

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 3 PLANNING COMMITTEE**

**08 March 2012**

**Report of the Chief Solicitor**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL DECISIONS**

- 1.1 Site: **36 High Street, Snodland**  
Appeal **Against (A) an enforcement notice alleging a breach of planning control namely the installation of a new shop front and (B) the refusal of planning permission for the subdivision of the ground floor to create part retail unit (Class A1 use) and part financial and professional services (Class A2 use) and installation of new shop front.**
- Appellant **Markerstudy Group**  
Decision **Appeal (A) subject to an amendment to the notice, the notice is upheld and the appeal dismissed. Appeal (B) appeal dismissed.**

Background Papers file : PA/37/11

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**Appeal A – Ground (a) and the deemed planning application**

The Inspector considered the main issue is the effect of the new shop front on the character and appearance of the Snodland Conservation Area.

The appeal property forms part of a mixed use terrace comprising commercial units on the ground floor with residential accommodation above. It lies within the Snodland Conservation Area where Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In accordance with national planning policy in Planning Policy Statement 5: Planning for the Historic Environment (PPS5), the Conservation Area is a designated heritage asset.

The current shop front has replaced what appears to have been an original Victorian shop front. From the submitted photographic evidence, the former shop front was wholly traditional in form, with deep stall risers, a recessed

single entrance with fanlight window above and transom lights above the frontage windows, including the recessed ones either side of the entrance. The original fascia band, directly below the cornice, was utilised for the display of fascia signage. In marked contrast, the replacement shop front has resulted in the loss of all these traditional aspects. The provision of a new flush frontage in modern materials, with two centrally located doors set forward in line with the front elevation, has removed the contribution that the former shop front made to the heritage asset. The new fascia panel, set below the original fascia band and lower than those on adjoining shop units, creates a noticeable element of disharmony to the terrace as a whole.

It is accepted that several of the original shop fronts in the terrace have been replaced by more modern alternatives. The appellants say that since most of the original shop fronts had been lost before the Conservation Area designation this cannot have been a critical feature of the area that led to it being given Conservation Area status. However, a number of original-style shop fronts remain in the area. The designation was clearly intended to ensure that these traditional elements were retained. Examples of nearby traditional shop fronts include the baker's premises on the western corner of the terrace, an accountant's premises to the east and a separate Co-op store. Despite the presence of a number of modern shop fronts, the removal of the traditional historic shop front at the appeal premises and its replacement by the current modern-styled one has detracted from the character and appearance of the property and of the surroundings. This is contrary to the aims of the Conservation Area status, related national policy, Policy CP24 of the Council's Core Strategy and saved Local Plan Policy P4/13 and its Annex.

For the above reasons the appeal on ground (a) fails and planning permission is not being granted for the replacement shop front.

### **Appeal B**

The Council have no objection in principle to the creation of two smaller units through sub-division of the ground floor. However, the current sub-division relies on the existing flush shop front, with access to the internal space in each unit taken directly off the street by way of the separate entrances. Since the installation of the new shop front is unacceptable for the reasons given above in respect of Appeal A, planning permission is being refused in its entirety for the development subject to Appeal B.

### **Appeal A – Ground (f)**

This ground of appeal is that the steps required by the notice exceed what is necessary to remedy the breach. The appellants refer to the Council's comment that it is for the appellant to devise a scheme that creates two separate shop units without causing harm to the Conservation Area. They

conclude from this that the Council have accepted that any alternative new shop front will not be the same as the previous one. However, the Council's comments can be taken to refer to internal alterations following compliance with the enforcement notice. In any event, the enforcement notice has been issued to remedy a breach of planning control. As the appellants acknowledge, it clearly requires the re-instatement of a shop front in the form and style of the original. Such work does not exceed what is necessary to remedy the breach. The appeal on ground (f) therefore fails.

### **Appeal A – Ground (g)**

This ground of appeal is that the time given to comply with the notice is too short. The Council state that the former shop front was removed and replaced within a period of 2 to 3 weeks. The enforcement notice requires the reinstatement works to be carried out within 3 months. The appellants seek an alternative period of at least 6 months. They state that this is necessary having regard to the need to make 'a fresh planning application to agree a revised shop front design for both the A1 and A2 units.' However, as noted above, the requirement of the enforcement notice is to restore the shop front to its previous form. A fresh planning application is not necessary for that. Compliance with this requirement is a separate matter to submission and consideration by the Council of any fresh application for the use of the property as two separate units. It is accepted that alterations will be necessary to the existing internal layout of the ground floor of the property as a result of the enforcement notice being upheld. Even so, the 3 months compliance period seems adequate to remove the existing shop front and install the required replacement. The Council have the power to extend the compliance period should it not prove possible to complete the works required by the notice within the specified period. The appeal on ground (g) therefore fails.

- 1.2 Site: **22 Victoria Road, Walderslade**  
 Appeal **Against the refusal of planning permission for the erection of a single storey side extension with double garage and formation of a glazed lobby.**

Appellant **Mrs Linda Kyle**

Decision **Appeal dismissed**

Background Papers file : PA/44/11

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The Inspector considered the main issues to be the effect of the proposal on the character and appearance of the surrounding area and the living conditions of the occupants of Victoria Road.

### **Reasons**

*Character and Appearance*

Victoria Road is characterised by semi-detached and detached bungalows. The wide grass verges between the dwellings and the public footpath give the area an attractive suburban character. Although the detached bungalows adjacent to the appeal property vary in terms of frontage width and size, they are generally set back a similar distance from the road. They are generally enclosed by low boundary fences and hedges which maintain the spacious character and appearance of the locality.

The proposed extension would replace the existing garage and would extend close to the boundary with 20 Victoria Road. The garage would project forward of the front elevation of the neighbouring dwelling by about 3.9 metres. In views from the east it would be viewed as a blank brick wall projecting forward of the neighbouring dwelling, whilst from the west the high level windows would introduce a utilitarian appearance into this otherwise suburban frontage. Its projection forward of the building line would be contrary to the guidance within Policy annex PA4/12 and it would form a prominent and discordant feature within the street scene.

Although the dwelling at 18 Victoria Road is situated forward of the general building line, it is separated from the group of bungalows in which the appeal site is situated by the substation and planting. These provide a visual break between the dwelling at 18 and the bungalows to the west, and it does not detract from the spacious character of the surrounding area.

The Inspector therefore concluded that the proposal would harm the character and appearance of the surrounding area and would fail to comply with policy P4/12 of the Tonbridge and Malling Local Plan and policy CP24 of the Tonbridge and Malling Core Strategy which require extensions to be well designed and to safeguard the character and appearance of the site and its surroundings.

#### *Living Conditions*

Due to the forward projection of the proposed extension and its proximity to the boundary, it would have an overbearing effect on the outlook of the occupants of 20 Victoria Road. The flank wall windows to the proposed bedroom and study would be situated very close to the boundary with 20 Victoria Avenue, however, the proposed boundary fence would avoid any loss of privacy to the occupants of number 20. In addition, the proposed rooms would receive limited natural light and would have a very poor outlook.

The Inspector concluded that the proposal would unacceptably harm the living conditions of the occupants of 20 Victoria Road and would fail to comply with Local Plan policy P4/12.

**Adrian Stanfield**  
Chief Solicitor