

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

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

Purpose

1. To update the Committee on the appeals success over the last year and to highlight recent appeal decisions of interest. The statistics for the last quarter (January-March 2010) and for the year as a whole (April 2009-March 2010) are provided as part of the more extensive Appeals report, which is now only available on the Council's website and in the Weekly Bulletin.

Appeals Success

2. 118 appeals were received last year. Notwithstanding the economic downturn, this was an increase above the previous year's total of 102.
3. The percentage of appeals allowed, when measured against the Council's BV204 indicator was 34%. This was within the target of 36%. During the last year, the government introduced a fast-track system for dealing with householder appeals. 36% of these appeals have been allowed.
4. Decisions made by the Planning Committee accounted for 19 appeals. Of these, 8 were allowed (42%).
5. The Committee overturned 11 officer recommendations to approve. Of these, 6 were allowed (55%). However, two of the 5 decisions where the appeal was dismissed, were done so on a technicality. In both cases, the sole reason to dismiss the appeal was because of a lack of an appropriate legal agreement. In effect, this means that 73% of Committee decisions to overturn the officer's recommendation were allowed, having regard to the planning merits of the case.
6. A brief summary of decisions where the Committee overturned officer recommendations to approve is set out below:

	Site	Proposal	Refusal reasons	Decision
1.	Cattells Mill, Willingham	Dwelling	Living conditions of neighbours. Setting of grade II listed mill	Allowed
2.	Rosemary Lane, Waterbeach	9 dwellings	Setting of listed building. Harm to conservation area. Living conditions of neighbours	Dismissed – legal technicality
3.	Home Farm, Fulbourn	8 dwellings	Lack of affordable housing	Allowed.
4.	Cadwin Lane, Willingham	Gypsy pitch	Educational needs	Allowed
5.	Fowlmere Road, Heydon	Dwelling, garage and other curtilage development (revised details)	Impact on conservation area and listed building	Allowed

6.	Church Street, Lt Shelford	Dwelling	Impact on conservation area	Allowed
7.	Rowe, Ickleton	Dwelling	Impact on surrounding area	Allowed
8.	Braxted Homes, Bassingbourn	Demolition of buildings within the conservation area	Premature, pending no acceptable scheme for redevelopment	Dismissed
9	St George's Court, Impington	Affordable dwellings	Sustainability	Dismissed
10.	Cottenham Road, Histon	Accountancy practice	Residential amenity	Application allowed on a technicality, but enforcement appeal dismissed (see below)
11.	Butt Lane, Great Wilbraham	4 affordable dwellings	Impact on surrounding area	Allowed.

7. 3 applications for costs were made against the Council. Of these, 1 was allowed (non-determination of a lawful development certificate), 1 was part allowed (for a gypsy site at Willingham) and 1 was refused (for a housing scheme in Fulbourn). There were no applications for costs made on behalf of the Council.

Summaries of recent decisions

Mr C Bates – Use of part of property for an accountancy practice – 6 Cottenham Road, Histon – Planning appeal allowed in part. Enforcement appeal dismissed

8. These two linked appeals followed the Council's refusal to allow an existing accountancy practice to continue operating from an extension to the property, contrary to a previous planning permission restricting its use for domestic purposes only. Having refused the application, an enforcement notice was issued to secure a cessation of the use.
9. The appellant argued that the use did not actually require planning permission. The inspector had regard to well-established tests such as the amount of office floorspace being used; the number of employees and visitors; and the demands for car parking. As a result, the inspector concluded that the existing use has brought about a significant change to the property's overall character as a residence. A breach of control has therefore taken place.
10. The planning application was refused solely because of the impact on the neighbouring property. The identified harm was noise and disturbance through the parking and manoeuvring of vehicles and overlooking by visitors into the adjoining property. The Council argued that planning conditions could not be imposed to satisfactorily overcome this harm. The inspector agreed. Conditions would not effectively reduce the scale of the use. Any increase in the height of the boundary fence between the two properties would not materially reduce the noise and disturbance and would be likely to lead to an undue sense of enclosure. Planning permission should not be granted.
11. However, because the wording of the original condition was far from precise, this was reworded to reflect that no part of the extension (rather than the property as a whole) should be used other than for domestic purposes incidental to the enjoyment of the dwelling. The planning appeal succeeded only to this very narrow extent.

12. In refusing planning permission, the inspector agreed that the only appropriate remedy for the breach of planning control was to require the use to cease.
13. The inspector also accepted that the six month compliance period was appropriate. This would strike a balance between the needs of the business and protecting the amenity of residents. The appellant was unable to confirm his future intentions for the business and this was also a determining factor. The commercial use of the property is therefore required to cease by 19 September 2010.

Dudley Developments Ltd – Erection of 4 no. affordable dwellings – Land adj to 1 Butt Lane, Great Wilbraham

14. The application was wholly for affordable housing on an ‘exception site’ just outside the village framework. The sole reason for refusal was the scale and form of the development and the impact it would have on its surroundings.
15. The inspector found the site is undeniably semi-rural. However, it is not a positive feature in the conservation area and does not appear as an integral part of the countryside. The scheme proposed not only to retain, but increase, boundary planting and this would reinforce the natural enclosure of the village at this point. Neither the design nor footprint of the buildings was seen as problematic. The proposed level of parking and manoeuvring areas was a drawback, but the “relatively marginal” viability of the scheme needed to be considered. Provided the materials for the hard surface area are chosen carefully and the frontage landscape was effective, the inspector concluded that on balance the access and parking area did not warrant refusal of the proposal.
16. A scheme for affordable housing would bring with it “significant social benefits to the community ... and this is an important consideration to be weighed in the balance”. Both the Parish Council and local residents had raised numerous concerns in what the inspector saw as a “controversial” proposal. However, these concerns did not raise issues which either justified refusal or could not be dealt with by conditions.
17. The appeal was therefore allowed subject to a total of 15 conditions. These included materials, landscaping, tree and hedge removal, ecological enhancement, drainage and restrictions on permitted development rights.

**Dr S Rann – Erection of car lodge and store – 19 High Green, Great Shelford
Prof A Green – Erection of dwelling otherwise as previously approved – 19a High Green, Great Shelford – Appeals allowed**

18. These two linked appeals concern a frontage property (no. 19) and a new property recently constructed in its rear garden (19a). In both appeals the main issue was the impact on the village conservation area. In the second, an additional issue was the impact on the living conditions of the occupants on no. 19, by way of overbearance.
19. Both properties are well set back from the road and public views are largely blocked by existing landscaping. The locality has a distinctly semi-rural character. The inspector found that the car lodge would have modest dimensions and appear clearly subservient to the main dwelling. It would not differ markedly in scale or design from other outbuildings in the vicinity. It would be clearly separated from the new dwelling behind and would not appear cramped as the reason for refusal alleged.

20. The unauthorised alterations to the new dwelling were also considered to be consistent with what had already been approved. The resulting effect of the changes appears neither harmful nor out of keeping.
21. Both proposals therefore preserve the character and appearance of the conservation area.
22. Neither did the inspector find any harm to the living conditions of no. 19. The scheme as now built does not create a significantly more imposing or overdominant effect in views from the property, than would have resulted from the approved scheme.
23. The appeal for 19 High Green was allowed subject to approval of sample materials. The second appeal was allowed subject to restrictions on further openings at first floor level and a need to ensure the retention of planting at the front of the property.