

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

6th September 2006

AUTHOR/S: Executive Director / Head of Planning Services

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

Purpose

1. To highlight recent Appeal decisions of interest forming part of the more extensive Appeals report, now only available on the Council's website and in the Weekly Bulletin dated 28 June 2006.

Summaries

Marchfield Developments Ltd – Demolition of existing workshops and redevelopment to provide 6 no. dwellings – 15 Ashwell Road, Steeple Morden – Appeal allowed with a full award of costs to the appellant.

2. This application proposed the removal of outdated and underused workshops and their replacement with four market and two affordable dwellings. Officers had recommended the application for approval notwithstanding a concern from the Local Highway Authority (LHA) that five dwellings was the maximum that should be allowed off this narrow access. The appeal was considered at a hearing. Cllr Mrs Murfitt attended and spoke against the proposal.
3. The reasons for refusal were the effect of the development upon the character and appearance of Steeple Morden and whether the use of the access would cause highway dangers.
4. The site is surrounded by residential curtilages, though has been in industrial/commercial use for many years. There is about 800 sq. m. of single-storey buildings, which are currently unused and generally in poor condition. At the hearing, the Council confirmed there was no objection in principle to residential use or a limited amount of Class B1 use in order to limit the likely traffic generation.
5. The inspector found that the village contains a great variety of dwellings of different ages, styles and types. The southern part is characterised by mainly frontage development and is generally unexceptional with little obvious local distinctiveness or common theme. Even with the removal of existing trees, the development would barely be visible from any public highway. Their generally land-locked situation means they would only have a minimal impact on the character and appearance of the village.
6. Where the dwellings would be seen, their scale and form would be perceived as very similar to those on the adjoining site in Plough Close. Thus while the proposal would be of unexceptional appearance, there was nothing fundamentally wrong with this approach. The development would be sensitive to the character of the village "... contributing its own small stamp on the evolution of Steeple Morden".

7. The site access would be between 4.1 and 4.2 m. wide once the existing electricity posts have been removed and the cables re-routed underground. From information given by the owners at the hearing, the site has been used in the past by HGVs and employees on a daily basis. As a rough estimate this resulted in around 40 vehicle movements a day. Neither the Council nor the LHA disputed this. In addition, the adjoining occupier has reported damage to his boundary fence from HGVs reversing into the driveway.
8. The inspector found that the appeal scheme complies with government guidance (Design Bulletin 32) and provides a two-way traffic flow for the majority of residential traffic. Both parties accepted that the development is likely to generate around 48 two-way vehicle movements a day. Most of these would be cars belonging to resident's familiar with road layout. For those drivers unwilling to pass another driver, there would be plenty of room within the site if the departing driver chose to wait. A driver having to wait or reverse back onto Ashwell Road could do so safely. The inspector saw on her site visit that such movements are not uncommon on this part of Ashwell Road. Visibility is good in both directions.
9. There was no evidence of any highway dangers arising from the past use. The amount of traffic generated by six dwellings is not significantly greater than the previous use. In the circumstances, the inspector did not find the use of the access would cause highway dangers.
10. The appeal was therefore allowed. A unilateral undertaking regarding the provision of the affordable housing was agreed with the Council. Conditions were imposed regarding the hours of building operations, materials, foul and surface water drainage, landscaping, investigation of ground contamination and remediation, restriction of pd rights to prevent overlooking and the layout of parking and turning areas prior to occupation.
11. The appellant sought an award of costs on the grounds that the Council's decision had been unreasonable. He argued that the character of the village is mixed and the adjoining properties in Plough Close were of a pleasing design. The development would complement them and the Council had failed to demonstrate how the development would harm the village. With regard to the highway safety issue, the Council had not substantiated these allegations by expert evidence from a highway engineer. The Council could not guarantee that any future commercial use would be low-key. It's reason for refusal was without substance.
12. The Council argued that the appellant himself had acknowledged that design issues are to a degree subjective. Reference was made to Policy HG10 and PPG3 regarding local distinctiveness and the harm that would be caused. Members had taken the decision after a site visit and had come to an informed decision. The appellant's agent had declined the inspector's offer to demonstrate their design approach. On highway matters, the Council had no powers to insist on attendance by the LHA. Its evidence was based on the existing use, the fallback position and the potential arising from the development. There was no agreed fallback position on traffic flows and the appellant's expert had already agreed there is always an element of guesswork in traffic numbers. The Council's refusal was based on the LHA's recommendation. In the absence of any other information, this was not unreasonable.
13. Paragraph 9 of the cost's circular states that planning authorities do not have to accept the advice of their professional officers. If they do, however, they must provide evidence to support their decision. This means that the onus is on the Council to justify its decision.

14. On matters of design, the inspector concluded that the Council had not provided any objective evidence. The Council's criticisms were not borne out by a consideration of the drawings and a comparison with other dwellings nearby. With regard to the second reason for refusal, it was necessary to show that the use of the access drive would cause highway dangers. While the LHA had concerns, it had not provided any objective evidence that the increased traffic would cause highway dangers. The inspector had found that all of the evidence pointed in the opposite direction. In both cases, therefore, the Council had failed to show that any harm would be caused.

J Crickmore – Conversion of barn to dwelling – Chesterton Fen Road, Milton - Appeal allowed

1. The proposal was to convert an existing barn into a dwelling. A previous appeal had been dismissed seeking conversion of the barn into a sales area as part of a tropical plant nursery. The site lies within the Green Belt and the proposal was considered inappropriate development for which very special circumstances had not been demonstrated. The Environment Agency (EA) had also objected on the grounds of flood risk.
2. Following the refusal of planning permission, the appellant's submitted amended drawings showing an improved elevational treatment of the barn. These were substituted for the original drawings during the appeal.
3. The inspector found that the change of use of the barn from its permitted use as stables to a dwelling would not make any difference to the openness of the Green Belt. As such it would not be inappropriate development. The inspector also agreed with a previous inspector that the site has only limited landscape quality and the use would not harm the character and appearance of the area. In particular, there would be no discernable change to views from the riverbank some 100 m from the site. Given that the use and details of the conversion were acceptable, there was no need for the appellant to prove there were very special circumstances.
4. The appellant's also submitted a flood risk assessment as part of the appeal, although neither the Council nor the EA had been given the opportunity to comment on it earlier. However, the assessment proposed certain measures which the inspector was satisfied could comply with the EA's requirements. The matter could therefore be dealt with as a condition of any approval.
5. The appeal was allowed subject to conditions regarding finished floor levels, landscaping, a flood risk assessment, removal of pd rights and a restriction on any further openings in the building.

Background Papers: the following background papers were used in the preparation of this report:

- Planning Inspectors' appeal decisions dated 18th and 31st July 2006

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