

APPEALS AGAINST PLANNING DECISIONS AND ENFORCEMENT ACTION

TOWN AND COUNTRY PLANNING ACT 1990

This item is intended to update Members on appeals against planning decisions and enforcement action. Information is provided on appeals lodged, proposed hearing and inquiry dates, appeal decisions and when appropriate, details of recent cases in interest.

1. Decisions Notified by The Secretary of State

Ref. No.	Details	Decision and Date
S/1425/04/F	T Mendham Adj 9 Six Mile Bottom Road West Wrattling House (Officer Recommendation to Refuse)	Allowed 14/04/2005
S/1484/04/F	P Mullins 2 Cody Road Waterbeach Dwelling (Delegated Refusal)	Allowed 14/04/2005
S/1302/04/F	Merton College Land south of Station Road Gamlingay Variation of condition 1 of planning permission S1737/01/O to allow a further period of 3 years for the submission of reserved matters (Officer Recommendation to Approve)	Allowed 14/04/2005
S/1254/04/F	Mrs E Farrow R/o 44-50 High Street Landbeach Bungalow (Delegated Refusal)	Dismissed 15/04/2005
S/1394/04/F	Mrs A Gawthrop 1 Moores Court Cottenham Conservatory (Delegated Refusal)	Dismissed 15/04/2005
S/1729/04/F	Mr & Mrs Jackson 16 Burrough Field Impington Extension (Delegated Refusal)	Allowed 15/04/2005

S/1066/04/F	R Hinde 4 Magdalene Close Longstanton Erection of fence and gate and change of use of land to domestic Garden (Officer Recommendation to Approve)	Allowed 18/04/2005
S/1614/04/O	Mr & Mrs Baker 36 Station Road Over Erection of 5 dwellings following demolition of existing dwelling and outbuildings (Delegated Refusal)	Dismissed 18/04/2005
S/1430/04/F	Mr & Mrs McKensie 2 The Hemlocks Haslingfield Raising roof height and addition of dormer window. (Officer Recommendation to Approve)	Allowed 22/04/2005
S/1117/04/O	T Pavey 41 St Neots Road Hardwick Dwelling (Delegated Refusal)	Dismissed 22/04/2005
S/0797/04/F	Mr S Godsell 110 Watermead Bar Hill Extensions and change of use (Officer Recommendation to Refuse)	Dismissed 25/04/2005
S/0922/04/F	Ms A Engleman Grantchester Road Barton Formation of golf driving range, five hole golf course, range building, clubhouse and store (Delegated Refusal)	Dismissed 25/04/2005
S/0578/04/F	Upware Marina 15 High Street Shepreth Erection of house and garage following demolition of existing Bungalow (Officer Recommendation to Refuse)	Allowed 28/04/2005
S/1223/04/F	Mr J Mannion Magnolia House, Linton Road Horseheath Extension (Delegated Refusal)	Dismissed 28/04/2005

S/1050/04/F	Mr J O'Farrell R/o 11/13 Fishers Lane Orwell Dwelling (Delegated Refusal)	Allowed 29/04/2005
S/1392/04/F	Amanda Philips Scotts Gardens Whittlesford Dwelling (Delegated Refusal)	Allowed 04/05/2005
S/1007/04/O	Executors of P E Q Francis Land adj 77 Station Road Stow-cum-Quy 2 houses renewal of time limited permission S/0411/01/O (Delegated Refusal)	Dismissed 10/05/2005

2. Summaries of recent decisions of interest

P Mansfield – Demolition of garage, erection of side extension and new front bay window – 29 Worcester Avenue, Hardwick – Appeal allowed

The main issue was the effect of the new side extension on the character and appearance of the area. The appeal was considered by way of a hearing. The appellants made an application for costs.

The property is a semi-detached chalet style dwelling on the corner with Pippin Walk. Land to the front and side of the property is mainly grassed and enclosed by a coniferous hedge. Pippin walk is a pedestrian route only and the adjoining front gardens are largely open and undeveloped. The inspector accepted that collectively the front gardens form one of several green corridors in the locality and these soften the generally developed character of the surrounding estate.

To his mind, the character of Pippin Walk would be unharmed by the size and siting of the proposed “substantial” extension. It would still leave an undeveloped area between it and the footpath and would not intrude into the undeveloped green corridor to such an extent that it would be visually intrusive. The location of the property suggests that a comparable proposal would be unlikely elsewhere and approval would not set a precedent.

Permission was granted subject to the submission of details regarding materials.

The appellants applied for costs on the grounds the Council's refusal was unreasonable. The case advanced for the Council was particularly weak and not expanded on at the hearing. A reference to the site as having open/amenity value was untrue. There was no evidence that the extension would be out of place. The Council's proof of evidence was not to the standard that was acceptable.

The Council responded that the reasons for refusal detailed its perception of the site and its contribution to the character and appearance of the area. They were precise, specific and relevant to the application and based on relevant development plan

policies, taking into account government advice. This was a case where the issues were finely balanced. Decisions relating to visual amenity are often subjective. The alleged harm had been substantiated in the hearing statement and in evidence given at the hearing.

In refusing the application for costs, the inspector agreed that the reason for refusal was complete, precise, specific and relevant to the application. The Council's hearing statement had set out its assessment of the character of the area in terms of the relevant development plan policies. This was explained further at the hearing. The Council did not behave unreasonably in the quality of its evidence.

Dr & Mrs N Coleman – House and garage – 33 Mill Hill, Weston Colville – Appeal dismissed

This appeal, and the two that follow are all concerned with the provision of affordable housing.

This appeal was concerned solely with the provision of affordable housing. It was considered by way of a hearing and was attended by a representative of the Parish Council.

The site forms part of larger site, which had previously been granted planning permission for one dwelling. The appellant sought to split the site into two and erect a second dwelling on the newly created site. Although the proposal was therefore for one dwelling, the Council considered that it should be considered with the permitted scheme as one site for two houses. In the light of this, the new house should be an affordable unit in line with Local Plan Policy HG7. The appellant considered this approach was untenable.

The inspector considered that to assess whether the two plots should be regarded as parts of a larger site, certain factors needed to be taken into account. These were single ownership, whether they comprised a single site for planning purposes and whether they constituted a single development. In this case they were in the one ownership, they appeared as part of the garden of the existing property, would share the same driveway and a new sewer. They effectively comprised a single plot for planning purposes. Although the two dwellings were of similar design, this was not conclusive of them comprising a single scheme. Any marketing strategy was irrelevant.

The first dwelling was approved before the existing Local Plan came into effect, and before any requirement to provide affordable housing on a site such as this. Nonetheless, the existing local plan was relevant and the inspector had judged that this was effectively one site. The local plan could be applied to the whole development. The appellant suggested that with such a restriction, the house would not be built and the land retained and developed at a later date when there was no affordable housing requirement. The inspector was not persuaded that this was a convincing argument to ignore the policy requirement.

A village housing needs survey was published in 2003. The inspector was satisfied that this adequately demonstrated a need for affordable housing. While he was disappointed that the Council had not sought to negotiate before the application was refused, this did not undermine its approach to the consideration of need.

As the proposal did not meet part of the defined need as set out in Policy HG7, the appeal was dismissed.

Mr K Dyer – Pair of semi-detached houses - Land adj to 72 Kingsway, Heathfield, Duxford – Appeal dismissed

In this appeal by written representations, the site adjoined the Green Belt. The inspector agreed with the Council that the proposed houses would be very conspicuous from the Green Belt and that they would be out of character with their surroundings. The proposal would amount to an overdevelopment of the site and should be resisted on this issue.

The Council argued that if allowed, one of the houses should be an affordable unit. The circumstances were the same as for the above appeal in Weston Colville in that both settlements are classed as infill-only villages, have limited services and there is an extant housing needs survey which provides a demonstrable need for affordable housing.

In this case, however, the inspector placed greater emphasis on the low level of facilities and services. As the development was for a pair of small (three-bedroom) semi-detached dwellings, he found the "... practicality and relevance of the Policy (HG7) in this case to be somewhat limited." Had the appeal been acceptable in other respects, no requirement for an affordable unit would have been necessary.

Executors of P E Francis – Outline application for two houses – 77 Station Road, Stow-cum-Quy – Appeal dismissed

In this third case, the appellant sought to renew an outline planning permission previously granted in 2001. The renewal of permission was refused on the grounds that the Council sought a more efficient use of the site and that 50% of the total number of houses should be affordable. As with two other cases, Stow-cum-Quy is an infill village with limited services and facilities.

The site is constrained by a tree preservation order covering six trees and lies in an area of low density housing close to a listed building. All of these factors led the inspector to conclude that a development of just two dwellings is the most appropriate for the site.

On the question of affordable housing, the inspector noted the latest district housing needs survey and the local housing needs survey for the village. The appellants did not dispute that there should be a requirement for affordable housing, but argued this was not an appropriate site. This argument was based on likely development costs and that this is a scarce, prime site with enviable views over the countryside.

The inspector did not consider that these arguments would prevent a unit of affordable housing being provided. There was no evidence that this would make the development of the site unviable.

The appellant proposed to address the issue by offering a commuted sum (£35,000) to be paid to the Council in lieu of on-site provision. The Council rejected this on the grounds that it would not address the perceived shortfall of accommodation in the village and was not consistent with adopted policy. The inspector agreed. He accepted the argument that RSL's will take on single-dwelling developments. He noted that a site in Main Street may bring forward an element of affordable housing, but that this would not meet all of the locally identified need. The Council had resolved to accept a commuted payment for a site in Caldecote, but in that case the Parish Council did not want any more affordable housing in the village. That is not the case in Stow-cum-Quy. The appeal should therefore be dismissed.

Comment: These three decisions involve villages of similar size and scale yet highlight some inconsistency in the reasoning of different inspectors. The two dismissed appeals show that Policy HG7 is standing up to closer scrutiny and that even in our smaller villages a demand for affordable housing should be met. The decision for Heathfield is the first of some half a dozen decisions where the inspector has decided that the policy should not be applied. He appears to be saying that a three-bedroom property is, by definition, more affordable. If the appeal had been allowed, it would have prompted the question whether permission should have been conditioned to prevent increasing the size of the property to ensure that it remained “affordable” to as many people as possible.

Dr & Mrs Mackenzie – New pitched roof and rear dormer - 2 The Hemlocks, Haslingfield – Appeal allowed

This application was refused by the Committee on the grounds of harm to the character and appearance of the conservation area and to the amenities of the neighbouring residential property.

The alterations involved raising the roof ridge by about 1.1m. The conservation area boundary passes through the site and the area comprises an assortment of buildings of various ages and architectural styles. The inspector found that taken together, the buildings make a pleasant and varied mixture and this helps to make the area attractive.

In his judgement, the increase in roof height would make the appeal property more, not less, in keeping with the street scene. He noted that the conservation officer had held a similar view. The added height would not make the building intrusive or harmful to the street scene. It would be taller than its neighbours, but there is already a variation in roof heights and the increase would not appear incongruous. The proposal would at least preserve the character and appearance of the conservation area.

The proposed dormer would light a shower room. It could be obscure glazed and non-opening. The sill of a proposed rooflight could have a minimum height. Subject to these measures, there would be no overlooking of the neighbour's garden. No weight should be given to the “perceived overlooking” as this would be into their garden and not into the house itself.

The appeal was allowed subject to the prevention of additional openings in the first floor elevations facing neighbouring properties, details of materials, confirmation of the sill height of the rooflight and openings being obscure glazed and maintained as fixed and non-opening.

Merton College – Appeal against condition requiring the submission of reserved matters within one year (and not the normal three) – Land south of Station Road, Gamlingay – Appeal allowed

This appeal arose following the Committee's decision to encourage the early submission of details for industrial development on the site. Outline permission had originally been granted in 1996 following an allocation in the 1993 Local Plan. The reason for the condition was to ensure that the consideration of any future application would not be prejudiced by any permission that has not been acted upon.

While some time had elapsed since the original grant of permission, the appellant indicated he had been actively marketing the site. This had entailed the need to provide a number of smaller, serviced plots on the site. The inspector found this to be an entirely rational approach. A planning application made in 1997 involved the use of land for recreational purposes. This was subject to a legal agreement that was not completed until 2002. This delay necessitated successive renewals of the outline planning permission. There was no evidence that the alleged unreasonably high price for the site had deterred interest from companies. In short, there was no convincing argument that the appellant does not intend to implement the planning permission.

There was no dispute over the cost of the associated roads and infrastructure works and end-users were unlikely to be attracted until these works are in place, or underway. Insistence on condition 1 would be counter-productive. Neither was there any evidence that the development of suitable alternative sites is being prejudiced.

Allowing a period of three years for the submission of reserved matters would encourage further investment by the appellant and increase the likelihood of the scheme coming to fruition.

Upware Marina – Demolition of bungalow and erection of house – 15 High Street, Shepreth – Appeal allowed.

The main issue in this written representations appeal was the likely impact on the privacy and outlook of adjoining residents. The inspector noted that the house at 9 Huttles Green was 30m away at its nearest point and would not suffer any adverse overlooking of its rear garden. No. 8 Huttles Green is some 16m away at its closest point. The potential to overlook its south facing rear garden had been reduced by the deletion of a bedroom window. The new house would be well designed with a domestic scale appropriate to its surroundings. As such, it would not be overbearing in views from either adjoining property.

Planning permission was granted subject to conditions re materials, the prevention of additional openings in the first floor elevations facing neighbouring properties and the protection of trees during construction.

R Hinde – Erection of fence and gate change of use of land to domestic garden – 4 Magdalene Close, Longstanton – Appeal allowed

This application was refused because of the perceived harm to the character and appearance of the area. The fence and gate had since been erected.

The inspector noted that the Council had granted planning permission for a similar alteration to the boundary fence between nos 13 and 14 in June 2004. That development has been implemented. He found it has no material impact on visual amenity. A small amount of community space had been lost, but this is insignificant in the context of the extensive tract of land available for that purpose. The proposed development was not significantly different. It was therefore unreasonable and inconsistent to refuse planning permission for this similar development

The fence and gate could remain subject to it matching the existing fence and gate on the site

Comment: Had this appeal been considered at a hearing, the appellant could have made an application for costs. These could well have been granted on the basis that the Council's decision was considered unreasonable in the light of its earlier decision.

3. Appeals received

Ref. No.	Details	Date
S/1207/04/F	Mr & Mrs Allen R/o 32 Fen End Willingham Dwelling and garage (Delegated Refusal)	15/04/2005
S/2446/04/O	Mr T Day R/o 97 New Road Haslingfield Dwelling (Delegated Refusal)	18/04/2005
S/1137/04/F	Optima (Cambridge) Ltd Croydon House Farm Croydon Conversion of agricultural buildings to 4 home/work dwellings (mixed use classes C3 & B1) car parking and alterations to access (Officer Recommendation to Approve)	22/04/2005
S/0179/05/F	Mr Crickmore The Barn, Chesterton Fen Road Milton Conversion of barn/stable into dwelling (Delegated Refusal)	28/04/2005
S/0343/05/PNT	Hutchison 3G Uk Ltd London Road/Church Street Stapleford 12 meter high telecommunications monopole and associated development (Delegated Refusal)	03/05/2005
S/0166/05/F	Hutchison 3G Uk Ltd North East Farm, Cambridge Road Eltisley 20M Telecommunications tower and associated development (Officer Recommendation to Approve)	03/05/2005

S/0446/05/A	Marshall Mitsubishi 699 Newmarket Road, Cambridge Fen Ditton Signs (Delegated Refusal)	10/05/2005
S/1951/04/LB	Mr R Poulter Golden Gables, Sanders Lane Fulbourn Total demolition of listed, thatched barn (Officer Recommendation to Approve)	09/05/2005

4. Local Inquiry and Informal Hearing dates scheduled before the next meeting on 6th July 2005

Ref. No.	Details	Date/Time/Venue
E483C & D	Mr & Mrs Ryan 15 Angle End Great Wilbraham Enforcement against the erection of a single storey, flat roofed extension to form a lobby at the rear of the building. (Hearing)	14/06/2005 10.00am Monkfield Room
E493	Miss Lovitt & Mr Scrafton 6 Honey Hill Gamlingay Enforcement for removal of 5-bar gate and gate posts (Hearing)	30/06/2005 10.00am Monkfield Room

5. Appeals withdrawn or postponed - None

6. Advance notification of future Local Inquiry and Informal Hearing dates subject to postponement or cancellation)

Ref. No.	Details	Date
S/0246/04/RM	Cofton Ltd., Peter Stroude, George Wimpey East Anglia, Kings Phase 2, Home Farm Confirmed Longstanton Erection of 200 dwellings and ancillary works (Local Inquiry)	07/07/2005

S/0761/04/F	B Gemmil, A Sheridan, E Sheridan & K Sheridan Plots 1-11 Victoria View, off Orchard Drive Confirmed Cottenham Use of land for gypsy caravan site, (11 pitches) part Retrospective (Local Inquiry)	12/07/2005
S/1569/04/F	Mr M Hegerty Land off Victoria View, Smithy Fen Confirmed Cottenham Siting of 4 gypsy caravans (Local Inquiry)	12/07/2005
S/1589/04/F	M Quilligan Land off Water Lane, Smithy Fen Confirmed Cottenham Siting of 2 gypsy caravans (Local Inquiry)	12/07/2005
E353	Mr P McCarthy Plot 2 & R/o 2 Setchel Drove Confirmed Cottenham Enforcement against change of use of site to use as a residential Caravan site (Re-Determination following High Court Challenge) (Local Inquiry)	12/07/2005
S/1020/03/F	Mr P McCarthy R/o 2 Setchel Drove Confirmed Cottenham Siting of 2 gypsy caravans and shower block (Re-Determination following High Court Challenge) (Local Inquiry)	12/07/2005
S/0682/95/O	Peter L Stroude Land West of Longstanton (Home Farm) Offered/ Longstanton Increase number of dwellings from 500 to 630 (Local Inquiry)	27/07/2005
S/0629/04/F	Mr and Mrs Noyes 22 North Brook End Confirmed Steeple Morden Extension	04/10/2005

S/0628/04/LB	Mr and Mrs Noyes 22 North Brook End	04/10/2005 Confirmed
	Steeple Morden Internal and external alterations including conversion of bathroom to utility room and two ground floor bedrooms to study and garden room (Hearing)	
S/1109/04/F	Beaugrove Ltd. Crail, High Street Croydon Erection of two houses following demolition of existing house (Hearing)	11/10/2005 Confirmed
S/0592/04/F	R W S Arnold Bennell Farm, West Street (Comberton) Toft Erection of B1 offices (Hearing)	09/11/2005 Confirmed
S/2062/04/F	R W S Arnold Bennell Farm, West Street (Comberton) Toft Erection of B1 offices (Hearing)	09/11/2005 confirmed
S/6258/04/RM	MCA Developments Land South of Great Cambourne Cambourne Alterations in land form (dispersion of soil from building works.) (Local Inquiry)	14/03/2006 Offered/