

RECENT APPEAL DECISIONS TO THE END OF AUGUST 2011

Application Ref: S09/1233/MJRF KJC
Planning Inspectorate No: APP/E2530/A/10/2136247/NWF

Appeal Type: **Public Inquiry**

Appellant:	Richard Edwards, Larkfleet Homes
Proposal:	Erection of 29 affordable dwellings and associated infrastructure
Site:	Land Off Valley Lane, Long Bennington

Appeal Decision – Date:	Appeal dismissed - 28 April 2011
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SUMMARY

The inspector cited the following issues when dismissing the appeal:

Concerns regarding the size of the housing on the edge of Long Bennington. It would not be sufficiently well integrated into the village and would appear as uncharacteristic and standalone addition to the edge of the village.

The position of the site in close proximity to two noise sources would result in harm to living conditions within many of the proposed garden areas. In addition, annoyance for residents close to Valley Lane would occur at night, particularly if they wished to sleep with their windows open.

In conclusion:

I find that that living conditions would be unacceptable for many residents of this proposed development as a result of the existing noise environment and this is an overriding reason for this appeal to fail. Moreover, the provision of affordable housing in Long Bennington should be provided as part of larger developments in order to achieve the Government's objectives of creating missed and balanced communities of social cohesion. The lack of harm in relation to other matters does not outweigh my conclusions on the main issues.

An award of costs application was made by the appellants on the grounds that the Council had acted unreasonably resulting in the appellant incurring unnecessary expense. This was refused.

Application Ref: S10/0253/FULL IVW
Planning Inspectorate No: APP/E2530/A/11/2149199/NWF

Appeal Type: **Written Evidence**

Appellant:	Mr J Thorold
Proposal:	Formation of access track off Bridge Street
Site:	Marston Hall, School Lane, Marston, Grantham, NG322HQ

Appeal Decision – Date:	Appeal dismissed - 20 July 2011
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SUMMARY

See attached decision notice.

Application Ref: S10/0256/FULL IVW
Planning Inspectorate No: APP/E2530/A/11/2149201/NWF

Appeal Type: **Written Evidence**

Appellant:	Mr J Thorold
Proposal:	Use of Marston Hall for civil weddings, entertainment receptions, guided tours, conferences and use of adjacent land for event car parking
Site:	Marston Hall, School Lane, Marston, Grantham, NG322HQ

Appeal Decision – Date:	Appeal dismissed - 20 July 2011
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SUMMARY

See attached decision notice.

Application Ref: S10/1412/FULL PJM
Planning Inspectorate No: E2530/A/11/2147323/WF

Appeal Type: **Written Evidence**

Appellant:	Mr S Bailey
Proposal:	Erection of dwelling
Site:	Spring Croft, Gonerby Road, Grantham, NG31 8HU

Appeal Decision – Date:	Appeal allowed - 10 August 2011
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SUMMARY

The appeal is allowed.

The Inspector considered the main issue to be the effect on the character and appearance of the area.

The dwelling would relate well to the height of the adjacent properties, it would be well separated from its nearest neighbour and there would be sufficient space around the dwelling so that it would not be cramped on its plot.

In conclusion the development would be appropriate in context and would not harm the character and appearance of the area. It would comply with Core Strategy policies SP1 and EN1, the SPG and national policy in this regard.

The Inspector also concluded that the development would not set an unacceptable precedent as it complies with policy.

Application Ref: S10/1946/OUT PWM
Planning Inspectorate No: APP/E2530/A/11/2151489/NWF

Appeal Type: **Written Evidence**

Appellant:	Mr P Eaton
Proposal:	Partial demolition of existing dwelling and outbuildings and erection of four dwellings
Site:	Land Adjacent To 47 Pond Street, Great Gonerby

Appeal Decision – Date:	Appeal dismissed - 25 August 2011
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SUMMARY

This application was refused by committee on 06 January 2011 on the grounds that it was detrimental to the open form and character of this part of the village as well as the setting of the conservation area and the adjacent grade II listed Elms farmhouse.

The inspector generally agreed with this assessment. He noted that whilst he was unable to determine whether or not the boundary wall is a curtilage listed structure, he agreed with the Council's assessment that it is an important visual feature which complements the conservation area. The appeal was **dismissed**.

No application for costs was made by either party.

Application Ref: S10/2185/FULL AH
Planning Inspectorate No: APP/E2530/A/11/2149755

Appeal Type: **Written Evidence**

Appellant:	Daltons Solicitors
Proposal:	Demolition of existing dwelling and erection of 2 pairs of semi-detached dwellings
Site:	St Nicholas, Priory Road, Stamford, Lincolnshire, PE9 2EU

Appeal Decision – Date:	Appeal dismissed - 31 August 2011
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SUMMARY

This application was originally refused under the Council's delegated procedure for the following reasons:

1. No assessment has been made by the Applicant in accordance with Planning Policy Statement 5 as to the likely impact, either negative or positive, that the proposed development would have on the setting and, therefore, the significance of the neighbouring Heritage assets. Even so, in the opinion of the Local Planning Authority the proposed development would, by reason of the significant increase in scale and massing over the existing dwelling and increased density of development with its attendant increase in domestic activity, have a significant impact upon and be unduly harmful to the setting of the neighbouring Heritage Assets and compromise their historic significance - contrary to Policies HE9 and HE10 of Planning Policy Statement 5, Policies 26 and 27 of the East Midlands Regional Plan.
2. No trial trenching as required by the Local Planning Authority has been undertaken such that important archaeological remains could still exist beyond those potentially disturbed by the construction of the existing dwelling, which could prevent the proposed development being constructed in its present form - Contrary to Policy HE6 of Planning Policy Statement 5.

3. The design of the proposed dwellings is at odds with the character of the existing adjacent dwellings and the street scene generally. This together with the loss of the existing mature planting (by reason of tree removal, pruning, root damage), alterations to the front boundary wall and the prominent vehicle parking proposed will have a significantly detrimental impact on the character of the locality - Contrary to Policy EN1 of the South Kesteven Core Strategy (2010).
4. Visibility from the proposed access points to Priory Road is substantially below requirements contrary to the interests of highway safety. It is considered that vehicles will encroach into the footway and live carriageway before drivers have a safe and clear view of pedestrian and vehicular movements contrary to the guidelines of 'Manual for Streets'.

In dismissing the appeal the Planning Inspector concluded that the proposed development, by reason of its scale and intensity, would cause material harm to the setting of the adjacent heritage assets. The inspector also agreed with the Council's view that pre-determination trial trenching would be necessary to assess the potential impact on the archaeology in the area.

The Inspector also concluded that the development would be detrimental to the character of the area and would not comply with the requirements of Policy EN1 of the adopted Core Strategy.

In relation to the highway safety reason for refusal the Inspector was not persuaded that acceptable vision splays could be achieved without more radical realignment of the boundary wall. Accordingly he concluded that the intensification of vehicular activity at the site would add unacceptably to the risk faced by drivers using this part of Priory Road.

Application Ref: S10/2593/FULL PL
Planning Inspectorate No: APP/A2530/A/11/2148099/NWF

Appeal Type: **Written Evidence**

Appellant:	Mr M Bailey
Proposal:	Erection of dwelling
Site:	R/o 62 & 64 Manthorpe Road, Grantham, NG31 8DN

Appeal Decision – Date:	Appeal dismissed - 17 August 2011
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SUMMARY The main issues considered by the Inspector were the effect on the character and appearance of the area and the living conditions of the occupants of adjacent dwellings. The Inspector considered that the proposed dwelling would appear significantly bulkier and higher than its neighbours and would fail to respect the character and appearance of the area contrary to Policy EN1 of the Core Strategy. Due to this bulk and height the Inspector also considered that the proposal would be sufficiently overbearing to detract from the living conditions of adjacent properties, also contrary to Policy EN1.

Application Ref:**S10/1804/FULL PL****Planning Inspectorate No:****APP/E2530/A/11/2150755 and APP/E2530/C/11/2152872**Appeal Type: **Written Evidence**

Appellant:	Mr James Allen, TJ & KG Allen
Proposal:	Retention of agricultural building and change of use to house livestock with additional livestock building and food storage
Site:	Odd House Farm, Holme Lane, Claypole, Newark, NG23 5AP

Appeal Decision – Date: 5 September 2011	Planning Appeal dismissed - 05 September 2011 Enforcement Notice Quashed – 05 September 2011
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SUMMARY Two appeals were determined, one against the refusal of planning permission and one against the enforcement notice to cease the use of the already erected building for the housing of livestock.

Regarding the appeal relating to the refusal of planning permission the Inspector considered that the main issues were the effect on the neighbours living conditions in terms of odour, noise and disturbance. The Inspector did not consider that noise and disturbance associated with the livestock buildings to be sufficient to justify dismissal of the appeal as it is likely to be sporadic, however they did consider the issue of odour to be a problem that would have an unacceptable detrimental effect upon the neighbours living conditions and dismissed the appeal.

In relation to the enforcement notice appeal, the Inspector considered that the notice contained a defect in that the breach of planning control is not the change of use of an authorised building as, given its location and purposes, the building constitutes unlawful operational development. This error in the description of the breach could be corrected, but this would necessitate consideration of the appropriateness of the requirement. The notice merely seeks cessation of the use, rather than removal of the unlawful building. If the notice were varied to demand demolition of the building, this would clearly prejudice the appellant, who has not had the opportunity to address that more serious requirement. However, if the requirement were left as it is, then this would constitute under enforcement and, on compliance with the notice, planning permission would be granted for the building. The Inspector was satisfied that the allegation in the notice represents a fundamental misunderstanding which could not be corrected without injustice. The Inspector concluded that this would not prevent the Council issuing a fresh notice if that was considered expedient.