

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 3 PLANNING COMMITTEE**

**8 November 2007**

**Report of the Chief Solicitor**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL DECISIONS**

1.1 Site **11 Lavender Walk, East Malling**  
Appeal **Against the refusal of outline permission for a single dwelling house with off-street parking**  
Appellant **Mr M J Painter**  
Decision **Appeal allowed**  
Background papers file: PA/21/07

Contact: Cliff Cochrane  
01732 876038

- 1.1.1 The Inspector considered the main issue to be whether or not the scheme would result in inadequate living conditions for the occupiers of no. 11 and the proposed new house.
- 1.1.2 The Council considered that the proposal meets the aim of policy 5/3 of the local plan to make full and effective use of urban land. However, the two pairs of tandem parking spaces would be too close to the rear wall of both houses, thus providing an inadequate outlook and sense of openness and creating the potential for noise and disturbance from vehicles manoeuvring in close proximity to living room windows.
- 1.1.3 The Council's view is predicated on the necessity for provision of 4 off-street parking spaces, yet in the Inspector's view no adequate justification was offered for requiring the appellant to make this level of provision in the context of maximum parking standards as discussed in PPG13 and the structure plan. The Inspector accepted that the details of the location, design and boundary treatment of the house and parking area would need to be designed with care with a view to minimising the potential for the kind of issues identified by the Council. However, if appropriate skill and attention is given to these matters he considered that satisfactory living conditions could be created within the two houses consistent with the terms of policy P4/11 of the local plan.

1.2 Site **Corio Farm, 450 Wateringbury Road, Wateringbury**  
 Appeal **Against the refusal of permission for the change of use of farm buildings (part retrospective) to B1, B2 and B8 use**

Appellant **Mr W King**

Decision **Appeal dismissed**

Background papers file: PA/04/07

Contact: Cliff Cochrane  
 01732 876038

- 1.2.1 The site is a collection of former farm buildings used for various storage purposes although one building contains a workshop. There is evidence of some open storage around the site although there is no planning permission for such use and previous notices have been served to enforce against the use of the land for the storage of particular items and to improve the appearance of the land.
- 1.2.2 The proposal for building 1 would be part B1 use and part B8, buildings 2 and 3 would be part B2 and part B8, and the remainder of the buildings would be used for a B8 use. Open storage would be consolidated into 3 areas totalling about 3,450 square metres.
- 1.2.3 The site is in the countryside. The structure plan and local plan policies support the re-use of buildings in the countryside for economic development purposes. However, the policies also indicate that proposals should be acceptable on environmental, traffic and other planning grounds including residential amenity.
- 1.2.4 The Inspector considered that the proposal goes well beyond what is acceptable in this rural location and would have a significant and unacceptable effect on the countryside. The proposed amount of warehousing, storage and distribution on the site together with the elements of industrial use and large areas of open storage would create a significant warehousing and industrial complex which would be out of character-both visually and in terms of the potential number of vehicle movements –in this otherwise quiet countryside location. The scale of the scheme would by its nature have a harmful effect on the quality of the countryside.
- 1.2.5 The scheme would also have an unacceptable effect and on the nearby house, Badger Dell, and its garden. The concerns of the residents show that recent site operations and vehicle movements have already given rise to significant noise and disturbance. Moreover, the internal access road would be moved in the appeal scheme from the centre of the site to a position much closer to the boundary with the house. The Inspector considered this to be an inappropriate arrangement. The Council's suggested condition, which would permit up to 7 lorries, civil engineering vehicles, diggers dumper trucks or commercial vehicles per hour to use this access road, would be entirely unacceptable and would lead to significant noise and disturbance. The intention to use buildings for B2 industrial use on the site would also be likely to add to the noise and disturbance suffered by the neighbouring residents.

1.2.6 The Inspector considered that in such a large complex such as this it is important that such re-use is compatible with the character of the countryside and with residential amenity and nothing in any of the planning policies suggests that all the buildings in a complex such as this should be re-used for the uses proposed. He considered that the re-use of some of the buildings on a smaller area of land might be acceptable, resulting in a much smaller scale of operations, subject to there being an acceptable impact on the countryside and on residential living conditions.

1.3 Site **22 Hurst Hill, Walderslade**  
 Appeal **Against the refusal to grant consent for the felling of one Oak tree protected by a tree preservation order**  
 Appellant **Lesley & Richard Blunden**  
 Decision **Appeal allowed**  
 Background papers file: PA/17/07 Contact: Cliff Cochrane  
 01732 876038

1.3.1 The tree is a middle aged oak growing in the rear garden of the property, 7m back from the house and 4m from the rear of a conservatory and approximately 2m from a sweet chestnut in the garden of no. 20. It is about 15m high and has a single trunk 500mm in diameter. The trunk has a slight to moderate lean towards the house. The crown is highly asymmetrical.

1.3.2 In the Inspector's opinion the tree dominates the appellants' garden; it is not widely visible as an individual and its removal would not have a significant effect on the wider area. He also considered that the tree's lean and shape means that it would almost certainly fall on the house in the event of a major failure and the possibility of this happening in exceptional weather cannot be dismissed entirely. The Secretary of State agreed with his views and on balance she considered that the proposal to fell the tree is justified.

**Duncan Robinson**  
 Chief Solicitor