

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee  
**AUTHOR/S:** Corporate Manager – Planning & Sustainable Communities

9<sup>th</sup> May 2007

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### **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.

#### **Summaries**

##### **Ms A Lee – Erection of a day room – 6 Sunningdale, Chesterton Fen Road, Milton – Appeal allowed.**

2. Sunningdale is an authorised gypsy site, which lies within the Green Belt. The application was to retain a large brick and tile building having the appearance of a bungalow, but to be used for day-time purposes only. The main issue was whether the building amounted to appropriate development within the Green Belt and if not, whether this fact and any other harm were outweighed by any very special circumstances.
3. Both parties agreed that the proposal is, by definition, inappropriate development in the Green Belt. The building has replaced a smaller mobile home and is required for the appellant, her daughter, granddaughter and son all of whom live on the site. They sleep in a touring caravan, but this is too small for their daily needs. The appellant also looks after another granddaughter and her widowed mother-in-law who has significant medical problems. This accommodation had been provided in the past by a mobile home, but this had proved too expensive to replace.
4. The Council contested there was no evidence on this latter point and the inspector agreed that little weight could be attached to this point. The site visit also revealed a further utility building which already has a kitchen, washing and bathroom facilities, and a store which appeared to have been used for eating.
5. The inspector concluded that the appeal building was bigger than it needed to be and that its design gave the perception of a bungalow rather than a mobile home. The very special circumstances did not justify a building of the scale provided.
6. The inspector then goes on to conclude that the building would not make any noticeable difference to the openness of the Green Belt, over and above that of a mobile home on the site. Because of this, the family's needs, and because the building need not act as a precedent for other buildings elsewhere at Sunningdale, the inspector was satisfied that there would be no greater harm to development plan policies than the allocation of the site within the Green Belt.

7. Permission was therefore granted on the basis of being limited to the existing occupiers, whereafter it should be removed. The building shall not be used for overnight accommodation so that it does not become an independent dwelling.

*Comment: This decision appears to be somewhat perverse and contradictory. It appears not to properly apply the Green Belt test, which is to balance the 'in principle' harm and any other actual harm that arises against the need for very special circumstances. Having concluded that the building need not be this size to meet the family's needs, the inspector has then gone on to conclude because there is only limited actual harm, the appellant's personal circumstances are very special. She has also ignored the Council's contention that the accommodation could be provided by a mobile home which need not, by definition, be inappropriate development. The Council's legal officer has been asked to seek counsel's advice on merits of a legal challenge.*

**Camstead Homes – Erection of 28 dwellings, provision of playing field for Over Primary School and rebuilding of front/side wall to 17 High Street - Land r/o The Lanes, High Street and Long Furlong, Over – Appeals allowed**

8. These applications were originally refused by the Committee on the grounds that the removal of the listed wall in front of 17 High Street and the introduction of necessary traffic calming measures in the High Street would be harmful to both the listed building and the conservation area. Between the time of refusal and the start of the public inquiry, the Council adopted the LDF Core Strategy which restricts the amount of new development in Group Villages such as Over. In the light of this, the Committee subsequently confirmed that the development would be contrary to Policy St/6 and that this should form an additional reason for refusal.
9. The inquiry sat for three days. The Council was represented by Counsel. Five local residents spoke against the proposals.
10. In terms of rural settlement policy, the inspector acknowledged that the proposal exceeded the limits permitted on a scheme in Over by at least 13 dwellings. Significant material considerations would be required to allow an exception to be made. In his view, "there is one central advantage and several other contributory factors, which cumulatively persuade me that the proposal has merit in respect of this issue".
11. The first of these was the provision of the extended playing field for the Primary School. This has been a longstanding development plan objective and the proposal was the only probable means that this could be provided. It would provide a much safer alternative for schoolchildren who would no longer have to cross the road to the village recreation ground. The proposed speed table would contribute to road safety in High Street generally. The scheme would do much to help resolve a localised flooding problem. The provision of 8 affordable units was another significant benefit. Collectively, the playing field, the proposed drainage scheme and the affordable housing would involve a significant cost to the developer, although it was not possible to directly assess the balance between the developer's profit and the public benefits of the project. There was little to choose between the facilities provided in Over, compared to Willingham which is designated a minor rural centre and where larger scheme will be allowed.
12. The significant benefits to the community therefore outweighed the additional impact that a smaller scheme which might be permitted under Policy St/6. A smaller scheme would also be at a low density and the proposed scheme is already set at the

minimum considered acceptable in national guidance. The inspector thus concluded that the proposal would facilitate unique and substantial benefits for the village that would be extremely unlikely to occur otherwise. Exceptionally they outweighed the preferred sequential rural settlement hierarchy outlined in the Core Strategy.

13. So far as the conservation area is concerned, the inspector accepted that its quality derives mainly from the quality of individual buildings that line the High Street and the spaces between them. In contrast the existing highway markings and kerbs reinforce the curve of the road, which in the inspector's opinion detract from the rather more informal arrangement of buildings either side. This tends to encourage a brief and speedy passage through the village. The proposed speed table and bollards would add interest. There are speed tables in other parts of the village and residents must be accustomed to them.
14. The wall alongside no. 17 High Street was found to be in very poor condition generally and to contribute little to the conservation area, other than being old. The inspector found little merit in retaining the wall as it is. While on a different alignment, the new curved wall at the back of the new access splay would not harm the character and appearance of the conservation area. Neither would the area of the walled compound to the proposed pumping compound be noticeable or out of place. The fabric of the listed building would not be affected and conditions could be imposed giving the Council control over the construction of the new wall.
15. Permission was therefore granted subject to a unilateral undertaking covering the provision of the playing field, the provision of the affordable dwellings and the formation of a management company to maintain the communal open space in the development. Conditions were also imposed to cover matters such as materials, landscaping, boundary treatment, drainage, finished floor levels, traffic calming measures, archaeology, ecology, a record of the historic wall and children's play equipment. The provision of public art was not required to make the development acceptable.

*Comment: This is the first appeal to be assessed against the new Core Strategy – and the first to be allowed as an exception to it. In the circumstances, Counsel's opinion is being sought on whether any form of challenge would be appropriate.*

**Mr & Mrs N Griffiths – Conversion into ecohome dwelling - Former covered reservoir and pumping station, North Road, Great Abington – Appeal allowed**

16. The main issue in this appeal was the effect on the character and appearance of the area. The site is part of the former Land Settlement Association area which is designated as countryside for planning policy purposes.
17. The site was sold off in 2002 when the Water Board no longer functionally required it. It consists of a single-storey pump house building and an underground reservoir covered by an earth mound and grassed. The site lies at the cross roads of North Road and roads/footpaths and is characteristic of the relatively low density of development in the area. The proposal would provide a glazed link between the converted building and reservoir, itself converted to residential accommodation.
18. The inspector was satisfied that the extent of the glazed link and other alterations would be insignificant. There would be various views of the new dwelling, but these were not considered to be prominent. As such they would not detract from the character or appearance of the area or have any harm to the local distinctiveness of the area.

19. While the proposal would still be contrary to Policy P1/2, which seeks to limit new development in the countryside, government guidance (PPS7) supports the principle of reusing appropriately located and suitably constructed existing buildings. The Council had already refused permission for residential use and the pump house and reservoir were well suited to residential use. The inspector did not consider that the site was any more unsustainable than nearby dwellings. There are footpath links to the village and the nearby bus stop. The school bus already serves the estate. She therefore concluded that the conflict with the development plan would be outweighed by compliance with PPS7 and the lack of any harm to the countryside.
20. The proposal was put forward as an eco-house and incorporates solar panels and other energy saving measures. However, the appellant was unable to justify the energy savings that would be made and these matters were therefore given little weight in the determination.
21. Planning permission was allowed subject to conditions regarding materials, landscaping, means of drainage and a restriction on permitted development rights.