

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Development and Conservation Control Committee

6th July 2005

AUTHOR/S: Director of Development Services

S/0526/05/F - Fen Drayton
Change of Use of Farm Shop to Dwelling at 40A Middleton Way for Mr R Ingle

Recommendation: Refusal
Date for determination: 13th May 2005

Departure Application

Site and Proposal

1. The site lies in the rural area to the west of Fen Drayton, which is characterised by agricultural dwellings and smallholdings in horticultural use, with many glasshouses. This area is known as the former Land Settlement Association Estate, which was disposed of by the Ministry of Agriculture in the early 1980's. The site is served by a narrow road, Middleton Way.
2. The application received 18th March 2005, relates to an existing single-storey building, two glasshouses and associated land (0.21ha plus 0.89ha land to the rear in the same ownership). The single-storey building, which has the appearance of a domestic bungalow, is unused currently, and was last in use as a farm shop. The applicant wishes to occupy this building as a private dwelling, with associated land as garden, for himself, his wife and his mother-in-law, Mrs L Lawrence.

Planning History

3. The site has an extensive history of planning decisions:
 - **S/3207/88/F** - 2 mobile homes -Refused 25 May 1989 (applicant Mr R D Ingle). The reasons for refusal refer to the holding having been served by the dwelling at 40 Middleton Way. Mr Ingle sold this dwelling off before bringing the mobile homes onto his remaining land.
 - **Enforcement Notice A**, dated 9 June 1989, against erection of a bungalow on agricultural land served on Mr R Ingle. The remedies that were required were 1) to demolish the building and 2) to clear the site of all materials arising from such demolition. The appeal was dismissed by the Inspector on 19 January 1990 (the period for compliance was extended to six months). It was noted that Mr Ingle had recently disposed of a dwelling on the holding, 40 Middleton Way. The Inspector commented:

"The Land Settlement Association area has a predominantly horticultural character quite different from that of the village proper. In my opinion it can reasonably be considered part of the countryside...Your client ...chose to dispose of the original dwelling which served the holding. Whilst I understand his personal circumstances, and have dealt with this case on its merits, if permission were granted in this instance, even with conditions attached, it would be difficult

in fairness to refuse to allow the subdivision of holdings and the establishment of new residences throughout the Land Settlement Area, and throughout the countryside generally, leading to a considerable and harmful change in the character of the open countryside. The fact that features like a bungalow and the mobile homes are not unusual in the locality does not in itself justify a proliferation of similar features... Nor do I consider that the requirement that it be demolished is unreasonable or excessive given its present form”.

- **Enforcement Notice B**, dated 9 June 1989, against siting of 2 mobile homes on agricultural land, served on Mr R Ingle. Remedy sought 1) to cease to use the mobile homes for residential purposes and 2) to remove the mobile homes from the site. Appeal dismissed by decision dated 19 January 1990.
- **Stop Notice** dated 9 June 1989, requiring construction of the bungalow to cease. Mr Ingle failed to heed the Stop Notice, which resulted in him being fined by the Court.
- **S/0859/90/F** - Use for pre-packaging and farm shop/office - Refused 12 June 1990 (applicant Mr and Mrs R D Ingle)
- **Section 106 Legal Agreement**, dated 11 September 1991, signed by Mr and Mrs R D Ingle. The Agreement refers to the combined area of 1.1ha, and states that the Council is satisfied that the building may remain without further enforcement action provided that:
 - 1) The building shall not be used for any purpose other than agriculture but including preparation, packaging and sales of agricultural products grown on the property or raised as livestock on the property, and incidental offices;
 - 2) The building shall not be used as residential accommodation or offices;
 - 3) The property and building shall be a single planning unit.

Planning Policy

4. **Government Circular No.11/95** (The Use of Conditions in Planning Permissions): This advice states that exceptionally, where there are strong compassionate or other personal grounds for doing so, personal occupancy conditions may be attached to applications for use of an existing building for a named person for some purpose which would not normally be allowed at the site. This condition will scarcely ever be justified in the case of permission for the erection of a permanent building.
5. **Planning Policy Statement 7** (Sustainable Development in Rural Areas) This advice states that isolated new houses in the countryside will require special justification for planning permission to be granted. The Government supports the re-use of appropriately located and suitably constructed existing buildings in the countryside where this would meet sustainable development objectives. Re-use for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations, and for some types of building.
6. Cambridgeshire and Peterborough Structure Plan 2003:

Policy P1/2 (Environmental Restrictions on Development) - development will be restricted in the countryside unless the proposals can be demonstrated to be essential in a particular rural location.

Policy P1/3 (Sustainable Design in Built Development): a high standard of design and sustainability for all new development will be required which minimises the need to travel and reduces car dependency.

7. South Cambridgeshire Local Plan 2004:

Policy SE8 (Village Frameworks) - Residential development outside frameworks will not be permitted.

Policy CS1 (Planning Obligations) the Council will seek to negotiate planning obligations to ensure the provision of any matters that are necessary and directly related to the proposed development, without which permission ought not otherwise to be granted. The obligation will be reasonably related to the proposed development in scale and kind.

Policy Fen Drayton 1: Within the area of the former Land Settlement Association Estate, planning permission will not be granted for housing or commercial development unless it is directly related to the effective operation of local agriculture, horticulture, forestry or other uses appropriate to a rural area. The supporting text indicates that the former estate is the subject of a 1937 Planning Agreement which restricts the use of land, buildings and dwellings to those of agriculture and horticulture.

Consultations

8. **Fen Drayton Parish Council** - has offered “no recommendation” as it says that it is ‘split on whether to recommend acceptance or rejection of this planning application’ because:

- The site is on former LSA land outside the village framework. The former LSA land has specific criteria attached to it, which only allows for residential purposes if the accommodation is for agricultural/ horticultural purposes.
- It is appreciated that such difficulties appear to be overcome in other locations eg. Abington, and Chawston, Beds, but the combination of the current horticultural restrictions associated with the land, and the land being outside the village framework, raise significant concerns if permission were to be granted in this instance.
- All the LSA houses had similar piggeries/ sheds originally, and many owners still have them. If a change of use was granted in this case, it could set a difficult-to-control precedent with other land owners making a similar conversion, seeking approval for change of use and then selling on, effectively creating numerous in-fill developments without the benefit of a considered and developed policy on the matter.
- The Parish Council is very much mindful of the needs of the individual villagers, and of the need to maintain thriving village as a whole. It has sympathy with Mr Ingle’s application on the basis of his personal situation which, if approved, would give him a home well suited to his family’s needs and release his present rented

home for occupation by another family in need of affordable housing in the village.

- This application highlights the urgent need for a policy to be included in the Local Plan for some small scale, controlled development on the former LSA land, but it questions whether approval should be granted in this instance prior to the development of such a policy.
9. **The Council's Legal Officer** - has advised that the provisions of the 1989 Enforcement Notice A remains in force and can be used in the event of a breach of the terms of the Section 106 Agreement taking place.
 10. **Neighbourhood Manager, Housing Services** - The NM has advised that Mr and Mrs Ingle have applied for Council accommodation and that on 7th June 2005 they were offered a two-bedroomed bungalow at The Plantation, Fen Drayton, which they have accepted.
 11. **Council's Assistant Director (Revenues)** - has advised that the property was included in the rating list for a period of three months 1996/1997. If operational now, the farm shop would qualify for Rural Relief, but this relief was not available when the shop was trading.

Applicant's Representations

12. The applicant has put forward the following grounds in support of the application:
 - The former farm shop business has become non-viable because of a shortfall of produce, including livestock. This is as a result of the limitation to selling only homegrown produce and livestock. This restricted earning potential and public interest, as stock could not always be free flowing. Also, the building was rated as a general store, which reduced its earning potential. The business went into liquidation. The building has now reverted to an agricultural store.
 - The applicant and his wife are past retirement age. His wife is suffering from ill health, and needs to live in a bungalow. His wife's mother would also be housed there in anticipation of future accommodation problems.
 - No precedent would be set as there are no other brick buildings of this type on the entire former LSA land.
 - No alterations to the building would be required.
 - The housing department has said that there is high demand for the 2-bedroomed accommodation they occupy at present at Lark Cottages, High Street, Fen Drayton. Their self-sufficiency would benefit all round, including the release of their current affordable accommodation.

Planning Comments - Key Issues

Exception on the grounds of personal circumstances

13. The erection of this bungalow on the former LSA Estate in 1989 represented a blatant breach of planning control. The development, as a residential unit, did not comply with development plan policies applying at that time, as was confirmed by an Inspector at appeal. Since then adopted policies have placed increased emphasis on

the need to ensure that development takes place in sustainable locations. There is no basis in adopted policy to support the occupation of this building as a dwelling, as no justification based on an agricultural need has ever been put forward. A precedent for other such sporadic development in the countryside would be created if this application were to be approved, unless a clear and substantial case for exceptional grounds has been demonstrated.

14. Advice contained in Circular 11/95 allows that, in exceptional circumstances, use of a building for a use which would not normally be acceptable may be permitted for named persons, for compassionate reasons. Members will wish to consider whether the present circumstances of the applicant amount to such grounds, taking into account the applicant's recent acceptance of bungalow accommodation in the village.
15. If Members were minded to approve the application, I would recommend that a condition be attached to limit occupation to Mr and Mrs R D Ingle and Mrs L Lawrence. When the need for the accommodation by these named persons ceases, the use should revert to an agricultural store or farm shop in association with the holding. The application is a departure from the development plan but I consider that referral to the Secretary of State would not be warranted in this instance, given the minor scale of the development. The terms of the extant Section 106 Agreement would require variation to allow for occupation of the bungalow by these named persons only.
16. If Members are minded to refuse the application, the remedies of Enforcement Notice A (i.e. demolition and clearance of demolished materials from the site), can be invoked if there is a breach of the terms of the Section 106 Agreement.
17. As the applicants have accepted Council accommodation during the lifetime of this application, I am seeking clarification of the intended occupation of the bungalow, together with any medical evidence of illness and incapacity. I will advise Members verbally of any further information, if received.

Recommendation

Refusal

1. The site lies in the rural area on the former Land Settlement Association Estate. The occupation of this building, which was the subject of an enforcement notice dated 9th June 1989 alleging the erection of a bungalow without planning permission and subsequently an unsuccessful appeal dated 19th January 1990, would introduce additional and unsustainable traffic movements and activity into an area which is intended for the residential use of essential agricultural and associated workers only. The personal circumstances put forward by applicants are not considered to justify an exception to the development plan policies applying to the area.
2. For these reasons, the proposal does not comply with policies in the Cambridgeshire and Peterborough Structure Plan 2003, notably Policy P1/2 (Environmental Restrictions on Development) and Policy P1/3 (Sustainable Design in Built Development), or in the South Cambridgeshire Local Plan 2004, notably Policy SE8 (Village Frameworks) and Policy Fen Drayton 1.

Background Papers: the following background papers were used in the preparation of this report:

- South Cambridgeshire Local Plan 2004

- Cambridgeshire and Peterborough Structure Plan 2003
- Planning file Ref S/0526/05/F and those identified in the Planning History section above.

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