



East Northamptonshire Council

Development Control Committee - 17 February 2010

Appeal Decision Monitoring Report

Summary

Update on appeals decided by the Planning Inspectorate and an analysis of the main issues to monitor consistency between the Council's and Planning Inspectorate's decisions.

Attachment(s)

Appeal Decisions - 4 to 22 January 2010

1.0 Introduction

1.1 This report advises on the outcome of planning and enforcement appeals determined by the Planning Inspectorate from 4 to 22 January 2010 and analyses the decisions made by the Development Committee and Officers under Delegated Powers.

1.2 Details of costs awarded against the Council (if any) are also given.

2.0 Recommendation

2.1 That the report be noted.

Implications:	
Corporate Outcomes or Other Policy/Priority/Strategy	
Good Quality of Life	<input type="checkbox"/> Good Reputation <input checked="" type="checkbox"/>
Good Value for Money	<input type="checkbox"/> High Quality Service Delivery <input type="checkbox"/>
Effective Partnership Working	<input type="checkbox"/> Strong Community Leadership <input checked="" type="checkbox"/>
Effective Management	<input checked="" type="checkbox"/> Knowledge of our Customers and Communities <input type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours	<input checked="" type="checkbox"/>
Other:	<input type="checkbox"/>
Decision(s) would be outside the budget or policy framework and require full Council approval <input type="checkbox"/>	
Financial	There are no financial implications at this stage <input checked="" type="checkbox"/>
	There will be financial implications – see paragraph <input type="checkbox"/>
	There is provision within existing budget <input type="checkbox"/>
	Decisions may give rise to additional expenditure at a later date <input type="checkbox"/>
	Decisions may have potential for income generation <input type="checkbox"/>
Risk Management	An assessment has been carried out and there are no material risks <input checked="" type="checkbox"/>
	Material risks exist and these are recorded at Risk Register Reference - inherent risk score - residual risk score - <input type="checkbox"/>
Staff	There are no additional staffing implications <input checked="" type="checkbox"/>
	Additional staff will be required – see paragraph <input type="checkbox"/>
Equalities and Human Rights	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications <input checked="" type="checkbox"/>
	There will be an impact on equality (see categories above) or human rights implications – see paragraph <input type="checkbox"/>
Legal	Power: Planning and Compulsory Purchase Act 2004
	Other considerations: None

Background Papers:					
Person Originating Report: Sue Wheatley - Development Control Manager 01832 742227 sjwheatley@east-northamptonshire.gov.uk					
Date: 18 January 2010					
CFO		MO		CX	

(Committee Report Normal Rev. 19)

East Northamptonshire Council

DC Appeal Results

From 4 to 22 January 2010

Officer

Case Ref. No.	Appellant Proposal	Location	Appeal Type Date Decided	Decision
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Amie Baxter

Written Representations

08/01261/LB	Mr and Mrs R Cox	24 Church Street, Easton On The Hill	Against Refusal 04/01/2010	Dismissed
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- The application was refused due to the impact on the listed building and the loss of historic fabric due to the demolition of the back wall to the garage.
- The Inspector took the view that the garage, which is curtilage listed, should be read in conjunction with the main dwelling and that the garage reflects the organic history of the site.
- Whilst the Inspector recognised that the rear wall had been modified with modern materials internally, the wall retained its character from the outside. PPG 15 encourages the retention of facing stone work.
- The wall is in need of repair in some places but it is considered that the loss of the wall would materially detract from the special interest of the building. The inspector considered that the proposed development would result in the building having no use, but for vehicles to pass under, and the proposal would not amount to a sensitive alteration and would harm the special architectural and historic merit of the building.
- The proposed works would be contrary to PPG15 and Policy 13 of the North Northamptonshire Core Spatial Strategy.
- The creation of off road parking would not justify the loss of the rear wall to the garage.

Anna Lee

Informal Hearing

09/00445/FUL	D C Fenn	Land Opposite 2 to 12 Mill Road, Nassington	Against Refusal 14/01/2010	Allowed
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- The application was refused because of insufficient justification for a mobile home on the site, as the appellant already live in the village of Nassington and due to the availability of housing opposite the site; and because the submitted proposal failed to satisfy the various tests set within PPS7, including the financial test. In addition, it was considered that the proposal would lead to an unsustainable expansion and encroachment of new buildings into the countryside, as the proposed stable would be located on a site with two isolated buildings/structures that are not related to any existing farmstead and would be contrary to saved Policy AG5 of the Local Plan.
- Whilst the Inspector noted that a lack of investment had been made on the existing buildings, the Inspector was satisfied that there was a firm intention to develop the cattle and livery enterprise as part of the existing business. In particular, the Inspector paid regard to the appellant and his family's experience in training and the keeping of livestock.
- The Inspector considered that the functional need for the proposed mobile home had been demonstrated by the appellant's need to live on the site to provide supervision for livestock and in order to allow the proper functioning of the proposed new enterprise. In addition, the Inspector commented that accommodation within the village would provide few advantages over the existing house as it would be a similar distance away, "I also note that none of the housing opposite the site has become available, but that in any event it would be likely to be financially prohibitive, given that the enterprise would be funded by the sale of the property."
- In terms of the financial tests set within PPS7, the Inspector found the submitted business plan to be sound and that the enterprise would be adequately financed by the sale of the appellant's current home.
- Notwithstanding the Council's view that the existing buildings/structures on the site do not form part of an existing farmstead and would not be close to farm buildings, the Inspector considered that the stable block would be located within an existing farmstead.
- In terms of visual impact, the Inspector held the view that the development would not amount to the encroachment of development into the countryside and would be seen "as part as part of a grouping with the existing farm buildings and against a backdrop of the dwellings on the opposite side of the road" and considered that the character and appearance of the open countryside would not be harmed.

Bill Wilson

Public Inquiry

08/00113/OUT Bovis Homes Ltd. Land South Of Meadow Lane, Raunds Against Refusal
Erection of 135 dwellings including new access from London Road, provision of open space 18/01/2010 **Dismissed**
and formation of retention basin.

- This application was refused for the following reasons:

1. *The site falls outside of the settlement boundary of Raunds and therefore in the open countryside where there is a presumption against residential development unrelated to agriculture or forestry. No evidence has been provided of any exceptional circumstances which justify the proposal. The application fails to comply with Policies 9 and 10 of the North Northamptonshire Core Spatial Strategy which restrict new housing in the open countryside outside of Sustainable Urban Extensions. Furthermore, the proposal with its limited mix of land uses is not considered to form a Sustainable Urban Extension to Raunds in accordance with Policy 16 of the North Northamptonshire Core Spatial Strategy.*
 2. *The site is not identified for housing in the Raunds Area Plan (Preferred Options Document). The application would significantly prejudice the Council's ability to prepare and implement the emerging development plan document for Raunds and ensure the comprehensive, most sustainable and appropriate use of land within the town contrary to the established planning principles of the plan-led system and PPS12.*
 3. *The proposal is not considered to be a sustainable development as it fails to provide for the community and infrastructure needs likely to arise as a result of the development. In particular, no contribution is offered towards outdoor sport, secondary education, libraries and regeneration of the town centre as would be required to demonstrate a sustainable development. The application therefore fails to satisfy Strategic Policy 3 of the Regional Spatial Strategy for the East Midlands, Strategic Policy 3 of the Milton Keynes South Midland Sub Regional Strategy, Policy GS6 of the Northamptonshire County Structure Plan and Policy GEN3 of the East Northamptonshire District Local Plan.*
 4. *Development in this location would not provide an acceptable living environment for future residents due to the noise impacts likely to affect the occupiers of proposed dwellings in close proximity to an established employment site where noisy activities are known to occur. This would not provide a sufficiently high standard of development as required by Policy 13 of the North Northamptonshire Core Spatial Strategy. The proposal is therefore considered to be unacceptable in terms of residential amenity.*
 5. *The proposal is contrary to advice contained within PPG4- Industrial, commercial development and small firms as it would result in an unacceptable juxtaposition of residential and employment uses. Noise -generating activities at Warth Park Industrial Estate could be curtailed in the interests of residential amenity of future residents of the application site. This would be detrimental to the operation of the nearby businesses and may result in the loss of employment which is necessary to serve Raunds in a sustainable way.*
- The inspector considered that the main issues to be considered were whether the proposed development would enjoy satisfactory living conditions in respect of noise and whether the proposal would be likely to unacceptably restrict the operation of nearby businesses and whether the proposal would be a sustainable extension to the settlement.

Noise

- The Inspector considered that the noise exposure categories set out in PPG24 were not directly applicable given the types of noise likely to be generated at Warth Park. Instead the guidance considered appropriate was that set out in the World Health Organization (WHO).
- The guidelines state that to avoid sleep disturbance, indoor guideline values for bedrooms are 45dB. Noise monitoring results showed at 3 locations the level of noise exceeded 60dB over the night time period. As such occupiers of those bedrooms with a direct line of sight towards Warth Park would need to sleep with their windows closed. The appellants accepted that around 20 dwellings would have windows facing that direction and as such occupants would be likely to sleep with their windows shut. The WHO guidelines indicate that it should be possible to sleep with the bedroom windows open. The Inspector agreed that in a location on the edge of a settlement, occupants would have a reasonable expectation of being able to sleep with the windows open and whilst only a limited number of dwellings and bedrooms might be affected, nevertheless it would lead to unsatisfactory living conditions.
- Concern was also raised regarding the indoor noise levels for north facing and mid-site facades and that these occupants would need to have windows closed to avoid 'moderate annoyance'. Again, the predicted noise levels conflicted with the WHO guidelines and as such were not indicative of a satisfactory environment.
- The Inspector was made aware that Warth Park has led to a number of complaints about noise over the recent years. Development on Warth Park was specifically designed to minimise the effects on existing residents, but had not been designed to take into account the possibility of housing on the appeal site.

- The inspector therefore concluded that the occupants of the proposed dwellings would not enjoy satisfactory living conditions in respect of noise and as such the proposal was contrary to the aims of PPG24. In addition the proposal would not represent high quality housing as sought by PPS3 and would fail to comply with the overall aim of policy 13 of the NNCSS.

Sustainable extension

- As the appeal proposal does not include provision for local employment opportunities and an appropriate level of retail, the Inspector noted that the proposal could not be considered as a sustainable urban extension. The Inspector stated that Policy 16 of the North Northamptonshire Core Spatial Strategy was therefore not relevant in this case.
- The inspector considered that occupants of the proposal would have opportunities to travel by means other than the private car and therefore the proposal would contribute to the achievement of sustainable patterns of development.
- It was noted that the proposal would deliver around 135 dwellings out of the 1,100 indicative requirement for Raunds in the North Northamptonshire Core Spatial Strategy. The Inspector accepted that 263 dwellings had been completed between 2001 and 2009 and if this proposal was allowed it would still leave a significant volume of housing to be provided through a 'sustainable urban extension'. Consequently, the Inspector found that the proposal would not undermine the overall strategy of concentrating growth in one or more 'sustainable urban extensions' or prejudice the ability of such extensions to provide and contribute to services, infrastructure and employment opportunities.
- The Inspector noted that at the time of the inquiry none of the competing proposals for sizeable Greenfield housing developments around the settlement had the benefit of planning permission. Therefore if this appeal were to be allowed, he considered, it would not prejudice the Council's ability to consider the cumulative effects of any such proposals. Furthermore, the Inspector considered that the scale of development proposed was not great in relation to the overall housing requirement for the settlement.
- The Inspector states that given the progress of the development plan documents, the proposal would provide the potential to deliver early housing growth in line with the North Northamptonshire Core Spatial Strategy, even taking current economic conditions into account.
- The Inspector could not see any reason why the proposal would prejudice the potential for more employment land to be considered through the development plan document process, if shown to be necessary and could therefore not find any conflict with Policy 8 of the North Northamptonshire Core Spatial Strategy.
- Consequently, he considered, there would be no material conflict with Policy 11 of the North Northamptonshire Core Spatial Strategy which aims to safeguard existing employment areas and allocated sites, unless it can be demonstrated that an alternative use would not be detrimental to the overall supply of employment land within the district or would reconcile existing conflicts between land uses.
- The Inspector was satisfied that the proposal would not be so substantial, or the cumulative effect so significant, that granting planning permission would predetermine decisions about the scale, location or phasing of new development which are to be addressed in the forthcoming Four Towns Area Plan or any other development plan document covering Raunds.
- The Inspector notes that refusal on prematurity grounds is seldom justified because of the delay this would impose in determining the future use of the land in question. As there is no prospect of the Raunds Area Plan or Four Towns Area Plan being submitted to the Secretary of State, in the near future, a refusal on prematurity grounds was not justified. The Inspector could therefore see no reason why the proposal would undermine the achievement of spatial planning through the preparation of development plan documents as required by PPS12.

5 year supply of housing sites

- The Inspector, in his Report on the Examination of the Rural North Oundle and Thrapston Plan noted that the proposed development plan documents for Raunds and the Three Towns Plan fell outside his remit and was unable to test whether the suggested allocations were compliant with PPS3. The Inspector of this appeal proposal for residential development at Meadow Lane was not convinced that the Examination Report could be taken as a definitive indication that a 5 year supply of land existed.
- The Inspector concluded that there was not enough evidence to indicate that these sites can be regarded as available, suitable and achievable as required by PPS3. Therefore, that it had not been demonstrated that a 5 year supply of housing land existed.
- As set out above, the Inspector had concerns about noise and was not convinced that the proposal, notwithstanding the lack of demonstration that there was a 5 year supply of housing land, could be regarded as meeting the requirements of paragraph 69 in PPS3.

Conclusions

- The Inspector concluded that the proposal would be unlikely to materially prejudice the operation of nearby businesses, that it would represent a sustainable extension to the settlement and that a refusal of permission on the basis of prematurity could not be justified. The development would also provide early housing growth in Raunds. Furthermore, he was not convinced that the Council had demonstrated that there was a 5 year supply of deliverable sites for housing. The development would also use land effectively and efficiently in line with PPS3, that affordable housing would be provided and that the contributions would be made towards local services and facilities. All of these matters provided support for the proposal. However, the Inspector finished with saying that none of these considerations, even taken together, outweighed the concerns regarding the effect on the living conditions of potential occupants in terms of exposure to noise.

Decided Appeals Dismissed:	2	66.67%	
Decided Appeals Allowed:	1	33.33%	M Denotes Member Decision against Officer advice
Decided Appeals Withdrawn:	0	0.00%	
Decided Appeals Total:	3	100.00%	