

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/1934/03/F	Mr J Crickmore The Barn, Chesterton Fen Road Milton Change of use to tropical plant nursery comprising erection of 3 glasshouses, general purpose shed, alteration and extensions to existing barn/stable for display and sales. Retention of mobile home and provision of car parking. (Non-Determination)	Dismissed 21/10/2004
S/2352/03/F	Cambridgeshire Salad Producers Ltd Land South of Pampisford Road Great Abington Change of Use of Agriculture to Light Industrial (Class B1c) and Storage/ Warehousing (Class B8) (Delegated Refusal)	Dismissed 21/10/2004
S/2556/03/F	Mr & Mrs Bond The Mill, Royston Road Litlington Garage (Delegated Refusal)	Dismissed 21/10/2004
S/2473/03/F	F. Haslop Land Adjacent 5A High Street Milton Dwelling (Delegated Refusal)	Dismissed 26/10/2004
S/1964/03/F	D Cheesley R/o 10 Duck End Girton Bungalow (Delegated Refusal)	Allowed 28/10/2004
S/2380/03/F	Mr & Mrs Waddington 43 North Road Great Abington Replacement Garage and Store with Studio Above (Delegated Refusal)	Dismissed 09/11/2004

2. Summaries of recent decisions of interest

Mr J Crickmore – Change of use to tropical plant nursery and retention of caravan – The Barn, Chesterton Fen Road, Milton - Appeal dismissed and partial award of costs in favour of the Council

This appeal was against the non-determination of a planning application to use the site for a new business as a tropical plant nursery. Also proposed, were associated greenhouses, a sales and display area, store and car park. The appellant also wished to retain an existing mobile home. This is subject to an extant enforcement notice requiring its removal following the dismissal of an appeal in May 2003.

The three main issues were whether there is an agricultural need for the mobile home, whether the proposal would accord with policies to protect the Green Belt and the risks associated with flooding. The appeal was considered by way of a public inquiry. The County Council Farms Officer provided evidence for the Council on matters of agricultural need.

On the question of need for the mobile home, the appellant argued the proposal was novel in this country and mirrored a similar scheme in Malta. A business assessment plan had been provided outlining how the site would be used. Close supervision of the greenhouses was required in order to carefully control temperature, humidity and frost damage. While the inspector accepted that there was a need to have staff readily available for most of the time, he noted that the appellant and his father are currently constructing 19 flats about five minutes away from the site. He saw no reason why one of these units, or other caravan sites near by, could not house a worker on a temporary basis. The presence of CCTV cameras could also help to deter vandalism. There was no security risk that justified a caravan on the site.

The financial plans accompanying the application were deemed inadequate. The inspector concluded that they gave insufficient detail and did not provide the necessary clear evidence that the enterprise had been planned on a sound financial basis. The appellant admitted he had no personal knowledge or interest in horticulture and he had not shown he has the ability or commitment to develop the enterprise on a sustainable basis. This further counted against the need for a dwelling on the site.

The use of the site was an appropriate use in the Green Belt. The inspector agreed with the Council, however, that the planned extension to the existing barn, the extension of hardstanding, a formal parking area and retention of the mobile home were all inappropriate development. Much of the development would be on the rear part of the site and its existing open character would be harmed such that it would have an adverse impact on the Green Belt. This is a major feature of Green Belts that should be protected.

No very special circumstances had been advanced that outweighed this harm.

On the issue of flooding, there was conflicting information on the level of flood risk. The Environment Agency (EA) was asked to provide up-to-date information during the course of the inquiry. The inspector concluded that the proposal would not unacceptably increase flood risk and this could have been dealt with by way of a condition and a flood risk assessment.

Both parties made an application for costs.

For the appellant, the Council and the EA were criticised for not providing accurate information before the inquiry. This meant delays while this was provided during the inquiry. The Council had changed its position since the last appeal and could not prove there was a flood risk. The inspector accepted that the EA seems to continually change its flood maps. However, the appellant had ample time to check the up-to-date information and provide a

flood risk assessment. Had the appellant followed the normal procedures, an assessment would have been forthcoming and time would have been saved at the inquiry. Although the Council had not specifically notified the appellant at or before application stage, this did not amount to unreasonable behaviour. The application was refused.

The Council applied for costs on the basis that the appellant should have provided a flood risk assessment. Despite the criticisms of the appellant, the inspector reasoned that the Council could have alerted the appellant to a need for an assessment at application stage. No award of costs was justified.

The Council also argued that the appellant had been deliberately or wilfully uncooperative in providing the financial information needed to support the proposed use. The Council's advisor had requested further information but in the absence of this had been forced to prepare for and attend the inquiry. For his part, the inspector concluded there had been no meaningful technical appraisal of whether the enterprise was capable of being sustained. This should have been straightforward to provide if the appellant's claims that this was with his bankers was true. The Council's advisor had done all that he could to acquire the information. The appellant had therefore been unreasonable. A partial award of costs was made.

Comment: Issues concerning flood risk will continue to be relevant throughout the district. The EA are being asked to attend inquiries and hearings where there is an outright objection so that the Council's position is given due weight and protection.

3. Appeals received

Ref. No.	Details	Date
E 490 A	Mr Carter Berry House, 33 High Street Waterbeach Enforcement of removal of fence	19/10/2004
S/0445/04/F	Mr B York R/o 43A High Street Landbeach Change of use of paddock to residential garden associated with 43A High Street and the erection of a mower and tractor store. (Officer Recommendation to Approve)	19/10/2004
S/1394/04/F	Mrs A Gawthrop 1 Moores Court Cottenham Conservatory (Delegated refusal)	20/10/2004
S/1117/04/O	T Pavey 41 St Neots Road Hardwick Dwelling (Delegated refusal)	20/10/2004

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)	26/10/2004
S/0578/04/F	Upware Marina 15 High Street Shepreth Erection of house and garage following demolition of existing Bungalow (Officer Recommendation to Refuse)	26/10/2004
S/1692/04/F	Mr R Dias 44 Station Road Histon Use of premises for hot food takeaway between 11am & 2.30pm (Delegated refusal)	27/10/2004
S/1050/04/F	Mr J O'Farrell R/o 11/13 Fishers Lane Orwell Dwelling (Delegated refusal)	27/10/2004
S/1470/04/F	Mr W Willett Adj Appletree Close, Histon Road Cottenham Use of land as extension to mobile home park (no increase in numbers) incorporating landscape belt (Delegated refusal)	28/10/2004
S/1223/04/F	Mr J Mannion Magnolia House, Linton Road Horseheath Extension (Delegated refusal)	29/10/2004
S/1484/04/F	P Mullins 2 Cody Road Waterbeach Dwelling (Delegated refusal)	29/10/2004
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)	29/10/2004

E484	Mr B York R/o 43A High Street Landbeach Enforcement against material change of use to residential garden, erection of building (store), erection of gates and gateposts over 2m high	01/11/2004
S/0844/04/F	Mr & Mrs Gordon 3-5 Station Road Histon Appeal against condition 7 of approval regarding erection of a lockable gate (Officer Recommendation to Approve)	10/11/2004
S/1702/04/A	C Tirrell Oakington Tomato Farm, Dry Drayton Road Oakington Signs (Retrospective) (Delegated refusal)	12/11/2004
S/1729/04/F	Mr & Mrs Jackson 16 Burrough Field Impington Extension (Delegated refusal)	12/11/2004

4. Appeals withdrawn or postponed - None

5. Local Inquiry and Hearing Dates Scheduled before the next meeting on 5th January 2005

Ref. No.	Details	Date
E502	Mr H Price Adj Moor Drove, Cottenham Road Histon Enforcement against: 1) Operational development by the laying of hardcore roads and septic tanks. 2) Material change of use of land from agriculture to the storage and residential use of caravans. 3) Operational development by the installation of foul sewers and mains water and electricity. (Local Inquiry Resumed to sit for 4 days)	14/12/04 Ground Floor Meeting Room

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

S/2194/03/F	Mr C Taylor 45 Spring Lane Bassingbourn Construction of raised decked area, path and sunken patio/lawn (part retrospective)	11/01/2005 Confirmed
-------------	---	-------------------------

E473A	Optima (Cambridge) Ltd The Bury, Newmarket Road Stow-cum-Quy Enforcement against erection of flat roofed extension to existing office building	18/01/2005 Confirmed
S/0740/04/F	Optima (Cambridge) Ltd. The Bury, Newmarket Road Stow-cum-Quy Retention and conversion of unauthorised office extension to garden machinery store	18/01/2005 Confirmed
S/0019/04/F	Mr P Mansfield 29 Worcester Avenue Hardwick Change of use of land to garden land & extension to dwelling	08/03/2005 Confirmed
S/0358/04/F	Dr & Mrs N Coleman Adj 33 Mill Hill Weston Colville Erection of house and garage and carport for existing dwelling	09/03/2005 Confirmed
S/0466/04/F	Mr & Mrs North Clopton Lodge, The Cinques Gamlingay Appeal against condition 2 of permission - personal occupancy condition and removal thereafter	10/05/2005 Confirmed
S/0629/04/F	Mr and Mrs Noyes 22 North Brook End Steeple Morden Extension	04/10/2005 Confirmed
S/0628/04/LB	Mr and Mrs Noyes 22 North Brook End Steeple Morden Internal and external alterations including conversion of bathroom to utility room and two ground floor bedrooms to study and garden room	04/10/2005 Confirmed
S/1109/04/F	Beaugrove Ltd. Crail, High Street Croydon Erection of two houses following demolition of existing house	11/10/2005 Confirmed
S/0592/04/F	R W S Arnold Bennell Farm, West Street Comberton Erection of B1 offices	09/11/2005 confirmed