

## 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/2058/03/F	FTA Smart 65 Hauxton Road <b>Little Shelford</b> Alteration to vehicular access (Officer Recommendation to Refuse)	Dismissed 02/06/2005
S/1505/04/O	L R Satchell Land east of Dales Manor Business Park, North of Babraham Road Sawston <b>Babraham</b> Residential Development (Delegated Refusal)	Dismissed 02/06/2005
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 (Delegated decision to impose condition)	Allowed 06/06/2005
S/0844/04/F	Mr & Mrs Gordon 3-5 Station Road <b>Histon</b> Appeal against condition 7 regarding erection of a lockable gate (Officer recommendation to impose condition)	Allowed 06/06/2005
S/1008/04/LB	Mr & Mrs Gadian The Old Vicarage, 7 May Street <b>Great Chishill</b> Alterations/removal of section of wall, removal of open verandah and replacement by lean to conservatory (Delegated Refusal)	Dismissed 07/06/2005
S/1009/04/F	Mr & Mrs Gadian The Old Vicarage, 7 May Street, <b>Great Chishill</b> Conservatory (Delegated Refusal)	Dismissed 07/06/2005
S/2017/04/F	Mr R Turner Reed Cottage, 1 Rectory Farm Road <b>Little Wilbraham</b> <b>Extension</b> (Delegated Refusal)	Dismissed 08/06/2005

S/2019/04/LB	Mr R Turner Reed Cottage, 1 Rectory Farm Road <b>Little Wilbraham</b> Internal and external alterations and extension (Officer Recommendation to Refuse)	Dismissed 08/06/2005
S/1628/04/F	Mr & Mrs Evans 8 Bunyan Close <b>Gamlingay</b> Dormer Windows (Delegated Refusal)	Dismissed 09/06/2005
S/1838/04/F	C Onslow Rhee Valley Works, Barrington Road <b>Shepreth</b> Temporary mobile home (Delegated Refusal)	Dismissed 10/06/2005

## 2. Summaries of recent decisions of interest

### **Mr & Mrs J Gordon – Change of use to flats without compliance with condition – 3-5 Station Road, Histon – Appeal allowed**

The application was approved subject to a condition that the means of enclosure across the opening to the site should leave access for pedestrians and cyclists only. Details of a new barrier should include raising the kerb. The reason for the condition was to maintain highway safety and to prevent harm to the character and appearance of the conservation area.

The inspector noted that it was readily apparent at his site visit that visibility to the right when existing the site is “most inadequate”. Alternative access through Brook Close was available and the Council had good reason to impose the condition.

Circumstances had changed, however, since planning permission was granted. The County Council has approved an experimental traffic calming scheme in Station Road. The key element so far as the appeal site is concerned, is that traffic will (and now is) prevented from entering Station Road from the Green. The exception is a cycle lane.

The inspector then goes on to conclude “that Station Road will become one way from south to north, thus removing the problematic left turn manoeuvre”. This is not true, as Station Road will still continue as a two-way road. However, as the site is so close to the junction with The Green, the effect will be similar. Vehicles will pass the site in one direction only and there will not be any left turn movements into the site.

Concerns were also expressed about the possibility of rat-run traffic using Brook Close to gain access across the site into Station Road. Again the inspector concluded that this would be removed now that Station Road is one-way. The site can, in fact still be used as part of a rat-run, but as this is private land, adjoining owners can quite easily erect boundary fencing to prevent this.

As the inspector found no need for gates across the entrance to the site, there would be no harm to the character and appearance of the conservation area. He therefore allowed the appeal. The Head of Legal Services has since confirmed that despite the inaccuracies in the decision, this is not a decision that is worthy of challenge.

**Mr & Mrs G North – Occupation of mobile home without compliance with conditions – Clopton Lodge, The Cinques, Gamlingay – Appeal allowed and costs awarded**

The mobile home was originally granted permission in 1989, subject to a personal occupancy condition. The previous occupants have since left. The permission did not provide any mechanism that required the mobile home be subsequently removed from the site.

Mr and Mrs North have occupied the site since 2002 and a new planning permission was granted retrospectively. This was subject to a new personal occupancy condition and that the mobile home be removed from the site should it be vacated for more than 6 months. The reason for the condition was because the site is within the countryside where permission will not normally be granted and because of the case put forward by the current applicant. The appeal was heard by way of a public inquiry.

The inspector agreed that a new mobile home on the site would be contrary to both national and local planning policies to control development in the countryside. He found, however, that as the previous planning permission did not require the removal of the mobile home from the site, a fallback position had been created. He also reasoned that it would be uneconomic to move the home from the site. The Council could have imposed a landscaping condition to further screen the development from public view. No material impact would then occur if the condition in dispute had not been imposed. These were material considerations that override the development plan in this instance.

Instead, the Council had imposed a personal occupancy condition without requiring the appellants to show they had a need to live on the site. As the appellants had not been asked to demonstrate any local need, the Council should have known there were no special grounds for imposing the occupancy condition. No harm would follow if the condition were not imposed. In the circumstances, the condition was unnecessary and unreasonable.

The second part of the condition sought to rectify the omission in the previous permission by requiring the removal of the mobile home from the site once occupation by the Norths had ended. This was despite the difficulties of enforcing the previous permission. This approach was unnecessary and unreasonable because of the fallback position. The Council's position was also at odds with a previous decision locally in a similar case at Bryjohn, Heath Road, Gamlingay.

The appeal was therefore allowed and the condition removed.

An application for a full award of costs was made against the Council. This was on the basis there was no evidence of a reasonable nature to substantiate why the condition was imposed. The Council's evidence did not cover the relevant government tests on the need for conditions. The Council replied that the condition was necessary because no real personal justification was sought for the development in the first place. It was necessary to protect the countryside from unnecessary clutter.

The inspector concluded that he felt the Council had found itself in a difficult position over this proposal because of the conflict with the development plan. He did not consider that this was a case where a personal occupancy condition was justified and the Council had not given any other examples where it had followed a similar approach. The Council had not been able to justify its case by reference to the relevant government circular on the use of conditions and had therefore acted unreasonably. The appellants had incurred unnecessary costs and an award was justified.

### 3. Appeals received

Ref. No.	Details	Date
S/0285/05/F	The Crown & Punchbowl Ltd High Street <b>Horningsea</b> Erection of fencing for terrace and bin store. (Retrospective Application) (Officer recommendation to Refuse)	19/05/2005
E503	Mr R Worboys & Mr R Wood Poplar Farm, off Poplar Farm Close <b>Bassingbourn-cum-Kneesworth</b> Enforcement against change of use from agriculture to storage of building and road making materials and depot for ground engineering business	20/05/2005
E501	Mr P Denny (Pine Direct) Unit 135 Cambridge Road <b>Milton</b> Enforcement against change of use from warehouse/storage to use for retail sales and associated showroom	20/05/2005
E502	Mr M Walker 2 Denny End Road <b>Waterbeach</b> Construction of a garage without planning permission	20/05/2005
S/1640/04/F	Camstead Ltd 137 Cambridge Road <b>Great Shelford</b> Erection of 7 flats and cycle bin stores following demolition of existing dwelling (Non-Determination)	20/05/2005
S/2279/04/F	K J Holdings Ltd 3 Thornton Way <b>Girton</b> Extension and conversion into bed-sit accommodation (7 units). (Delegated Refusal)	24/05/2005
S/0266/04/RM	Potton Developments Ltd West Road <b>Gamlingay</b> Erection of 4 houses each with annex (Officer Recommendation to Approve)	27/05/2005

S/0209/04/F	<p>Marchfield Developments 15 Ashwell Road <b>Steeple Morden</b> Demolition of existing workshops and redevelopment of site to provide 6 dwellings. (Officer Recommendation to Refuse)</p>	06/06/2005
S/0518/05/O	<p>T G Ravenscroft R/o Cranmore, Royston Road <b>Litlington</b> Bungalow &amp; garage (Delegated Refusal)</p>	09/06/2005
S/2199/04/F	<p>Mrs E Eayrs Brock Cottage, 2 Brockley Road <b>Elsworth</b> Extension (Delegated Refusal)</p>	09/06/2005
S/2198/04/LB	<p>Mrs E Eayrs Brock Cottage, 2 Brockley Road <b>Elsworth</b> Internal and external alterations and two storey extension (Delegated Refusal)</p>	09/06/2005
S/2154/04/PNT	<p>Orange Personal Communications Rampton Road <b>Longstanton</b> 15 metre high slimline telecommunications monopole and associated development (Delegated Refusal)</p>	09/06/2005
S/2316/04/F	<p>CMA Ltd Manor Farm Business Park <b>Shingay-cum-Wendy</b> Alterations and conversion of buildings to live/work dwelling (mixed uses classes C3 &amp; B1) (Officer Recommendation to Refuse)</p>	10/06/2005
S/0379/05/F	<p>B J Prince Adj 74 High Street <b>Little Wilbraham</b> Bungalow (Delegated Refusal)</p>	13/06/2005
S/0138/05/F	<p>Graftonbury Properties Ltd Wimbish Manor Estate, Fowlmere Road <b>Shepreth</b> Conversion of redundant garage/store into dwelling (Delegated Refusal)</p>	15/06/2005

S/0462/05/F Heddon Management 20/06/2005  
 12 Pieces Lane  
**Waterbeach**  
 Erection of 8 houses following demolition of  
 existing bungalow  
 (Officer Recommendation to Approve)

**4. Local Inquiry and Informal Hearing dates scheduled before the next meeting on 3<sup>rd</sup> August 2005**

<b>Ref. No.</b>	<b>Details</b>	<b>Date/Time/Venue</b>
S/0246/04/RM	Cofton Ltd., Peter Stroude, George Wimpey East Anglia, Kings Phase 2, Home Farm Confirmed <b>Longstanton</b> Erection of 200 dwellings and ancillary works (Local Inquiry)	07/07/2005 Council Chamber 10.00am 2 days
S/0761/04/F	B Gemmil, A Sheridan, E Sheridan & K Sheridan Plots 1-11 Victoria View, off Orchard Drive Confirmed <b>Cottenham</b> Use of land for gypsy caravan site, (11 pitches) part Retrospective (Local Inquiry)	12/07/2005 Council Chamber 10.00am 8 days
S/1569/04/F	Mr M Hegerty Land off Victoria View, Smithy Fen Confirmed <b>Cottenham</b> Siting of 4 gypsy caravans (Local Inquiry)	12/07/2005 Council Chamber 10.00am 8 days
S/1589/04/F	M Quilligan Land off Water Lane, Smithy Fen Confirmed <b>Cottenham</b> Siting of 2 gypsy caravans (Local Inquiry)	12/07/2005 Council Chamber 10.00am 8 days
E353	Mr P McCarthy Plot 2 & R/o 2 Setchel Drove Confirmed <b>Cottenham</b> Enforcement against change of use of site to use as a residential Caravan site (Re-Determination following High Court Challenge) (Local Inquiry)	12/07/2005 Council Chamber 10.00am 8 days
S/1020/03/F	Mr P McCarthy R/o 2 Setchel Drove Confirmed <b>Cottenham</b> Siting of 2 gypsy caravans and shower block (Re-Determination following High Court Challenge) (Local Inquiry)	12/07/2005 Council Chamber 10.00am 8 days

## 5. Appeals withdrawn or postponed

S/1767/04/F	Cambridge Cottage Housing Association Adj 82 High Street <b>Great Abington</b> Dwelling	Withdrawn by Appellant 23/05/2005
S/0682/95/O	Peter L Stroude Land West of Longstanton (Home Farm) <b>Longstanton</b> Increase number of dwellings from 500 to 630	Withdrawn by Appellant 13/06/2005

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

Ref. No.	Details	Date
S/0629/04/F	Mr and Mrs Noyes 22 North Brook End Confirmed <b>Steeple Morden</b> Extension	04/10/2005
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 to study and garden room (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 (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 (Hearing)	09/11/2005 Confirmed
S/2062/04/F	R W S Arnold Bennell Farm, West Street (Comberton) <b>Toft</b> Erection of B1 offices (Hearing)	09/11/2005 confirmed
S/6258/04/RM	MCA Developments Land South of Great Cambourne <b>Cambourne</b> Alterations in land form (dispersion of soil from building works.) (Local Inquiry)	14/03/2006 Offered/