

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/2311/04/F	Dr K Fraser 39 Oatlands Avenue Bar Hill Change of use to garden land and erection of boundary fence (retrospective) (Delegated Refusal)	Dismissed 26/04/2006
E520	Dr K Fraser 39 Oatlands Avenue Bar Hill Enforcement against change of use of land to garden land and erection of boundary fence	Dismissed 26/04/2006
S/2481/04/O	Mr & Mrs C Hicks Barns at Woodside Longstanton Bungalow & Garage (Officer Recommendation to Refuse)	Dismissed 27/04/2006
E506A	Michael O'Brien Plot 5 Orchard Drive, Smithy Fen Cottenham Enforcement of removal of caravans, sheds other ancillary structures and hard standings	Dismissed 04/05/2006
S/0321/05/O	Unwins Properties Ltd Land north of Impington Lane Impington Residential Development (Delegated Refusal)	Dismissed 04/05/2006
S/0982/05/F	Mr & Mrs Thornhill 10a Potton Road The Heath Gamlingay Extensions (Delegated Refusal)	Allowed 15/05/2006
S/1845/05/ F	Houghton Homes 152 Hinton Way Stapleford Erection of 2 houses following demolition of existing dwelling (Officer Recommendation to Approve)	Allowed 15/05/2006

Ref No.	Details	Decision and Date
S/1878/05/F	Bovis Homes Ltd Land off Kay Hitch Way and Chivers Way Histon Erection of 46 sheltered retirement apartments (Delegated Refusal)	Allowed 17/05/2006
S/1447/05/F	J M Tollit Kings Farm Stables Horningsea Extension and conversion of former stables into dwelling. (Officer Recommendation to Approve)	Dismissed 18/05/2006

2. Summaries of recent decisions of interest

Unwins Properties Ltd – Residential Development – Land north of Impington Lane, Impington – Appeal dismissed and costs awarded to the Council

1. This appeal concerned the vacant Unwins Seeds site including offices, laboratories and warehouses. The application was refused on the grounds that it had not been demonstrated that the site was no longer suitable for employment use and due to the absence of a flood risk assessment. A third reason for refusal regarding archaeology was resolved before the appeal hearing. Cllr Mason, the Parish Council and the Environment Agency (EA) attended and spoke at the hearing.
2. The application was submitted in outline. The appellant had initially sought to agree access requirements at this stage. Due to changes in the approach to flood protection, access matters were reserved for later approval. The appeal was accompanied by a legal undertaking relating to affordable housing, educational facilities, public open space and highway infrastructure. These had been negotiated and agreed in the event that planning permission was forthcoming.
3. The site is effectively in two parts. To the west is open land already allocated for residential development in the Local Plan. Ironically, it is this part of the site which is at risk of flooding. The offices, laboratories and warehousing, occupy the eastern half of the site.
4. As the site was last used for employment purposes, Local Plan Policy EM8 seeks to retain this use unless the applicant can demonstrate that the site is inappropriate for the employment use to continue. Regard should be had to any environmental problems the use has caused and to market demand. In this latter respect, there should be evidence that the site has been marketed for not less than 12 months on terms that reflect the lawful use and condition of the property.
5. The appellant accepted that the use has not caused any environmental problems. The inspector found that the application had not been supported by any substantive information on marketing. At the hearing, the appellant indicated there had been some low-key marketing from October 2004. Formal marketing only commenced in October 2005, after the application had been determined. The hearing was only some six months after the appeal had been lodged and the inspector concluded that the necessary marketing information had not been provided. As such, the proposal would result in an unacceptable loss of employment land.

6. The appellant had sought to negotiate an acceptable position on flooding after the appeal had been lodged. The EA had been involved in several discussions but it was not until just before the start of the hearing that some agreement was reached. The appellant proposed that any approval could be conditioned which would only allow development on the western part of the site if suitable flood compensation measures were agreed. While this was acceptable to the EA, the Council contested the uncertainty of such a proposal and whether this would lead to the proper redevelopment of the whole site.
7. The inspector agreed. There was no certainty that the whole of the site could be developed. Moreover, neither the Council nor the local parish councils had had the opportunity to consider the proposed amendments. The inspector did "... not wish to prejudice their interests in the potential development of the land." The proposals for dealing with flooding were therefore unacceptable.
8. The Council submitted an application for costs on the basis that the appellant went into the appeal with no reasonable prospect of success. This meant that the appellant had acted unreasonably causing the Council to incur unnecessary costs. The reasons for refusal were clear and precise. No marketing information or flood risk assessment had been submitted with the application. The necessary marketing had only been carried out for six months and the Council had been given no chance to consider it fully. The proposal to overcome flood risk would lead to uncertainty as to how the site would be developed.
9. In response, the appellant argued that marketing has been ongoing since October 2004 in a variety of forms. Flood protection had now been agreed with the EA. The interests of the parish Council would be protected by the EA's requirements. The appellant had acted responsibly in seeking outline planning permission.
10. The inspector agreed that the results of marketing should have formed part of the planning application. In the event it was only partially undertaken by the time of the hearing and not subject to any scrutiny by the Council. While the position on flooding offers a way forward, it is surrounded by considerable uncertainty. This is a matter which should have been resolved before the development of the whole site could be considered. Much of the necessary information to enable the Council to properly consider the application was substantially incomplete.
11. This was unreasonable behaviour causing the Council to incur unnecessary expense. An award of costs was justified.

Bovis Homes Ltd – 46 sheltered apartments – Land off Kay Hitch Way, Histon – Appeal allowed

1. This application followed an earlier proposal to erect 57 dwellings. That application was dismissed at appeal on the grounds of highway safety, largely because of the risk to elderly and infirm residents living along Kay Hitch Way. The current application differed in that the proposal was for occupation by persons aged 55 and over.
2. The latest application was refused for two reasons. The first was the impact on pedestrians and drivers using Kay Hitch Way and Station Road. The second was the impact of the buildings on neighbouring properties by reason of overbearance and loss of light.
3. On the issue of highway safety, the inspector noted that while the first proposal would have generated some 400 vehicle movements a day along Kay Hitch Way, the latest scheme would generate less than 100. He also took into account the lack of any objection from the local highway authority. The appellant had offered a 'speed table' to slow traffic in Kay Hitch Way and this would help to slow traffic at a point where residents cross the road. This would help considerably make this section of road safer for existing residents.

4. At the time of his inspection, the inspector noted some parking difficulties with the doctor's surgery in Station Road, on-street parking on double yellow lines and the restricted visibility at the junction with Kay Hitch Way. He was not persuaded that the increase in traffic arising from the development would be such that it would cause unacceptable congestion at this point. He also noted the recently implemented traffic calming scheme in Station Road which has encouraged lower traffic speeds in the locality. While the recommended visibility splay cannot be achieved, this was not critical for this scheme.
5. The Council's highway consultant had recommended that Chivers Way should be the preferred access to the site. This was understandable, but Kay Hitch Way provides a more residential approach and has a better accident record than Chivers Way. Chivers Way would still provide access for refuse and emergency vehicles.
6. In order to address the impact on residential amenity, the appellant had submitted revised plans. Local residents were not specifically consulted on these, but the inspector considered it was appropriate for him to determine the appeal on this basis. The siting of the building had been moved further away from the rear of neighbouring properties and had been partly reduced in height. This was considered to be sufficient to ensure the new building would not be oppressive or cause an unacceptable loss of light.
7. In allowing the appeal, the inspector accepted a unilateral undertaking from the developer in respect of a commuted sum towards affordable housing. Conditions were imposed in respect of sample materials, landscaping, boundary treatment, ground floor levels of buildings, surface water drainage, construction traffic via Chivers Way and hours of working. The occupants of the apartments must be 55 years old or over.

3. Appeals received

Ref No	Details	Date
S/0372/06/F	Mr & Mrs O'Donovan 74 High Street West Wrattling Conservatory (Delegated Refusal)	26/04/2006
S/0212/06/LB	Mr & Mrs P O'Donovan 74 High Street West Wrattling Alterations - conservatory extension attached to former coach-house/stable (Delegated Refusal)	27/04/2006
S/1898/05/F	Henry d'Abo on behalf of the H Settlement Trust Land at The Causeway West Wrattling Dwelling (Officer Recommendation to Refuse)	26/04/2006
S/0239/06/F	Mr & Mrs J Gray 1 High Street Foxton Alterations to barn to form additional living accommodation including construction of link to dwelling, erection of carport fences & gates (Delegated Refusal)	02/05/2006

Ref No	Details	Date
S/0238/06/LB	Mr & Mrs J Gray 1 High Street Foxton Demolition of outbuildings. Internal and external alterations (Delegated Refusal)	02/05/2006
E526	Kathleen O'Brien 15 Water Lane, Smithy Fen Cottenham Enforcement against change of use of land to use for stationing of residential caravan and mobile home	02/05/2006
S/2335/05/F	Persimmon Homes Ltd High Street Longstanton Erection of walls as entrance feature (retrospective) (Officer Recommendation to Approve)	03/05/2006
E529	Persimmon Homes Ltd High Street Longstanton Removal of unauthorised walls	03/05/2006
S/1926/05/F	Stannifer Developments Ltd A10 between A14 Milton junction & River Great Ouse Milton Highway improvements to the A10 (Delegated Refusal)	04/05/2006
S/0123/06/F	Mr & Mrs Bull 135 Histon Road Cottenham Extension (Delegated Refusal)	05/05/2006
S/2052/05/LB	Camstead Homes R/o High Street, Long Furlong, The Lanes & adj Papworth Close Over Demolition & rebuilding of front boundary wall and rebuilding as side boundary wall on revised alignment at No.17 High Street (Delegated Refusal)	08/05/2006
S/0236/06/F	Mr & Mrs P Kelly The Corner House, Park Lane Castle Camps Extensions and access (Delegated Refusal)	08/05/2006

Ref No	Details	Date
S/1867/05/F	Mr H Tafa Former Shell Garage Cambridge Road Papworth Everard Change of use to hand car wash (retrospective) (Appeal against conditions of approval)	09/05/2006
E527	Mr Peter Norbury 1 London Way Clunchpits Melbourn Enforcement against use of land as general builders yard and for storage including retail sale of goods, siting and letting of steel storage containers, erection of storage building and siting of portable office, formation of hardstandings and aggregate bays.	17/05/2006
S/2416/05/F	Mr W Woodhouse Manna Ash House Common Road Weston Colville Extensions - revised design to include enlarged and repositioned chimney (retrospective application) (Delegated Refusal)	18/05/2006
E517	Mr W Woodhouse Manna Ash House 75 Common Road Weston Colville Enforcement of removal of unauthorised chimney	18/05/2006
S/2083/05/F	Mr & Mrs J Nunes 5 Mill Road Impington Extension and new vehicular access (Delegated Refusal)	22/05/2006

**4. Local Inquiry and Informal Hearing dates scheduled before the next meeting on
5th July 2006**

Ref. No	Details	Date/Time/Venue
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) (Hearing)	14/06/2006 10.00 am Council Chamber
S/2446/04/O	Mr T Day R/o 97 New Road Haslingfield Dwelling (Hearing)	15/06/2006 10.00 am Monkfield Room

Ref. No	Details	Date/Time/Venue
S/1207/04/ F	Mr & Mrs Allen R/o 32 Fen End Willingham Dwelling and garage (Hearing)	16/06/2006 10.00 am Swansley Room
S/0179/05/F	Mr Crickmore The Barn, Chesterton Fen Road Milton Conversion of barn/stable into dwelling (Hearing)	27/06/2006 10.00 am Council Chamber
S/0209/04/ F	Marchfield Developments 15 Ashwell Road Steeple Morden Demolition of existing workshops and redevelopment of site to provide 6 dwellings. (Hearing)	28/06/2006 10.00 am Monkfield Room

5. Appeals withdrawn or postponed

Ref. No	Details	Reason and Date
S/2148/05/LB	Dr & Mrs P O'Donovan 74 High Street West Wrating Internal & external alterations and conversion of former coach house, stable and loft stores to residential use with new cellar	Withdrawn By Appellant 02/05/2006

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

Ref. No.	Details	Date
S/1663/04/F	Cambridge Wind Farm Ltd Land South West of Huntingdon Road (A14) Boxworth Wind farm comprising 16 wind turbines, anenometry mast, substation and associated infrastructure	17/10/2006 Confirmed