

25 November 2005

Our Ref: L & A 12.05
Contact: Pat Wilkings
Direct Dial: 01462 474 353
E-Mail: patricia.wilkings@north-herts.gov.uk

To: Councillors: P.C.W. Burt (Chairman), S. Bloxham, J. Cunningham, J. Kirby
and M.R.M. Muir

Dear Councillor,

You are invited to attend a meeting of the

LICENSING AND APPEALS COMMITTEE

to be held in

**THE COUNCIL CHAMBER,
COUNCIL OFFICES, GERON ROAD,
LETCWORTH GARDEN CITY**

on

MONDAY 5 DECEMBER 2005

At

6.00 p.m.

Yours sincerely,

A handwritten signature in blue ink that reads "David Miley". The signature is written in a cursive style with a long, sweeping tail on the letter 'y'.

David Miley Democratic Services Manager

**AGENDA
PART I**

ITEM		PAGE
1.	PROCEDURE To consider and determine a procedure for the hearing as attached to agenda.	1
2.	PLANNING APPLICATION REFERENCE NUMBER: 05/01453/1 – Land at Meadow Croft, Mangrove Road, Cockernhoe, LU2 8QD REPORT OF THE HEAD OF PLANNING & BUILDING CONTROL	3

**LICENSING AND APPEALS COMMITTEE
5 DECEMBER 2005**

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

1

NORTH HERTFORDSHIRE DISTRICT COUNCIL LICENSING AND APPEALS COMMITTEE

**SUGGESTED PROCEDURE FOR THE DETERMINATION OF APPEALS RELATING TO
PLANNING APPLICATIONS**

1. The Chairman to ask who appears on behalf of planning control in defence of a recommendation of refusal on Policy grounds and who appears on behalf of the Area Committee from which the application was referred in support of the application, and whether the applicant or applicant's representative wishes to speak or read a statement in support of the application and whether any person wishes to speak or read out a statement as an objector to the planning application.
2. The Board to consider and determine the procedure for the hearing. The parties involved should be asked if they are in agreement with the recommended procedure. Any reasonable request for a revision should be agreed with all involved.
3. The Chairman to invite the officers appearing in support of their recommendation (i.e. Planning Control and Conservation Manager, Principal Planning Officer, Planning Officer, Conservation Officer) to present their case.
4. The Chairman, members of the Board, the applicant or the applicant's representative and the representative from the Area Committee to ask any questions of the officers on their presentation.
5. The Chairman to invite the applicant or applicant's representative to speak or read out a statement in support of the application.
6. The Chairman to invite the representative from the Area Committee to present the case in support of the application. (Note: The representative from the Area Committee may decline to speak if he/she feels that the applicant or the applicant's representative has covered all points).
7. The Chairman, members of the Board, the applicant or applicant's representative (if applicable) and officers to put any questions to the representative from the Area Committee.
8. The Chairman to invite any objector or objectors to the application to speak or read out a statement in support of their objection to the application.
9. The Chairman, members of the Board and officers to put any questions to the objector/s.
10. The Chairman to give the applicant or applicant's representative, the representative from the Area Committee, the objector/s and the officers the opportunity to make a final statement.
11. The Board to make their decision in public.
12. The Chairman to notify all parties present of the Board's decision.

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**TITLE OF REPORT: ITEM REFERRED BY THE SOUTHERN RURAL AREA COMMITTEE
17 NOVEMBER 2005**

REPORT OF THE HEAD OF PLANNING & BUILDING CONTROL

**PLANNING APPLICATION 05/01453/1 – LAND AT MEADOW CROFT, MANGROVE
ROAD, COCKERHOE, LU2 8QD**

Outline application: One dwelling with detached double garage (design, external appearance and landscaping reserved).

1.0 Background

- 1.1 Permission refused in April 1992 to an outline application for a detached bungalow and garage for the following reasons:

'The proposal is within an area that is designated in the approved Structure Plan Review for the County of Hertfordshire and the North Hertfordshire District Local Plan as Green Belt. Within that area there is a general presumption against the proposed development. In the view of the Local Planning Authority, the nature of the proposal and the circumstances of the application for planning permission do not justify that strong presumption being over-ridden'.

- 1.2 A copy of the officers report referred to the Southern Rural Area Committee on 17th November 2005 is attached as Appendix A. The recommendation was that permission be refused on the grounds of inappropriate development in the Green Belt. Furthermore it has considered that the proposal did not comply with Policy 3 (Settlements within the Green Belt) of the District Local Plan No. 2 with Alterations.

- 1.3 Members of the Committee are advised that late representations from the residents of 'Rosemary' and 'Oakdene', Mangrove Road were reported verbally at the meeting of the Southern Rural Committee along with a statement from the applicant. The residents of Mangrove Road object to the development on the following grounds:

- Increase in traffic and general noise/pollution
- Loss of historic water tower
- Overlooking and loss of view
- Loss of property value
- Previous application for development was refused
- Destruction of Cockernhoe's character

- 1.4 Policy 3 (Settlements within the Green Belt) of the North Hertfordshire District Local Plan No. 2 with Alterations states:

In settlements within the Green Belt, the Council will not normally permit development proposals, except for,

- (i) that strictly necessary for the housing and employment needs of agriculture, forestry, leisure and local services in the rural areas that cannot practicably be met outside the Green Belt; or
- (ii) the local facilities and services needs of the settlement in which the development is proposed; or

- (iii) the meeting of an identified rural housing need in compliance with Policy 29;
or
- (iv) a single dwelling on a small plot located within the built core of the settlement, which will not result in the outward expansion of the settlement or have any other adverse impact on the local environment or other policy aims within the Green Belt.

2.0 Planning Considerations

- 2.1 The relevant planning policies and planning issues are covered in the attached report. However officers consider that comments are appropriate in view of the resolution of the Southern Rural Committee and late representations made by the applicant at the meeting.
- 2.2 Members of the Southern Rural Committee resolved to refer this application to the Licensing and Appeals Committee for determination as the Committee were minded to grant planning permission contrary to Green Belt provisions in the Hertfordshire County Structure Plan Review 1991 – 2011 and the North Hertfordshire District Local Plan No. 2 with Alterations. The Committee considered that the application complied with Policy 3 (iv) (Settlements within the Green Belt) of the North Hertfordshire District Local Plan No. 2 with Alterations and was a perfect example of a plot where a home could be built for the children of the village.
- 2.3 I would strongly disagree with Southern Rural Committee's view that the application site represents a 'small plot' and complies with Policy 3 criterion (iv) of the Local Plan. The site area (0.29 hectares or 0.7 acres) is very large in comparison with adjoining residential properties and most other dwellings in the village have much smaller sized residential curtilages. Its depth (80m), average width (30m) and overall area (2959 sqm including access road) makes this plot, even in this rural location, extremely generous in size and uncharacteristic of other plots in the village which are far more modest in overall size.
- 2.4 Furthermore, the plot cannot be considered as being within the built core of the settlement of Cockernhoe as it occupies a position on the western edge of the settlement and adjoins agricultural land along its considerable north western and south western boundaries. The application site and proposed development would result in the outward expansion of the village contrary to Planning Policy Guidance in PPG 2 : Green Belts (January 1995) which states that one of the five purposes of Green Belts is 'to safeguard the surrounding countryside from further encroachment'. The application includes details of siting of the dwelling and it should be noted that there are no other dwellings to the north, south or west of the proposed siting of the application dwelling thus confirming the settlement edge character of the site. In conclusion the application proposals cannot remotely be considered to comply with criterion (iv) of Policy 3 of the Local Plan.
- 2.5 Policy 3 criterion (iv) also says that development should not have any other adverse impact on the local environment or other policy aims within the Green Belt. Although the application is in outline with matters of design and external appearance reserved the development would have significant visual impact on the openness of the area notwithstanding the removal of the water tower which has a much smaller footprint and overall massing than is likely to be the case with a new

dwelling and separate garage. In addition, the development is contrary to other policy aims within the Green Belt primarily that the development is, by definition, inappropriate and therefore contrary to Policy 2 of the Local Plan and Policy 1 of the Structure Plan. PPG 2 makes it clear that there is a general presumption against inappropriate development within Green Belts and that such development should not be approved except in very special circumstances.

2.6 The application was not accompanied by any formal submission that put forward very special circumstances. Only at the meeting of the Southern Rural Committee on 17th November 2005 did the applicant submit a statement setting out reasons why the Local Planning Authority should grant permission. These reasons are as follows:

1. **That the family have lived in the village for over 11 years and are active members of the community.** This statement is probably true of a number of villagers in Cockernhoe and other village families in North Hertfordshire however this does not in itself justify a new dwelling.
2. **That there is a need to provide affordable accommodation for the children.** I understand that the applicants children attend the local junior school. The issue of affordable housing particularly in rural areas is of concern however it is unlikely to be an issue for the applicant for several years and the circumstances of housing need are considered to be premature at this stage. It is possible that in the longer term there may be better prospects for first time buyers.
3. **A new house, 'Greenways', was approved nearby in the 1970's.** 'Greenways' was approved 32 years ago when Cockernhoe was not in the East of Luton Green Belt. The permission was granted due to the personal circumstances of the applicant who at the time lived in poor standard accommodation in the village with no internal bathroom or toilet. There are no obvious comparisons with the proposed application where the applicants premises have been considerably extended in recent years. The fact that 'Greenways' was permitted at a time when the area was not within the Green Belt is a significant and material consideration.
4. **That the development represents a single dwelling on a small plot within the built core of the settlement.** I would strongly disagree with this statement for the reasons set out above.
5. **Proposal would involve the demolition of water tower.** I consider that detriment to the Green Belt arising from inappropriate development and loss of openness would be more harmful than the retention of the water tower (even with its architectural inadequacies) a building which has remained on the site for over 70 years.

2.7 The above reasons given by the applicant to justify the development do not, in my opinion, amount to very special circumstances which would outweigh the harm caused by inappropriate development.

2.8 In making its recommendation I consider that the Southern Rural Committee has not taken due regard to the comparatively recent planning history whereby the Local Planning Authority refused an outline proposal for a bungalow and garage in

1992. There are no changes in circumstances in my view which would warrant the Local Planning Authority arriving at a different decision to that taken in 1992 as the site is still in the Green Belt, is generally open in character and is in an edge of settlement location.

- 2.9 It should be noted that the majority of the application site was formerly meadow and pasture land. In recent years the land has been incorporated into the residential curtilage of Meadow Croft without the benefit of a change of use planning permission. An extension has been added to the water tower and a timber shed erected without planning permission. There is also a small amount of building materials and equipment stored adjacent to the Water Tower. These matters will be brought to the attention of the enforcement officer for investigation and monitoring should this application be refused.
- 2.10 At the Southern Rural Committee on 17th November officers were asked whether an occupancy condition could be attached to the planning permission if the Local Planning Authority was minded to grant permission. Officers advised that either a condition (e.g. similar to an agricultural or domestic occupancy condition) or legal agreement could restrict occupancy of the dwelling (in this case to the children of the applicant). Circular 11/95 'The Use of conditions in Planning Permissions' (July 1995) gives advice on conditions restricting the occupancy of buildings and land. The advice on specific domestic occupancy conditions (paragraph 96) warns that if a domestic occupancy condition is imposed there may be problems for occupants in securing mortgage finance and selling the property in the future. It advises that such a condition involves too detailed and onerous an application of development control and too great an interference in the rights of individual ownership. The advice further states that :

"In the view of the Secretaries of State, such conditions should therefore not be imposed save in the most exceptional cases where there are clear and specific circumstances that warrant allowing an individual house (or extension) on a site where development would normally be permitted"

In my view there are no clear or specific circumstances that would warrant the Local Planning Authority allowing a house on this Green Belt site and therefore the use of a domestic occupancy condition does not overcome the fundamental land use objection to this application for a dwelling.

3.0 Conclusion

- 3.1 Whilst I am sympathetic to the long term aims of the applicants and can acknowledge the Committee's support to the family circumstances of the applicants I do not believe they amount to 'very special circumstances' required by Planning Policy Guidance to allow inappropriate development in the Green Belt. Furthermore, for the reasons outlined in this report I do not consider that the application complies with Policy 3 (criterion iv) of the District Local Plan No. 2 with Alterations. My recommendation thus remains firmly one of refusal.

4.0 Recommendation

- 4.1 That permission be **REFUSED** for the following reasons:

1. The application site is within an area designated in the Hertfordshire Structure Plan Review 1991 - 2011 and the North Hertfordshire District Local Plan No. 2

with Alterations as Green Belt within which there is a presumption against inappropriate development, such as the proposed, unless very special circumstances can be demonstrated. In the view of the Local Planning Authority the proposal is not supported by such circumstances. In addition, the Local Planning Authority does not consider that the site is a small plot which lies within the built core of the settlement. Accordingly, the proposal, dose not comply with the requirements of Policy 3 (Settlements within the Green Belt) of the District Local Plan No. 2 with Alterations.

Background Papers :

Planning Application file 05/01453/1

Hertfordshire County Structure Plan Review 1991 - 2011

North Hertfordshire District Local Plan No. 2 with Alterations 1996

Circular 11/95 'Use of conditions in Planning Permissions' (July 1995)

Contact Officer:

Tom Rea Extn: 4565

APPENDIX A

ITEM NO: 3	<u>Location:</u>	Land at Meadow Croft, Mangrove Road, Cockernhoe, LU2 8QD
	<u>Applicant:</u>	Mr P Gallager
	<u>Proposal:</u>	Outline application: One dwelling with detached double garage (design, external appearance and landscaping reserved).
	<u>Ref.No:</u>	05/01453/ 1
	<u>Officer:</u>	Tom Rea

Date of expiry of statutory period : 28 November 2005

1.0 Relevant History

- 1.1 Permission refused in April 1992 to an outline application for a detached bungalow and garage for the following reasons:

'The proposal is within an area that is designated in the approved Structure Plan Review for the County of Hertfordshire and the North Hertfordshire District Local Plan as Green Belt. Within that area there is a general presumption against the proposed development. In the view of the Local Planning Authority, the nature of the proposal and the circumstances of the application for planning permission do not justify that strong presumption being overridden'.

2.0 Policies

- 2.1 **Hertfordshire County Structure Plan Review 1991 - 2011**
Policy 1 - Sustainable Development.
Policy 5 - Green Belt.
Policy 25 - Car Parking/Supplementary Planning Guidance: Parking Provision at New Development.
- 2.2 **North Hertfordshire District Local Plan No 2 with Alterations.**
Policy 2 - Green Belt.
Policy 3 - Settlements within the Green Belt
Policy 26 - Housing Proposals.
Policy 55 - Car Parking Standards.
Policy 57 - Residential Guidelines and Standards.

3.0 Representations

- 3.1 **Offley Parish Council:** To be reported
- 3.2 **Hertfordshire Highways:** Recommend conditions
- 3.3 **Hertfordshire County Council (Forward Planning Unit):** Does not appear to raise any strategic planning issues.
- 3.4 **Hertfordshire County Council (Archaeology):** Requests a condition requiring a programme of archaeological work in accordance with a written scheme of investigation to be submitted and approved in writing should permission be granted.

3.5 **Site Notice/Local Residents:** The occupiers of 13 and 14 Mangrove Road and 1 and 2 Mangrove Green have objected to the proposed development on the following grounds:

- Would create a precedent
- Noise and disturbance
- Detrimental to road safety and would create more traffic
- Land has always been a meadow not residential land
- Land has not been used for parking
- Would detract from Green Belt and visual quality of the area
- Loss of property value
- Water tower should remain

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The application site is an open field situated to the rear of properties fronting Mangrove Road and adjacent to Mangrove Green. A water tower is located within the centre of the site. Access to the site is via a 3m wide track leading to the site off Mangrove Road. The site which is roughly rectangular in shape is approximately 160 in depth with an average width of 30m. The site is within the East of Luton Green Belt.

4.2 Proposal

4.2.1 This outline proposal is to erect a detached dwelling with detached double garage. Means of access and the siting of the buildings are included although matters of design, external appearance and landscaping are reserved for further consideration.

4.2.2 This and the previous application has been requested to be determined by the Committee by Cllr. Barnard rather than under my delegated powers, for the following reason: **"I believe it may be in the public interest to have the applications considered in the public forum."**

4.3 Key Issues

4.3.1 The key issues to the determination of this application are whether the proposals are acceptable in Green Belt policy and highway terms. Consideration should also be given to whether circumstances have changed since the refusal of planning permission in April 1992.

4.3.2 Green Belt

Policy 3 (criterion iv) of the Local Plan is relevant in that it states that the Council will not normally permit development proposals except for *'a single dwelling on a small plot located within the built core of the settlement, which will not result in the outward expansion of the settlement or have any other adverse impact on the local environment or other policy aims within the Green Belt'*. The proposed dwelling would lead to an outward expansion of the settlement of Cockernhoe, and is not a small plot within the built core of the settlement. The development is therefore contrary to Policy 3 of the Local Plan and would be inappropriate development. Furthermore, PPG 2 (Green Belts) at paragraph 3.2 states that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and other harm, is clearly outweighed by other considerations. The applicant has not put forward any special circumstances to justify the development therefore the application is clearly contrary to national

guidance in addition to Policy 3 of the Local Plan.

4.3.3 Highways impact

No objection is raised by the highway authority to the proposed development in terms of the impact on highway safety. Improvements to the alignment of the access would be required to provide pedestrian visibility and improve vehicle inter-visibility to the north along Mangrove Road.

4.3.4 Planning history

Members will be aware of the previous refusal of planning permission in April 1992 for a bungalow and garage. There are no apparent changes in circumstances since that refusal of planning permission which would warrant any different conclusion to be reached by the Local Planning Authority on development on this site. Indeed no such changes have been put forward by the applicant. The planning history is a relevant and material planning consideration which should be given significant weight in consideration of this application.

4.4 **Conclusion**

- 4.4.1 There are no 'very special circumstances' for allowing a relaxation of the normal Green Belt policy applicable to this site. Accordingly, having regard to this fact, the proposal is unacceptable as a matter of principle.

5.0 Legal Implications

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

- 6.1 That Planning Permission be **REFUSED** for the following reason:

1. The application site is within an area designated in the Hertfordshire Structure Plan Review 1991 - 2011 and the North Hertfordshire District Local Plan No. 2 with Alterations as Green Belt within which there is a presumption against inappropriate development, such as the proposed, unless very special circumstances can be demonstrated. In the view of the Local Planning Authority the proposal is not supported by such circumstances. In addition, the Local Planning Authority does not consider that the site is a small plot which lies within the built core of the settlement. Accordingly, the proposal, does not comply with the requirements of Policy 3 (Settlements within the Green Belt) of the District Local Plan No. 2 with Alterations.