back of a roughly triangular piece of land on the north side of Mill Street. The appellant contends that it would not be commercially viable to convert the house back to a dwelling because of the institutionalised nature of the building resulting from the extensive alterations during its time as office accommodation. He also considered that the building, although pleasant, is unremarkable and that, contrary to the designation on the Conservation Area Townscape Analysis map, it does not make a positive contribution to the area. The Council's view is that whilst the building is not considered to be a remarkable building, the structure is of value to the Conservation Area because its set back location enables it to provide both a backdrop and a stop to a visual space, and the use of traditional construction materials and design detailing link it visually to other traditional properties nearby.
- 1.1.3 In the Inspector's opinion, although the existing building has a pleasant appearance and a substantial presence when within the site, when seen from Mill Street it does not appear to have particular special qualities and is tucked away at the back of the site with a substantial tarmac area in front. Although the building has historical connections and importance to the village and has traditional features such as steep roof pitches, a high roof structure and roof gables, and

traditional materials including ragstone, brick quoins and brickwork sections and decorative tiling, it is not an outstanding building.

- 1.1.4 Notwithstanding the Inspector's views of the building she considered that the space created to the front of the existing building makes a valuable contribution to the character and appearance of this part of the Conservation Area. The space links visually to the space around the Horse Pond, despite the presence of the gates on the appeal site frontage and the walling on the boundary with Bone Alley. The lack of built development and feeling of openness at higher level created by that space provides a marked contrast with and relief from the enclosed sections and restricted views further east, and to a lesser extent, west along Mill Street, and the impressive and imposing Mill Building opposite. She shared the Council's view that Park House currently provides both a stop and a backdrop to that space.
- 1.1.5 The mature Beech tree not far from the site frontage makes an important contribution to the Conservation Area and when in full leaf, would be seen together with other nearby mature specimens as a small stand of trees.
- 1.1.6 Overall, the Inspector considered that the current building makes a positive contribution to the character and appearance of the Conservation Area principally because of its unobtrusive scale and presence enables open space to be maintained in front of it and it does not prejudice the viability or health of a key mature tree not far from the front boundary, or most of the other trees within the site.
- 1.1.7 The proposed redevelopment scheme would provide five 3 bedroom dwellings in the form of a terrace of four dwellings with accommodation on three storeys and a detached dwelling with accommodation on two storeys.
- 1.1.8 The Council confirmed at the hearing that there is no objection in principle to residential development on the site, or in general terms to 3 bedroom units. The proposed terrace would be some 3m further forward than the existing building and would occupy a much greater width across the rear section of the site. Notwithstanding that it would have significantly greater mass and bulk than the current building, it would not, in the Inspector's view, be out of keeping with the character and appearance of this part of the Conservation Area. In addition, the Inspector considered the proposed terrace would be more in character with the traditional properties in this part of the village than some of the nearby more modern buildings on this side of Mill Street.
- 1.1.9 With regard to the proposed detached dwelling, this would be set much further forward in the site than the current built form and it would be only a little smaller and less bulky than the existing building. Although the appellant argued that it would be no further forward than the majority of properties on the north side of Mill Street and that it would strengthen the linear nature of the built form and overall linear character of Mill Street by filling a gap between other buildings, the Inspector found that it would significantly erode the important visual space at the

front of the appeal site. Not only would this also substantially reduce the visual contribution of the Horse Pond by removing the link to it from the appeal site, but the contrast with and relief from the enclosed built form and restricted views of Mill Street would also be significantly reduced, to the detriment of the character and appearance of the Conservation Area. This would conflict with the intentions of LP Policy P4/4, guidance in the Village Design Statement and advice in the Conservation Area Appraisal.

- 1.1.10 In addition, the Inspector considered that the relationship of the proposed detached house with the proposed terrace would be such that the terrace would have the appearance of backland development when viewed from Mill Street and would result in an arrangement of buildings that would appear awkward and out of character with the general form and layout of properties in the locality.
- 1.1.11 The proposed house would be close to what is a large mature Beech tree. The tree could be adequately protected against long- term damage during construction but the Inspector considered that there would be pressure from future occupiers of the house to have it cut back or removed. This would prejudice its long- term future and cause substantial harm to the character and appearance of the surrounding area.
- 1.1.12 The Inspector considered that the awkward manoeuvring necessary to get onto the drive or into the garage of the proposed house might result in vehicles being parked in the proposed passing place or elsewhere to the front of the building, which could cause inconvenience to other vehicle users and would further reduce the apparent remaining space to the front of the building, thereby adding to the harm already identified.
- 1.1.13 The Inspector took into account the appellant's desire to make more efficient use of this site and achieve a higher housing density in line with current Government housing policy as expressed in PPG3. However, the guidance indicates that housing development of whatever scale should not be viewed in isolation and that considerations of design and layout must be informed by the wider context, having regard not just to any immediate neighbouring buildings but the townscape and landscape of the wider locality. The Inspector had previously found that the scheme in appeal B would introduce a layout which would be at odds with the character of this particular part of the Conservation Area and which, by intruding into an area of currently undeveloped open space, would dilute the present important contrast with nearby more enclosed development and restricted views, to the detriment of the character and appearance of this part of the Conservation Area.
- 1.1.14 The Inspector concluded that the proposed redevelopment scheme in Appeal B would be harmful to the character and appearance of the Conservation Area and that there would be insufficient justification for demolishing the existing building in appeal A. The proposals would conflict with Policies ENV17 of the adopted SP, Policies P4/4 and P4/5 of the LP and with both SPG documents. They would also

be contrary to national policy objectives to retain buildings which make a positive contribution to the character or appearance of a Conservation Area unless there are acceptable plans for redevelopment, and to preserve or enhance the character or appearance of conservation areas.

- 1.2 Site **Plot adjacent to Acres End, Sandy Lane, Snodland**  
 Appeal **Against the refusal of permission for the erection of a bungalow with an integral garage**  
 Appellant **Mr & Mrs Chiddention**  
 Decision **Appeal dismissed**  
 Background papers file: PA/25/05 Contact: Cliff Cochrane  
01732 876038

- 1.2.1 The Inspector considered the main issues to be whether the proposal would amount to inappropriate development in the Green Belt, whether there would be any other harm to the Green Belt, the effect of the scheme on the conservation of the countryside and should harm be identified in any of these issues, whether such harm would be clearly outweighed by other considerations which amount to very special circumstances.
- 1.2.2 The appellants contend that PPG2 embraces the principle of the replacement of buildings in the Green Belt, thus supporting the construction of a dwelling to replace the existing cattery. They further note that permitted development rights would allow for the construction of buildings incidental to the existing house of a greater floor space than is currently proposed. They conclude that the proposal would not therefore significantly reduce the openness of the Green Belt and would not be inappropriate development.
- 1.2.3 PPG2 refers specifically to the replacement of existing dwellings, which under certain circumstances may be considered appropriate development in the Green Belt. The proposed bungalow does not fall into this or any other category and is therefore by definition inappropriate development in the Green Belt.
- 1.2.4 Replacement of the existing structures by a bungalow with integral garage would result in a significant increase in the height of built development at this location. Given the size and position of the proposed cartilage, it is almost inevitable that the row of coniferous trees along the north boundary would need to be removed to accommodate the building. This would open up the view of the builders yard to the north, causing harm to the outlook from the proposed and existing residential properties and the general rural appearance of the immediate locality.
- 1.2.5 The proposal to improve the vehicular access is likely to result in a requirement to remove trees from the substantial hedgerow on the site boundary. The cumulative impact of these likely changes to the landscape would combine with the introduction of the more substantial building proposed to affect the openness of the Green Belt unacceptably. The Inspector concluded on this issue that the proposal would cause unacceptable harm to the Green Belt.

1.2.6 The SP policy reinforces the protection afforded by the Green Belt policy. This resists development in rural Kent outside of villages and small rural towns subject to specified exceptions. The proposal would not qualify as one of the exceptions although the appellants pointed out that the site is close to the built up area of Snodland and adjoining a builders yard. The Inspector concluded on this issue that the proposal would have an unacceptable effect on the conservation of the countryside, contrary to SP policy RS5.

1.2.7 The appellants put forward as very special circumstances their belief that the proposal would not significantly reduce the openness of the Green Belt or detract from the character or appearance of the area. The Inspector did not agree with their conclusions. They also considered that the removal of a commercial use and the reduction in traffic likely to result from this are material considerations weighing in favour of the proposal. The Inspector acknowledged that the traffic likely to be generated by the new use would be less than that associated with the cattery. However, he considered that the replacement of a commercial use such as a small cattery by a residential building in the Green Belt does not weigh in favour of the proposal. The inspector concluded that neither of these issues amount to very special circumstances .

1.3 Site **4 Forstal Road, Aylesford**  
 Appeal **Against the refusal of permission for an extension and alteration of existing first floor flat (planning approval ref: TM/04/03833/FL); discharge of condition re: patio and balustrade at rear; and change from windows to French doors in bedroom**

Appellant **Mrs V Wolf**

Decision **Appeal dismissed**

Background papers file: PA/30/05

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1.3.1 The Inspector considered the main issue to be the effect of the works that have been carried out on the amenities of adjacent properties, particularly with regard to overlooking and loss of privacy.

1.3.2 Policy P4/12 of the Local plan seeks to protect the residential amenity of neighbouring properties in terms of light and privacy and overlooking of garden areas. The appeal site is within the Aylesford Conservation Area.

1.3.3 A timber-decked patio with timber balustrades has been constructed on the flat roof of an existing substantial ground floor extension at the rear of the property. The patio is for the use of No. 4, which is a first floor flat and the works have included the insertion of French windows to give an additional access to the patio from the bedroom. The Inspector considered that the works that have been carried out are not unattractive and, 1.3.4 in his view have only limited visual impact on the immediate area and cause no material harm to the character and appearance of the Conservation Area.

- 1.3.5 The insertion of the French windows has not itself caused a problem of overlooking though it enables greater use to be made of the new patio. From the east side of the patio there is a clear view of the open area at the rear of 6 Forstal Road, which is in office use, and a direct view of a first floor window in that property. On the west side, there is direct overlooking of the garden of 1 High Street, which is in residential use. A first floor bedroom and a bathroom window are visible at an angle from the patio, though the lower half of the bathroom window has obscured glazing.
- 1.3.7 The patio area in the scheme approved in 2004 was largely contained in an angle of the property and did not extend much beyond the rear wall of the flat. There was no overlooking of 1 High Street and the impact of 6 Forstal Road was judged acceptable.
- 1.3.8 The Inspector considered that the proximity of the bedroom and bathroom windows in 1 High Street gives some cause for concern, though the view of them from the patio is indirect. However, in his opinion, the direct overlooking of the garden and patio has resulted in a wholly unacceptable loss of privacy for the occupiers of that property. The overlooking of the rear area of 6 Forstal Road and the proximity of the first floor window could also constrain the future use of that property. He appreciated that the new construction provides a pleasant amenity area for the flat at 4 Forstal Road but that has been created at the expense of significant harm to the residents of 1 High Street in the reasonable enjoyment of their own private amenity space.

## **1.4 Legal Implications**

- 1.4.1 None

## **1.5 Financial and Value for Money Considerations**

- 1.5.1 Not applicable

## **1.6 Risk Assessment**

- 1.6.1 Not applicable

**Duncan Robinson**  
Chief Solicitor