

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 3 PLANNING COMMITTEE**

**22 March 2007**

**Report of the Chief Solicitor**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL DECISIONS**

- 1.1 Site **Land at 94, 96 and 108 Mill Street, East Malling**  
Appeal **Against the failure of the Council to determine an application for permission for residential development comprising demolition of 3 existing properties and erection of 24 residential properties with associated access, car parking provisions and landscaping**

Appellant **Brazier New Homes Ltd**

Decision **Appeal dismissed**

Background papers file: PA/32/06

Contact: Cliff Cochrane  
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- 1.1.1 The Inspector considered the main issue to be the effect of the proposal on the character and appearance of the area; having regard to the setting of the adjacent Mill Street, East Malling Conservation Area.
- 1.1.2 The Inspector took into account the relevant planning policies and gave substantial weight to the Village Design Statement for East Malling. He commented on the significant housing development in East Malling in recent years, although noted that most of this has been on sites behind the central part of the Conservation Area and not immediately visible from Mill Street. In contrast the proposal would adjoin the Mill Street boundary of the Conservation Area and would be plainly visible above a long stretch of ragstone walling behind the Horse Pond. In his opinion the dwellings of plots 9, 10, 11, 12, 13 and 24 that would be immediately visible in this view, together with others behind them, would appear somewhat random in siting and out of tune with one of the predominant characteristics of the conservation area, which is a more formal relationship between dwellings and public space. This is because the street pattern to which they are related has little obvious relationship to the existing layout of roads and is hard to perceive behind the wall which is a dominant feature. In his opinion, they would appear as a rather jumbled assembly of different forms unrelated to the character of Mill Street.
- 1.1.3 The Inspector considered that the lack of any clear architectural relationship would further weaken any link to the existing village street pattern. Moreover, he

considered that the relationship between the buildings on plots 11 and 12, the site boundary and No 112 Mill Street would seem accidental. The juxtaposition of the proposed dwellings on plots 14 and 24, two large 3 storey houses, would appear particularly odd seen from the horse pond, because of their angled off-set close siting and arbitrarily varied elevational treatment.

- 1.1.4 The appeal scheme is not dissimilar to many erected in other places that have some local features but fundamentally consist of standard house types. That approach does not respect the special character of Mill Street or respond to the townscape and landscape of the whole locality. Nor does it reinforce local distinctiveness.
- 1.1.5 Furthermore, the close siting of all the houses would almost completely obscure any view through the development below ridge level, except from the very eastern edge of the pond.
- 1.1.6 With regard to the proposed development of plots 1-5 on Mill Street, the Inspector considered that the 3 storey flatted block would over emphasise the pinch point identified in the Appraisal and compete visually with the Mill itself which, when approaching from the east, comes into view round the corner. Furthermore it would be architecturally very different from the adjoining semi-detached houses. In his view the obvious differences in terms of proportions, fenestration, windows and finishes, would make the marriage of the buildings appear awkward. The metal railings topping the front garden wall would also be quite out of keeping and would add to the inharmonious appearance of this building.
- 1.1.7 The buildings at 3-5 and the access to the development would be seen in place of a substantial section of traditional ragstone wall that would be lost. The Inspector was not persuaded that the merits of the scheme justify the removal of a large part of the wall with acknowledged special architectural and historic interest.
- 1.1.8 The Inspector concluded that on the main issue the proposal would diminish the character and quality of the local environment and would not make a positive contribution towards the enhancement of the area. It would detract from the setting of the conservation area and would conflict with SP policies, LP policies P4/4 and P4/11, the advice contained in SPG and national guidance.

1.2 Site **95 Birling Road, Snodland**  
 Appeal **Against the decision to refuse permission for 2 no. new dwellings**

Appellant **Mr & Mrs Schweiso**

Decision **Appeal allowed**

Background papers file: PA/42/06

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1.2.1 The Inspector considered the main issues to be;

- the effect of the proposal on the character and appearance of the Birling Road area of Snodland,
- the effect of the proposal on the living conditions of neighbouring residential occupiers.

*Character and appearance*

1.2.2 The proposal is for back land development and whilst this is not precluded by policy or the Kent Design Document, the Inspector acknowledged that care is needed to ensure the resulting build form does not appear out of place, cramped or otherwise unacceptable.

1.2.3 The Inspector attached significant weight to the situation of the recreation ground which he considered provides a suitable context for the appeal proposal before him. The view from the open public area looking towards the site is of the dwellings on Birling Road and those on Orchard Way, and he was of the opinion that the addition of the two proposed houses to the rear of number 95 would be assimilated in an acceptable manner into the urban fabric of the area, appearing as a linear form of development fronting the open space of the recreation ground and not appearing out of place or discordant in that view.

1.2.4 The Inspector concluded on this issue that the development would not cause harm to the character and appearance of the Birling Road area of Snodland and hence would accord with the aims of Structure Plan Policy QL1, Local Plan Policies P5/3 and P4/11, and Central Government planning guidance.

*Living conditions*

1.2.5 The development would place built form and activity closer to other dwellings than is the case with the site now, but no closer than is apparent in other nearby locations, where the density of the development is already greater. The Inspector considered that the houses had been designed to avoid overlooking, with their upstairs windows placed to look away from existing dwellings, and this could be secured by condition. He concluded that the proposal had been designed and sited to minimise the effect on the living conditions of neighbouring residential occupiers and hence does not accord with Structure Plan Policy QL1 and Local Plan Policies P4/11 and P5/3.

1.3 Site **Land at 205 & 209 and rear of 213-217 Robin Hood Lane, Bluebell Hill, Chatham**  
 Appeal **Against the refusal of permission for residential development of 15 dwellings and garages, incorporating the demolition of no. 209 and the creation of a new estate road and involving a mixture of dwelling types and sizes, landscaping, ancillary works etc**  
 Appellant **Brookworth Developments Ltd**  
 Decision **Appeal dismissed**  
 Background papers file: PA/38/06 Contact: Cliff Cochrane  
 01732 876038

- 1.3.1 The appeal site is towards the end of a cul de sac in the eastern part of Robin Hood Lane that forms a small group of residential properties between the M2 motorway and the Taddington Wood distributor road both of which are in a cutting.
- 1.3.2 Although the proposal could be accommodated on the appeal site, the illustrative layout would result in the loss of a sweet chestnut coppice. The Inspector considered that this would dramatically change and diminish the character of the area where, generally, the woodland appears to flow into the garden landscape rather than have a hard edge.
- 1.3.3 Blue Bell Hill Village is identified in policy P6/1 of the Local Plan as a rural village where minor infilling is appropriate, the accompanying text indicating that 'minor' development could be within the range of 5 to 10 dwellings at larger settlements. The proposal would provide a net increase of 14 dwellings and therefore not accord with the provisions of the policies.
- 1.3.4 SP policy SS7 provides that small scale development may be permitted in small rural settlements where there are good public transport links and an existing core of employment and community services. The Highways Agency considered the site to have good access to public transport and to be within a reasonable walking distance of the town centre but, the Council indicates, Blue Bell Hill lacks community services and employment opportunities. Nevertheless, the appeal site is close, and has access over the footbridge to the nearby Walderslade that has a village centre and a range of services. Being close to the footbridge the Inspector considered the appeal site to be in a more sustainable location than much of Blue Bell Hill.
- 1.3.5 The proposal would be at a density below that considered in Government Advice to make for the efficient use of land. The Inspector did not find the proposed density or development to the rear of frontage housing inherently harmful. Although the density would not be excessive, the Inspector was not satisfied that 15 for and 5 bedroom dwellings could be accommodated with the retention or adequate replacement of trees such that the character of the area would not be harmed. In her opinion, the appellants have failed to demonstrate that the site could be developed with 15 dwellings of the scale proposed without unacceptable harm to the overall character and she did not find this harm could be overcome by conditions.

1.4 Site **115 Holborough Road, Snodland**  
 Appeal **Against the refusal of permission for demolition of existing site dwelling and the construction of 2 terraces of 3 houses, associated on-site car parking facilities and an access drive.**

Appellant **Hillplace Construction Ltd**

Decision **Appeal allowed**

Background papers file: PA/56/06

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1.4.1 The Inspector considered the main issues to be whether or not the appeal proposal would: firstly, give rise to additional hazards to road safety owing to the extent and form of the indicative parking provision; secondly, erode the residential amenities of the occupiers of the dwelling that lies north of the site behind the existing frontage development; and thirdly, suitably reflect the established pattern of development on the locality.

*The first issue.*

1.4.2 The parking standards applied by the Council require 2 spaces per dwelling which would result in a requirement for 12 car parking spaces, rather than the 8 shown on the application plans. The Council therefore argued that the inadequacy of parking provision would lead to on-street car parking thereby creating additional pressure for car parking in this heavily parked area and unacceptable hazards to road safety. The Council further considered that the parking arrangements would exacerbate the unsatisfactory on-street situation owing to the restricted manoeuvring area shown on the application plans.

1.4.3 The Inspector considered that in adhering to the prescribed parking standards the Council has clearly failed to have regard to that part of paragraph 51 of PPG13 "Transport" which states in relation to parking that local authorities should: "*not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances*"... Insofar as Snodland is served by buses and there is a railway station within comfortable walking distance of the site, the Inspector identified no exceptional circumstances that warrant overriding this element of Government policy.

1.4.4 The Inspector noted that the "*turning zone*" shown on the application plans is tight, but was satisfied that it is not unusable. The Council was critical of the width of the vehicular access arrangements. The Inspector accepted that the access should provide for 2 way traffic at the site entrance, but insofar as the application is made in outline, improvement to the submitted layout to address the Council's criticism could easily be made by nominal reduction of the width of the proposed houses on the site frontage when the reserved matters application is made.

1.4.5 From his consideration of these matters the Inspector was not convinced that the proposed car parking and turning arrangements are unacceptable or that they would give rise to additional unacceptable hazards to road safety. In view of this he found an exception to the parking policies operated by the Council justified.

*The second issue*

- 1.4.6 The Council alleged that the proposal would be of an overbearing nature when viewed from the adjacent property to the north of the site. Having regard to the degree of separation that would exist between the 2 terraces the Inspector did not consider the proposed development would appear unduly dominant when seen from the adjoining property. Taking account of the separation proposed it seemed to the Inspector that the situation would be little different from that where terraced houses are built to a staggered plan form.

*The third issue*

- 1.4.7 The Council's appeal statement makes reference to that part of PPG3 "*Housing*" concerning the need to make full and effective use of land. This has been superseded by PPS3 "*Housing*" and the Inspector considered this to be a primary consideration and justification for development of the density proposed.
- 1.4.8 The Council quoted that part of paragraph 16 of PPS3 which states that the manner in which a housing proposal "... *complements the neighbouring buildings and the local area more generally in terms of scale, density, layout and access*" is a matter to be considered when assessing design quality.
- 1.4.9 Design is to be assessed if and when a reserved matters application is made. Notwithstanding this, the Inspector considered it undeniable that 2 storey terraced development would complement the neighbouring terraced developments in scale, and layout.
- 1.4.10 Consideration of these matters, coupled with the Council's acceptance that the siting of the proposed dwellings is appropriate in terms of privacy and parking led the Inspector to the opinion that the proposal is acceptable in that it would suitably reflect the established pattern of development in the locality.

1.5 Site **55 High Street, East Malling**  
 Appeal **Against the refusal of permission for a loft conversion**  
 Appellant **Mr P Delaney**  
 Decision **Appeal dismissed**  
 Background papers file: PA/57/06

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- 1.5.1 The Inspector considered the main issue to be whether or not the appeal proposal would adversely affect the setting of the East Malling Conservation Area.
- 1.5.2 The Inspector appreciated that the appeal site lies outside the conservation area, but the conservation area boundary runs along the frontage of the land occupied by the terrace of houses affected by the proposed development and closely flanks both ends of the terrace. This terrace of houses is seen prominently in views from the public car park and its access to the east of the site, and appears as a foreground feature against the backdrop of the period buildings on the west side of the High Street. In the Inspector's opinion the terrace of houses has a significant visual impact on the appearance of the conservation area.

- 1.5.3 From vantage points to the east of the site the roof of the terrace as a whole presents the image of an uncluttered roof form essentially of pitched traditional style. Although pitched at a lesser angle than some of the older surrounding buildings and despite its covering of concrete interlocking tiles, the Inspector did not consider the roof of the terrace appears out of place in its setting.
- 1.5.4 The proposal is essentially a second floor flat roofed extension that would project through the existing roof of the house at the site, and which would occupy the greater part of its rear roof slope.
- 1.5.5 In the Inspector's opinion such a development would destroy the traditional appearance of the roof of the house at the appeal site and the appearance of the roof of the terrace of which it forms part. This significantly large and alien development would contrast inappropriately with the traditional forms of period buildings in the conservation area. In view of this he concluded that the proposed development would unacceptably detract from the setting of the East Malling Conservation Area contrary to the provisions of structure plan policy QL6 and local plan policy P4/4.

**Duncan Robinson**  
Chief Solicitor