

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 3 PLANNING COMMITTEE

22 May 2008

Report of the Acting Chief Solicitor

Part 1- Public

Matters for Information

1 PLANNING APPEAL DECISIONS

Site **4 & 5 Chalkens Cottages, Portland Road, Wouldham**
Appeal **Against enforcement notices alleging a breach of planning control, namely (A) without planning permission the construction of a vehicle parking and turning area not in accordance with the approved planning permission TM/04/04298/FL and (B) without planning permission the construction of balconies to the rear of the properties not in accordance with the approved plans of TM/04/04298/FL**

Appellant **Jonathan Cawley**
Decision **Appeals dismissed and enforcement notices upheld subject to corrections and variation**

Background papers file: PA/35/07

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The Inspector considered the main issues in determining appeal A to be the effect of the development on vehicle and pedestrian safety and on-street parking demand. The main issues in appeal B were considered to be the effect of the development on:

- The living conditions of neighbouring residents, with particular reference to privacy; and
- The character and appearance of the area.

Appeal A

The appeal site comprises a pair of semi-detached dwellings recently constructed, not fully in accordance with the planning permission. The permission required the provision of parking and turning facilities in accordance with the layout plan submitted with the application. This shows one gated car parking space within the curtilage of each dwelling, plus three shared spaces.

Existing provision at the appeal site comprises only four parking spaces and a far more restricted turning area. This layout does not accord with amended drawing no. 131 submitted to the Council on behalf of the appellant. let alone the approved plan. The two spaces within the curtilages of the dwellings are well below 2.4 metres in width, which precludes their use by many vehicles. This problem is compounded by the fact

that one of these spaces is only about 3.7 metres deep, whilst access to the other is awkwardly angled such that, notwithstanding the appellant's assertion to the contrary, many drivers would find it difficult to manoeuvre in and out of. The Inspector considered that the private tenure of the land and familiarity with the layout does not necessarily encourage its use for parking in a safe and considerate manner. Indeed, he considered it more likely that the shortcomings of the arrangements would do precisely the opposite. He considered that, if the two shared spaces were occupied, many drivers would be more likely to park within the turning area, so obstructing other vehicles, or else take up on-street spaces which, on the evidence before him, is already in great demand.

In the Inspector's assessment, aided by an unaccompanied evening visit to the locality, existing parking pressures are such that the provision of anything less than the Council's maximum requirement of two readily usable car spaces per dwelling will, in all likelihood, cause obstruction and/or exacerbate prevailing levels of on street parking stress.

The Inspector concluded that the parking and turning layout as constructed is contrary to national objectives concerning vehicular and pedestrian safety and parking provision contained in PPG13: *Transport*.

Appeal B

The approved scheme provides for the construction of balconies extending from the rear elevations of each property at ground floor level. The fall of the land is such that these would project well above the level of the rear gardens, from which they would be accessed by flights of steps. As permitted each balcony would have a rearward projection of about 1.5 metres. The approved scheme would prevent views over the sides towards neighbouring properties.

However, lines of sight westward along adjacent gardens could still be obtained across the rear edges of the balconies. Moreover, the ways in which the steps might be screened the Inspector considered is neither clear from the approved drawings nor secured by condition. Accordingly it seemed to him that the provision of measures to prevent overlooking from the steps would be unenforceable. He therefore found that the privacy of adjacent occupiers would be eroded to some degree in the event of reversion to the approved scheme.

The balconies and steps as constructed extend some 5 metres beyond the dwellings themselves. The Inspector acknowledged that the increased projection carries with it extended sight barriers which restrict, to a limited degree, some of the outward views that would be obtainable from the approved balconies themselves. However, he found this gain to be more than countered by two particular aspects of the development. Firstly, the sides of both balconies are, in part, bounded at eye level by open trellising. This is insufficient to prevent views over the neighbouring gardens from the raised amenity areas. Secondly, the two sets of steps have been built considerably further down the gardens than approved and provide clear views of those parts of the neighbouring gardens that are screened from the balconies.

One of the set of steps provides a clear line of sight into one of the rear windows of 3 Chalkens Cottages whereas, despite the approved balcony projecting slightly beyond the rear building line of its neighbours, the equivalent view from the permitted position would be too oblique to be problematic. The other set provides a longer and more

by the increased vehicular activity associated with the proposed 11 cars, as opposed to the existing 2 garaged cars, using the parking area.

The Inspector concluded that the proposal would fail to comply with the objectives of Policy CP24 of the Tonbridge and Malling Borough Local Development Framework Core Strategy September 2007.

Ian Henderson
Acting Chief Solicitor