

STRATEGIC PLANNING BOARD

APPEALS

Application No: 08/1717P

Appellant: Mr Andrew Donaldson (BIG Storage)

Site Address: Fence House, Fence Avenue, Macclesfield, Cheshire,
SK10 1LQ

Proposal: Erection of illuminated totem sign

Levels of Decision: Delegated

Recommendation: Refusal

Decision: Refused

Appeal Decision: Dismissed

MAIN ISSUES

The effect of the proposed display on the visual amenity of the area.

INSPECTOR'S REASONS

Fence House stands within a small industrial estate that is immediately to the east of the junction with Hurdsfield Road. The building occupies much of the industrial estate frontage onto Fence Avenue. The street rises and curves around the parkland to the south of the proposed display.

Existing totem and free standing displays associated with the industrial estate are evident in the street scene around the appeal site. Signs are also present on the elevations of the commercial buildings within the estate. The displays on Fence House occupy a significant proportion of the elevation onto Fence Avenue. They include a large illuminated display that faces towards the parkland. These signs are visible on the approach to the appeal site from either end of the avenue and from other streets locally. The sign would be prominent in the street scene.

The Inspector concluded that the sign would be visually intrusive in views from the residential area and recreational land uses around it. The sign would have a visual impact on its setting that would be sufficient to be acceptably harmful to the visual amenity of the area.

IMPLICATIONS FOR THE COUNCIL

At the time of the appeal, the application was retrospective as the sign had already been erected. Since the Appeal Decision, officers have contacted the

appellant and the sign has been removed. There are no further implications for the Council.

Application No: 08/0869P

Appellant: Ms Giselle Sloan

Site Address: Brook House, Spode Green Lane, Little Bollington,
Altringham, WA14 3QX

Proposal: Two-story side extension

Levels of Decision: Delegated

Recommendation: Refuse

Decision: Refused 26.06.2008

Appeal Decision: Dismissed 06.03.2009

MAIN ISSUES

The Council refused planning permission due to the impact of the extension upon the appearance of the existing building (a former barn, now a dwelling) and the wider character of the area. By elongating this building, the proposed extension eliminated its original form, diluted its rural character and reduced the openness of the Green Belt that currently exists between this former barn and the existing dwelling at Brook House.

INSPECTOR'S REASONS

The Inspector considered that the scale and mass of the proposal would completely change the original narrow form of the dwelling that contributes to its character and the character of its rural setting. The proposed extension, which would be wider than the existing main part of the dwelling, would be clearly visible from Spode Green Lane. It would effectively close the gap that exists between the former barn and its neighbour at Brook House and would be detrimental to the openness and character of the Green Belt.

The inspector considered that the increase in size from a 1 bedroom to a 3/4 bedroom property is significant and would not meet with any of the exceptions to Local Plan Policy GC12. As such, the proposed extension would be disproportionate to the size of the original dwelling and contrary to the requirements of PPG2, and policies GC1 and GC12. It would represent an inappropriate form of development which is, by definition, harmful to the Green belt. No very special circumstances were identified.

IMPLICATIONS FOR THE COUNCIL

The decision simply serves to reinforce the strength of the Council's policies relating to extensions to existing dwellings in the Green Belt.

Application Number: P08/0629

Appellant: Mrs Nancy Chapman

Site Address: 59 Talbot Way, Nantwich, CW5 7RR

Proposal: Building of a boundary wall

Level of Decision: Delegated

Recommendation: Refuse

Decision: Refused 18/08/2008

Appeal Decision: Allowed 02/06/2009

MAIN ISSUES:

The main issue of the appeal was the effect of the boundary wall on highway safety, with reference to pedestrians and vehicles approaching from the north.

INSPECTOR'S REASONS:

The appeal site is situated on a residential estate within the Nantwich settlement boundary. The appeal is retrospective as the wall has already been built. The Inspector considers that the existence of the driveway would be noticeable to a pedestrian approaching from the north along the footway due to the clearly visible space between the end of the wall and the side of the house, due to the curvature of the road at this point. The Inspector notes that the appeal site is situated on a residential street, which has relatively low vehicular activity due to its only purpose being to serve as access to the properties of the street. Speeds are low due to the curvature of the road at this point and the ambient level of noise in the area is also low. The Inspector notes that the sound of a car engine would be clearly audible to a pedestrian if the car was sufficiently close to pose a hazard, and does not consider that the presence of the part brick, part timber wall would be sufficient to block this sound.

The Inspector considers that the wall is too high to allow pedestrians approaching from the north, to view a car exiting the garage onto the driveway. However, the angles of sight are sufficient from the footway on approaching the driveway entrance to enable clear view of a car exiting from the driveway onto the footway. The Inspector states that on her site visit a car was parked on the drive and notes that the rear of the car was visible from the footway facing southerly. Both pedestrians passing and cars manoeuvring off the driveway would exercise the appropriate caution.

The Local Planning Authority raised concerns that the wall reduces vehicle visibility along the highway in the area closest to the access given the curved layout of the road. However, the Inspector states that, she observed sufficiently clear space beyond the edge of the wall and the carriageway to allow clear mutual sightlines between oncoming traffic travelling southwards and a car exiting from the driveway over the footway, before it encroaches onto the carriageway. The Inspector therefore does not consider that the wall will be detrimental to vehicular safety.

The Inspector states that the wall is situated under a street light which enhances visibility in darker hours. The Appellant states that other dwellings on the estate which have similar restricted accesses. The Local Planning Authority was of the opinion that the existence of restricted visibility in other locations does not justify the worsening of highway safety in this location. However the Inspector states that the appeal site is in a quiet residential environment with generally slow moving traffic and does not considered that the wall has a detrimental affect on highway safety, and therefore the proposed development is in accordance with Policy BE.3 (Access and Parking) of the Crewe and Nantwich Replacement Local Plan 2011.

IMPLICATIONS FOR THE COUNCIL:

Many applications for boundary fences and walls are received which would obstruct visibility when reversing out of the driveway. In future decisions careful consideration will need to be given to the nature of the surroundings in terms of traffic levels, speed and ambient noise when making a judgement on the likely impacts on pedestrian and highway safety of such proposals.

Application Number: 08/0993/COU

Appellant: Bentley Model Flying Club

Site Address: Spring Bank Farm, Arclid, Congleton

Proposal: Proposed use of land for flying of electric model aircraft.

Level of Decision: Committee: 7 October 2008

Recommendation: Approved subject to conditions

Decision: Approved 11th of November 2008; Conditions varied from Officers Recommendation

Appeal Decision: Allowed in part.

Date of Appeal Decision: 24 April 2009

MAIN ISSUES:

Although this application was approved by Members of the Congleton Borough Council Planning Committee, the applicants were not satisfied with the conditions imposed and duly appealed the decision to seek a more favourable range of conditions including use of the site on both a Saturday and Sunday each weekend.

The main issue in the Inspectors opinion was the need for the level of restriction on flying set by the conditions in dispute given the proximity of housing to the site.

INSPECTORS REASONS

The Inspector noted that although there are no dwellings within the boundary of the site, there are three properties across Newcastle Road from the eastern boundary and a small group of dwellings at Arclid Farm, roughly 200m to the north. The Inspector acknowledged that there was some evidence that the occupiers of these properties have suffered some disturbance in the past from the activities of the club; but this is a rural area with low ambient noise levels and that, in addition to any actual noise, there would be the perception of intrusion whenever the airspace over gardens were trespassed on.

However, the Inspector felt it would be an appropriate for him to judge the merits of the scheme proposed rather than on the basis of past incidents. Therefore, he treated the present package of proposals on their own merits, in the light of Local

Plan policy GR6 (iv) and concluded that some relaxation of the approved consent was justified.

In considering the area of land covered by the planning application, the Inspector considered the relevance of a previously submitted drawing outlining a larger area of land for the relevant flying area, which included land over Taxmere Lake. However, he felt that the application area edged in red, which just included the fields to the north of Spring Bank Farm should be covered by the application resulting in a smaller flying area than anticipated by the model club. It was the Inspector's view that the red line boundary on the submitted application represented the extent of the flying area, which could effectively be monitored by the Council's enforcement officers should complaints about the activities of the model flying club be submitted.

The inspector amended conditions four and five of the decision, to allow flying on a Monday and control the times of operation to 10 a.m. to 8 p.m. on weekdays, with a more cautious regime of 10 a.m. to 6 p.m. on weekends.

Importantly, the Inspector endorsed the Council's approach to controlling the level of flying on weekends, allowing use of the site only on a Saturday or Sunday each weekend, but resisting use over the full weekend to protect the amenity levels of neighbouring residents.

IMPLICATIONS FOR THE COUNCIL:

The Inspector gave weight to policies GR1 and GR6 of the adopted Congleton Borough Local Plan First Review to preserve residential amenity levels of neighbours. In this respect, the Inspector has endorsed the Council's approach.

The variations to the times of use of the site, notably allowing use on Mondays and a variation of the hours are seen as a site-specific matter and do not have wider implications on the Authority in respect of determining other planning applications on an amenity grounds.

Application Number: 08/1037/CPE

Appellant: Mr E J Poole

Site Address: Bank Farm, Audley Road, Alsager

Proposal: Application for a certificate of lawful existing use or development for use for general industry (Use Class B2).

Level of Decision: Delegated

Recommendation: Refuse. 10th October 2008.

Decision: Refused. 15th October 2008.

Appeal Decision: Dismissed

MAIN ISSUES:

Whether the evidence was sufficient to prove on the balance of probabilities that the land had been used for general industry for 10 years prior to the date of the application.

INSPECTOR'S REASONS:

The appellant's evidence is imprecise and ambiguous and is, in part, contradicted by his own witnesses' evidence. Their corroborating evidence and that of others is also lacking in precision and there is a general lack of any written evidence. The site has not, on the balance of probabilities, been in sole use for vehicle servicing and repairs during the 10 year period prior to the date of the application. A certificate of lawful existing use or development for vehicle servicing or repairs or for use for general industry cannot therefore be granted.

IMPLICATIONS FOR THE COUNCIL:

This decision supports the Council's stance towards such applications in particular the need to examine carefully, and where necessary challenge, the supporting evidence. In particular, as the appeal was dismissed, it will now be necessary to consider whether or not it is expedient to take enforcement action against the unauthorised use of the land for general industry.

Application Number: EA831

Appellant: Serdar Topal

Site Address: 56 Crewe Road, Alsager

Proposal: Enforcement Notice alleging failure to comply with condition no. 1 of planning permission ref. 8/34261/3 restricting the opening hours of the premises to:
Mondays to Fridays 1100 to 2330 hours
Saturdays 1100 to midnight
Sundays 1100 to 2330 hours.

Level of Decision: Delegated.

Recommendation: That enforcement action be taken. 27th August 2008.

Decision: That enforcement action be taken. 1st September 2008.

Appeal Decision: Dismissed. Enforcement Notice upheld and the deemed planning application refused.

MAIN ISSUES:

The effect of late night opening on the living conditions of the occupiers of nearby residential properties.

INSPECTOR'S REASONS:

The existing opening hours permitted by the condition represent an appropriate balance between the business objectives of the appellant and the need to safeguard the living conditions of the occupiers of nearby residential properties. The extension of opening hours beyond midnight on Fridays and Saturdays would increase the likelihood of disturbance in the early hours of the morning from customers arriving/leaving the premises both by car and on foot and congregating around the premises at a time when there should be a reasonable expectation that levels of background noise would be low contrary to policy GR6 of the Congleton Borough Local Plan First Review.

Different considerations apply to the separate controls under planning and licensing powers. This appeal was considered on its planning merits.

IMPLICATIONS FOR THE COUNCIL:

This decision further supports the Council's approach to restricting the opening hours of takeaway premises where appropriate to safeguard the living conditions of nearby residents in accordance with Local Plan policy GR6. It should assist with the enforcement of other such conditions in particular at number 86 Crewe Road, Alsager where there is current appeal against another enforcement notice in very similar circumstances.