

Agenda Item No: 7

**Title: BREACH OF CONDITIONS AT ELSENHAM STUD,
ELSENHAM**
Applicant: R Maher
Case Officer: Mr Ovenden (01799) 510476

Summary

- 1 This report recommends that no legal action be taken in respect of breaches of conditions attached to the permission for alterations to the dwelling at this time. It also advises that breaches have occurred relating to the new riding arena and also recommends that no action be taken at this time.

Background

- 2 Members will recall that permission was granted early in 2000 for additions to the main dwelling and the erection of a garage. During the course of the development it became apparent that there were significant discrepancies between the permitted and implemented schemes and a revised application was subsequently submitted. In the determination of that application, Members carried out a site visit and sought the views of an independent consultant. Subsequently, permission was granted for a revised scheme of extensions to the dwelling, subject to conditions.
- 3 A separate application was approved last year for the erection of an indoor riding arena on the site. This was subject to various conditions. Allegations have been made that there have been breaches of both permissions. Copies of both decision notices are attached as appendices to this report.

Planning Considerations

a) UTT/0933/00/FUL: ALTERATIONS TO THE DWELLING

- 4 The conditions alleged to be breached are conditions C90A, C90C and C.4.1. A Breach of Condition Notice has been served with respect to these breaches.
- 5 Condition C90A: Within the dwelling a tube has been formed to allow light to penetrate down through the roof into the main staircase and entrance. It was originally proposed to top this tube with a cupola. Because of its inappropriate design Members imposed a condition that the cupola be omitted.
- 6 A covering has been placed over the top of this tube and a Breach of Condition Notice was served on 15 February 2001. However the applicant has confirmed that the “covering” is not the cupola originally proposed, which is of different design to the cupola shown on the original drawings and appears to be somewhat lower. Therefore the applicant is not in breach of condition C90A as “the proposed cupola” has not been erected or installed.

- 7 Condition C90C: As the application drawings were inaccurate this condition required the written permission of the planning authority to any changes made to the building as shown on a drawing amended by Building Control and a set of photographs taken by the Council. A roof light was shown on the drawing although the 'covering' now in place appears to be higher and more dominant than the roof light shown on the amended plan. The 'covering' was not in place at that time and consequently is not shown on the photograph. It is considered that this represents a breach of condition C.90C.
- 8 It is the view of Officers that the impact of this new "covering" on the character of the area is not so great as to make it expedient to take enforcement action.
- 9 Members have two alternatives 1) agree to the retention of the 'covering', at which point that work would cease to be a breach, or 2) proceed with a prosecution. It is your Officer's view that the former course of action would be appropriate.
- 10 Condition C.4.1: A landscaping scheme was required to be submitted within 28 days of the granting of the permission i.e. by 4 January 2001. No submission was made within that period. Following the service of the Breach of Condition Notice, the applicant submitted a wholly inadequate landscaping scheme. The Council's landscape officer drew up a suggested scheme, which has recently been sent to the applicant, with a letter asking him to confirm whether he intends to implement this or a satisfactory alternative. If a response is received prior to the meeting it will be reported.
- 11 Provided that the applicant does give an undertaking that he intends to implement the suggested landscaping scheme or a satisfactory alternative, there may be no need to pursue this matter further at this time. The applicant would be required to implement the scheme in the planting season 2001-2002 as a variation to condition C.4.2, which required the implementation of an approved scheme by 28 February 2001.

b) UTT/0636/00/FUL: COVERED RIDING ARENA

- 12 Permission was granted in August 2000 for the erection of a barn like structure for use as a private riding arena. The building is well on the way to completion. It is alleged that some of the conditions attached to this permission have been breached.
- 13 Condition C.3.1 required the development to be carried out in accordance with approved drawings. A 'street scene' submitted with the application showed adjacent buildings stepping down in height to the new building. This 'street scene' had been inaccurately drawn as this stepping down does not occur. However it is the new building for which permission was granted, rather than its context. Therefore whilst the 'streetscene' is misleading it does not represent a breach. Various dimensions of the building have been measured and are as approved. Whilst the external height of the building could not be accurately measured for technical reasons, an internal measurement of 7.0 metres was taken from prevailing ground level to the inside of the ridge line. Even taking into account the thickness of the cladding it shows that if anything, the building is slightly lower than approved.

- 14 Before the inaccuracy of the streetscene was discovered, the Head of Development Control had agreed to the slight relocation of the building and to the erection of a slightly taller building, which would be set into the ground by the same amount. These amendments did not result in a change in the appearance of the building in its setting.
- 15 Condition C.4.1. requires the submission and approval of a landscaping scheme prior to the commencement of the development. This is a separate condition to that required in connection with the dwelling. The development has commenced but no scheme had been submitted. This breached condition C.4.1. This matter has been raised with the applicant and any response will be reported.
- 16 Once a scheme has been agreed it will need to be implemented during the next planting season. Consequently condition C.4.2 has not been breached to date.
- 17 Condition C.90A, requires submission of details of the colour of cladding of the building. No details have been submitted and this condition has therefore been breached. The building has been erected with a dark brown cladding which is considered to be acceptable.

RECOMMENDED: Alteration to dwelling Agree no further action with regard to condition C.90C. No action to be taken at this time regarding condition C.4.1. Covered riding arena. Agree not to serve a Breach of Condition Notice regarding condition C.90A. No action to be taken at this time regarding condition C.4.1.

Appendices: Decision notices for UTT/0636/00 and UTT/0933/00.

Background Papers: Applications UTT/0636/00 & UTT/0933/00.

Agenda Item No: 8

Title NOTIFICATION OF INTENT TO FELL 1 LEYLANDII CYPRESS TREE AT WALDEN PLACE, SAFFRON WALDEN. - WITHIN A CONSERVATION AREA

Author: Ben Smeeden (01799) 510466

Introduction

- 1 Notification of intent to fell 1 No. Leylandii Cypress tree at Walden Place has been made by the Councils Area Services Officer. The tree is on Council property within a Conservation Area.
- 2 The tree has been inspected by the Councils Landscape Officer and found to be in close proximity to the southwest corner of the main building. The growth of adjacent Box and Yew tree is being suppressed by the Cypress tree.

- 3 The Cypress tree is not considered to be of significant amenity value and is out growing its position to the detriment of adjacent trees.

RECOMMENDED that no objections be raised to the Leylandii Cypress tree being felled.

Agenda Item No: 9

**Title: MEMBER TRAINING IN PLANNING MATTERS
DRAFT PROGRAMME FOR FUTURE WORKSHOPS**

Author: John Grayson (01799) 510455

Introduction

Over the past couple of years, Members have had workshops on the following subjects:

- **Development**
- **Permitted development**
- **Applications**
- **Use Classes Order**
- **Presentation, procedures and probity**
- **Material considerations**
- **Liaison with Building Surveying**
- **Highways (1)**
- **Environmental impact assessment**
- **PPGs & Sec. 54 (a)**
- **Structure and District Plans**
- **Appeals**
- **Conditions**
- **Public speaking at DC Sub**
- **Telecoms**
- **Enforcement**
- **Highways (2)**
- **Listed Buildings & Conservation Areas (2 July)**

The Workshop on 2 July will be the last of the current series.

Members are requested to review the benefits of the last year's workshops and decide whether they should continue after the summer. If so, suggestions for topics would be welcome. It is recommended that the current frequency of alternate meetings is best.

Officers suggest the following topics:

- **Agriculture** : pressures for diversification, Permitted Development, horticulture, etc

- **Advertisements** : assessing amenity and highway safety
- **Certificates of Lawfulness** : CLEUDs & CLOPUDs
- **Trees & hedgerows** : TPOs and the effects of recent legislation
- **Human Rights & Equal Opportunities Acts** : how they affect planning
- **Telecoms (2)** : when the new PPG 8 is published
- **Relationships with other services** : eg Environmental Services

RECOMMENDED that Members advise on the future need for and programme of training in planning matters at their next meeting on 2 July.

Agenda Item No: 10

Title: APPEAL DECISIONS

Author: Jeremy Pine (01799) 510460

The following appeal decisions have been received since the last meeting:

**1 APPEAL BY MR A HICKS
DOVE COTES, DUDDENHOE END, ELMDON, SAFFRON WALDEN
APPLICATION NO: UTT/1370/00/FUL**

Appeal against the granting of planning permission subject to conditions for the change of use of paddock land to domestic garden land, the erection of a garden shed and green house. The appealed conditions removed all domestic rights of permitted development from the land and excluded a garden shed shown on the submitted drawings.

Appeal decision: DISMISSED

Date of decision: 17 May 2001

Original decision made by: OFFICERS

Date of original decision: 11 DECEMBER 2000

Summary of decision: The Inspector concluded that the conditions were reasonable and necessary to safeguard the open character and appearance of the countryside. He considered that the large 'L' shaped garden shed would be obtrusive and contrary to policies intended to protect the countryside for its own sake.

Comments on decision: Current dismissal rate on this type of appeal (i.e. removal of PD rights for erection of outbuildings on extended gardens in the countryside) since 1984/5: 0% (0 cases).

**2 APPEAL BY MR D FARRER
LAND AT 26 ROSEACRES, TAKELEY
APPLICATION NO: UTT/1111/00/FUL**

Appeal against refusal of planning permission for the erection of a 1.5 storey dwelling.

Appeal decision: DISMISSED
Date of decision: 22 May 2001
Original decision made by: DC SUB-COMMITTEE
Officers' recommendation to DC Sub: REFUSAL
Date of original decision: 18 SEPTEMBER 2000

Summary of decision: The Inspector considered that, in order to fit the dwelling on the site, it would be smaller than and of a radically different design from nearby dwellings. It would have the appearance of having been forced onto a site too small to accommodate it in a satisfactory manner, seriously harming the character and appearance of the surroundings. He felt that the erection of the dwelling would result in a poor outlook from windows of the neighbouring dwelling, and overlooking would occur.

Comments on decision: Current dismissal rate on this type of appeal (i.e. over development) since 1984/5: 66% (145 cases).

**3 APPEAL BY FAIRCLOUGH HOMES LIMITED
ST TERESA'S CHURCH, SILVER STREET, STANSTED
APPLICATION NO: UTT/0955/00/FUL**

Appeal against a failure to determine within 8 weeks an application for planning permission for the erection of 21 dwellings.

Appeal decision: DISMISSED
Date of decision: 23 May 2001
Original decision made by: N/A
Date of original decision: N/A

Summary of decision: The Inspector took the view that, even if first purchasers were singles or childless couples, there was no certainty that the same level of occupation would persist throughout the life of the dwelling. He said that upon completion there would be no control over the manner in which dwellings were occupied and felt it unreasonable to suppose that only houses

with sizeable gardens would be occupied by families with children. He concluded that the development failed to provide sufficient outdoor amenity space to meet the reasonable needs of occupiers.

He stated that the public amenity value of the trees growing within the site had been recognised by their inclusion in a TPO and that any development which placed their preservation at risk ought to be resisted. He felt that the closer positioning to Silver Street of the blocks running north to south (in comparison to the previous approved scheme) could lead to pressure for the removal, thinning or pruning of trees growing within the steeply sloping area at the front of the site. He felt it would be difficult for the Council to reasonably resist pressure for tree reduction works should the appeal be allowed.

In comparison to the previous scheme, he did not consider that the amenity of the occupiers of 57 Recreation Ground would be further detrimentally affected.

A copy of the Inspector's decision letter is attached.

Comments on decision: Members advised the Planning Inspectorate that had the Council been free to determine the application, it would have been refused.

This decision indicates the Council's argument that the upping of density and the use of flexibility in reviewing and applying planning policies and standards encouraged in PPG3 should not set aside considerations important to creating a good living environment, in this case the provision of gardens to some houses.

It will be interesting to see how this decision compares to the Printpack appeal (decision still awaited).