

AGENDA ITEM NO.

DEVELOPMENT CONTROL PANEL

23 FEBRUARY 2009

**APPEAL DECISIONS
(Report by Development Control Manager)**

PUBLIC INQUIRY

1. **Appellant:** Olive Green Group
 Agent: Planning Potential
- Erection of 10 flats
4 St Audrey Lane, St Ives
- Dismissed
27.11.08**

WRITTEN REPRESENTATIONS

2. **Appellant:** PJ Andrew and SA Johnson
 Agent: Headley Stokes Associates
- Extension to dwelling
1 London Road
Godmanchester
- Dismissed
29.12.08**
3. **Appellant:** Mr and Mrs Campbell
 Agent: Maddersons Solicitors
- Certificate of lawfulness for use
as a dwelling in breach of
agricultural occupancy condition
Rushey Bungalow, Moor Road
Great Staughton
- Dismissed
30.12.08**
4. **Appellant:** Property Lease Developments
 Agent: Matrix Planning Ltd
- Erection of four bungalows
Rear of 63 Broadway
Yaxley
- Dismissed
19.01.09**

PUBLIC INQUIRY

- 1. 0702539FUL Erection of 10 flats
4 St Audrey Lane
St Ives
Olive Green Group**

Planning permission was refused under delegation agreement in accordance with the recommendation of the Town Council for the following reasons:

1. The design and height of the building creates an alien building form within the context of this modest street scene resulting in an intrusive feature to the detriment of the street scene appearance and contrary to Development Plan Policy.
2. The height and massing of the proposed building would have an unneighbourly and detrimental effect upon the amenities of the adjacent residential occupiers by reason of an unacceptable degree of overlooking and overbearingness contrary to Development Plan Policy.
3. The proposed development does not provide adequate facilities for:-
a) the parking of vehicles b) cycle provision c) turning of vehicles and d) loading and unloading of vehicles contrary to Policy T2 of HIPPS 2007.
4. The proposal fails to provide for the necessary education and children's equipped and casual playspace infrastructure needs arising from the development contrary to Development Plan Policy.

A Public Inquiry was held on 6 November 2008

The Inspector's Reasons

- It was confirmed in the statement of Common Ground that reasons for refusal 3b, c, d and 4 had been withdrawn by the Council.
- The site is currently occupied by a large bungalow and garage. The property faces north onto St Audrey Lane which is the main east west road through St Ives. The Inspector considered that this section of St Audrey Lane has a pleasant, tree lined appearance with a wide parkland space running parallel on the northern side of the road. The built form is generally two or single storey residential development of fairly conventional design in brick and tile. Against this modest, suburban environment, the two/three storey proposal, with its timber cladding and its curved metal clad roofs surmounted by five large wind cowls would, in the Inspector's opinion, be in marked contrast in terms of scale and appearance.
- The uninterrupted southern aspect across the public open space provides an excellent opportunity to maximise solar gain. All ten flats would have a glassed in sunspace running the width of the flat. This area of glass would afford oblique views into the gardens and possibly the rear windows of properties in Queens Close and Stanpoint Way. Although the appellants argued that these conservatory like spaces would be too hot in summer and too cold

in winter the Inspector thought these spaces would be popular areas for occupants at most times of the year and overlooking would be inevitable despite some intervening trees. There would be no windows in either side elevation and therefore the occupants of the properties immediately to the east and west of the site would suffer no loss of privacy. However, the Inspector considered that the rear and side garden of the neighbouring house and its rear windows would be dominated by the overbearing presence of a 5m high blank wall. He concluded that the living conditions of the occupants of some of the neighbouring properties would be harmed by the proposed development.

- Policy T2 of the HIPPS allows for a maximum of 2 parking spaces per dwelling. Due to the proximity to the town centre and public transport the Council considered 13 or 14 spaces to be the minimum and argued concerns about parking in nearby streets and on the grass verge. However, the Inspector could find no policy justification for insisting on more than one space per dwelling and concluded that 10 spaces would comply with Policy T2 of the HIPPS and the provisions of PPG13.

The appeal was dismissed.

The link to this planning application in Public Access is:

http://planning.huntsdc.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=IU9IJ9IKS0000

WRITTEN REPRESENTATIONS

- 2. 0800889FUL Extension to dwelling
1 London Road, Godmanchester
PJ Andrew and SA Johnson**

Planning permission was refused under delegation agreement contrary to the recommendation of the Town Council for the following reason:

1. The single storey forward projection of the extension does not reflect the form and design of the existing dwelling owing to the flat fronted design and simplicity of the main dwellinghouse. This would have a detrimental impact on the character and appearance of the area contrary to Development Plan Policy.

The Inspector's Reasons

- The appeal site is within a residential area characterised by a mixture of traditional and modern property types and designs. The Inspector considered that the existing property's architectural style contributes to the character and appearance of the wider Godmanchester Conservation Area. Although the proposed extension would be subservient to the main dwelling, due to its lower ridgeline, the single storey element would be sited in front of No 1's elevation and he considered that the width, projection and horizontal emphasis would be out of keeping with the flat-fronted, traditional style dwelling. The Inspector concluded that the development would have a materially harmful impact on the

character and appearance of the existing dwelling and that of the Conservation Area.

The appeal was dismissed.

The link to this planning application in Public Access is:

http://planning.huntsdc.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=IU9IJ9IKS0000

- 3. 0603945CLED Certificate of lawfulness for use as a dwelling in breach of agricultural occupancy condition
Rushey Bungalow, Moor Road
Great Staughton
Mr and Mrs Campbell**

A certificate was refused under delegation agreement for the following reasons. The Parish Council recommended approval but gave no reason(s) for its recommendation.

1. Based on the information provided it is considered, on the balance of probability, that the property has not been continuously occupied in breach of the agricultural occupancy condition for 10 years and is not therefore deemed to be lawful.

The Inspector's Reasons

- For the appeal to succeed the appellant must demonstrate that there was a continuous breach of the occupancy condition throughout the 10 year period prior to the date of the LDC application, that is to say, since 14 December 1996. The main issue in this instance is whether the period of vacancy of just over 4 months amounted to one breach and the beginning of a new breach or whether it was a case of very temporary stopping and starting which can sensibly be ignored as being *de minimis*. It is apparent from case law that there are no guidelines as to what is a *de minimis* period of vacancy. In each case it is a judgement on the basis of fact and degree. The Inspector found that it is the actual period of vacancy, during which no enforcement action could be taken that is significant and considered that the breach of condition came to an end on the departure of Mr Broom and a new breach began when Mr & Mrs Campbell moved in. During this 4 month period of vacancy the Council would not have been in a position to issue an enforcement notice as there was no "non-compliant" person living in the bungalow and there was no breach of condition. A fresh breach of the occupancy condition began on 4 August 2006 which was within the relevant 10-year period. The breach of the condition has not been continuous throughout the relevant period and the appeal cannot succeed.

The appeal was dismissed.

The link to this planning application in Public Access is:

http://planning.huntsdc.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=IU9IJ9IKS0000

**4. 0800921FUL Erection of four dwellings
Rear of 63 Broadway, Yaxley
Property Lease Developments**

Planning permission was refused under delegation agreement for the following reasons. The Parish Council recommended approval but gave no material reason(s) for its recommendation.

1. The proposal constitutes an undesirable form of backland development in that it would result in unneighbourly form of development and a poor standard of amenity for both existing and proposed occupiers by reason of noise and disturbance associated with the proposed means of access and direct overlooking. The proposal would therefore be contrary to Development Plan Policy.
2. The proposal would constitute a cramped form of development within a backland site of a restricted size, where the resultant dwellings and their curtilages would be out of keeping with and of harm to the established character of the locality. The development would therefore be contrary to Development Plan Policy.

The Inspector's Reasons

- The irregularly shaped site is reached via a metalled drive between the existing house and No.59. The Inspector considered that with the additional strip of landscaping proposed the occupiers of No. 59 would not be unacceptably disturbed by comings and goings to the proposed dwellings. However, the widened drive would pass a metre or so from No. 63 and he considered that the quality of life there would be reduced by noise of vehicles associated with these large bungalows.
- The Inspector considered that in contrast to the surrounding area Plots 2 and 3 would have modest private gardens on this quite shallow site. Plot 2 would, uncharacteristically for these surroundings, be hemmed in by the three surrounding fences. The associated level and concentration of activity in the gardens of Plots 2 and 3 would harmfully change the character and environment of the area for those living nearby.

The appeal was dismissed.

The link to this planning application in Public Access is:

http://planning.huntsdc.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=IU9IJ9IKS0000

Background Papers:

Relevant Appeal Files

CONTACT OFFICER - enquiries about this Report to Mrs J Holland, Administrative Officer, ☎ 01480 388418.

FORTHCOMING APPEALS

PUBLIC INQUIRY

31 March 2009

The Paddock, Waresley Road, Great Gransden