

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 3 PLANNING COMMITTEE

17 March 2011

Report of the Legal Services Partnership Manager

Part 1- Public

Matters for Information

1 PLANNING APPEAL DECISIONS

- 1.1 Site **105 Clare Lane, East Malling**
Appeal **Against the refusal of permission for formation of a vehicular access onto Broadwater Road and use of land for private amenity purposes including growing of vegetables**
Appellant **Mr Kieron Brown**
Decision **Appeal dismissed**
Background papers file: PA/35/10
Contact: Cliff Cochrane
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The Inspector considered the main issues to be the effect of the proposal on the Character and appearance of the area and on highway safety in Broadwater Road.

Reasons

Character and appearance

The appeal site is a gently sloping grassed area measuring roughly 32m square. It is in separate ownership to the dwelling at 105 Clare Lane. Policy CP14 of the Core Strategy restricts development in the countryside to certain categories. It is not claimed that any of these apply in this case and there is no evidence that the proposal would be a predominantly open recreation use or that a rural location is essential. So, when judged against the wording of the policy, there would be a conflict with the development plan.

However, if the land remained much as it is at the moment the implications for the character of the countryside and the aim of concentrating most development in built-up areas would be insignificant. That said, it is not entirely clear what the use as "private amenity land" would entail other than growing vegetables on part of it. The Council also mentions dog training and exercising but there are no details of how the land would be used.

If permitted, the concern that eventually there would be a domestication of the land is real. An increase in the curtilage of 105 Clare Lane is not proposed so further buildings would require planning permission and fencing could be controlled. Nevertheless, other non-fixed paraphernalia could be brought onto the land such as tables and chairs and vehicles would, at times, be parked there. It may not be the appellant's intention to increase visual clutter but the use has to be assessed as applied for and any planning permission would run with the land. In these circumstances it is not certain that conditions to control the activities undertaken would be effective or reasonable.

In order to create the access onto Broadwater Road the roadside bank has been removed and excavation undertaken to form a short drive up to the main level of the land. This has had a negative visual effect on this rural locality and there is limited information about how this would be finished other than a gate would be installed 5m back. Given that the use proposed is objectionable the impact of these works is unnecessary and adds to the adverse consequences that would arise.

The proposal would harm the character and appearance of the area. As well as being contrary to Policy CP14 it would also fail to accord with Policy CP24 of the Core Strategy which requires development to respect its surroundings.

Highway safety

There is no technical evidence of the visibility splays required or of traffic speeds or flows past the site. However, the banks on either side of the proposed entrance restrict visibility and the land to the south is outside the appellant's control. The main hazard would involve traffic turning left from Clare Lane into Broadwater Road as drivers may be unaware of the entrance and those exiting would have a limited view of approaching vehicles. The appellant observes that movements in and out of the site would be very few and traffic along Broadwater Road did not appear to the Inspector be heavy. Nevertheless, a risk of collisions would be created.

A standard vehicle crossover has been approved but this is a separate matter. Given the finding regarding the use of the land and taking a precautionary approach the proposal would reduce highway safety in Broadwater Road.

For the reasons given the Inspector considered that the proposal would cause harm to the character and appearance of the area and highway safety, is unacceptable and therefore the appeal should not succeed.

Adrian Stanfield

Legal Services Partnership Manager

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	N/A	For information only
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	Information report only
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.