

DEVELOPMENT SERVICES

REPORT TO PLANNING &
HIGHWAYS COMMITTEE
15 October 2013

1.0 RECORD OF PLANNING APPEALS SUBMISSIONS AND DECISIONS

This report provides a schedule of all newly submitted planning appeals and decisions received, together with a brief summary of the Secretary of State's reasons for the decisions.

2.0 NEW APPEALS RECEIVED

(i) An appeal has been submitted to the Secretary of State against the decision of the City Council at its meeting of the 13 August 2013 to refuse planning permission for erection of two detached dwellinghouses (C3 Use), including private access road and associated landscaping at curtilage of 7 Stock Green Court and land rear of 3-7 Stocks Green Court, Sheffield, S17 4AY (Case No 13/00660/FUL)

(ii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for a single storey front extension to a dwellinghouse at 608 Herries Road, Sheffield, S5 8TR (Case No 13/01412/FUL)

(iii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for extension of opening hours of a hot food takeaway to 1100 hours – 0300 hours (the following day) Mondays to Sundays and 1100 hours – 0200 hours (the following day) Sundays and Public Holidays (Application under Section 73 to vary condition 3 of planning permission 12/04039/CHU – Use of ground floor restaurant as a hot food takeaway (Use Class A5 – Hot Food Takeaways) at 283 Ecclesall Road, Sheffield, S11 8NX (Case No 13/01367/CHU)

3.0 APPEALS DECISIONS - DISMISSED

(i) To report that an appeal against the delegated decision of the Council to refuse certificate of Lawful Use for installation of a telecommunications mast and ancillary development within a compound at Orange Telecommunications Mast Adjacent Bailey Bridge, Effingham Street, Sheffield, S4 7YP (Case No 12/03522/LU1)

Officer Comment:-

This telecommunications mast was originally installed in May 2007 under emergency powers in the General Permitted Development Order (GPDO) which allow for the installation of a mast for 6 months to maintain mobile coverage in a given area. The installation has since remained in situ. The appellant argued that the structure had been in situ for more than 4 years and, as such, should be immune from enforcement action. The Inspector agreed with the Council's view that the installation was in fact in breach of a planning condition in the GPDO, which required the installation to be removed within 6 months. Breaches of planning control can be pursued for a period of ten years from the breach occurring so the Inspector concluded that the Council were not out of time and the installation was not immune from enforcement action. The Council were right to refuse to grant the certificate of lawful development and the appeal was consequently dismissed.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning permission for retention of an existing telecommunications installation and the removal of an existing 1 no. generator on the commission of a REC power supply at Orange Telecommunications Mast Adjacent Bailey Bridge, Effingham Street, Sheffield, S4 7YP (Case No 12/01093/FULTEL)

Officer Comment:-

This case relates to the previous item. The Inspector accepted that the mast provides a valuable service and promotes economic growth but she concluded that the benefits of the development do not outweigh the visual harm caused, especially when there has been time for but a failure to search for an alternative site. She found that the installation causes unacceptable harm to the character and appearance of the surrounding area, particularly given its prominent siting and its adverse impact on the Five Weirs Walk. She found it to be in conflict with UDP Policies BE14, IB9 and GE17 and of the NPPF.

4.0 APPEAL – ENFORCEMENT NOTICE

(i) To report that an appeal against an Enforcement Notice served in respect of the breach of planning control for the erection of a single storey rear extension at 29 Ratcliffe Road, Sheffield, S11 8YA has been allowed.

Officer Comment:-

The enforcement notice required the removal of the unauthorised extension. The appellant appealed on ground (a) – that planning permission should be granted, and ground (f) that the steps required to comply with the notice are excessive.

The Inspector considered the main issue to be whether the living conditions of neighbours would be adversely affected.

The Inspector had regard to UDP policies H5 and H14 that deal with living conditions, and also to the Council's Supplementary Planning Guidance (SPG) which has specific guidance on outlook, overshadowing and overdominance.

The Inspector noted numbers 27 and 31 Ratcliffe Road had ground floor rear windows that are positioned close to the flank walls of the extension which has a rear projection of 5.65m (in excess of the 3m guidance set out in the SPG). In terms of no.27 the angle of the extension and an element of set back at its outer limits were considered by the Inspector to avoid over dominance.

A window and door in the extension overlook the rear yard of 27 and the Inspector noted this would impinge on their privacy but no more so than existing first floor windows. The Inspector also felt there was no loss of privacy to the windows of no 27 due to the oblique angle of the view available.

The extension results in no source of natural light direct to the living room of no. 29 but the Inspector considered the three light sources in the extension compensated for this.

The extension is 4.2m taller than the ground level of no. 31 and given the close proximity of rear facing windows in 31, the Inspector agreed with the Council that there would be some impact in terms of overshadowing but that this was mitigated by the presence of a smaller extension to no.31.

In summary, whilst the Inspector acknowledged some detrimental impact on the neighbours enjoyment of their property, he did not agree with the Council that this was sufficient to take enforcement action and allowed the ground (a) appeal, and granted planning permission. The ground (f) appeal therefore became unnecessary.

(ii) To report that an appeal against an Enforcement Notice served in respect of the breach of planning control for the erection of a building at land adjacent to 4 Mowson hollow, Worrall, Sheffield, S35 0AD has been dismissed.

Officer Comment:-

The appeal was made on three grounds, that planning permission should be granted, that the requirements of the notice to remove the building would exceed what was necessary to remedy the breach and that the time to comply with the notice was unreasonable.

With regard to the first ground, the main issues were whether the building was inappropriate in the Green Belt, the effect on the openness of the Green Belt and if inappropriate, were there very special circumstances to outweigh the harm.

In this respect, the building was outside of the house curtilage and was not one of the acceptable used in the Green Belt. It was considered inappropriate development. It was also considered to represent a form of urban sprawl and

detract from the semi-naturalised area. In addition, the building was considered to detract from the character and appearance of the Green Belt. The appeal on this ground failed.

The second ground related to the measures required to remedy the breach of planning control. The Inspector considered a number of suggestions from the appellant including staining the building, reducing its size, and amending the boundary of the house to bring it within the residential curtilage. The merits of these were considered by the Inspector but the conclusion was reached that these suggestions would not remedy the breach. The appeal on this ground failed.

The third ground related to the timescale suggested for removal of the building. In this case, the Inspector noted that, should the appellant apply to relocate the building to within the existing house curtilage, the 16 week period suggested in the notice would not be sufficient to cover the whole process and said a period of 6 months would be reasonable. In this respect only, the appeal succeeded.

5.0 RECOMMENDATIONS

That the report be noted

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Head of Planning

15 October 2013