

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee 5th August 2009
AUTHOR/S: Corporate Manager – Planning & Sustainable Communities

APPEALS AGAINST PLANNING DECISIONS AND ENFORCEMENT ACTION: SUMMARIES OF DECISIONS OF INTEREST – FOR INFORMATION

Purpose

1. To highlight recent Appeal decisions of interest. These form part of the more extensive Appeals report, which is now only available on the Council's website and in the Weekly Bulletin.

Summaries

Mr & Mrs Cowley – Erection of dwelling – Cattell's Mill, Mill Road, Willingham - Appeal allowed

2. The proposal involved the demolition of an outbuilding and the erection of a new dwelling to the rear of 18 Mill Road. The application had been refused because of the harm to the living conditions of 59 and 61 Balland Field and the setting of the grade II* listed Cattell's Mill.
3. The inspector found that the relationship between the new and existing dwellings was acceptable so far as outlook, overshadowing and daylight were concerned. He was satisfied that the size, siting and design of the new dwelling would not be sufficient to create unreasonable living conditions.
4. Although the listed mill now has modern housing around it, the inspector acknowledged that it still stands with its visitor centre in a relatively open and strongly defined area. The new dwellings would be sufficiently distant from the mill so as not to intrude into its sense of openness. While the property's appearance would differ from adjacent houses, it would reflect the mill's character and would not be incongruous.
5. The appeal was therefore allowed subject to a Unilateral Undertaking requiring a financial contribution towards open space provision. Conditions were imposed regarding further details of solar panels, landscaping, protection of trees and hedgerows, restrictions on permitted development rights, external materials and minor alterations to the garage doors and access to 18 Mill Road.

Mrs S Shevlin – Dropped kerb – 5 Cambridge Road, Waterbeach – Appeal allowed

6. This application was refused primarily on the advice of the local highway authority. The dropped kerb would result in substandard visibility to the detriment of both highway and pedestrian safety. Block paving to the front and side of the house had already been laid.

7. Cambridge Road is a principal road through the village. From his site visit, the inspector reasoned there is sufficient room to the front and side of the house to allow a car to pull off the road and manoeuvre within the space available to allow exit in a forward gear. However, it may well be that, depending on the size of vehicle, some overhang of the footpath may occur during manoeuvring. To the front of No. 5, the footpath provides sufficient scope to provide adequate pedestrian visibility to either side of the proposed crossing. Although the County Council suggested that Cambridge Road requires much greater visibility than proposed, no information of actual vehicle speeds, flows or accident data was provided to suggest the road presents particular problems or dangers. Based on his visit in the middle of a weekday afternoon, the inspector noted that there were frequent gaps in what appeared to be a light flow of traffic and that vehicle speeds were restricted by the road alignment and some on-street parking. He accepted that at other times flows and speeds may be higher but as the proposal is to form an access point for a single dwelling a reduced 2m 'X' distance would be reasonable. To the south-west the requisite visibility is achievable over front gardens of adjacent houses in respect of which an existing planning condition prevents any obstruction over a height of 0.76m. This is an enforceable condition and given the width of the adjacent footpath that provides good pedestrian visibility, adequate visibility for a driver emerging onto the road could be maintained.
8. Whilst parking provision for No. 5 already exists more remotely to the rear the appellant's wish to be able to park to the front of the property would be more convenient. Given the presence of the hardstanding it is also possible that use might be made of it for parking even in the absence of a dropped kerb. This could be potentially more awkward and dangerous than if a properly formed crossing was provided.
9. The proposal would therefore not result in unacceptable harm to highway and pedestrian safety.

Mrs A Dant, Mr N Foster & Mr T Brown – Erection of 9 dwellings and associated vehicle access – land r/o 10a Rosemary Road and 3 St Andrew's Hill, Waterbeach – Appeal dismissed.

10. This application was refused by the Planning Committee on the grounds of its impact on the conservation area, on the adjoining listed building known as The Hall and on the residential amenities of adjoining occupiers in Rosemary Road. Because of objections from third parties and the Council's desire for suitable conditions to be imposed, highway safety was also a main issue. The appeal was considered by way of a hearing at which Cllr Johnson attended and spoke against the proposal.
11. The site abuts the curtilage of The Hall, However, the inspector concluded that the property has substantial grounds and the main house would be relatively distant from the development. He therefore considered that the listed building itself would not be affected by the proposal. The Council also raised concerns in respect of a curtilage wall and a coach house that would be seen in the context of the new development. However, the inspector found the proposed separation would be sufficient to mean the scheme would not affect the setting of either structure, and the particular character of both would remain unaffected. Views of these structures would be limited and insignificant. It would be apparent that the new houses were outside the curtilage of The Hall, and, sufficiently far from the coach house and wall to mean they would not impinge on their settings.

12. The site lies outside the conservation area. The land is undeveloped and overgrown at present and the inspector found it contributes little to the conservation area's sense of openness. The proposed development would not cause any harm to the conservation area.
13. The main front elevations of the proposed dwellings would be about 27-30 m. from the rear elevations of the houses on Rosemary Road. The inspector concluded that even if the new elevations contained principal windows such a separation would be sufficient to mean there would be no unacceptable loss of privacy or daylight within those existing buildings. The Council's draft Design Guide provides a useful indication of what the Council considers to be a satisfactory distance between the main elevations of dwellings. The document advocates a 'rule of thumb' separation between rear elevations of 18m, and that dimension would be substantially exceeded in the development proposed. Neither would the proposal result in unacceptable noise and disturbance at the back of the Rosemary Road houses. While the driveway would pass 2 gardens and be close to windows in the rear and side elevations, this is not an uncommon situation and the amount of traffic reasonably expected would not cause undue noise. Headlights would shine onto the front elevation of the house on the opposite side of Rosemary Road, but the likely number of movements would not be unsatisfactory in this built-up area. As such, the proposal need not unreasonably affect the living conditions of neighbouring residents.
14. The submitted plan shows visibility splays would cross part of the adjoining front gardens. These already reduced splays were the minimum necessary to maintain highway safety. Adequate visibility could only be achieved if these splays are protected to ensure planting or structures of an inappropriate height did not further reduce the visibility for drivers leaving the site. The front garden of one of these properties is outside the appellants' control and is owned by someone who had objected to the proposal. The appellants argued that sight splays would be protected by a restrictive covenant. However, the Council pointed out covenants do not serve the same purpose as planning conditions, as they cannot be guaranteed in perpetuity. Relying on a covenant to achieve a justified planning control would therefore be inappropriate. The inspector agreed and was of the opinion that the proposed westbound sight splay cannot be appropriately safeguarded. This was alone sufficient for the appeal to be dismissed.

Mr D Lee - Erection of dwelling -The Bell House, 9 Rectory Farm Road, Little Wilbraham – Appeal dismissed

15. The three main issues in this appeal were the setting of the neighbouring Listed Building, Reed Cottage; the living conditions of existing and prospective occupants of The Bell House; and the character or appearance of the Conservation Area.
16. Reed Cottage is an extended Grade II Listed Building, which the inspector found is well set back from the road in an attractive, good size garden. Its main aspects are to the front, to the side towards Church Road and to the rear towards its rear garden. Its north elevation is along the common boundary with The Bell House. There is only one small window within this elevation and there is a considerable amount of vegetation in the form of trees and shrubs along this boundary. These considerations of aspect and screening persuaded the inspector that the openness of the appeal site does not contribute in any significant way towards the setting of the Listed Building.
17. The rear, single-storey part of the proposed dwelling would be about 13 m long and up to about 3 m tall. It would result in a wall extending along the common boundary of the site of the proposed dwelling and the proposed rear garden of The Bell House. In

some circumstances a wall of this scale, at or close to a boundary with a residential curtilage, would be too overbearing. In this case, however, the remaining width of about 24 m of the rear garden of The Bell House would ensure the retention of enough space to safeguard the pleasantness of the garden and the enjoyment of it. Indeed, the wall would complement the rear elevation of The Bell House and of the outbuildings along the rear of its garden to create an attractive courtyard effect. The planting of suitable shrubs and flowers alongside the new wall could further enhance this arrangement. Living conditions at The Bell House would therefore not be adversely affected.

18. The appeal site lies within the mainly built-up eastern part of the village framework where residential development is, in principle, acceptable. Several open spaces are evident, usually in the form of large and medium size gardens and an area in front of and around the Church especially so along Church Road and the southern end of the western side of Rectory Farm Road. These include the appeal site. The inspector found that these areas, with their many fine trees, attractive hedges and other planting, make a vital contribution to the prevailing spacious character and sylvan appearance of this part of the Conservation Area.
19. As a matter of principle, the appeal site is physically capable of accommodating the proposed dwelling. Existing and proposed vegetation around and within the appeal site would ensure the proposed dwelling would not be visually intrusive in its surroundings. Despite this, the inspector found the appeal site to be especially important because of the way in which its shape and extent complements the size and grace of the elegant Bell House. The actual presence of the proposed dwelling on this valuable space, rather than the extent to which it would be shielded from public view, was of prime importance. As such, it would damage the essential character and appearance of the Conservation Area. Certain aspects of the design and proposed external materials of construction could be dealt with by way of conditions, but these aspects did not outweigh the basic objection in principle.
20. The appeal was therefore dismissed because of its harmful impact on the conservation area.

Wm Morrison Supermarkets plc – Extension to sales area – Morrison’s, Broad Street, Cambourne – Appeal dismissed

21. This application was dismissed under delegated powers and determined following a public inquiry. The main issues were whether the proposed development would result in insufficient car parking for the settlement centre in the short or longer term; and whether the reduction of car parking would put at risk investor confidence in the future development of the settlement.
22. The proposal was to increase the retail floor area of the supermarket by extending eastwards into the existing car park. This would reduce the number of parking spaces by 39 from 522 to 487. While Morrison’s owns the car park, it is not for the exclusive use of the supermarket. It is a public car park, required, along with 3 other smaller public car parks, to contribute towards meeting overall parking demand in the centre from development both existing and yet to be provided in accordance with an approved Master Plan. The Council was concerned that the loss of 39 spaces which would result from the proposed development plus the additional demand for parking resulting from the proposed 20% increase in floor area would reduce the amount of public car parking in the centre to a level insufficient to meet the needs of the centre when developed as intended.

23. Both parties submitted assessments of the present number of off street public parking spaces available in the centre. In a bid to demonstrate that the proposed supermarket development would still leave sufficient car parking to serve a completed centre the appellant presented an assessment of future parking demand taking account of the proposed supermarket expansion, the future development proposals marketed in 2006/07 and the possible expansion of Cambourne to 4250 dwellings. Having considered various scenarios for future growth and parking demands, the inspector decided that the appellant had failed to demonstrate that it can be safely assumed that the impact of the proposed supermarket extension on existing parking capacity can be absorbed without affecting the sufficiency of future car parking provision in the centre.
24. The effective reduction in parking capacity, which would result from the proposed supermarket expansion, would be prejudicial to the provision of sufficient car parking to adequately support the development of the centre as envisaged in the Master Plan. As such, the inspector considered the proposal to be premature at this stage of Cambourne's development. The appeal should fail on this issue.
25. The inspector concluded that there are many factors, which affect investor confidence. To his mind the size of the existing car park was drawn to potential investors' attention because the developers considered it to be a factor, which would have a positive effect upon investor confidence. He considered it reasonable to assume that the proposed reduction in the size of the car park would have a less positive effect on investor confidence. However there is insufficient evidence to conclude that this factor alone would affect overall investor confidence such as to threaten the development of the centre in accordance with the Master Plan.