

TO: DEVELOPMENT CONTROL AND LICENSING COMMITTEE

ON: 4 NOVEMBER 2002

Agenda Item No: 7

Title: Prior notification of recommendations for delegated planning applications

Author: John Mitchell (01799) 510450

Summary

- 1 The report suggests three different ways by which Members could be notified of Officer recommendations on delegated planning applications, prior to the decision being issued.

Background

- 2 Members will recall that at their meeting of 1st July 2002 additional categories of planning applications were delegated to Officers. A copy of the report is attached. At the moment there is no system of notifying ward Members of delegated decisions until after the decision has been made. Officers wish to ensure that Members are given prior notice of recommendations on delegated planning applications, and have the opportunity to request their inclusion on the agenda for the Committee if they so wish. Officers would like the system to extend to **all** delegated planning applications
- 3 It would be a significant service improvement. Officers consider that it is important that such a system is put in place, and moreover, that it should be one that does not give rise to unreasonable delay. Speed of decision is a key national indicator of performance in development control, and Members are reminded that for many years the national target has been to determine 80% of all applications within 8 weeks. Although there have been some minor concessions for handling certain types of larger applications, this target remains paramount. Members are further reminded that another target is to achieve 90% of decisions delegated to Officers.
- 4 Members will also be aware that since 1st July 2002 the public have been allowed to speak at meetings of the DC&L Committee. Officers consider that it is possible to perceive a conflict between a Government targets which require 90% delegation of planning decisions to Officers while at the same time Government guidance on best practice extols the need to involve the public in decision making. A sound system of prior notification on delegated planning applications would assist with resolving such a conflict, as it would enable Members to bring planning applications to Committee and thereby allow members of the public to make their case directly to the Committee.
- 5 Any system of prior notification should be confidential. This is because it would not be reasonable, for example, for an objector to be advised of the likely outcome of a planning application before the applicant.

6 Under the current system Members receive the weekly list of new applications, which is catalogued by Parish, and so can be readily informed of proposed developments in their wards and in the District as a whole. The weekly list also defines those applications that will be determined by Committee and those that will be delegated, together with the case officer's name and the closing date for representations. It is therefore open to any Member to discuss any application with the case officer, or more senior staff, and to exercise their discretion of call in accordingly. A recent development is the availability of a leaflet about Public Speaking at Committee, which contains advice about contacting Ward Councillors. There remains the safeguard of Officer discretion on finely balanced cases to refer them to Committee.

7 However, the main flaw of this system is that it puts the responsibility on Members to take the initiative and it is possible that cases may be determined before Members have had the time or opportunity to seek information.

8 Officers have looked at three possible methods of notification

A Comprehensive system of notification

Officers wish to introduce a system of notification that radically improves the current system by notifying Members of decisions before they are taken and gives an opportunity for them to "call in" an application for determination by the Committee. Any system will have to allow a reasonable time for Members to make their decision. A key safeguard should be that, if Members should not choose to call in a planning application then it could still be determined within 8 weeks. Officers would welcome guidance on whether this notification system should extend to Members in whose ward the application lies or to all Members. If all Members are notified of all potential decisions, most of which would not be relevant to their Wards, then there may be concern that some items could be overlooked amongst the amount of information provided.

9 Officers anticipate that the notification system would be email based and would be daily. This is because applications come in daily, and if Officers were to undertake one notification every week it is probable that many would go outside the 8-week period. Officers consider that 5 working days would be a reasonable time to make a decision on whether to call in the application. This would allow Officers to issue a decision in 8 weeks should Members choose not to call in an application. Experience indicates that by this time Members would be aware of any controversial application in their wards.

10 Every day the Ocella system (the computerised planning applications management system) generates a list of applications that are 6 weeks old. Members could then be notified by email of the recommendation, or if one had not been reached, the *likely* recommendation. Members would then have 5 working days to call in the application, if they so wished. If no reply were received in that time then the decision would be issued. It is stressed that this would be time-consuming to administer, but the advantage would be that Members would be aware of all potential decisions on delegated planning applications before they are made. Any items called in for Committee under this system would go outside the 8-week period.

B Early notification

- 11 An alternative would be that ward Members are notified by letter of planning applications at the same time as consultation letters are sent out. The letter would require Members to notify Officers, within a certain period (say 28 days) if they wanted an application to be called in, dependant on whether the decision would be to approve or refuse. Advantages would be that Members would be aware of applications in their ward at the same time as everyone else, it would be paper-based and could allow for called-in applications to be determined within 8 weeks. The disadvantage would be that Members would not know the recommendation. It also duplicates the weekly list, and again, places the responsibility on Members.

C Hybrid

- 12 Members will be aware that most applications are uncontroversial and straightforward. These include most householder applications, listed building consent applications, advertisements and other minor developments. Members' guidance is sought, but it may be that the early notification system would be sufficient for these types of application. The comprehensive service would then be used for all other delegated applications. The disadvantage of this system is that it could give rise to confusion by having two means of Member notification.

Other developments

- 13 At the time of writing staff are trying to bring the planning applications management system on line, and trial runs indicate that this will be successful. This does not include the ability to view plans at this stage - that will follow as document imaging is introduced in the new financial year and after the Planning Service has relocated to Saffron Walden. It will be open to Members, and indeed anybody with access to the Internet, to check the content and progress of any planning application whenever they choose. The service will also include a comprehensive means of reviewing the history of planning applications on any site. Such a service will assist Members in determining whether or not a planning application should be brought to Committee.

Conclusion

- 14 Officers wish to introduce a system of prior notification of recommendations on delegated planning applications which does not compromise, so far as is possible, Government targets for the speed of determination of planning applications. Members' views are requested on the options outlined above, or any other appropriate scheme, including whether Ward or all Members should be notified of recommendations.

RECOMMENDATION

That Members consider whether prior notification should be introduced and if so which means of prior notification should be adopted, and Officers be instructed to introduce a system of prior notification prior to the conclusion of the trial run of the revised delegated arrangements in January 2003.

Committee: Development Control and Licensing Committee

Date: 4 November 2002

Agenda Item No: 8

Title: Location and time of meetings of this Committee consequent upon the relocation of Planning Services from Great Dunmow to Saffron Walden

Author: John Mitchell (01799) 510450

Summary

- 1 Members will be aware that the Planning Service is scheduled to move from Great Dunmow to Saffron Walden in mid-January 2003. This arises from a Best Value Review of the Council's assets. The Council will retain the front part of the offices at Great Dunmow, but the newer part of the building to the rear is currently being marketed for rent/lease to a third party. The terms of the marketing exercise include the Committee Room, should any prospective occupier require it, and most of the car park. The continued availability of the Committee Room at Great Dunmow, together with Members' reserved parking facilities, cannot therefore be guaranteed.

- 2 Members are invited to consider where and at what time the Committee should meet after the Planning Service has moved to Saffron Walden. In making their decision Members will need to be mindful that, if the Committee wishes to continue meeting in the afternoon, car parking during office hours at Saffron Walden, for Members, staff and the public attending the Committee meeting, may be difficult. The nearest public car parking to the London Road offices is at Swan Meadow or Waitrose.

RECOMMENDATION

That Members agree a location and time for meetings following the relocation of Planning Services to Saffron Walden

Committee: Development Control and Licensing Committee

Date: 4 November 2002

Agenda Item No: 9

Title: Enforcement of Planning Control
The Lodge Coach House, Little Sampford
Interests in Land: Mr & Mrs Hockley

Author: Clive Theobald (01799) 510463

Summary

- 1 This report concerns the use of land within a residential curtilage for the siting of a large storage container and for the storage of various plant, equipment, building, plumbing and drainage materials. It recommends that enforcement and, if necessary, legal action be taken to secure the removal of the storage container, plant and equipment, but that this be upon the completion of a garage/workshop proposal approved under reference UTT/0361/99/FUL.

Notation

- 2 ADP: Outside Development Limits/Area of Special Landscape Value.
DLP: Outside Settlement Boundary.

Planning History

- 3 Planning permission granted in 1999 for single storey garage and workshop (UTT/0361/99/FUL refers). Conditions imposed prohibiting the use of the approved buildings for trade or business purposes.

Background

- 4 The Lodge Coach House is located approximately one kilometre south of Great Sampford village on the road to Hawkspur Green within a small grouping of dwellings. It is situated on rising ground with rolling countryside existing to both the front and rear aspects. Long views are afforded looking east of the property to land to the south of Great Sampford.
- 5 The property comprises a house on its northern curtilage with the rest of the curtilage being open grassed land visible to the road frontage and containing various small outbuildings. A 2m high close-boarded fence exists on its southern boundary with the property known as The Lodge. A large green storage container on wheels and blocks, which has deteriorated with age, has been sited by the landowner along the road frontage to public view, which is being used in part for the storage of tools, lengths of piping and wood. The container is approximately 3.5 metres high. Various items associated with the building/plumbing trade have been located underneath this in a haphazard fashion. Building materials, including bricks and blocks, have been stacked behind the container up to its overall height. Plant and equipment, together with further materials are sited elsewhere within the property curtilage.

- 6 The landowner has stated in a Planning Contravention Notice that the storage container was placed on the land in 1999 and that he has been collecting materials and storing them on land at The Lodge Coach House since he sold The Lodge in readiness for when he implemented the approved garage/workshop (reference UTT/0361/99/FUL refers), which would be for his own personal use. This sale is understood to have taken place in 2000. Whilst the landowner has stated that he is a heating engineer by trade, he has denied that he is running a trade or business from the property, or that he is using any part of the property as a builder's yard or that the items being stored are being used in connection with the carrying on of any trade or business. Whilst a local resident has alleged that the landowner does use some of these items in connection with his main employment, the Council has no direct evidence of this. Even if this were to be the case, it would appear that the items are not being stored or used solely or mainly in connection with this employment.

Representations

- 7 Two objections received to the landowner's activities on visual amenity grounds: (1) Storage building considered very unsightly (2) Site looks like a builder's yard (3) Activity devalues adjacent properties.

Sampfords Parish Council

- 8 *"The Parish Council is writing to support one of the residents of Little Sampford on behalf of the Sampfords Parish Council. The Councillors are aware of the considerable mess and unsightliness that continues to disfigure the area around The Lodge, The Lodge Coach House and High Beech Cottage in Little Sampford. They understand that this situation has been going on for at least two years and that you are aware of it and the problems it is causing. The Councillors hope that you will bring the problem to a conclusion in the very near future and facilitate the clearing of this particular blot on the landscape".*

Planning Analysis

- 9 Whilst Officers note the reasons given by the landowner in the Planning Contravention Notice for the presence of the storage items on the property, it is considered that this storage activity represents a breach of planning control, being a change of use of the land from residential to residential and storage and where the items being stored cannot reasonably be said to be for a purpose incidental to the enjoyment of the dwellinghouse as *such*. Whilst Part 4, Class A of the Town and Country Planning (General Permitted Development) Order 1995 allows for the provision on land of moveable structures and plant required temporarily in connection with, and for the duration of, operations being or to be carried out on the land or on land adjoining that land, it is apparent to the Council from a recent inspection that works are not being carried out by the landowner in connection with the 1999 proposal. Additionally, the landowner has not indicated in the notice when work on this approved development is likely to commence.
- 10 Notwithstanding this, the storage would appear to be for the express purpose of carrying out this proposal if the landowner's responses are to be relied upon and it would be difficult for the Council to disprove this. Whilst it would appear that the quantity of materials being stored are insufficient to complete

its construction, there are no grounds for supposing that they are required for any other purpose. However, if (for whatever reason) work is not being carried out at present, there appears to be no justification for storing the storage container, plant, equipment and materials on the land other than for the convenience of the landowner. As such, this storage activity is considered to fall within planning control.

Planning Considerations

The main issues are whether the activity is contrary to Essex Structure Plan Policies C5 and NR4 and Uttlesford District Plan Policies S2, C2 and DC14 (DLP Policies S7, GEN 8 and GEN 4).

- 11 The site lies outside Development Limits within an Area of Special landscape Value. Structure Plan Policy C5 states that within the rural areas outside the Metropolitan Green belt, the countryside will be protected for its own sake, particularly for its landscapes etc, whereas Policy NR4 states that development will not be allowed which would detract from the visual quality of these areas and that until landscape character assessments have been completed, Special Landscape Areas where they are defined in adopted local plans will be taken to identify areas where conservation or restoration of existing character should be given high priority. Given the open rural location of this property on rising ground, the storage container in particular by its size and frontage position is considered a dominant feature and is therefore considered to be a use of the property which is contrary to these policies and of District Plan Policies S2 (S7) and C2 (GEN 8). The storage use that is occurring does not protect or enhance the particular character of the countryside within which it is set.
- 12 The pre-amble of District Plan Policy DC14 states that any development in the vicinity of an existing residential property should be a good neighbour in terms of its effect on the general amenity reasonably enjoyed by the occupiers and revised Policy GEN 4 states that development will not be permitted if it would have a materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property. The property curtilage is open in character and is abutted on its southern side by The Lodge, a residential property that has first floor windows immediately overlooking it. Furthermore, the large storage container is sited in very close proximity to this property on the road frontage. It is considered that real harm to the visual amenities of the occupants of this adjacent property and to local public amenity is being caused by the presence of the storage container and by the proliferation of the various items of external storage behind it. The activity is therefore considered contrary to these policies.

Conclusion

- 13 Your officers consider that it is expedient and within the public interest for enforcement action to be taken to remove the harm that is being caused to visual amenity at this location. Whilst a Section 215 Notice (Untidy Site Notice) could be issued, it is considered that enforcement action would be more appropriate in this instance as the landowner could appeal to the Magistrates against such a notice on the ground that the condition of the site is attributable to and in the ordinary course of events.

- 14 It is considered that a period of two months would be reasonable for the landowner to complete construction of the approved garage/workshop following commencement of works. The storage container and any plant and equipment could then be removed from the land upon completion of the works as they would no longer serve any purpose on the land. Although the landowner has given no indication to the Council of his intention to commence the garage/workshop proposal, your officers consider it is reasonable for the Council to impose a time limit on completion in view of the length of time that this undesirable situation has existed at this property.

RECOMMENDED: that enforcement and, if necessary, legal action be taken to require the removal of the storage container, plant and equipment from the land upon completion of the proposed development approved under UTT/0361/99/FUL.

Background Papers: Enforcement file ENF/98/00/D

Committee: Development Control and Licensing Committee
Date: 4 November 2002
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 THE NEWPORT CLUB
THE NEWPORT CLUB, HIGH STREET, NEWPORT
APPLICATION NO: UTT/1658/01/FUL**

Appeal against the refusal of planning permission for two single storey extensions for club use.

Appeal decision: DISMISSED/ALLOWED
(Spilt decision)

Date of decision: 02 October 2002

Original decision made by: OFFICERS

Date of original decision: 5 February 2002

Summary of decision:

The Inspector considered that the additional facilities would encourage a more intensive use of the premises, including more arrivals by car. The northern extension would accommodate a significantly greater number of customers and any increase in vehicular movements and parking in the narrow and congested surrounding streets would put unacceptable pressure on the

existing parking spaces. She DISMISSED the appeal in respect of this extension. The extension on the High Street elevation (office/cloakroom) did not have traffic implications. She ALLOWED the appeal in respect of that extension.

Comments on decision:

The main matter was dismissed. It is clear that the club need to relocate if they wish to expand. Current dismissal rate on this type of appeal (i.e. highways) since 1984/5: 73% (100 cases).

**2 APPEAL BY MR AND MRS J ARGENT
WESTCROFT, PARK ROAD, ELSENHAM
APPLICATION NO: UTT/1426/01/FUL**

Appeal against the refusal of planning permission for a detached residential garage.

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| <u>Appeal decision:</u> | DISMISSED |
| <u>Date of decision:</u> | 08 October 2002 |
| <u>Original decision made by:</u> | OFFICERS |
| <u>Date of original decision:</u> | 17 December 2001 |
| <u>Officers' recommendation to DC CTTE:</u> | REFUSAL |

Summary of decision:

The Inspector considered that the new garage would appear as an incongruous feature in the street scene un-related to the existing dwelling and surrounding development, detrimental to the appearance of the more open aspect at that end of the road. Any boundary planting would take time to have effect, nor would it be sufficient to offset the adverse visual effect of the proposed development.

Comments on decision:

This decision is at odds with the recent case in Hatfield Heath where double garages in front of new dwellings were allowed. Current dismissal rate on this type of appeal (i.e. householder) since 1984/5: 67% (40 cases).

**3 APPEAL BY MR & MRS G T JOHNSON
42A HIGH VIEW, BIRCHANGER, BISHOP STORTFORD
APPLICATION NO: UTT/0385/02/FUL**

Appeal against a condition requiring the ridge height of a new roof to a garage to not exceed 3.5m.

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| <u>Appeal decision:</u> | ALLOWED |
| <u>Date of decision:</u> | 14 October 2002 |

Original decision made by:

OFFICERS

Date of original decision:

2 May 2002

Summary of decision:

Having looked at the position of the adjoining house to the north. The Inspector did not consider that the difference in height as applied for (1m) would have any unduly harmful visual impact on the neighbours or cause overshadowing.

Comments on decision:

In some cases an extra 1m can make a significant difference to overshadowing. Current dismissal rate on this type of appeal (i.e. householder) since 1984/5: 68% (41 cases).