

2. SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

6 March 2013

AUTHOR/S: Planning and New Communities Director

APPEALS AGAINST PLANNING DECISIONS AND ENFORCEMENT ACTION

1. To inform Members about appeals against planning decisions and enforcement action, and proposed hearing and inquiry dates, as 22 February 2013. Summaries of recent decisions of importance are also reported, for information.

Decisions Notified By The Secretary of State

2.	Ref.no	Details	Decision	Decision Date
	S/1646/12/FL	Mr P Webster 49 Duddle Drive Longstanton Extension, internal alterations,new porch,new bay window	Allowed	01/02/13
	S/1766/12/FL	Mr C Frewin 114 Hinton Way Great Shelford Extension,bay window and improvement of property	Allowed	01/02/13
	S/0836/12/FL	Goreway Holdings Adj 7 Station Road Foxton Dwelling and garage	Dismissed	06/02/12
	S/2521/11	Mr T Deans Deans Farm Shepreth Road Fowlmere Conversion of a building (B1 usr) to a poultry, pet & equestrian store.	Allowed	13/02/13
	S/2521/11	Mr T Deans Deans Farm Shepreth Road Fowlmere Conversion of a building (B1 usr) to a poultry, pet & equestrian store.	Award of costs is allowed. SCDC to pay Mr T Deans	13/02/13
	S/0680/12/FL	Mr T Mendham 14 Fen Road Milton	Dismissed	14/02/13

	Dwelling House		
S/1180/12/FL	Mr D I Bowyer 22 Fen End Willingham Demolition of Existing House and erection of single storey dwelling	Allowed	14/02/13
S/0366/12/FL	Landmark Real Estate Woburn Place Heathfield, Thriplow Two dwellings	Allowed	14/02/13
S/0440/12/FL	Weston Homes (Housing) Ltd Land adj 7 Station Rd Over 26 dwellings with 39 parking spaces	Dismissed	15/02/13
	Barratts Long Drove/Beech Road Cottenham	Withdrawn	18/02/13

Appeals received

3.

Ref. no.	Details	Decision	Decision Date
S/2193/12/FL	Mr S Garner The Old Rectory Rectory Lane Kingston Retention of timber pergola located to the eastern side of house	Refused	01/02/13
S/0824/12/FL	Mrs Saunders & Miss Wisson Adj Meridian Court, Comberton Road Toft 3 Dwellings	Refused	01/02/13
S/1444/12/FL	Mr E Wells The Scholes Rectory Farm Road Little Wilbraham Chimney Air Conditioning units,gates, detached outbuilding	Refused	08/02/13
S/2341/12/FL	Mrs A Hurley 12 Little Lane Melbourn Loft Conversion& New dwelling	Refused	14/02/13

S/1150/12/LB	Mr S Gardner The Old Rectory Rectory Lane Kingston Cambridge	Non-determination	18/02/13
S/0383/12/FL	Mrs K Scott Field adj The Cemetery, The Causeway Bassingbourn Cof U of land from agricultural land to dog training, & the erection of 3 portacabins for a shop, day car facility & training (retrospective)	Refused	22/02/13

Local Inquiry and Informal Hearing dates scheduled before the next meeting on 6 March 2013.

4.

Ref. no.	Name	Address	Hearing
S/0041/12/FL	Mrs K O'Brien	Water Lane Smithy Fen, Cottenham	12- February 2013 Offered
S/2317/11	Barretts Eastern Counties & CJ Abbs	Long Lane Cottenham	19 February 2013 Cancelled and Appeal Withdrawn
S/0198/12	Mr & Mrs Lee	7 Belsars Field Schole Road Willingham	30 April 2013 Confirmed
S/1621/12	Mr T Buckley	The Oaks Meadow Road Willingham	1 May 2013 Confirmed
S/0518/12/FL	Mrs L Brown 3 Beaumont Place Meadow Road Willingham	3 Beaumont Place Meadow Road Willingham	2 May 2013 Confirmed
S/1188/12	Mrs L Holmes	2 Cadwin Field Schole Road Willingham	3 May 2013 Confirmed

Summaries of recent decisions

- **Weston Homes Housing Ltd– Erection of 26 Dwellings and Associated Works –Land adj to 7 Station Road, Over– Appeal dismissed.**

5. The main issues in this appeal were i) whether the site is in a sustainable location for the proposed housing, and, if not, whether any harm would significantly and demonstrably outweigh the benefits of the development, and ii) whether the development would preserve or enhance the setting of the Conservation Area and of the Grade 1 Listed Church. The case was determined by Public Inquiry and Mr G Twiss of Over Parish Council attended and spoke at the Inquiry.
6. Policy DP/1 of the Development Control Policies Document (DCP), adopted 2007, refers to sustainable development and notes, amongst other matters, a need to minimise travel and car dependency, and to require development to be consistent with the sequential approach set out in the Core Strategy (CS), also adopted 2007. This spatial strategy is contained in a suite of policies, including ST/6, which identifies Over as a Group Village, where a maximum of 8 dwellings will be permitted on a previously undeveloped site. The appeal proposal for 26 units conflicted with this requirement.
7. The National Planning Policy Framework (NPPF) requires planning authorities to maintain a five year supply of deliverable housing sites. On this point there was no dispute between the main parties that there is a significant shortfall (the South Cambridgeshire Annual Monitoring Report (AMR), December 2012, indicates a supply of 2.4 years). In procedural terms the Framework makes clear that where a five year supply of deliverable sites cannot be shown, housing applications should be considered in the context of the presumption in favour of sustainable development, with relevant policies for the supply of housing not being considered up to date. In accordance with the NPPF the appellants argued that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits and that the harm identified by the Council in its reasons for refusal did not significantly and demonstrably do so.
8. The Council argued that whilst the village is well served by local community and social facilities, it is deficient in three functions which are likely to generate regular journeys: there is no indication of significant sources of employment in the vicinity, there being an especially low ratio of local jobs to the working age population (the Inspector was referred to the South Cambs Village Classification Report, 2012); the nearest secondary school is Swavesey Village College, about 2.9km from the site; and anything other than the most basic shopping trip could not be fulfilled locally. The crux of the Council's Argument was that in the absence of significant local employment, services and facilities the occupants of any new development (of the scale proposed) in the village would have a high propensity to use a private car to reach such things. The Inspector was referred to the 2001 census information that indicates a preponderance of the use of private vehicles for journeys to work, Over having an especially low level of non-car use.
9. The appellants argued that the increasing trend in internet shopping negates the need for a settlement to contain a food shop in order to be sustainable. The Council's counter argument in this regard was that whilst the use of internet shopping is likely to be more popular in less accessible locations, the evidence falls short of proving that it plays a significant role in meeting local needs. Journeys out of the village for food shopping would therefore be a regular necessity for the majority of residents.

10. The inspector was convinced by the Council's arguments concerning the relative sustainability of Over as a settlement concluding that "this lack of sustainability is both significant and, in terms of the data presented to the appeal and the observations during the site visit, demonstrable, and the harm arising out of it equally so. There is a clear objective in the Framework to minimise the generation of greenhouse gases, to which private transport contributes, in order to diminish the effects of climate change. There is a need to actively manage patterns of growth to make the fullest possible use of alternative means of travel, which this development would not achieve."
11. Regarding heritage impact the Council presented information to demonstrate that the settlement was formed by linear development alongside the village streets, and that this is the basis of the Conservation Area. Subsequently there has been a greater depth and consolidation of built form, especially on the southern side of the village, so that the appeal site, and an adjoining field to the east, remain as open grassland, separating the Conservation Area from more recent housing. The adjacent parts of the Conservation Area are dominated by St Mary's Church, a large medieval structure which is Listed, Grade 1, and the Council presented the view that development of the open site would harm the setting of this building and, by association, the Conservation Area. The Council was able to argue this point on two levels, one on visual grounds and the other that the site and the church were historically owned and administered by Ramsey Abbey – one of the great early religious houses in the Region.
12. The appellants argued that views of the church across the site are of little value as in a majority of cases they are only glimpsed through an existing hedgerow. In addition they argued that the site is private land without public access and as such open views across the site are extremely limited. The appellants argued that in actuality a development scheme that improved public access would be a beneficial feature. In this respect, the appellants proposed a landscaped sitting area in the middle of the site affording views of the church, and to provide public access through it, from Station Road to Turn Lane, to be secured by a planning condition. The Council's counter argument to this was that the public would not view the development site as a rational through route in the context of other more direct paths across the village and therefore these views would not be of substantial benefit.
13. The inspector concurred with the Council that there is no reason to doubt that the land has always been undeveloped, and that it formed part of the countryside which surrounded the Church and the development along the village streets. He opined that use of the site for 26 dwellings would remove the open quality of the land, which forms part of the historic setting of the Church and Conservation Area. Development in the manner proposed would be harmful to the established character of that setting.
14. NPPF paras. 133 and 134 distinguish between substantial and less than substantial harm to a heritage asset. Both the Council and English Heritage considered that the harm would be less than substantial, and such a view would be consistent with the tenor of the PPS5 Practice Guide, which groups substantial harm with the demolition or destruction of a heritage asset, which clearly didn't arise in this case. In these circumstances, the NPPF requires the harm to be weighed against the public benefits of the proposal. Whilst great weight should be given to conservation of a heritage asset, the level of that weight in any particular instance is proportional to the significance of the asset. Any harm identified requires a clear and convincing justification.
15. During the Inquiry the appellants argued that, should the inspector agree that there was 'less than significant harm to the heritage assets of the area' then the public

benefits of affordable housing provision, high quality design, housing provision and biodiversity enhancement were sufficient to outweigh this harm. The Council countered this by arguing that these were all benefits that any development would be expected to achieve as a minimum and therefore could not be considered sufficient to outweigh the harm identified. The inspector's decision supported the Council's argument in this regard.

16. The Inspector's overall conclusion was that the benefits that development brings with it are subject to the development being in the right place to support growth, and accessible to local services. In failing to meet these objectives, the Inspector considered that the development would create an unsustainable demand for private transport, with consequent environmental implications, and would fail to conserve the setting of designated heritage assets. He found that both aspects are contrary to the objectives of the NPPF and, despite the presumption in favour of sustainable development, and whether taken together or individually, amount to harm which clearly outweighs the benefits of the scheme. For these reasons, the appeal was dismissed.
 - **Mr T Deans - Conversion of a building (B1 use) to a poultry, pet and equestrian store – Deans Farm, Shepreth Road, Fowlmere – Appeal allowed and costs awarded to the appellant**
17. This appeal followed the decision of the Planning Committee to refuse permission for a retail outlet in part of the existing buildings contrary to the officers' recommendation of approval. The main issues were identified as the effects on the local rural economy, viability of surrounding village shops, and vitality of rural and village centres; and whether the site would be accessible to future customers, having regard to the principles of sustainable development. The appeal was considered by an exchange of written representations.
18. The appeal building has been used in recent years to make up wood shavings, hay and straw, the majority of which is produced on the farm, into plastic bags for wholesale distribution to retail outlets for sale as pet and animal food and bedding. The proposal would involve the use of one of the sections of the building to retail these goods, along with a limited range of other associated products, direct to the public.
19. Local Development Framework policies allow for well-conceived farm diversification schemes, and the sale of produce and/or craft goods from farms where the majority of goods are produced on the farm or in the locality. The purpose of this approach is to allow farm businesses to effectively contribute to the rural economy, whilst preventing sporadic retail uses in the countryside that could harm the viability of surrounding village shops or the vitality of rural and village centres. More recent national policy encourages a positive approach to economic growth and diversification in rural areas, including the expansion of all types of business through the conversion of existing buildings.
20. The inspector found that the proposal would represent an additional activity that would help to diversify the existing agricultural business as encouraged by national and local planning policies. Most of the hay and straw that would be retailed from the appeal site would be produced on the farm, and in terms of bulk, it seems likely that such produce would represent the majority of goods to be sold from the site. Whilst there is no evidence to suggest that the other items to be sold as part of the proposal would be produced locally, they are limited in range, all clearly appropriate to a poultry, pet and equestrian store, and it seems likely that many would be purchased

less frequently than the bags of hay and straw. The types of goods sold could be restricted by a planning condition if the appeal were allowed, in order to prevent the sale of convenience or other goods that ought to be retailed from village or other rural centres. On this basis the proposal would accord with the local and national planning objectives.

21. The inspector noted there are a number of retail outlets in the local area, including two around 2.5km from the appeal site, that sell, amongst other things, similar goods to those that it is proposed be sold from the site. But while concerns have been raised that the proposal would damage the viability of these existing retail outlets, planning policies do not protect all existing businesses from competition, even in the current economic climate. While there may be a number of large retail units similar to the appeal property, some empty, in the local area, there was no substantive evidence before the inspector that the proposal would lead to existing businesses to fail, undermine the viability of village shops, or harm the vitality of village centres.
22. The appeal site has found to have reasonable road access, and is only around half a mile from the village of Fowlmere, with several other villages located not far away. The bulky nature of bags of hay and straw means that many customers would be likely to come by car to purchase such goods, even if reasonable public transport services were available to the retail outlet. Only limited weight could be attached to the fact that the appeal site is not easily accessible by public transport. Furthermore, the nature and restricted range of the goods being sold would mean that customers would be likely to come from the local area, and be limited in number. Accordingly, the proposal is unlikely to generate a significant number of additional long car journeys. The site was therefore reasonably accessible.
23. In allowing the appeal, the conditions suggested by the Council were generally agreed. These limit the types of goods sold and the retail use to the specific part of the building as indicated on the submitted plans; a limit on the times at which retail sales take place, and deliveries are made to and despatched from the site; adequate car parking and turning space; details of foul and surface water drainage; and preventing the outside storage of materials and equipment, and to ensure that any waste stored outside is in appropriate containers.
24. With regards to the application for costs, the inspector concluded that, having considered representations made by Fowlmere Parish Council and from the owner of a local pet store, the Committee decided to refuse the planning application, contrary to the professional advice of officers. Whilst the reason for refusal refers to a relevant development plan policy there was no indication that the Committee properly assessed the proposal against the criteria set out in that policy, including whether the majority of goods sold would be produced on the farm or locally, and whether controlling the types of goods sold by the imposition of a condition would overcome any concerns. Nor was there any substantive evidence to justify the conclusion that the proposal would cause harm to the objectives of that policy, or that appropriate weight was given to more recent national policy. Rather than properly considering the likely effect on the vitality and viability of village centres and sustainable patterns of development, it seems undue weight was given to protecting existing businesses from competition.
25. There was a lack of realistic and specific evidence to substantiate the argument that the proposal would harm the viability and vitality of village centres. Nor was there a convincing explanation for why the imposition of conditions to control the types of goods sold, and limiting the extent of the retail use, would not prevent any such harm. With regard to sustainable patterns of development, the Council has not reasonably

demonstrated that the proposal would represent an unsustainable form of development.

26. The inspector therefore found unreasonable behaviour resulting in unnecessary expense has been demonstrated and that a full award of costs is justified.
- **Landmark Real Estate – Two Dwellings and Garage - Land to the South West of 8 Woburn Mews and 54 Woburn Place, Thriplow - Appeal allowed and costs awarded to the appellant**
27. A planning application for 2 dwellings and a garage was refused by Members at the Planning Committee meeting on 9 May 2012, contrary to the officers' recommendation of approval. The site lies on the east side of the entrance to the Heathfield Estate from the A505. Members felt that the form, design and scale of the proposed dwellings in such a prominent location would harm the character and appearance of the area. There had been a previously dismissed appeal for a similar development on the grounds of the appearance of the gable end of the dwelling on plot 2 facing the road and its proximity to the road. Officers had negotiated the scheme, in particular to ensure the dwellings would relate better to the adjacent development and to improve landscaping.
28. The Inspector noted that the dwelling on plot 2 would now provide "an elevation with interest and life that would complement the character of the area" and that there would be sufficient space for landscaping. He considered that the dwellings would be seen as a continuation of the existing pattern of development. Consequently, he decided that the dwellings would not harm the character and appearance of the area and would comply with Policy DP/3 as it would not have an adverse impact on village character, as well as the NPPF requirement for development to respond to local character and reflect the identity of local surroundings.
29. The Inspector also awarded FULL COSTS to the appellant as a result of the unreasonable behaviour of the Council in refusing the application leading to the unnecessary expense of an appeal. In particular, he states that where a previous Inspector has indicated that elements of the previous proposal would be acceptable, it is unreasonable for the Council to object to them unless there were material planning considerations that were not related to the previous appeal. As there were none, the appellant could reasonably expect that the application would be decided upon whether the changes made to the new application would satisfactorily address the specific issues that led to the dismissal of the previous appeal. The Council has not had sufficient regard to the conclusion drawn by the previous Inspector and has not addressed the specific changes to the dwelling on plot 2.

Background Papers: the following background papers were used in the preparation of this report: None

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