

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 3 PLANNING COMMITTEE**

**31 May 2012**

**Report of the Chief Solicitor**

**Part 1- Public**

**Matters for Information**

**1. PLANNING APPEAL DECISIONS**

- 1.1 Site: **16 Busbridge Close, East Malling, West Malling, ME19 6BD**  
Appeal **Against the refusal of permission for a ground floor bathroom and shower room extension (application reference TM/11/02913/FL)**  
Appellant **Mr & Mrs Mark Stuart**  
Decision **Appeal dismissed**  
Background Papers file : PA/08/12

Contact: Cliff Cochrane  
01732 876038

The Inspector considered main issue to be the effect of the proposal on the living conditions of the occupants of 17 Busbridge Close.

The adjoining semi-detached dwelling at 17 Busbridge Close occupies a narrower plot than the appeal property. Its modest rear garden is constrained by a detached garage situated beyond the rear elevation of the property, and a steep bank that extends across the rear of the garden.

At the ground floor, the proposed extension would extend close to the boundary, whilst the first floor extension would be off-set from the boundary by about 800mm. When viewed in the context of the existing garage and bank at the end of the garden, the extension would have an obtrusive and dominating impact on the outlook of the occupants of 17 Busbridge Close and would give rise to an unacceptable sense of enclosure. In addition, it would be likely to overshadow the rear garden, albeit to a limited extent.

The Inspector therefore concluded that the proposal would harm the living conditions of the occupants of 17 Busbridge Close, and would fail to comply with policy CP24 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy (2007) and policy P4/12 of the Tonbridge and Malling Borough Local Plan which seek to protect the residential amenity of neighbouring occupants. He also considered the policies

in the National Planning Policy Framework, but in light of the facts in this case the Framework did not alter his conclusions above.

The Inspector was sympathetic to the appellants' desire to increase their living space, and accepted that the proposed extension would respect the character and appearance of the existing dwelling. He was also aware that the occupants of 17 Busbridge Close did not object to the proposal. However, the harm that would arise from this proposal would persist well into the future, and neither the lack of objection from the occupants of 17 Busbridge Close, nor the other matters raised, justify the harm to living conditions identified above.

- 1.2 Site: **27 Godden Road, Snodland**  
 Appeal **Against the refusal of planning permission for a two storey side, single storey rear extensions and porch to front (application reference TM/11/03126/FL)**  
 Appellant **Mr Tony Chambers**  
 Decision **Appeal allowed**  
 Background Papers file : PA/15/12 Contact: Cliff Cochrane  
01732 876038

The Inspector considered the main issue to be the effect of the proposal on the living conditions of the occupiers of 25 Godden Road, with particular reference to outlook.

### **Reasons**

The planning application which has led to this appeal describes the proposed development as: two storey side, single storey rear extensions plus porch and garage to front. However, the plans accompanying the application do not include a garage. The Council's decision notice describes the proposal as: *two storey side, single storey rear extensions plus porch to front*, and this is the description of development adopted by the appellant on the appeal form. The Inspector considered the appeal on the basis that it does not include the provision of a garage to the front of the property.

The Council raises no issues regarding the proposed front porch or the single storey rear extension and the Inspector found no reason to disagree with their view that these aspects of the scheme are unobjectionable. The appeal scheme would also include the building of a two storey side extension which would bring the flank wall of the building to within about 1m of the side boundary with the neighbouring property at No 25.

The Inspector noted the comments of the Inspector who dealt with an appeal against a previous refusal of permission for a scheme which included a similar side extension, that it would be overbearing and oppressive in the outlook from the kitchen window of the neighbouring property. However, the current

Inspector formed the view from his site visit that the proposed extension would still maintain a reasonable separation from the neighbouring property. Bearing in mind that the outlook from a window on the flank wall of a property would not generally be expected to be as extensive as the outlook from the front or rear windows, he did not consider that the impact on the kitchen window would be sufficient to warrant a refusal of planning permission. He noted that the occupier of No 25 has not objected to the appeal scheme. Whilst the absence of objections in such circumstances is not necessarily determinative, it is an indication that the current occupier of the property would not find the appeal scheme an unacceptable development.

The previous Inspector's decision was based on a larger scheme, which also gave rise to concerns about the effect on the character and appearance of the surrounding area arising from the size of a proposed front extension. The scheme before the current Inspector has removed the front garage extension, and although the side extension remains the same as the previous scheme, for the reasons given above, he did not consider that the impact on the outlook from the neighbouring kitchen window would, by itself, justify a refusal of planning permission.

The Inspector concluded that the appeal scheme would not have an unacceptable impact on the outlook from No 25 Godden Road and would not conflict with the objectives of Policy CP24 of the Tonbridge and Malling Borough Council Core Strategy 2007.

For the avoidance of doubt, and in the interests of proper planning, the Inspector imposed a condition that the scheme shall be built in accordance with the submitted plans. In the interests of visual amenity he imposed a condition requiring the use of matching materials. To safeguard the privacy of the occupiers of the neighbouring property he imposed conditions relating to the glazing and opening of windows on the side elevation of the proposed extension and to restrict permitted development rights to insert further windows in this elevation.

**Adrian Stanfield**  
Chief Solicitor