



Development Control Committee – 2 March 2011

Appeal Decision Monitoring Report

Purpose of report

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 from 6 December 2010 to 11 February 2011

1.0 Introduction

1.1 This report advises on the outcome of planning appeals determined by the Planning Inspectorate from 6 December 2010 to 11 February 2011 and analyses the decisions made by the Development Control Committee and Officers under Delegated Authority.

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

2.0 Equality and Diversity Implications

2.1 No Equalities Impact Assessment is required.

3.0 Legal Implications

3.1 There are no legal implications arising from the proposals.

4.0 Risk Management

4.1 There are no identified risks arising from this proposal.

5.0 Financial implications

5.1 There are no financial implications arising from the proposals.

6.0 Corporate Outcomes

6.1 The report supports priority outcomes set out in the Corporate Plan; including specifically:
Effective Management; Good Reputation and Knowledge of our Customers and Communities.

7.0 Recommendation

7.1 That the report be noted.

Legal	Power: Planning and Compulsory Purchase Act 2004
	Other considerations: None
Background Papers: Office Files	
Person Originating Report: Sue Wheatley - Development Control Manager 01832 742227 sjwheatley@east-northamptonshire.gov.uk	
Date: 21 February 2011	

CFO		MO		CX	
------------	--	-----------	--	-----------	--

(Committee Report Normal Rev. 22)

East Northamptonshire Council

DC Appeal Results

From 6 December 2010 to 11 February 2011

Officer

Case Ref. No.	Procedure Appellant Proposal	Location	Appeal Type Date Decided	Decision
---------------	------------------------------------	----------	-----------------------------	----------

Amie Baxter

Written Representations

10/01292/LB	Mr And Mrs D Crichton	Elmes House, Main Street, Pilton	Non-determination 09/02/2011	Dismissed
-------------	-----------------------	----------------------------------	---------------------------------	------------------

- This is a retrospective application. The council considered that the proposed boiler flue would appear unduly prominent and would have a harmful impact on the listed building.
- The Inspector took into consideration the need for the building to adapt to modern living. However, the Inspector considers that functional requirements such as a boiler flue can be dealt with in a manner that would preserve the special interest of the listed building.
- The degree to which the flue projects from the building is considered to be excessive and over prominent. Overall, the Inspector considers that the proposed flue creates an incongruous addition, that would be harmful to the special architectural and historic interest of the listed building.

Anna Lee

Written Representations

10/00543/AD	Home Suite Home -	2 Higham Road, Rushden	Against Refusal 27/01/2011	Dismissed
-------------	-------------------	------------------------	-------------------------------	------------------

- Advertisement consent has been refused for five retrospective advertisement signs. The signs have been refused by reason of their brightness in colour, size, number, position and design.
- The Inspector considers that the signs pay little attention to the architectural form of the building and in their bright yellow background appears garish when seen against the more neutral colour of the existing building. The Inspector considers that the proposed signs are incongruous, give the building a cluttered appearance and has a detrimental effect on the building and are harmful to visual amenity.
- Consideration was given to the commercial character of the area and the fact that there are other prominent signs in the vicinity, like those at the petrol station and supermarket. However, the Inspector noted that the arrangement of the existing nearby signs are better related to the buildings and the area, and does not consider that these other signs would serve to justify the proposed signage.

Carolyn Tait

Householder Appeal

10/01299/FUL	Mr B Richardson	20 Orchard Road, Raunds	Against Refusal 03/02/2011	Dismissed
--------------	-----------------	-------------------------	-------------------------------	------------------

- The application had been refused due to its bulk and proximate siting to number 22 Orchard Road. Officers were of the opinion that it would have had an overbearing impact and the two storey extension, due to its height, width and blank façade, would have had detrimental effect on the character and appearance of the host dwelling and street scene by creating a terracing affect with the adjacent neighbour.
- The Inspector considered that the two storey extension would dominate the dwelling and unbalance its appearance and would fail to harmonise with the fenestration at the front of the house which would create a pattern of development which was out of keeping with the development on the road, creating an adverse effect on the street scene. In addition, the design was of a poor standard which would harm the character and appearance of the area.
- The Inspector considered that the appeal proposal would extend closer to and across a bedroom window at number 22 Orchard Road, which is already partially overlooked by an existing flank wall. This would have an adverse effect on current and future occupiers of this dwelling.
- The Inspector accepted that the appellant had a growing family and needed more space. However such personal circumstances do not outweigh the harm caused to the character of the area or the living conditions of the neighbours at number 22 Orchard Road.

Mr Rhys Bradshaw

Written Representations

10/00499/OU Hampton Brook The Midland Business Centre, Midland Road, Higham Ferrers Against Refusal
Outline: Redevelopment of land and premises for up to 36 dwellings (all 10/02/2011 **Allowed M**

- This application was refused for the following reasons:
 1. Cramped form of development likely to have a detrimental impact on trees.
 2. Failure to demonstrate that the proposed development would not have a detrimental impact on archaeological remains.
 3. Insufficient level of affordable housing (15%).
 4. Lack of access through to Bury Close to the rear of the site.
- The Inspector allowed the appeal for the following reasons:
 1. To form conclusions on density, and the nature and impact of the layout, on the basis of an indicative layout is premature. The final layout to be submitted at reserved matters stage need not follow the indicative layout before me in terms of the number of residential units or their exact arrangement. The site appears large enough to accommodate 36 dwellings but if the final layout submitted at reserved matters stage is not acceptable to the Council, whether through its density, disposition or impact on trees, then it could refuse to approve what has been promulgated.
 2. With regard to archaeology, the Inspector commented that paragraph HE6.1 of PPS5 says that 'the level of detail submitted with an application should be proportionate to the importance of the heritage asset and no more than is sufficient to understand the potential impact of the proposal on the significance of the heritage asset'. He highlighted that, in her consultation response to the application, cognizant of paragraph HE6.1 of PPS5, and acknowledging that the site is likely to have experienced a moderate amount of disturbance, lowering the potential for survival of significant remains, the County Archaeological Advisor said that a condition could ensure adequate provision for the investigation and recording of any remains affected, in accordance with paragraph HE12.3 of PPS5.
 3. Based on a Report on Financial Viability submitted with the application, that details a series of abnormal development costs, the appellant says that the site can only sustain 15% of the total number of units as affordable housing. The Council has offered nothing substantive to counter the information contained in the appellant's Report on Financial Viability and in that context, it is clear that an insistence on 40% provision will mean that the scheme would not be implemented and no affordable housing would come forward on the site. The Council's SPD may contain a target of 40% affordable housing provision but CSS Policy 6 does say that the level of provision can vary depending on the financial viability of the development. In the light of the viability evidence submitted by the appellant, and having regard to the significant need for affordable housing in Higham Ferrers, the provision of 15% affordable housing as part of the scheme is acceptable and would represent a significant benefit that would comply with CSS Policy 6.
 4. The highway authority does not suggest that a connection to Bury Close is necessary, just that it should be considered at reserved matters stage. He accepted that in general terms, permeability could be seen as beneficial, but the land on the Bury Close frontage of the site is outside the control of the appellant. In any event, given the nature of Midland Road, Kimbolton Road and Bury Close, and their layout in relation to the site, a pedestrian/cycle connection through the site, would not offer a significantly improved route over what already exists.

Costs

- In allowing the appeal, the Inspector made a full award of costs against the Council. The reason for this is copied below:

Officers recommended that planning permission be granted, subject to conditions. Members took a contrary view. As set out in paragraph B20 of Circular 03/2009, planning authorities are not bound to accept the recommendations of officers but if officers' advice is not followed, authorities will be expected to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority. The Council refused the originating application for four reasons. The first asserted that the proposal would have a density that would lead to a cramped form of development that would be likely to have a detrimental effect on protected trees and the character of the area. However, this assessment was based on an indicative layout produced for illustrative purposes and pays no heed to the fact that a final layout would need to be submitted in order to gain approval at reserved matters stage. In that context, the first reason for refusal and the contentions made within it are premature. No convincing evidence has been put forward to support them.

In terms of archaeology, having regard to advice in Planning Policy Statement 5: *Planning for the Historic Environment* (PPS5), and the impact of previous disturbance of the site, the County Archaeological Advisor pointed out that a condition would ensure adequate provision for the investigation and recording of any remains affected. Paragraph B25 of Circular 03/2009 says that whenever appropriate, planning authorities will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. The Council has offered no cogent reason why a condition would not offer the necessary protection.

The third reason for refusal suggested that the provision of 15% affordable housing was inadequate. There is a target of 40% in the Council's Supplementary Planning Document: Developer Contributions. However, the originating application included a Report on Financial Viability demonstrating that 15% was the limit of what the site could viably sustain. The third reason for refusal fails to acknowledge that and no relevant evidence has been submitted in response to the appeal that casts doubt on the conclusions in the report or to substantiate the view that 40% could or should be provided.

The fourth reason for refusal related to permeability and the lack of provision of a route through the site to Bury Close. Notwithstanding issues around land ownership and the practicality and potential implications of providing such a route, the highway authority did not suggest that without it the scheme would be unacceptable, just that it should be considered at reserved matters stage.

Paragraph B23 of Circular 03/2009 notes that planning authorities are expected to give thorough consideration to advice from such consultees and while it is the primary responsibility of a planning authority to accept or reject that advice, they should clearly understand the basis for doing so and should provide, where necessary, a clear and rational explanation for the position taken. No convincing explanation has been proffered to suggest why the advice of the highway authority was departed from.

Taking all these points together, it has not been shown that there were reasonable planning grounds for taking a decision contrary to the advice of officers and relevant evidence to support the decision in all respects has not been produced. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009 has been demonstrated and that a full award of costs is justified.

Mrs Diane Hall

Householder Appeal

10/00925/FUL Mr James Cooke 4 Mill Estate, Wymington Road, Rushden
Two storey detached garage incorporating annex at first floor level

Against Refusal
26/01/2011

Withdrawn

- The appeal was withdrawn as the Planning Inspectorate had informed the appellant that the appeal was not suitable for the householder appeals service and therefore requested additional documents to support the appeal. These documents were not received by the deadline of 21.01.11, therefore the Inspectorate wrote to inform the appellant that they could not accept the appeal or take further action on it.

Decided Appeals Dismissed:	3	60.00%	
Decided Appeals Allowed:	1	20.00%	
Decided Appeals Withdrawn:	1	20.00%	
Decided Appeals Total:	5	100.00%	

M Denotes Member
Decision against
Officer advice