

Committee: Development Control and Licensing Committee
Date: 3 February 2003
Agenda Item No: 7
Title: Appeal Decisions
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The following appeal decisions have been received since the last meeting:

**1 APPEAL BY MR K ROBINSON
LAND BETWEEN THE COTTAGE & FOXWOOD, PLESHEY ROAD, HIGH
EASTER,
APPLICATION NO: UTT/1583/01/FUL**

Appeal against the refusal of planning permission for the erection of one dwelling

Appeal decision: ALLOWED

Date of decision: 30 December 2002

Original decision made by: COMMITTEE

Date of original decision: 7 February 2002

Officers' recommendation to DC CTTE: REFUSAL

Summary of decision:

The Inspector stated:

“In considering this case, I have had careful regard to the comments made by the Inspector dealing with the earlier planning appeal (Ref. APP/C1570/A/00/1039019/P8) and the subsequent amendments that have been made to the siting, design and layout of this current proposal. In this regard I particularly note that the Inspector considered the form of the development and its proximity to the site boundaries would result in it appearing an unduly dense form of development and that this, combined with the contrast between the height, bulk and scale of the proposed house compared with Michael's Cottage would make the new house unduly dominant and overbearing in relation to the listed building.

However, whilst I recognise that the scheme that is the subject of this appeal is approximately the same distance from the boundary as its predecessor, the dwelling has now been redesigned as a dormer bungalow with front and rear gables and a hipped roof over the single storey side extension. As a result, the previous 8-metre high gable wall adjacent to “Foxwood” has been

replaced by a much lower 3-metre high side wall and the sloping pitched roof. In my opinion, this has significantly reduced the scale and prominence of the proposed dwelling in relation to that property.

With regard to the relationship of the new dwelling to the listed building – Michael’s Cottage, I note that there is a high fence and hedge all along the boundary of the site and whilst the proposed garage is in approximately the same position as in the earlier case, I am satisfied that the increased setback of the main part of the dwelling combined with the overall reduction in its height, bulk and scale will ensure that it is seen as a subordinate feature in the street scene and not unduly dominant or overbearing in relation to views of the listed building.

In considering this appeal, I have also had regard to the advice contained within PPG3 – Housing and the importance that is attached to making efficient use of land within built-up areas and to widen housing opportunities for all. New building in rural areas is particularly difficult to achieve however, it is my view that the development of this land with a modest sized dwelling could contribute to that need without compromising the historic interest of the listed building or the rural character of the village. During my site inspection I noted that the width and depth of this site is not unusual in the village and that there are many instances where dwellings of varying types and ages were built cheek by jowl with their neighbours. In my opinion, this mixture and variety of houses contributes significantly to the general character and appearance of the village and I do not consider that the development of the appeal site with a modest dormer bungalow would prejudice the quality of that environment. I have therefore concluded that the proposed development would preserve the setting of the listed building whilst being in keeping with the rural character and appearance of the street scene and the surrounding area.”

The Inspector felt that sufficient changes had been made since the previous appeal in 1999.

Comments on decision: Current dismissal rate on this type of appeal (i.e. infill plots in villages) since 1984/5: 50% (43 cases).

**2 APPEAL BY MR R COUMBE
ADJACENT CHESTNUT COTTAGE, CAMBRIDGE ROAD, UGLEY
APPLICATION NO: UTT/1600/01/OP**

Appeal against the refusal of planning permission for erection of one dwelling and garage.

<u>Appeal decision:</u>	DISMISSED
<u>Date of decision:</u>	2 January 2003
<u>Original decision made by:</u>	COMMITTEE
<u>Date of original decision:</u>	26 November 2001
<u>Officers’ recommendation to DC, CTTE:</u>	REFUSAL

Summary of decision:

The Inspector stated:

“ Whilst screened to an extent, and whilst forming part of a domestic curtilage, I consider that the site provides continuity of open land and a rural character and appearance between the two sides of the road. That is not, in my view, eroded to any substantial extent by the existence of Oakdene. I find the frontage south of Chestnut Cottage to be sporadic development and the appeal proposal would, in my opinion, consolidate and extend this effect. Such consolidation would, I consider, have an adverse effect on view along the road frontage”.

The Inspector also found the access to be dangerous, but was content with the relationship with the Listed Building.

Comments on decision: Current dismissal rate on this type of appeal (i.e. “infilling” on edges of settlements) since 1984/5: 85% (163 cases).

**3 APPEAL BY T A ROBINSON
THE COTTAGE, FULLERS END, ELSENHAM
APPLICATION NO: UTT/0309/02/OP**

Appeal against the refusal of planning permission for one private dwelling.

<u>Appeal decision:</u>	ALLOWED
<u>Date of decision:</u>	19 December 2002
<u>Original decision made by:</u>	COMMITTEE
<u>Date of original decision:</u>	30 April 2002
<u>Officers' recommendation to DC CTTE:</u>	REFUSAL

Summary of decision:

The Inspector stated:

“The development of the site would consolidate the loose grouping of built form at the road junction. However, a dwelling on the site would draw the more outlying buildings, The Cottage, The Little Cottage and North Cottage into the group, strengthening the character of a distinct rural hamlet. Such consolidation would not, in my judgement, harm the character and appearance of the countryside or the Area of Special Landscape Value. The development would be entirely within an established, if informal group, and subject to detailed design consideration, would not impact adversely on the wider rural scene. I do not consider that this would jeopardise or prejudice the Council's desire to limit infill of gaps elsewhere along the lane. My views relate specifically to the appeal site's location within a group at the junction”.

Comments on decision: Current dismissal rate on this type of appeal (i.e. "infilling on edges of settlement): since 1984/5: 85% (163 cases).

4 APPEAL BY MR P SKELLERN

LAND AT THE REAR OF LITTLE PADDOCKS, CUTLERS GREEN, THAXTED

APPLICATION NO: ENF/139/00/D, ENF/150/01/B, ENF/210/01/D

Appeal against the refusal of planning permission for enforcement notice requiring remedy to 9 breaches of control relating to new access, service track, hardcore, hardstanding, contractors hut, making good & trailer lorries/motor vehicles.

<u>Appeal decision:</u>	DISMISSED
<u>Date of decision:</u>	18 December 2002
<u>Original decision made by:</u>	COMMITTEE
<u>Date of original decision:</u>	15 March 2002
<u>Officers' recommendation to DC CTTE:</u>	ENFORCEMENT ACTION

Summary of decision:

The Inspector stated:

"From my assessment, I consider that the widening of the filed access and the access track fails on all 3 issues. I have found no objection to the contractor's hut in terms of the effect on neighbour amenity but, to my mind, it has contributed to the consolidation of development on this site, contrary, to the policies the countryside. The storage of lorry trailers fails on the issue of neighbour amenity.

I appreciate that there are planning policies which support rural businesses but this support does not extend to developments which cause serious harm to the countryside and other interests, as in this case. In addition, this decision does not affect the continuation of the lawful use of the storage building and the business and/or employment generated thereby.

See copy 8 page decision attached.

Comments on decision: Current dismissal rate on this type of appeal (i.e. enforcement) since 1984/5: 71% (79 cases).

**5 APPEAL BY MR AND MRS T SHRIMPTON
OLD CHAPEL SITE, STONEY COMMON, STANSTED MOUNTFITCHET
APPLICATION NO: UTT/0566/02/FUL**

Appeal against the refusal of planning permission for the erection of a 2 bedroom house and garage (after demolition of the Old Chapel building).

<u>Appeal decision:</u>	ALLOWED
<u>Date of decision:</u>	10 January 2003
<u>Original decision made by:</u>	COMMITTEE
<u>Date of original decision:</u>	3 July 2002
<u>Officers' recommendation to DC CTTE:</u>	APPROVAL

Summary of decision: Members visited this site.

The Inspector stated:

“Living conditions

The existing building on the appeal site is a single storey structure with a hipped roof. There is a 2 storey end of terrace dwelling at no. 50 Stoney Common, adjacent to the appeal site. The dwelling at no. 50 ground kitchen windows looking towards the appeal site. However, I saw on my site visit that the proposed dwelling would be adjacent to the blank gable wall of no. 50. The kitchen windows are located to the rear of the gable and are adjacent to part of the existing hall. The proposal would not extend as far back as the existing building and would not go beyond the blank gable. The proposal would be to the east of the existing dwelling at no. 50. Because of this relationship I do not consider that the proposal would be likely to result in any significant reduction in sunlight or daylight to the kitchen or curtilage of no.50.

For the above reasons I conclude that the proposal would not cause harm to the living conditions of occupiers of the adjacent dwelling at no. 50 and not conflict with adopted Local Plan policy DC14 and policy GEN4 of the emerging Local Plan.

Amenity space

The proposed dwelling would have a relatively narrow back garden. Beyond the main rear wall it would have a depth of not much more than 4 metres and beyond the garage just over 2 metres. It would, however, have a width of about 13 metres. The Planning Officer's report on the planning application explains that the amount proposed would accord with the Local Plan standard

for one or 2 bedroom units at 65 square metres. For these reasons I consider that the quantity space proposed is adequate.

On my site visit I saw the part of the proposed garden located beyond the existing building. The existing building is closer to the rear boundary than the proposed dwelling would be. Although that part beyond the rear of the hall is sloping I see no reason why the majority of the garden could not be reasonably level and useable. It is also possible that with the use of a retaining wall the sloping part could be levelled and such works could be the subject of a condition. Because of this I consider that the quality of amenity space proposed is adequate.

For the above reasons I conclude that the proposed amenity space is adequate to ensure acceptable living conditions for occupiers of the proposed dwelling.

Highway safety

On my site visit I saw that there is on street parking in Stoney Common and vehicles were parked in front of the hall. There are 2 proposed off road parking spaces comprising an attached garage and a parking space to the front. The space to the front would have a length of only about 4.8 metres and would not allow a car to wait, clear of the highway, for the garage door to be opened. Given the existence of significant on street parking I do not consider that the limited waiting period required to open the door would be hazardous in this particular location. In my view, it would provide no more of an obstruction or danger to the flow of traffic than those parked vehicles within a location subject to 30 miles per hour speed limit. Notwithstanding the Essex Design Guide, I consider the proposed parking acceptable in this instance.

In order for vehicles to access the proposed parking spaces, vehicles will not be able to park in the highway to the front of the spaces. However, I consider that this is likely to only lead to a loss of one on street parking space, due to the limited width of the parking space. The existing hall has no off street parking. If the existing use only generated a need for one on street parking space, then the proposal would not increase the pressure for on street parking.

For the above reasons I conclude that the proposal would not be harmful to highway safety and not conflict with adopted Local Plan policy T1.

Community facility

I note the petition with over 50 signatures and the desire of local residents to retain the building for community use. However, I must consider the case purely on its own merits having regard to the development plan. The site is not identified within the adopted or emerging Local Plan as a community facility and there is no policy requirement to retain the site in community use. The opportunity exists to increase local facilities through

implementation of the Local Plan. Land to the south at Rochford Nurseries is identified in the adopted and emerging Local Plans for residential development, together with school and community facilities. Consideration must also be given to the likelihood, if this appeal were dismissed, of the appeal site being used for a community purpose, notwithstanding its use since 1910 for such purposes. The dancing school has closed and I have no information regarding the possibility of any alternative use coming forward. There is also no information regarding the demand for and supply of community facilities and the current position regarding the Local proposals.

For the above reasons I conclude that there would not be an unacceptable loss of a community facility.

Other Considerations

I consider that the proposed dwelling would not harm the streetscene, given the adjacent 2 storey dwellings, with which it would be compatible. There are no windows proposed in the side elevation facing no. 50 Stoney Common so I do not accept that the proposal would result in unacceptable overlooking of this dwelling. Given the distances from the proposed dwelling, which I saw on my site visit, I am satisfied that there would be no unacceptable overlooking of the house at no. 8 Mount Drive or any other dwellings in Mount Drive.

I note the concerns raised about the proposal encroaching onto land not in the ownership of the Appellant. However, these are private matters to be dealt with by the parties concerned.

Conclusion

For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed”.

Comments on decision: Current dismissal rate on this type of appeal (i.e. overdevelopment, loss of amenity, etc) since 1984/5: 69% (166 cases).