



# East Northamptonshire Council

## Development Control Committee - 19 August 2009

### 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 - 6 to 31 July 2009

#### 1.0 Introduction

1.1 This report advises on the outcome of planning appeals determined by the Planning Inspectorate from 6 to 31 July 2009 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:		
<b>Corporate Outcomes or Other Policy/Priority/Strategy</b>		
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"/>
<b>Other:</b>		<input type="checkbox"/>
Decision(s) would be outside the budget or policy framework and require full Council approval		<input type="checkbox"/>
<b>Financial</b>	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"/>
<b>Risk Management</b>	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"/>
<b>Staff</b>	There are no additional staffing implications	<input checked="" type="checkbox"/>
	Additional staff will be required – see paragraph	<input type="checkbox"/>
<b>Equalities and Human Rights</b>	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"/>
<b>Legal</b>	Power: Planning and Compulsory Purchase Act 2004	
	Other considerations: None	

<b>Background Papers:</b>					
<b>Person Originating Report:</b>		Sue Wheatley - Development Control Manager 01832 742227 sjwheatley@east-northamptonshire.gov.uk			
<b>Date: 11 August 2009</b>					
<b>CFO</b>		<b>MO</b>		<b>CX</b>	

(Committee Report Normal Rev. 19)

# East Northamptonshire Council

## DC Appeal Results

From 6 to 31 July 2009

Officer

Procedure

Case Ref. No. Appellant  
Proposal

Location

Appeal Type  
Date

Decided Decision

### Anna Lee

#### Written Representations

08/00531/FUL Mrs C.A.Wilkins White House, London Road, Raunds  
New dwelling, garage and access and separate triple garage to existing

Against Refusal  
08/07/2009

**Dismissed**

- The application was refused on grounds that (1) the proposed dwelling would be cramped positioned between the existing trees on the site and the main house, and for reasons of design, as the new house would detract from the character and appearance of The White House and the surrounding area; (2) that the applicant had failed to demonstrate that the proposed dwelling could be accommodated without resulting in harm to the protected trees on site; (3) that the dwelling would result in a poor relationship with a Cedar Tree located in front of the proposed dwelling which would overshadow and obstruct the outlook of the front windows of the dwelling, and therefore the development would result in an oppressive feel for the future occupiers and would lead to pressure for the removal of the tree in the future.
- The Inspector considered that the proposed dwelling would result in a cramped relationship with the main house and would be harmful to the setting of The White House. In addition, He commented that the location of a large Cedar Tree in front of the proposed dwelling would add to the impression of overcrowding.
- In terms of design, the Inspector considered that the dwelling was designed with an overly complex roof form and "contribute towards an appearance that would be incongruous in the context of the restrained and well proportioned design of The White House, detracting from its appearance and that of the surrounding area."
- The Inspector was not convinced that the driveway proposed up to the new dwelling would not have a detrimental effect on the health of the trees, during both construction and the use of the driveway. The Inspector commented that no root protection area had been calculated and the proposal could result in compaction of the roots or damage to the crowns. The Inspector was similarly concerned about the Cedar Tree, as the proposed hard standing would pass close to the Cedar Tree.
- Finally, the Inspector considered that insufficient allowance had been made for the future growth of the Cedar Tree and referred to the British Standard which advises that excessive shading of windows should be avoided, particularly to rooms requiring light. The Inspector was concerned that the living rooms and bedrooms of the proposed dwelling would be gloomy and uninviting.

### Gerri Smith

#### Informal Hearing

08/00595/FUL Mr D Gill GPS Former Garage Site, Station Road, Rushden  
Two three storey buildings to provide 9 one bed-roomed flats and 22 two bed flats

Against Refusal  
30/07/2009

**Allowed**

- The application was refused on the grounds of design and housing mix.
- The Inspector noted that the design had to respond to certain challenges presented by the appeal site, indicating that these were; the sloping nature of the site, its relatively long narrow shape, the need to provide an easement for sewers, and the noise problems associated with the band club.
- He noted that the two parking areas were proposed in what would otherwise be dead space behind the ambulance station and over the sewer easement.
- He commented that the two buildings would sit comfortably either side of the car park located

over the sewer easement, and that the position would provide a view through towards the Greenway.

- He noted that the location of the car parks would ensure that the street scene would not be dominated by cars and also that there would be surveillance of the parking areas.
- With regard to the orientation of the flats, he commented that whilst the majority of the flats would have their main living space to the north, due to the noise issues, this would have the benefit of overlooking the Greenway.
- He considered that the bin and cycle storage were well located.
- The Inspector noted that the buildings were in a prominent location but he concluded that the appearance of the buildings and their architectural style would relate well to nearby properties and help to reinforce local distinctiveness.
- He noted that the four storey element was of a scale that would sit comfortably with the Victorian buildings opposite. He also noted that the articulation provided by the stepped design of the building's roofs and walls would help to break up the mass of the buildings, whilst the step down at the end of each building helped to connect to the residential element of the street scene.
- The Inspector therefore concluded that the design of the scheme was acceptable.
- The Inspector found shortcomings with use of the Strategic Housing Market Assessment (SHMA) noting that table 4 was open to some degree of interpretation and that there was no definition of smaller, medium or larger dwellings.
- In relation to the Council's requirement for more family housing, he noted that PPS3 requires developers to bring forward proposals which reflect demand and the profile of households in order to sustain mixed communities.
- He concluded that the proposal of 31 one and two bedroomed apartments including 12 units for affordable housing offered a reasonable mix of size and tenure, particularly so when taking into account the linear nature of the site and its location close to the town centre. In his opinion therefore, these factors together with the problem of noise did not make the site a suitable location for providing family housing which would require secure private garden areas, especially if efficient use was to be made of land.
- He noted that Policy H4 in requiring a variety of development types and styles acknowledged the need to take into account the character of the site. He also noted that the Core Spatial Strategy in seeking to deliver a balanced mix of housing types and tenures seeks an affordable housing provision of 40% and higher densities in sustainable locations. He therefore concluded that the proposal would make a positive contribution towards local housing need in accordance with these policies.
- In relation to the traffic and parking issues raised, he concluded that there would be adequate car parking provision given the sustainable location of the site and that the proposal would not significantly change the existing traffic situation. He also noted that the Highway Authority had no objection to the proposal.
- In response to the concern raised by the Town Council, that the proposal was not consistent with the Rushden and Higham Ferrers Master Plan, he noted that this was not an adopted policy and had not been subject to public consultation. He therefore concluded that it had little bearing on his decision.

The appellant made an application for costs.

- In relation to this the Inspector noted that irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expenditure unnecessarily.
- He noted that any discussions between officers and the appellant were without prejudice to the final decision and he also noted that in his opinion Members had good reasons for taking a different view to officers, particularly as the previous application had been refused for a similar design reason.
- He reasoned that the Council's design reason for refusal was not an unreasonable one and was supported by planning policy but that he disagreed with the Council's view.
- In relation to housing mix he concluded that the SMHA data was not conclusive. By the

Council's own admission this report provides background guidance to assist with the determination of the appropriate mix of housing at a detailed spatial scale with its findings cast in relative terms and not the kind of analysis that leads to prescriptive and exact numbers.

- Whilst making reference to an overprovision of flats in Rushden, the Inspector noted that the Council had failed to provide any substantive evidence to demonstrate that the development of one and two bedroom flats with a mixed tenure would not provide an adequate mix of housing on the appeal site. Furthermore, he noted, there was no clear evidence of the size of dwelling it was suggesting, neither were the site's constraints taken into account, in particular its narrow width and the problem of noise. He also noted that the Housing Enabling Officer had queried the suitability of the site for anything other than flats in a memo.
- The Inspector therefore concluded that the Council had provided substantive evidence to support its reason for refusal based upon the design of the proposal. However in relation to housing mix it had relied on secondary data prepared in support of the strategic housing market assessment whilst making reference to the recent flatted development elsewhere. He noted that no account was taken of the site restrictions and the arguments put forward to justify the reason for refusal were not adequately supported by evidence. The Inspector therefore concluded that unreasonable behaviour resulting in unnecessary expense had been demonstrated and he made a partial award of costs.

## Mr Rhys Bradshaw

### Informal Hearing

08/01271/FUL Clark Trustees Spur Road and Roundabout, John Clark Way, Rushden Against Refusal  
Formation of an all purpose spur road in the north western sector of the site 29/07/2009

**Allowed**

- The application was refused on the grounds that approving the application would prejudice the comprehensive and deliverability of the development of land to the north west of the proposed round about junction.
- The Inspector noted the other application that was before the Council, but noted that there was only a recommendation for approval. The Inspector was not convinced that this alternative scheme was any better than the appeal proposal in terms of the physical plan form. The inspector also commented that the alternative scheme would not be prevented from proceeding as a consequence of allowing the appeal, although given that both spur roads share common areas only one could be implemented.
- The Inspector concluded that allowing the appeal would not prejudice the development of the wider site. Rather, it would clarify at least one acceptable position for the spur road.
- The Inspector did appreciate that the new access, of the alternative scheme, would reduce the traffic along Queensway and would be desirable for residents and those accessing the school, but also have a direct link to a specific scheme for housing and employment. As such the Inspector considered whether the appeal proposal in advance of the scheme to the northwest would be premature.
- The Inspector concluded that from the assessment of alternative access arrangements that an access at the roundabout is likely to be a preferable solution. Therefore the Inspector commented that given the clear reliance of the Council upon the site to the north-west to achieve its housing figures, the Inspector did not consider the proposed access scheme would be premature, rather it provides a safe access point into the wider developable area.

### Written Representations

07/02426/FUL Francis Jackson 18 Nassington Road, Yarwell Against Refusal  
Redevelopment of site, comprising of four new dwellings with associated development 06/07/2009

**Allowed**

- The application was refused on the grounds that it represented an intensification of the built form on the edge of the village, resulting in a loss of transition between the open countryside and the built environment. It was also considered that the courtyard design of the buildings would have a

detrimental impact on the character of the area.

- The Inspector concluded that the courtyard form, having the appearance of a group of farm buildings would not be inappropriate in this edge of village location. She found that the buildings would be of a scale and design that would be in keeping with the overall concept of the development and would complement the character and appearance of the village. Being set away from the village boundary in generous plots, it was considered that landscaping would soften views of the houses from the rural area, preventing a harsh built edge to the village.

## Stephanie Thompson

### Written Representations

07/02369/FUL Mrs J Whiteley

315 Bedford Road, Rushden

Against Refusal

External storage of caravans, trailers and small motor homes with ancillary development

06/07/2009

**Dismissed**

- The application was refused on the grounds that the site was located in the open countryside with no justification and due to visual amenity impact given the site's location being beyond well defined curtilages and settlement boundaries.
- The Inspector noted that the proposed caravan storage is already taking place, and although the site is well screened in the vicinity of the site entrance, the site can be seen from the A6 and from a public footpath which is near to the site.
- The Inspector agreed that the use of the site for caravan storage would be in conflict with both national and local policy by introducing a commercial use onto a prominent greenfield site in the open countryside. The Inspector also agreed that the use would be clearly visible in the landscape and overall would be materially detrimental to the character and appearance of the area. The Inspector therefore had regard to whether there are any material considerations that would outweigh this harm.
- The Inspector acknowledged that although part of the appellant's argument was that there were some buildings which had been long established for commercial purposes, this was not justification for allowing significant extension into the open countryside.
- The Inspector did not dispute the appellant's point that there was demand for caravan storage, however the Inspector stated that there was no evidence of any special need for a site in this location, neither was there any evidence that this use could not be accommodated in a built up area or that it would meet local needs for employment.

## Sue Wheatley

### Written Representations

08/01595/FUL Mrs P Almond

48 High Street South, Rushden

Against Refusal

Residential development comprising five new apartments

06/07/2009

**Allowed M**

- The application was refused on the grounds that the building to the site frontage did not follow the line of existing dwellings and would be harmful to the character and appearance of the Conservation Area and also on the grounds of housing mix.
- The Inspector noted that within the Conservation Area in the vicinity of the site there were a variety of frontage arrangements and that therefore the small setback would not result in an arrangement that was incongruous in the area or that would fail to respect the historic street scene.
- He also noted that the cut back on the corner to achieve visibility splays would be modest and would not have any material effect.
- The Inspector noted that the Strategic Housing Market Assessment (SHMA) identifies a need for larger dwellings in Rushden but that the findings were cast in relative terms "more of this and less of that" and that within this document there was no suggestion that no smaller dwellings were required. He noted the Council's assertion that the market in Rushden is currently saturated with flats. However, he commented that the proposal was for a small scale development different in character to the large scale apartment blocks that he had seen, and he was not persuaded by the

- evidence that there would be no demand for these dwellings.
- The Inspector therefore identified that a key consideration was whether the site could be developed with larger units and whether this would be a more desirable use of land, in view of the demand for larger houses in Rushden. The Inspector concluded that given the constraints of the site in terms of its location topography and shape and surrounding uses the site was unlikely to result in a living environment that would be attractive to family housing. Hence the objective in PPS3 of providing high quality housing would not be met.
  - The Inspector therefore concluded that, notwithstanding the general need for larger houses in the area, the proposed development would represent an appropriate use of the site that would have no materially harmful effect on the supply of a suitable mix of housing in Rushden.
  - The Inspector also concluded that the position and design of the proposal would not have an adverse effect on the adjoining Conservative club garden.

<b>Decided Appeals Dismissed:</b>	<b>2</b>	<b>33.33%</b>
<b>Decided Appeals Allowed:</b>	<b>4</b>	<b>66.67%</b>

(M denotes Member Decision against Officers' advice)

<b>Decided Appeals Withdrawn:</b>	<b>0</b>	<b>0.00%</b>
<b>Decided Appeals Total:</b>	<b>6</b>	<b>100.00%</b>