

## 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/2624/03/F	Country Homes and Gardens Royston Garden Centre, Dunsbridge Turnpike <b>Shepreth</b> Variation of conditions 1, 2, 10, & 11 of S/1333/02 in respect of revised landscaping details (Non-Determination)	Part Allowed 22/11/2004
S/1559/03/F	Taylor Woodrow Developments Off Chivers Way (Access off Kay Hitch Way) <b>Histon</b> 57 Dwellings (Officer Recommendation to Refuse)	Dismissed 23/11/2004
S/0891/04/A	Greene King Pub Company The Blue Lion Public House, Horningsea Road <b>Fen Ditton</b> Signs (Officer Recommendation to Approve)	Allowed 23/11/2004
S/2377/03/CAC	R & H Wale Ltd Rectory Farm Site, Rectory Farm Road <b>Little Wilbraham</b> Total demolition of clunch barns and outbuildings (Delegated Refusal)	Dismissed 24/11/2004
S/1215/03/F	R & H Wale Ltd Rectory Farm Site, Rectory Farm Road <b>Little Wilbraham</b> Erection of 7 houses (including 2 affordable dwellings) (Officer Recommendation to Approve)	Dismissed 24/11/2004
S/2344/03/F	R Kennedy & K Meaby The Bungalow, Cambridge Road <b>Girton</b> Extension (Officer Recommendation to Approve)	Dismissed 26/11/2004

S/0682/95/O	Mr P. Stroude Home Farm <b>Longstanton</b> Variation of Condition 16 of Outline Planning Consent S/0682/95/O (to allow the construction of more than 500 Dwellings)	Dismissed 29/11/2004
S/0207/04/F	Mr R Wright 22 Newton Road <b>Whittlesford</b> Extension (Delegated Refusal)	Dismissed 29/11/2004
S/0284/04/F	Mr Ives Brookside Farm, Barrington Road <b>Shepreth</b> Extension and garage (Delegated Refusal)	Dismissed 30/11/2004

## 2. Summaries of recent decisions of interest

### **Taylor Woodrow Developments – Erection of 57 dwellings and associated works – Land off Chivers Way, Histon – Appeal dismissed. Appellant’s application for costs dismissed**

1. This appeal proposed the development of vacant industrial land as an extension of housing in Kay Hitch Way. The majority of these properties form a sheltered complex for elderly and disabled persons. There is also a shared social hall, a group home for severely disabled people and a warden living on site.
2. The application was refused because of the impact the additional traffic would have on existing residents and the existing traffic and parking situation in Station Road. The inspector also considered the effects on drainage, flooding and the provision of public open space following objections by the Parish Council. The County Council had raised some highways concerns but did not object. The Council sought the advice from Atkins (highways consultants) who recommended that the application be refused. At the resultant hearing, Atkins assisted the Council in its case. Cllr Mike Mason, the Parish Council, the local surgery practice manager, the site warden and three local residents all spoke against the proposal.
3. No objection was raised to the principle of developing the site for housing. The proposal also brought forward 17 affordable units. The inspector noted the large number of representations on the grounds that the large proportion of elderly or disabled residents of Kay Hitch Way could not cope with the additional traffic on the road. This was both in terms of their physical safety, as well as the fear of harm from what is currently a peaceful and secure environment. Various difficulties in using the road and the junction with Station Road were highlighted. The main parties agreed that the development would generate around 400 vehicle movements a day.
4. The County Council’s safety audit expressed some reservations. It also required improvements to the junction with Station Road. The inspector accepted that Kay Hitch Way has been designed for the most part in accordance with established criteria, but that there are unusual circumstances here because of the nature of occupancy. The existing development comprises a purpose designed and valuable housing resource that will always be coping with vulnerable people. The increased traffic flows would

clearly make a material difference and make it more difficult for people to cross the road. It was a matter of judgement, rather than measurement and the inspector concluded that the effect would be harmful.

5. Both the Council and the Parish Council were concerned that the building out of the junction to improve visibility would narrow part of Station Road. While the width is already restricted in part by parking bays, the extra width is available for larger vehicles. There was also the possibility of a future cycle track or turning lane. The inspector felt that the loss of these aspects also counted against the proposal. She specifically gave weight to the well-considered objections from the Parish Council. Further concerns were the turning movements in and out of the doctor's surgery, the loss of three on street parking spaces and the physical capacity of Kay Hitch Way.
6. The proposal was therefore deemed not to be people-friendly, nor sensitive to the amenities of neighbours.
7. The issues relating to drainage, flooding and public open space were all such that approval could be granted subject to appropriate conditions.
8. In conclusion, the inspector found that the harm created by the proposal outweighed the benefits of making best use of brownfield land and the provision of affordable housing. At the same time, the inspector also suggested that access could be taken from Chivers Way This is a small, high quality business park and would not be an unsuitable approach for residential development. Direct pedestrian links with Kay Hitch Way would allow the development to be socially integrated. Thus the appeal site need not remain sterilised.
9. The appellant applied for costs. This was on the basis that the Council's highways arguments were not substantial. The appellant argued that it was conceded that Kay Hitch Way is only of substandard width for a short distance and any safety risk is mere speculation; the impact of the loss of on-street parking spaces was not supported by evidence; there was no evidence of any peak time traffic conflicts; and reliance on a possible cycle scheme was inappropriate.
10. The Council responded that it was misguided for the appellant to rely solely upon the advice of the highway authority. In any event, the County Council did have some concerns and these had not been addressed. The reasons for refusal met the statutory tests and were supported by development plan policies. Evidence had been provided by a highway consultant, which was substantiated in the hearing statement and at the hearing. Critically, the fears and perceptions of residents were relevant and these views had substance.
11. In refusing the application, the inspector considered that the Council could not have provided any more concrete evidence than it had done. Matters to do with human behaviour will inevitably be speculative. It was not unreasonable for the Council to give weight to qualitative matters. The Council's qualified consultant gave written and oral evidence to support the Council's case. The Council had acted reasonably in refusing planning permission. No award of costs was made.
12. *Comment: This appeal is a good example of all the relevant parties working together – both before and during the hearing - to produce a satisfactory conclusion for the benefit of local residents.*

**Country Homes and Gardens – Appeal against conditions seeking non-compliance with landscaping scheme and timing of implementation works – Royston Garden Centre, Dunsbridge Turnpike, Shepreth - Appeal allowed in part**

1. This appeal arose following proposals to amend the treatment of an existing grassed, 2 metre high bund along the frontage of the car park with the A10. In addition, it was proposed to alter dates by which bund stabilisation and landscaping works would be undertaken. The appeal was heard by way of a hearing. This was attended by the Parish Council and County Councillor Professor Milton.
2. The main issue was whether the changes to the bund would harm the character and appearance of the area.
3. The bund was originally approved in 1995 and trees and shrubs that were planted on it have since been removed. Under a recently approved landscaping scheme, it is proposed to replant the bund. The appeal proposal was to reduce its overall height by 0.5 metres, to recreate a more undulating landform, and to taper down both ends and a section in the middle. This would allow vistas into the site from the A10, thus allowing glimpses of the garden centre.
4. The inspector found that the existing bund is a stark and artificial feature. The proposals would create a more flowing landform. Against this, the approved landscaping would mitigate the visual impact of the bund and when mature, would provide effective screening for the garden centre. The site was judged to be tidy and well laid out.
5. The alterations to the bund would reveal the presence of a significant developed area in a countryside setting. The benefits of a bund of less engineered appearance would be outweighed by the harm that would be caused to the visual amenities of the area by views of a large building and car park that are out of keeping with the rural landscape character. This part of the appeal was therefore dismissed.
6. The second, much less significant part of the appeal related to timescales for the relevant works to be undertaken. The Council argued that the bund works should be completed within one month from the date of planning permission and landscaping completed by 31<sup>st</sup> January 2005. The inspector found that the works should be done as soon as possible, but that these timescales were too onerous. The respective dates were therefore set as three months and 31<sup>st</sup> March 2005 respectively. These timescales are not considered so unreasonable such as to make this a disappointing decision.

**Mr & Mrs Stevenson – Internal and external alterations to listed building – The Limes, 333 High Street, Cottenham – Appeal allowed. Costs applications by the appellants and the Council were both dismissed.**

1. The property is grade II listed and within the conservation area. The main issue was whether the proposals would damage the special interest of the building. This includes a cheese-loft.
2. Access to the loft is via a trap door and the space is currently restricted by a roof truss. The appellants wish to make more efficient use of the larder and to bring the cheese-loft into full use. Thus the roof of the larder would be raised and the roof truss removed. Access to the cheese-loft would be via a new staircase and gallery. Other alterations were proposed.
3. The Council was concerned that the works would result in the loss of historic fabric and the simple form of the loft. This is a feature that is becoming increasingly rare. The

inspector noted that the appellants are carefully restoring the house and, in principle, should be given every encouragement to complete the restoration works. The distressed state of the cheese-loft was evident and it ought to be put to some beneficial use. Use as a study would seem appropriate. While this might involve a degree of alteration to its simple character, this was considered something that could be accepted without materially detracting from the special interest of the building. Subject to conditions re internal wall treatment and retention of a ventilation shutter, the alterations could be accepted. The other alterations would not materially harm the building's character or appearance or that of the wider conservation area.

4. Listed Building consent was granted subject to conditions regarding detailed submission of detailed drawings, specification of the ceiling and wall covering of the cheese-loft, and details how the floor is to be raised and installed.

#### **Peter Stroude – Appeal against condition limiting number of dwellings to 500 – Land west of Longstanton – Appeal dismissed**

1. This appeal concerned an allocated site at Longstanton. Planning permission exists for residential development. This is subject to a condition, which states that no more than 500 dwellings shall be constructed unless otherwise agreed by the local planning authority. The appellant submitted a letter asking for the permitted number of houses to be increased. No specific number above 500 was requested. The Council did not treat this as an application and did not therefore carry out any form of consultation exercise. It refused to deal with the request as an application and the appellant duly appealed. The appeal was considered by way of a public inquiry.
2. The inspector identified three issues: whether the application could be properly decided; if it could what were the implications for the approved development and the locality; and whether an increase is appropriate having regard to national, regional and local policies and guidance.
3. On the first issue, the 500 dwellings limitation was imposed to ensure an appropriate balance between the scale of the development and the provision of essential services, infrastructure and the proposed Longstanton by-pass. The Council argued that anything beyond 510 was outside the scope of the permission. The inspector did not agree. He saw this as an unduly narrow interpretation of the margin of tolerance arising from such a condition. On the other hand reference at the inquiry to much larger numbers could reasonably be expected to have some impact. Either way, the application was one that could be approved as a matter of principle. The submitted "application" was procedurally correct and not an abuse of process.
4. The history behind the allocation and the need for a by-pass was examined. The Local Plan allocates 21 hectares of land for some 500 houses. This was in line with previous structure plan requirements to build at a density of 20-25 dph. While the trigger points for the by-pass are clear, that it not the case with other areas of infrastructure.
5. In this respect, the inspector questioned the capacity of the local road network and the views of the local highway authority were unknown. The situation was "even more worrying" in respect of drainage. Neither the EA nor the Drainage Board had sanctioned any increase in density. They would find it difficult to provide any meaningful response without an indication of the scale of any such increase. In an area where flooding is already prevalent, the consequences were particularly serious.
6. The appellant proposed to set the number of dwellings at reserved matters submissions. However, the existing outline permission does not facilitate this and does not allow any reassessment at reserved matters stage. An open-ended increase as

sought by the appellant was therefore potential harmful. Community facilities and the provision of affordable housing could also not be addressed. The appellant accepted that affordable housing would not come forward and the inspector agreed with the Council that the needs of those who are unable to compete in the housing market should be addressed.

7. The appellant argued that an increase in numbers was essential if national and local density requirements were to be met. Densities of less than 30 dph should be avoided. The Council had approved phase 1 of the development at just over 30 dph. A similar density was being considered for phase 2. If phase 3 was built at a similar density, at least 630 dwellings should be constructed. The Council did not oppose this stance, but argued that this cannot be agreed without a proper consideration of the issues. The inspector agreed. Issues of sustainability of Longstanton with its relatively restricted range of services and poor public transport provision were important factors. PPG3 also requires mixed communities. The need for affordable housing if numbers exceed 500 is relevant.
8. The up-to-date local plan allows for some 500 dwellings. While more than 510 may be appropriate, this falls well short of the minimum 630 suggested by the appellant. Any application must be subject to adequate publicity and consultation. Quite simply the inspector did not have the information to properly assess the impact of an increase of such scale.
9. Thus while the application had been properly made, the impacts arising from an increase in housing numbers could not be evaluated. The proposal was too open-ended and one which could not lead to a meaningful conclusion.
10. The appellant applied for costs because of the Council's reluctance to deal with the application as submitted. The Council's approach was misguided. It had the opportunity to consider the potential impact, but chose not to do so. It was wrong to suggest that the condition was properly imposed as officers had added it at a later stage in the decision-making process, without there being any knowledge of why this was done. The Council's position clearly conflicts with PPG3 and it had therefore behaved unreasonably. In its response, the Council claimed that the planning application was an abuse of process and its response could not be regarded as so unreasonable as to justify costs against it. The Council had set out at the inquiry the potential for harm, which was clear if the appeal was permitted. The Council had never pretended that the condition had been imposed by Committee at the time it considered the application. The Council's resistance to the application was borne out by its evidence at the inquiry.
11. The inspector agreed that the proposal for a larger development should require publicity and consultation to be carried out. Was it unreasonable for the Council not to have consulted in this case? Given the open-ended nature of the application, it was difficult to see how any such exercise could have generated a meaningful response. The Council had belatedly sought information from the appellant about the scale of the development in the run up to the inquiry. The appellant had declined to respond. There were various strands of PPG3 that pull in different directions. It was clear that permission was sought on the basis of 500 dwellings and the appellant could have appealed against the reason for the condition, but chose not to do so. In essence, there had been a measure of unreasonableness about the behaviour of both parties. The Council's behaviour was not such that the appellant had been put to unnecessary costs.
12. The Council's application for costs was made only on the basis that it was not open to the Council to allow more than 500 dwellings and the appellant should have made a section 73 application instead. If this view was accepted as correct, then it was unreasonable for the appellant to proceed. He had known for some time before the

application, that officers would not accept an increase above 500 without further information. The appellant replied that the Council could easily have granted permission for an alternative number. He could not exercise control over the ultimate level of development, as he no longer has overall control of the site. The Council had been very brave to assert that it was disentitled to deal with the application as submitted.

13. As the inspector had already made it clear that the application had been validly made, the Council's argument was wrong. The appellant had therefore not been unreasonable in making his appeal.

### 3. Appeals received

Ref. No.	Details	Date
S/1302/04/F	Merton College Land south of Station Road <b>Gamlingay</b> Variation of condition 1 of planning permission S1737/01/O to allow a further period of 3 years for the submission of reserved matters for industrial development (class B1 & B2) (Officer recommendation to Approve)	17/11/2004
S/1628/04/F	Mr & Mrs Evans 8 Bunyan Close <b>Gamlingay</b> Dormer Windows (Delegated Refusal)	19/11/2004
S/1392/04/F	Amanda Philips Scotts Gardens <b>Whittlesford</b> Dwelling (Delegated Refusal)	19/11/2004
E483D	Mr & Mrs Ryan 15 Angle End <b>Great Wilbraham</b> Enforcement against the erection of a single storey, flat roofed extension to form a lobby at the rear of the building.	25/11/2004
E483C	Mr & Mrs Ryan 15 Angle End <b>Great Wilbraham</b> Enforcement against the erection of a single storey, flat roofed, rear extension to the dwelling to form a lobby	25/11/2004
S/1495/04/A	Miss J Garfitt Junction of A10 & Church Road <b>Hauxton</b> Sign (retrospective) (Delegated Refusal)	30/11/2004

S/1909/04/O Mr & Mrs Cole 06/12/2004  
 66 Cambridge Road  
**Great Shelford**  
 3 houses and garages  
 (Delegated Refusal)

S/1614/04/O Mr & Mrs Baker 03/12/2004  
 36 Station Road  
**Over**  
 Erection of 5 dwellings following demolition of existing dwelling  
 and outbuildings  
 (Delegated Refusal)

**4. Local Inquiry and Informal Hearing dates scheduled before the next meeting on 2<sup>nd</sup> February 2005**

<b>Ref. No.</b>	<b>Details</b>	<b>Date/Time/Venue</b>
-----------------	----------------	------------------------

S/2194/03/F	Mr C Taylor 45 Spring Lane <b>Bassingbourn</b> Construction of raised decked area, path and sunken patio/lawn (part retrospective) (Informal Hearing)	11/01/2005 Monkfield Room 10.00am
-------------	--	---

E473A	Optima (Cambridge ) Ltd The Bury, Newmarket Road <b>Stow-cum-Quy</b> Enforcement against erection of flat roofed extension to existing office building (Informal Hearing)	18/01/2005 Monkfield Room 10.00am
-------	--	---

S/0740/04/F	Optima (Cambridge) Ltd. The Bury, Newmarket Road <b>Stow-cum-Quy</b> Retention and conversion of unauthorised office extension to garden machinery store (Informal Hearing)	18/01/2005 Monkfield Room 10.11am
-------------	--	---

**5. None**

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

<b>Ref. No.</b>	<b>Details</b>	<b>Date</b>
-----------------	----------------	-------------

S/0019/04/F	Mr P Mansfield 29 Worcester Avenue <b>Hardwick</b> Change of use of land to garden land & extension to dwelling (Informal Hearing)	08/03/2005 Confirmed
-------------	--	-------------------------



S/0358/04/F	Dr & Mrs N Coleman Adj 33 Mill Hill <b>Weston Colville</b> Erection of house and garage and carport for existing dwelling (Informal Hearing)	09/03/2005 Confirmed
S/0466/04/F	Mr & Mrs North Clopton Lodge, The Cinques <b>Gamlingay</b> Appeal against condition 2 of permission - personal occupancy condition and removal thereafter (Local Inquiry)	10/05/2005 Confirmed
S/6248/04/RM	MCA Developments Ltd. Plot GC13, Jeavons Lane <b>Cambourne</b> 54 Dwellings (Local Inquiry)	02/08/2005 Confirmed
S/0629/04/F	Mr and Mrs Noyes 22 North Brook End Steeple Morden Extension (Informal Hearing)	04/10/2005 Confirmed
S/0628/04/LB	Mr and Mrs Noyes 22 North Brook End <b>Steeple Morden</b> Internal and external alterations including conversion of bathroom to utility room and two ground floor bedrooms (Informal Hearing)	04/10/2005 Confirmed
S/1109/04/F	Beaugrove Ltd. Crail, High Street <b>Croydon</b> Erection of two houses following demolition of existing house (Informal Hearing)	11/10/2005 Confirmed
S/0592/04/F	R W S Arnold Bennell Farm, West Street (Comberton) <b>Toft</b> Erection of B1 offices (Informal Hearing)	09/11/2005 Confirmed