

**Committee:** DEVELOPMENT CONTROL

**Date:** 28 July 2003

**Agenda Item No:** 6

**Title:** **Renewal of outline planning permission UTT/1414/98/OP for the change of use of part of the playing field to residential and public open space, provision of two sports pitches and multi-use games area together with changing facilities. Provision of car parking and creation of new access and roundabout junction, Land to the east of Bell College, Peaslands Road, Saffron Walden.**

**Author:** Jeremy Pine (01799) 510460

### **Summary**

- 1 This reports seeks Members' authority for the Council as the local planning authority to enter into a Section 106 Agreement with a developer (Countryside Properties) in connection with an application for renewal of outline planning permission.

### **Background**

- 2 In 2000, outline planning permission was granted on appeal for this development, subject to a Section 106 Agreement. An application for renewal of the outline planning permission has now been submitted which, in accordance with the delegation scheme, is being dealt with under delegated powers. The reference number of the renewal application is UTT/0790/03/REN.
- 3 The wording of the Section 106 Agreement that was signed in 2000 is such that it is conditional specifically upon the implementation of UTT/1414/98/OP. It is the view of officers that it is likely that outline planning permission will be granted for the renewal, in which case a fresh or amended Section 106 Agreement will be required, which needs the authority of Members.
- 4 The agreement will cover the same matters as previously, namely:
  - The laying out of a senior size football pitch and a multi-use games area, the construction of changing facilities and a parking area, all at the developer's expense, and their subsequent transfer to the Council

- The laying out of an area of public open space (including a Local Area for Play) at the developer's expense, and their subsequent transfer to the Council
- The transfer to the Council of sums for the maintenance of the facilities and a contribution to sports development funding
- The laying out of a senior size football pitch adjacent to but outside the application site, to remain in the ownership of Bell College.

In addition, following the adoption by Essex County Council of its School Organisation Plan 2002-7, the developer has agreed to an extra clause in the agreement requiring the payment of a proportionate contribution towards new local primary and/or secondary school places to meet part of any shortfall identified in the Plan.

5. A copy of the officers' delegated report on UTT/0790/03/REN is attached for information.

RECOMMENDED that Members authorise the Council as the local planning authority to enter into a Section 106 Agreement with the developer to cover the matters specified in paragraph 4 as part of any grant of outline planning permission for UTT/0790/03/REN.

Background papers: application files.

**UTTLESFORD DISTRICT COUNCIL – PLANNING DEPARTMENT**

**DELEGATED CASES**

See hard copy









**Committee:** Development Control Committee

**Date:** 28 July 2003

**Agenda Item No:** 7

**Title:** Enforcement of Planning Control:  
Site formerly known as No.2 Home Farm, Hassobury,  
Farnham

**Interests in Land:** The English Heritage Property Company  
Limited

**Author:** Clive Theobald (01799) 510463 & Geoff Lyon (01799)  
510458

### **Introduction**

- 1 This report concerns the use of land for the storage of building materials, plant and equipment and recommends that a Section 215 notice be authorised in the interests of local visual amenity to remedy the present condition of the land (removal of items). It also recommends that enforcement action and, if necessary, legal proceedings be authorised in the event that this action is required to be taken.

### **Notation**

- 2 Outside Development Limits/Area of Special Landscape Value/Historic Parkland/Listed Building Adjacent.

### **Relevant History**

- 3 Planning permission granted in 1996 for the change of use of Waterside School and adjacent farm buildings (Home Farm) with extensions to form sixteen dwellings, together with six new dwellings and the demolition of a sports hall, squash courts, classrooms, store and porch (UTT/0808/96/FUL & UTT/0809/96/LB refer).

### **Background**

- 4 This small area of undeveloped land is situated on the Hassobury Estate on the western edge of the converted farm complex known as Home Farm, which, in itself, lies immediately adjacent to the converted Waterside School (now known as Hassobury Mansion).



- 5 The 1996 planning permission and listed building consent have been implemented with the building work on this extensive residential scheme being carried out by The English Heritage Property Company Limited. Work on all aspects of this development has now been completed and the converted/newly built residential units have been occupied for some while now. No.2 Home Farm was formerly an old flint building that was to be converted as part of the approved scheme. However, this was demolished as it was subsequently found to be in a structurally unsound condition. The building company subsequently submitted two planning applications for a replacement dwelling on the footprint of the former structure, although these were refused planning permission and subsequent appeals were lost. As a consequence of this, the land has remained undeveloped.
- 6 The land is presently being used for the storage of building materials, plant and equipment, including the storage of a portable toilet. An existing adjacent open fronted cart shed is being used for the same purpose. A developer's sign containing the words "THE ENGLISH HERITAGE PROPERTY COMPANY" was seen to be placed on the top of materials by the cart shed. Local residents who have been interviewed have stated that all of the items being stored on the land have been placed there by this building company. They have further stated that it is rare for employees of this building company to visit the site. This appears to be borne out by periodic inspections by the visiting planning enforcement officer who has not witnessed the presence of any company employees or of any vehicles. It is not known whether the items being stored were surplus to requirements as a result of the residential conversion of Waterside School and Home Farm or whether they were intended for use on the replacement dwelling on the site. Foundations for the replacement dwelling have also been laid, albeit prematurely and unlawfully (see separate report on this agenda).
- 7 The Council has written to the building company requesting that the items of storage be removed. However, the items remain on the land. The company has stated in its response to a Requisition for Information served on them that it is the owner of the land. This has been confirmed by enquiries made to H M Land Registry. It therefore has a controlling interest.
- 8 It has also been reported that the presence of undisturbed building materials on the land is encouraging rat infestation. This matter has been referred to Environmental Services for further investigation/action.

### **Representations**

- 9 (Hassobury Residents Association):

*"The failure to grant planning permission (for the rebuilding of the flint cottage) has caused considerable nuisance to our members who now have to live with an unsightly building site within an otherwise finished development. What is happening about the building materials and rubbish on the site. It is unacceptable. There is no activity and no deliveries or collections".*

## Planning Considerations

**The main issue in this case is whether the present condition of the land is having any detrimental effect on the visual amenities of the area and on the amenities of local residents and, if so, whether it would be expedient for action to be taken to remedy any harm that may be being caused.**

- 10 The level of storage occurring on the site is considered by officers to be beyond de minimis levels (that is to say beyond a level that would otherwise be of an insignificant nature) and to represent a material change in the character and of the use of the land for which a grant of planning permission is required. The site in question has become overgrown because of the cessation of building works, although the foundations of the aborted replacement dwelling are still clearly visible, along with the items of building materials, plant and equipment. The site is generally untidy and completely out of keeping with the pleasant ambience of the rest of the Home Farm/Hassobury Mansion complex, which contains residential development of a high build quality within a spacious setting.
- 11 Section 215 notices enable local authorities to enforce the proper maintenance of land and buildings where the condition of such is considered to be adversely affecting the amenity of a neighbourhood. In this instance, the “neighbourhood” is the adjacent dwellings of Hassobury/Home Farm and the “amenity” is the visual appearance of its setting and the enjoyment of such by the occupants of that neighbourhood.
- 12 The presence of the building materials, plant and equipment are considered to detract from the visual quality of the immediate surrounding area, which contains historic buildings, mature vegetation and landscaped grounds, and in turn is considered to affect the pleasure and enjoyment of such land by the occupants of the neighbourhood. In this respect, they are not a pleasant circumstance or feature of it and certainly provide no advantage for the neighbourhood and indeed affect the perceived quality of the surrounding land. The removal of these items would improve the visual quality and amenity of the area. A Section 215 notice would seek to achieve this and there is no right of appeal. Notwithstanding this, such a notice may be challenged in the courts and it is a defence of a landowner who has been served with a copy of the notice to claim that the activity occurring is as a result of the ordinary course of events in pursuance of an authorised use of that land. However, in this case, there is no authorised use of the land for storage purposes or for the erection of a replacement dwelling.

## **Conclusion**

- 13 It is considered that there is no justifiable reason why the storage activity should be allowed to continue on the site and that steps should be taken to remedy the situation by the issue of a Section 215 notice. This is normally a quicker course of action than taking enforcement proceedings, which has a right of appeal, although it is considered that these should also be authorised in the event that the Section 215 notice should be successfully challenged for any reason in the courts if this were to be served.

RECOMMENDED that a Section 215 notice be authorised in the interests of local visual amenity to remedy the present condition of the land and that enforcement action and, if necessary, legal proceedings be also authorised in the event that this is required to be taken.

Background Papers: Enforcement investigation file ENF/216/99/D

**Committee:** Development Control Committee

**Date:** 28 July 2003

**Agenda Item No:** 8

**Title:** Enforcement of Planning Control:  
Site formerly known as No.2 Home Farm, Hassobury,  
Farnham

**Interests in Land:** The English Heritage Property Company  
Limited

**Author:** Clive Theobald (01799) 510463 & Geoff Lyon (01799)  
510458

### **Introduction**

- 1 This report concerns works carried out prematurely to form foundations in connection with refused residential development and recommends that enforcement action and, if necessary, legal proceedings be authorised to secure the removal of the works from the land.

### **Notation**

- 2 Outside Development Limits/Area of Special Landscape Value/Historic Parkland/Listed Building Adjacent.

### **Relevant History**

- 3 Planning permission granted in 1996 for the change of use of Waterside School and adjacent farm buildings (Home Farm) with extensions to form sixteen dwellings, together with six new dwellings and the demolition of a sports hall, squash courts, classrooms, store and porch (UTT/0808/96/FUL & UTT/0809/96/LB refer). Planning permissions refused in 2000 and appeals dismissed for replacement dwelling with rear extension to replicate earlier barn conversion approval (UTT/0388/00/FUL) and for replacement dwelling to replicate dismantled barn as an alternative scheme, but without rear extension (UTT/1157/00/FUL).

### **Background**

- 4 This small area of undeveloped land is situated on the Hassobury Estate on the western edge of the converted farm complex known as Home Farm, which, in itself, lies immediately adjacent to the converted Waterside School (now known as Hassobury Mansion).

- 5 The 1996 planning permission and listed building consent have been implemented with the building work on this extensive residential scheme being carried out by The English Heritage Property Company Limited. Work on all aspects of this development has now been completed and the converted/newly built residential units have been occupied for some while now. No.2 Home Farm was formerly an old flint building that was to be converted as part of the approved development scheme. However, this was dismantled as it was subsequently found to be in a structurally unsound condition.
- 6 Work was subsequently carried out on the site by The English Heritage Property Company Limited, albeit prematurely, to provide beam and block construction foundations for a proposed replacement dwelling with extension, although work stopped when these were reported to the Council and the company was advised to cease further work. The company subsequently submitted a planning application to the Council for a replacement dwelling to replicate the 1996 consent for the residential conversion and rear extension of the former barn as part of the overall residential conversion of Hassobury /Home Farm (UTT/0388/00/FUL). This was refused planning permission. This was immediately followed by an application for the rebuilding of the former barn on its original footprint only, which was also refused permission (UTT/1157/00/FUL). Both decisions were appealed against and both appeals were dismissed.
- 7 During the appeal process, the planning agents for the building company stated in writing that in the event that the appeals were dismissed that the company would undertake to remove the foundations within six weeks of the decision letter. However, this did not occur. Following this, the Council received a letter from planning consultants who subsequently acted for the company who contended that the 1996 consent for the conversion of Hassobury and Home Farm had been implemented by the conversion of the buildings within the complex and this included the laying of the foundations for the proposed extension to the flint cottage, albeit the attempted conversion of the original part of the building resulted in its collapse (see Para 5 above). As a result of this, it was contended that there were no grounds to seek the removal of the foundations. It is the view of your officers, however, that as the conversion and extension of the original flint cottage is no longer a possibility in view of its total demolition, that the works to lay new foundations, both on the original building footprint and for what would have been the proposed extension to the original building had it survived, amount to works of an unlawful nature. In other words, it is not possible to lawfully extend onto nothing.
- 8 A recent site inspection has shown that no attempts have been made by the building company to remove the foundations, upon which various building materials have now been laid, despite a recent request by the Council to do so. Furthermore, neither the company nor its agents are presently in correspondence with the Council concerning this matter. Recent enquiries have confirmed that the company retains an interest in the land.

## Planning Considerations

**The main issue in this case is whether it would be expedient for enforcement action to be taken to require the works carried out to be removed from the land.**

- 9 The 1996 planning permission for the conversion of the historic buildings at Hassobury and Home Farm sought to secure the future preservation of these buildings. Policy C6 of the local plan allowed for this conversion in an area where new dwellings would not normally be permitted. One of the prerequisites of this policy is that redundant farm buildings have to be in a sound structural condition and that their conversion should respect and preserve the characteristics of the buildings. The historic buildings met this criteria and an exception was made, therefore, in view of their historic significance. The demolition of a building, however, does not preserve its characteristics, and buildings that are in a poor state of repair do not fulfill the criteria of Policy C6 and should not be considered for conversion. Whilst the flint building formed part of the historic grouping prior to its demolition, officers considered that the introduction of a replacement residential dwelling unit on its footprint, extended or otherwise, could not therefore be justified, hence the refusal of planning permission.
- 10 As previously mentioned, the foundations in place on the site are considered by your officers to amount to unlawful works and can still be readily seen. As planning permission does not exist for a replacement structure, there is no justifiable reason as to why the foundations should remain and it is recommended that enforcement action should be taken to remove them.

RECOMMENDED: that enforcement action and, if necessary, legal proceedings be authorised to secure the removal of the works from the land.

Background Papers: Enforcement investigation file ENF/216/99/D

**Committee: DEVELOPMENT CONTROL COMMITTEE**

**Date: 28 JULY 2003**

**Agenda Item No: 9**

**Title: APPEAL DECISIONS**

**Author: John Grayson (01799) 510455**

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

**1 APPEAL BY WILLIS GAMBIER LTD  
WILLIS GAMBIER LTD, OLD MEAD ROAD, ELSENHAM/HENHAM  
APPLICATION NO: UTT/0933/02/FUL**

Appeal against the refusal of planning permission for extension to existing warehouse  
(Storage and distribution dependant on road transport)

Appeal decision: DISMISSED

Date of decision: 17 June 2003

Original decision made by: COMMITTEE

Date of original decision: 27 November 2002

Officers' recommendation to DC CTTE: REFUSAL

Summary of decision: The Inspector judged that the large 37% extension would represent a substantial further intrusion of built development into the area defined as countryside, harmful to the open character east of Elsenham village. He suggested relocation to Dunmow. Although near to the railway station, he felt that the sustainability benefit was not sufficient to overcome the adverse environmental impact.

Comments on decision: The Council always tries to help such local businesses, but only in the right locations well served by road links. Current dismissal rate on this type of appeal (i.e. industrial and storage) since 1984/5: 54% (31 cases).

**2 APPEAL BY MR DAVID BRIAN SOWTER & MRS LYNDA SOWTER  
ELM COTTAGE, STEBBING GREEN  
APPLICATION NO: UTT/0908/02/OP**

Appeal against the refusal of planning permission for two-storey dwelling house on its own plot of 16m x 60m, including garden, adjacent to existing dwelling on site

Appeal decision: DISMISSED

Date of decision: 1 July 2003

Original decision made by: OFFICERS

Date of original decision: 11 June 2002

Summary of decision: The Inspector concluded that the new proposed dwelling would introduce a significant mass of built development into an open rural area, harmful to the general loose-knit pattern in this locality. He looked at 4 other cases put forward by the appellants in support of their case, but found that none were on all fours.

Comments on decision: Only 4 appeals out of 30 similar cases have been allowed since 1998. Current dismissal rate on this type of appeal (i.e. "infilling" on village edges) since 1984/5: .86% (165 cases).