

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/2079/04/F	Mr & Mrs Clark 18 Granhams Road Great Shelford Extension (Delegated Refusal)	Dismissed 15/07/2005
S/2177/04/F	Mr & Mrs R Walker Adj 1 Bartons Close Balsham Dwelling (Officer Recommendation to Approve)	Allowed 21/07/2005
E485	Mr & Mrs Cuff Cow Fen Drove Swavesey Enforcement of removal of temporary stable block	Dismissed 22/07/2005
E485A	Mr & Mrs Cuff Cow Fen Drove Swavesey Enforcement against change of use to residential caravans and dog breeding	Dismissed 22/07/2005
S/1385/04/F	Mr & Mrs Russell Land R/O 22 Town Street Newton Detached Bungalow & Garage (Officer Recommendation to Approve)	Dismissed 22/07/2005
E493	Miss Lovitt & Mr Scrafton 6 Honey Hill Gamlingay Enforcement for removal of 5-bar gate and gate posts	Allowed 22/07/2005
S/2230/04/O	Mr & Mrs C Elsom R/o 17 Cambridge Road Linton Bungalow (Delegated Refusal)	Dismissed 22/07/2005

S/0019/05/F	Mr J and Mrs R Davey 125 The Causeway Bassingbourn Extension (Officer Recommendation to Refuse)	Allowed 22/07/2005
S/1861/04/F	Mr G Skinner 2 Church End Coton Replacement dwelling following demolition of existing dwelling and erection of additional dwelling (Delegated Refusal)	Allowed 26/07/2005
S/1951/04/LB	Mr R Poulter Golden Gables, Sanders Lane Fulbourn Total demolition of listed, thatched barn (Officer Recommendation to Approve)	Allowed 01/08/2005
E502	Mr H Price Adj Moor Drove, Cottenham Road Histon Operational Development	Dismissed 02/08/2005
E502A	Mr H Price Adj Moor Drove, Cottenham Road Histon Enforcement against material change of use to storage and residential use of caravans.	Dismissed 02/08/2005
E502C	Mr H. Price Land at Moor Drove, Cottenham Road Histon Enforcement against installation of foul sewers & mains water & electricity	Dismissed 02/08/2005
S/0446/05/A	Marshall Mitsubishi 699 Newmarket Road, Cambridge Fen Ditton Signs	Allowed 18/08/2005

2. Summaries of recent decisions of interest

Mr H Price – Use of land as gypsy caravan site – Moor Drove, Histon – Appeals against enforcement notices dismissed

1. The land is currently in use as a gypsy caravan site and lies within the Green Belt. It is divided into six plots, five of which are occupied by the Price family and the other by Robert Smith. Planning permission was refused and three separate enforcement notices were issued relating to the use of the site and associated operational development. The appeals were in respect of the three notices and were heard by way of a public inquiry. The decision was made by the ODPM based on the recommendations of his inspector.

2. The main issues were whether the occupants have gypsy status; the effect of the development on the character and appearance of the area, including the openness of the Green Belt; the safety and free flow of traffic along Cottenham Road; flooding; the affect on the occupants of Beck Farm; and whether there were any very special circumstances that clearly outweigh the harm caused by the inappropriateness of the use and any other identified harm. The County Council provided technical evidence on highway matters for the District Council. The Parish Council attended the inquiry and was legally represented. Three of the site's occupants gave evidence in person, as did the occupant of Beck Farm.

Gypsy Status

3. Having heard the evidence given by the occupants, the Council accepted that they were gypsies for the purposes of planning policy.

Character and appearance and openness of the Green Belt

4. It was agreed that the development is inappropriate in the Green Belt. The inspector concluded that the development of the site has meant it has lost much of its open rural character. While Moor Drove is not a public right of way, walkers and horse riders have regularly used it. As this is in effect trespass, little weight can be attached to what they might have seen. Nonetheless legitimate users such as adjoining landowners would have seen the development of the appeal site. There are also distant glimpses of the site from Cottenham Road at times of year when intervening vegetation is not in leaf and the inspector observed lights on the site during the hours of darkness. In any event, the urban character of the development harms the character and appearance of its rural setting.
5. The site lies between Histon and Cottenham and although it is in a backland location, it still has an adverse effect on the gap between the two villages. In that sense it undermines the objective of Green Belt policy to prevent the coalescence of settlements. It is therefore contrary to Green Belt and countryside protection policies

Free flow and safety of traffic

6. The inspector visited the site on several occasions. He formed the impression that vehicle speeds are relatively high in relation to speed limits and that bunching of vehicles approaching and leaving the nearby 40 mph speed limit area was not uncommon. The Moor Drove junction is not a prominent feature, especially at night or in other poor lighting conditions. Turning movements need to be undertaken relatively slowly due to the width, alignment and surfacing of the road. Visibility in either direction is restricted and cannot be readily improved. There have been both reported and unreported accidents in the general vicinity of Moor Drove.
7. In the light of these conditions, the inspector agreed with the Council's highways witness that the required site lines at the junction should be at the higher standard than was suggested by the appellant. The available distance to both the north and south falls well short of that standard. The increased vehicular movements associated with the use do interfere with the safety and free flow of traffic using Cottenham Road. Any development that generates increased vehicular use of Moor Drove should be firmly resisted.

Flooding

8. The matter was raised by the Parish Council during the inquiry based on changes to the flood plain maps prepared by the Environment Agency. A flood risk assessment was eventually prepared on behalf of the appellants and subject to conditions was considered acceptable by both the District and Parish Councils. Flooding was therefore not a factor that should weigh against the development.

Effect on residential amenity

9. The issue was limited to the impact on the occupants of Beck Farm, which adjoins Moor Drove. It has several living room windows that face Moor Drove and the boundary hedge was found to be an ineffective visual screen. The additional traffic would disturb the occupants of the house. There has therefore been a “significant” loss of amenity.

Very special circumstances

10. The factors put forward by the appellant and the inspector’s conclusions are as follows:
 - Lack of any special landscape designation – the open rural character of the area would still be harmed.
 - There is a substantial need for gypsy accommodation in South Cambridgeshire. No alternative site is available. Eviction would lead to roadside camping – These were considered serious failings that weigh heavily in favour of the appellant.
 - The site is the least harmful site available for gypsy occupation – not accepted, as no comprehensive exercise to identify suitable sites has yet been carried out by the Council. There is also harm in terms of highway safety and impact on residential amenity.
 - Education of children – This will be disrupted and weighs in favour of the appellant.
 - Health needs – Weighs in favour of the appellant although the necessary access to GP services could be found elsewhere.
 - Cumulative effect of the above considerations – While there are factors that weigh in favour of the appellant, the development causes substantial harm, which is seen as an overriding objection. On balance, the appellant’s circumstances are not so very special that they clearly outweigh the harm caused.

Human Rights

11. Interference with the appellant’s human rights is justified as a proportionate response to the protection of the Green Belt, the safety and free flow of traffic and the residential amenities of the occupants of Beck Farm. In respect of this latter point, the inspector considered it material to note that the human rights of the occupants of Beck Farm have been adversely affected.

Period for compliance

12. The Council had proposed three months. The appellant requested three years (to allow a quantitative assessment to be carried out and suitable sites identified). The inspector considered three years excessive given the harm caused by the development. He was tempted to extend the period to one year (as he has tended to do in other appeals elsewhere), but this was inappropriate in this case particularly in view of the traffic considerations. The period for compliance should remain at three months.
13. The inspector therefore recommended that all three appeals be dismissed.

ODPM decision

14. The ODPM accepted the recommendations of his inspector. None of the circumstances affecting Mr Price and other occupants of the site amount, singly or collectively, to very special circumstances sufficient to outweigh the harm to the Green Belt and the other identified harm.

Application for costs

15. The local highway authority had objected to the planning application on the grounds of inadequate visibility. The District Council first asked the County Council to provide the necessary technical evidence to support the reason for refusal in April 2004. Despite repeated requests in May, June and July 2004, no response was forthcoming until shortly before the start of the inquiry in August. A proof of evidence was finally prepared but was not seen by the appellant's representatives until shortly before the start of the inquiry.
16. On the first day of the inquiry, the appellant requested an adjournment because he had not had sufficient time to consider the Council's highways evidence. The Council's advocate accepted this was reasonable and the inspector duly agreed. The late submission of evidence was judged to amount to unreasonable behaviour by the Council and a partial award of costs based on unnecessary and wasted expense in relation to the first day was granted. The details of these costs have not yet been received.
17. The Head of Legal Services wrote to the County Council's solicitor on 31st August 2004. The letter invited the County Council to accept that it was responsible for the delay and that it would meet any costs imposed on the District Council. Following a further exchange of correspondence, **it is understood that the County Council has accepted this.**

Comment: The outcome of this appeal is another example of good close working relationships between the Council and the Parish Council. The occupants of the site have until 1st November 2005 to cease using the site and to remove caravans and other associated operational development.

Mr R Scrafton & Miss H Lovitt – Erection of gate within curtilage of listed building – 6 Honey Hill, Gamlingay – Appeal against enforcement notice allowed

1. The appellant's property resulted from the conversion of outbuildings to the rear of a grade II listed property. The unauthorised development comprised two 5-bar gates set between timber posts which were erected to enclose a small courtyard visible from Honey Hill. Enforcement action was authorised because of the perceived harm to both the setting of the listed buildings and the character and appearance of the conservation area.

2. The inspector found that the gate is of traditional design and is well-constructed from good-quality materials. It has a pleasant rural character that blends in successfully with the appearance of surrounding dwellings. The open area in which the gates and posts are located is used for vehicular access, parking and turning and is a common area to which the respective buildings have traditionally related. The development does not harm the open quality of the area to any significant extent. Nor does it unduly detract from the setting of the listed buildings.

*Comment: The former openness of the courtyard has been much reduced since enforcement action was first taken. A number of planting boxes have been sited along property boundaries such that the sense of space in the courtyard as a whole has been lost. As a result, the impact of the fence is arguably now much less than was **originally the case***

Mr & Mrs Davey – Single storey extension and garage – 125 The Causeway, Bassingbourn – Appeal allowed

1. The main issue in this appeal was the impact on the outlook from the adjoining residential property. The Council's objection related only to the extension.
2. No. 123 is the other half of this pair of semi-detached properties and has a pair of patio doors and a small ground floor window in its rear elevation. The inspector approached the question of outlook on the basis of any harm that would be caused by an overbearing development, rather than loss of view. Even though the extension would be 6m deep and visible over the dividing fence, he did not consider its mass would create a dominating or claustrophobic effect on the outlook from no. 123. In arriving at this conclusion, he also noted that the neighbour had not objected and that an extension of similar depth had been erected at a nearby property. Planning permission was granted subject to a condition regarding details of materials.

Mr & Mrs R Walker –Single residential unit - Land adjacent to 1 Bartons Close, Balsham – Appeal allowed

1. This application was refused because of its impact on the character and appearance of the area and the amenities of the neighbour at 12 West Wickham Road. The proposed house is part two storey and part single storey set some 5 metres from the northern boundary with no 12. The space between the two properties would be used as a garden and for car parking.
2. The inspector found the design and siting of the dwelling acceptable and would not harm the neighbour's amenities. The gap between the property and its neighbours would not result in unacceptable overlooking, overshadowing or the house appearing overbearing.
3. The appeal was allowed subject to conditions regarding sample materials, landscaping, boundary treatment, visibility splays and restrictions on pd rights.

G Skinner – Replacement dwelling and new dwelling – 2 Church End, Coton – Appeal allowed

1. The main issues in this appeal were the affect on the appearance of the surrounding area including the Coton Conservation Area and the living conditions for the occupants of 1 and 3 Church End.

2. The inspector noted that the appeal site is the central of three good-sized plots set on a private access drive behind properties fronting Whitwell Way. The area is of mixed character and although Policy HG11 is particularly concerned with the effect of backland development on villages having a strong linear character, this part of Coton does not exhibit this characteristic. This aspect of Policy HG11 should not therefore be applied to the appeal proposal. The existing flat-roofed single storey property is in a dilapidated condition and of unremarkable design. Its retention is not essential to the character of the village.
3. The proposed tandem development would be of “an interesting contemporary design” that would fit well into the area. The Council’s view that the existing pattern of development would be harmed was not accepted. The rear boundary of the site is well planted and views from the nearby footpath would not be adversely affected, even in winter. The development would not affect the setting of, or views into or out of the conservation area.
4. Dense vegetation on the common boundary with no. 3 would assist in screening its residents from noise and disturbance from the use of the access. Additional screening could be provided to the driveway of the rear plot and along the boundary to no 3. The distance between properties and the innovative design of the new property would prevent any overbearing effect on adjacent gardens and homes.
5. The appeal was therefore allowed subject to details of materials, landscaping, boundary treatment, restriction of further windows in first floor elevations and obscure glazing where appropriate.

3. Appeals received

Ref. No.	Details	Date
S/0204/05/F	Mr & Mrs W Rankine 1Woollards Lane Great Shelford Dwelling (Amended Design) (Officer Recommendation to Approve)	18/07/2005
S/0475/05/O	Mr D J Harradine Clive Hall Drive/Mills Lane Longstanton 3 Bungalows (Officer Recommendation to Refuse)	22/07/2005
S/0917/05/O	Mr & Mrs G Cole 66 Cambridge Road Great Shelford 4 dwellings following demolition of existing dwelling (Delegated Refusal)	27/07/2005
S/2505/04/F	Mr & Mrs A Brown Schole Road Willingham siting of 2 gypsy caravans (retrospective) utility block and mobile medical unit for disabled person (Non-Determination)	27/07/2005

S/1203/04/F	Mr & Mrs J Culbert Keepers Cottage, Haverhill Road Stapleford Erection of dwelling and garage following demolition of existing dwelling (Officer Recommendation to Approve)	28/07/2005
E 506A	Michael O'Brien Plot 5 Orchard Drive, Smithy Fen Cottenham Enforcement of removal of caravans, sheds other ancillary structures and hard standings	28/07/2005
E506B	Margaret O'Brien Plot 5A Orchard Drive, Smithy Fen Cottenham Enforcement of removal of caravans, sheds other ancillary structures and hard standings	28/07/2005
E506C	Nora O'Brien Plot 6 Orchard Drive, Smithy Fen Cottenham Enforcement of removal of caravans, sheds other ancillary structures and hard standings	28/07/2005
E506D	Nora Slattery Plot 10 Orchard Drive, Smithy Fen Cottenham Enforcement of removal of caravans, sheds other ancillary structures and hard standings	29/07/2005
S/0328/05/F	J G Christy 27 Mill Lane Arrington Removal of condition 1 of permission S/0288/89/F to allow use of annexe as separate dwelling (Delegated Refusal)	29/07/2005
E506E	Michael Hegarty Plot 11 Orchard View, Smithy Fen Cottenham Enforcement of removal of caravans, sheds other ancillary structures and hard standings	01/08/2005
S/0306/05/F	Mr & Mrs Golder 9 Skiver Close Sawston Extension (Officer Recommendation to Approve)	04/08/2005

S/1100/04/F	Mr & Mrs Hogg 1 Bourn Road Caxton House and garage (Officer Recommendation to Approve)	04/08/2005
S/0022/05/F	Woolrugs Ltd Junct The Moor/Moat Lane Melbourn Erection of 2 dwellings and retrospective parking and access layout to existing 1 bedroom dwellings (Delegated Refusal)	10/08/2005
S/0662/05/A	Countryside Properties PLC Garden Centre & Chinese Restaurant A428 Papworth Everard 2 non illuminated signboards (Delegated Refusal)	15/08/2005
S/0750/05/F	Mr & Mrs R Maynard Adj Gurner House, 20 Church Street Ickleton Dwelling & Garage (Delegated Refusal)	16/08/2005
S/0777/05/A	Tesco Stores Ltd 15-18 Viking Way Bar Hill Signs (Delegated Refusal)	19/08/2005

4. Local Inquiry and Informal Hearing dates scheduled before the next meeting on 5th October 2005

Ref. No.	Details	Date/Time/Venue
S/2240/04/O	Mr G Jennings Harlton Road Haslingfield Agricultural Bungalow (Informal Hearing)	20/09/2005 Monkfield room 10.00am
S/1692/04/F	Mr R Dias 44 Station Road Histon Use of premises for hot food takeaway between 11am & 2.30pm (Informal Hearing)	21/09/2005 Monkfield room 10.00a.
S/0629/04/F	Mr and Mrs Noyes 22 North Brook End Steeple Morden Extension (Informal Hearing)	04/10/2005 Monkfield room 10.00am

5. **Appeals withdrawn or postponed - None**

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

Ref. No.	Details	Date
S/1109/04/F	Beaugrove Ltd. Crail, High Street Croydon Erection of two houses following demolition of existing house (Hearing)	11/10/2005 Confirmed
E499	Mr F Cooke Hilltrees, Babraham Road Stapleford Removal of motor vehicles etc (Inquiry)	18/10/2005 Offered/
S/1470/04/F	Mr W Willett Adj Appletree Close, Histon Road Cottenham Use of land as extension to mobile home park (no increase in numbers) incorporating landscape belt (Hearing)	08/11/2005 Offered/
S/0592/04/F	R W S Arnold Bennell Farm, West Street (Comberton) Toft Erection of B1 offices (Hearing)	09/11/2005 Confirmed
S/2062/04/F	R W S Arnold Bennell Farm, West Street (Comberton) Toft Erection of B1 offices (Hearing)	09/11/2005 confirmed
E502	Mr M Walker 2 Denny End Road Waterbeach Construction of a garage without planning permission (Hearing)	22/11/2005 Offered/
S/6258/04/RM	MCA Developments Land South of Great Cambourne Cambourne Alterations in land form (dispersion of soil from building works.)	19/04/2006 Offered/