

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 3 PLANNING COMMITTEE

16 August 2007

Report of the Chief Solicitor

Part 1- Public

Matters for Information

1 PLANNING APPEAL DECISIONS

- 1.1 Site **Land east of 11 School Lane, Wouldham**
Appeal **Appeals against the refusal of permission for:**
(A) the erection of 4 no. 2 bed terraced houses together with garages and parking and
(B) the erection of 4 no. two bedroom terraced houses together with a four bay garage block and parking

Appellant **Wealden Homes**

Decision **Appeals dismissed**

Background papers file: PA/02/07

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- 1.1.1 The Inspector considered the main issues to be whether, in the case of appeal A, the attenuation measures proposed would result in an acceptable living environment for the future occupants of the houses and, in the case of appeal B, the effect of the proposed re-siting of the terrace on the character of the area and on the living conditions of residents of no. 11 in terms of overlooking and loss of privacy.

Appeal A

- 1.1.2 The scheme proposes a short terrace of 4 houses fronting School Lane. The Council had confirmed that, were it not for the noise issue from the sub-station, the siting, design and number of proposed units would be acceptable.
- 1.1.3 With regard to the noise issue, the Inspector considered the nub of the issue to be whether it is appropriate to permit new residential development, the occupants of which could only enjoy an acceptable aural climate if they kept their windows closed and operate acoustically treated mechanical ventilation to maintain comfortable conditions in warm weather.
- 1.1.4 Whilst the Inspector accepted that it was a matter of individual choice if occupants of the houses choose to have their windows open or not and to decide whether or not to occupy one of these houses, in granting permission for new development the impact of noise is a material consideration and a concern of the planning

system. PPG24 advised that noise sensitive development should not normally be permitted in areas which were subject to unacceptably high levels of noise and not where high levels of noise continued throughout the night "especially during the hours when people are normally sleeping".

- 1.1.5 The Inspector considered that it would not be acceptable to grant planning permission for new residential development where it would be necessary for the occupants to keep their windows closed in order to enjoy satisfactory internal noise environment at night. Accordingly, she concluded that the proposal would conflict with the objectives and provisions of Local Plan policy P3/17 and should be dismissed.

Appeal B

- 1.1.6 The scheme the subject of this appeal, sought to address the concerns about noise by aligning the terrace of 4 houses at right angles to School Lane with all the habitable rooms facing west. Local Plan policy P4/11 was relevant in that it required that development proposals must not harm the particular character and quality of the local environment and wherever possible should make a positive contribution towards the enhancement of the area.
- 1.1.7 The arrangements proposed would result in the house nearest the road projecting about 4m forward of the front of No. 11. Whilst the Inspector did not consider this on its own to be incompatible with the existing street scene, there would be a blank gable elevation some 8.6 metres wide parallel to, and in close proximity to, the road which she agreed with the Council would have no positive benefit for the appearance of the street scene. The enclosure of the garden of plot 1 with a fence on the edge of the new footway would add to the negative impact on the character of School Lane at this point.
- 1.1.8 The Inspector was concerned with the number of windows overlooking no. 11 and its garden and the elevated position of many of them. She accepted that they would be bedroom windows, and therefore less used during the day, but nonetheless she considered that there would be an unacceptable impact on the occupants of no. 11 who would feel overlooked both at the front and rear of their house and have an enhanced perception of an unacceptable loss of privacy.

1.2 Site **Land at the junction of Robin Hood Lane and Fostington Way, Walderslade.**
 Appeal **Appeal against the refusal to grant approval required for a radio base station comprising of a 15m high telecommunications tower, three antennas and one radio equipment housing and development ancillary thereto**
 Appellant **Hutchison 3G Ltd**
 Decision **Appeal allowed**
 Background papers file: PA/64/06

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- 1.2.1 In deciding to allow the appeal, the Inspector considered the evidence given that there were no satisfactory alternative sites available for the development. This included the possibility of sharing existing facilities or of erecting antennas on an existing building or other structure.
- 1.2.2 Although the proposal would diminish the character and appearance of the locality to a small extent, the Inspector considered that the mast had been sited and designed to minimise its visual impact on amenity. Furthermore, the mast would be beneficial in meeting an existing need. In his final analysis the Inspector considered that the factors that favour this installation are more significant than the direct environmental impact.
- 1.2.3 The Inspector concluded that the proposal was acceptable and that it would comply with the criteria of Local Plan policy P7/16.

Duncan Robinson
 Chief Solicitor