

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee 3 September 2008
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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

Mr & Mrs J Kerley – Extensions and dependant relative accommodation – Thorp's Farm, Tipplers Road, Swavesey – Appeal allowed. Appellant's application for costs dismissed.

2. This application concerned a farmhouse in open countryside. It was refused under delegated powers because of the impact of the extensions on the surrounding countryside and the resultant loss of a medium sized dwelling. This was consistent with the advice in PPS7 and Policy HG/6.
3. As part of the appeal, it became apparent that the property is subject to an agricultural occupancy condition. In such cases, Policy HG/6 permits large extensions provided that two conditions are satisfied. First, it must be shown that the resultant accommodation can be supported by the viability of the holding. Secondly, its value should not be out of reach of workers employed in agriculture, forestry or a rural enterprise.
4. The Council sought an independent agricultural appraisal in respect of the two conditions. The conclusion was that, on balance, the extension was justified on these grounds. There had been no objections to the application and the Parish Council had given its support. The appellant was duly informed that the Council would no longer object to the application given the new information that had been provided and the assessment that had been carried out. Although a new application was invited (and duly submitted) the appellant continued with his appeal.
5. The inspector agreed with the Council that the extension would materially change the impact of the dwelling on its surroundings. He also agreed with the Council that the appellants would find it difficult to obtain suitable alternative accommodation in the area, which would allow them to continue with their farming enterprise and accommodate a dependant relative. On balance, he concluded that this outweighed the identified harm. The appeal was therefore allowed subject to a condition regarding sample materials.
6. The appellant applied for an award of costs on the grounds that the Council's handling of the application had been unreasonable. The Council should have known

of the full planning history when it considered the application. In any event, such an occupancy condition should have been self-evident. If there was any doubt, the Council should have sought to clarify this at the time. It had not submitted a statement of to support its position at appeal. Had the Council done the necessary work, the appeal would have been unnecessary. A partial award of costs was justified arising from the handling of the application.

7. For the Council, it was argued that the extension was still contrary to part of the development plan. The decision was made in the light of the information available at the time. Officers had only changed their mind based on new information. Even if this information had been previously available, it would still have required further evidence. Part of this was left to the Council to procure, even though there was no onus on it to do so. As such, no award of costs was justified.
8. The inspector agreed. The Council had been justified in refusing the application based on the information available. The Council responded to the change in information as soon as it was able. It could not be criticised if the existence of the occupancy condition did not show up in its records and was later only discovered in material no longer generally available. The Council's case had been fully reasoned and well argued. There had been a material change in circumstances, which justified the Council's revised position. As such, the appellants had not been put to unreasonable expense in pursuing their appeal.