

APPEALS AND ENFORCEMENT SECTION - MONTHLY REPORT

JANUARY - FEBRUARY 2005

PART 1 - PLANNING APPEAL DECISIONS

INTRODUCTION OF FRONT DORMER ON GARAGE REPLACEMENT – IMPACT UPON STREET SCENE

- 1. Revision to planning permission W20021124 for replacement garage with studio above, construction of dormer window fronting New Street; rear of 56a Leam Terrace, Leamington Spa (W20040375)**
 - Delegated decision 23 June 2004
 - Introduction of over dominant feature, unbalanced appearance of building, detrimental to general street scene and character of Conservation Area, setting of listed building; contrary to local plan policies (DW)ENV6, ENV8,ENV11 and emerging local plan policies DAP6 and DAP10
 - Appeal DISMISSED 17 January 2005

COMMENT – An example of where the Planning Inspectorate very carefully considered the detailed characteristics of the Conservation Area in the immediate vicinity of the appeal site and concluded that it was very important to achieve the appropriate design for the replacement garage, and not to compromise the approved scheme.

NEW BUNGALOW WITHIN URBAN AREA – BACKLAND DEVELOPMENT AND AMENITY ISSUES

- 2. Erection of a detached bungalow; rear of 67 Rugby Road, Cubbington, Leamington Spa (W20040369)**
 - Delegated decision 15 April 2004
 - Use of access by neighbours boundary would cause unacceptable noise, disturbance to residents, contrary to local plan policies (DW)ENV3, (DW)H5 and emerging local plan policies DP1 and DP2
 - Appeal ALLOWED 25 January 2005

COMMENT – The recent housing development at the rear of 71-73 Rugby Road appears to have influenced the Inspector's view of tandem development in the area. The relationship between the proposed and existing property was considered reasonable. Subject to the imposition of conditions with regard to boundary treatment, and the removal of PD rights in respect of extensions and alterations the scheme was considered to not raise any significant adverse effect sufficient to justify a refusal. This is a surprising decision taking into account the characteristics of the site and adjacent area.

RURAL LISTED BUILDING RESIDENTIAL BARN CONVERSIONS – INTEGRAL GARAGE PROVISION

- 3. Conversion of garage of listed building into living accommodation (variation of condition no.3 of W20000204) Housemartin Cottage, Shrewley House, Old Warwick Road, Shrewley (W20031858)**
 - Delegated decision 16 January 2004
 - Detrimental impact upon character and appearance of the converted listed buildings, contrary to local plan policies (DW) C3 and (DW) C5 and WDC guidance on conversion of agricultural buildings
 - Appeal Hearing 18 January 2005
 - Appeal ALLOWED 28 January 2005

The original condition was intended to ensure parking was contained within the building, but the Inspector considered that the area of hardstanding available in association with the converted barns

was large and had a distinctly residential character and that such a condition did not achieve this objective. Therefore the external parking of vehicles was acceptable. Because the Council still had full control over the siting and size of any future garage the conclusion reached was that the condition was “superfluous” and failed the test of necessity set out in paragraph 14 of Circular 11/95.

COMMENT – There is always pressure for further development in association with residential barn conversion schemes, and this can easily affect the openness of the Green Belt. In this instance the specific characteristics of the site, in particular the modest size of the residential unit created, and the availability of a more than adequate hardstanding area appeared to influence the Inspectors decision.

SINGLE STOREY REAR EXTENSION TO SEMI DETACHED DWELLING – IMPACT UPON NEIGHBOURS

4. Erection of a rear conservatory and single storey extension; 21 Thornley Close, Radford Semele (W20031402)

- Delegated decision 24 October 2003
- Unacceptable harm to neighbours outlook and living conditions, contrary to 45 degree SPG guidance on household extensions, contrary to local plan policy (DW)ENV3.
- Appeal DISMISSED 4 February 2005

Full account was taken of the WDC Supplementary Guidance '45 Degree Guideline' and in view of the rear extension projecting from the rear elevation by 5.4 metres the conclusion reached was that this would represent an obtrusive visual intrusion upon the residential amenities of the neighbouring occupiers. The proposed low pitched roof was considered to emphasise the impact.

NEW DWELLING – PHYSICAL RELATIONSHIP WITH NEIGHBOURS

5. Erection of a dwelling (after demolition of existing building with access to Hampton St) 57 Crompton Street, Warwick (W20040271)

- Committee decision 17 May 2004 (*contrary to officers recommendation*)
- Undesirable backland development by reason of height and proximity to neighbouring properties, adverse impact upon neighbours amenity, contrary to local plan policy (DW)ENV3 and emerging policies DP1, DP2, and DP6
- Appeal DISMISSED 10 February 2005

The relationship between the proposed two storey dwelling and the neighbouring property at no.49 Crompton Street was not considered acceptable because of the location/proximity of existing buildings and the increased sense of enclosure in the rear garden. The appearance and bulk of the building “would stand out as a relatively large bulky building that would be out of keeping with its surroundings” and therefore this also made the scheme unacceptable. The lack of on site parking did not justify a refusal because of the location of the site close to the town centre facilities.

HOTEL EXTENSIONS – IMPACT UPON NEIGHBOURING RESIDENTS AND CONSERVATION AREA

6/7. Erection of single storey and two storey extensions and screen walls and use of no.7 Church Lane as part of Glebe Hotel, Barford (W04/0411); Internal and external alterations to Glebe Hotel, dovecote at 7 Church Lane & demolition of boundary wall.(W04/0408LB)

- Committee decisions 5 July 2004 (*contrary to officers recommendation*)
- Overdevelopment of the site, detrimental impact upon neighbouring residents, hotel use of Church Lane property would be an erosion of the residential character of the area and adverse effect upon character of the Conservation Area, contrary to local plan policy (DW)ENV3 and (DW)ENV6 and emerging policies DP1, DP2, and DP10
- Proposed extensions detrimental impact upon character, integrity and setting of the listed buildings, contrary to local plan policy (DW)ENV11 and (DW)ENV12 and emerging policies DAP6 and DAP10
- Appeals DISMISSED 17 February 2005

Impact upon the living conditions of neighbouring residents: Due to the close proximity of the extension to the neighbouring dwellings in Church Lane it was considered that the proposal would be a dominant and overbearing feature from the dwellings and their gardens. The intention to retain boundary conifers and obscure glass the lower portions of the bedroom windows was assessed as preventing direct overlooking, but would not remove the 'perception' of being overlooked and the associated loss of privacy. There was considered to be some pressure in the future for the removal of the conifers to enable more daylight.

The close proximity of the hotel rooms to the Church Lane properties would also result in noise and disturbance, and the Inspector commented that there was a differing pattern of use of hotel rooms compared to domestic routines, especially during summer months when windows are likely to be left open. These factors all reflected the over-intensification of the existing use of the site.

Impact upon the Conservation Area: Considerable concern was raised with regard to the loss of the soft landscaping to create an enlarged car park, and the visual impact of this change upon the setting of the adjacent church. The mass of the hotel extension was also harmful to the views from Church Lane because of its size in addition to the existing hotel and its likely prominence above the low pitch of the bungalows. The use of Church Lane by staff vehicles would erode the quiet residential character of the cul-de-sac.

Setting of the listed buildings: The setting of the existing hotel was considered to be harmed by the creation of the enlarged car park because of the lack of any significant retained landscaping. The detailed design of the extension was not appropriate in relation to the simple symmetrical form of the listed dovecote.

COMMENT – The Inspectorate took a very detailed evaluation of the elements of the site and surrounding area which influenced the character of this part of the Barford Conservation Area, and it appears that it was the combination of a number of factors which weighed against the proposal.

PART 2 - ENFORCEMENT NOTICE APPEALS

1. **Erection of a steel framed, pitched roof, metal clad building; Spinney Farm, Greys Mallory, Banbury Road, Bishops Tachbrook (ACT 370/37/03)**
 - Enforcement action authorized by Committee 19 August 2003 when retrospective application W20030428 refused.
 - Length, height and width of building detrimental impact on the character and appearance of the countryside, insufficient agricultural need shown to justify building, contrary to local plan policy (DW) ENV3, (DW) C1, and (DW) C2.
 - Enforcement Notice issued 8 April 2004 to remove the building. Compliance period six calendar months
 - Appeal on ground (a) that planning permission should be granted, and ground (f) that the compliance requirements excessive
 - Appeal by Public Inquiry 7/8 December 2004
 - Appeal DISMISSED 13 January 2005

To comply with the notice the building requires to be removed from the site by 13 July 2005.

In view of the comments made by the Inspector, the decision does not prevent the possibility of the structure being significantly reduced in size in order to be considered 'Permitted Development' taking into account the provisions for agricultural buildings in the 1995 GPDO and the reasonable requirements of the farm holding. It is anticipated that the land owner intends to pursue this option in the coming months, and the enforcement file remains open.

PART 3 – TREE PRESERVATION ORDER WORK APPEALS

1. **Felling of Flowering Cherry Tree (T14) on condition of the planting of a replacement tree: Rear of 21 Style Close, Leamington Spa (TPO 176)**
 - Delegated decision 20 May 2004 subject to planting of replacement tree
 - Appeal against condition to plant new tree in modest rear garden
 - Appeal DISMISSED by the Secretary of State 20 January 2005 – small ornamental deciduous tree required to be planted instead

2. **Fell Sycamore Tree: Rear of 19 Allitt Grove, Kenilworth (TPO W46/K17)**
 - Delegated decision 11 March 2004
 - Removal of tree would have an adverse effect upon the amenity of the area, condition of tree able to be managed by 30% reduction approved in January 2004
 - Appeal DISMISSED by the Secretary of State 21 February 2005 – 30% reduction would significantly reduce risk of failure, and decay detection mapping would assist in giving details of trunk decay

PART 4 - APPEAL PERFORMANCE: YEAR April 2004 - March 2005 (up to 25 Feb)

Total number of Planning decisions (incl adverts)		= 62		
Dismissed		= 35	(56%)	
Allowed		= 26		
Part Dismissed/Part Allowed		= 1		
Enforcement Notice Appeals	Dismissed	= 6	Allowed	= 2
Tree appeals	Dismissed	= 4	Allowed	= 0
Lawful Development Appeal – Existing Use	Dismissed	= 0	Allowed	= 1

FORTHCOMING HEARINGS & PUBLIC INQUIRIES

ENFORCEMENT PUBLIC INQUIRY

Mar – June 2005 (*continuation of inquiry which started on 1 Feb 2005*)

Erection of passenger terminal and provision of associated facilities
Coventry Airport, Baginton

HEARING

15 Mar Erection of 1.8m high front boundary fence
Catchems End Cottage, Brownley Green Lane, Hatton (W20040186)

PUBLIC INQUIRY

12 Apr Mixed residential and employment development
Ridgeway School/WCC Depot/Ambulance Depot, Montague Road, Warwick (W20031242)

HEARING

19 Apr Erection of four dwellings
R/o 7 & 9 Beauchamp Avenue, Leamington Spa (W20040808)

PUBLIC INQUIRY

29 Jun Extension to store, customer car park and other ancillary works
Tesco store, Emscote Road, Warwick (20040138)

HEARING

2 Aug Change of use from care home to a 20 bed HIMO, construction of light well and roof lights to front, erection of rear extension 64 Russell Terrace, Leamington Spa (W20040524)

PUBLIC INQUIRY

23 Aug Erection of 3 terraced and 2 semi-detached houses and alteration of existing access
Kingswood Nurseries, Old Warwick Road, Lapworth (W20040645)

PUBLIC INQUIRY

6 Sep Erection of 24 dwellings
R/O Castel Froma, Lillington Road, Leamington Spa (W20041179)

HEARING

4 Oct Change of use from residential to private day nursery (class D1)
59 Queens Road, Kenilworth (W20040983)

PUBLIC INQUIRY

15 Nov Residential development
Abbacourt Hotel, 40 Kenilworth Road, Leamington Spa (W20040814)

PUBLIC INQUIRY

29 Nov Residential development
99-101 & land rear of 97,103, 107 Lillington Road & Dormer House, Sandy Lane,
Leamington Spa (W20041294)