

## DEVELOPMENT COMMITTEE

14<sup>TH</sup> OCTOBER 2010

### REPORT OF HEAD OF REGULATORY SERVICES

**APPLICATION 09/00941/FUL: ALTERATIONS TO STABLE BLOCK, CHANGE OF USE OF TWO STABLES INTO GARAGES AND NEW ACCESS DRIVE WITH GATES AND GABION WALL.  
CORN CLOSE, SOUTH STREET, SCALFORD.**

#### **1. PURPOSE OF THE REPORT**

- 1.1 To update members of the outcome to the appeal against the refusal of permission and of the implications for enforcement action on the site.

#### **2. RECOMMENDATION**

- 2.1 **That the report is noted.**

#### **3. BACKGROUND**

- 3.1 Planning permission was refused by the Development Committee on 24<sup>th</sup> February 2010.
- 3.2 Planning permission was refused for the following reason:

*In the opinion of the Local Planning Authority the proposal, if approved, would result in residential development and an access road on land within open countryside, outside the designated Village Envelope, that would represent an unwarranted extension into the surrounding countryside. The development, by virtue of its design and materials of construction, would be detrimental to its rural character and appearance. The proposal is therefore contrary to Policy OS2 of the adopted Melton Local Plan and the provisions of PPS7, and there are no material considerations present which indicate that the decision should depart from these plans.*

#### **4 INSPECTORS DECISION**

- 4.1 The decision was subsequently the subject of an appeal. The Inspector allowed the appeal, subject to a number of conditions in respect of landscaping, use and drainage. The Inspector considered that the form of the access and the driveway and the extension of the garden into the adjoining field would be sympathetic to its location, quantifying that once all of the proposed landscaping works were undertaken, the visual flow of the field would not be interrupted and would not take on the appearance or function of a garden. He also considered that the development would be no harm to the character and appearance of the countryside and the Scalford Conservation Area and as a result there would be no conflict with local or national planning policy.

## **5 RELEVANCE TO ENFORCEMENT**

- 5.1 The decision leaves for consideration the action necessary in respect of the remaining development that did not form part of the planning application, that being the construction of the gabion wall and the raising of the land levels behind it.
- 5.2 Further meetings have been held with the developer and their agent to discuss the remedial action required in order to rectify the breach of planning control. The developers wish would be to retain the development as constructed, but they have been advised that this would be unlikely to be received favourably. Accordingly; the site has been fully surveyed by the Enforcement Officer and the agent. The result of this is that we have a survey of the land before and after and have agreed what is required to return the land to its previous level.
- 5.3 The resulting issue of this is the retention of the gabion wall. Careful consideration of case-law relating to 'means of enclosures' has resulted in officers concluding that as long as the resulting wall does not exceed a height of 2 metres above the original land level, it could be retained as permitted development.
- 5.4 We are currently awaiting confirmation of the timetable for the completion of the works which shall be monitored to ensure compliance.

## **6 CONCLUSION**

- 6.1 The appeal decision reinforces the need for significant harm to be present if refusals and enforcement action is to be justified. In this instance measures have been identified to remove the breach of planning control. Provided they are undertaken within a reasonable period (3 months is suggested) the enforcement issues at the site will be resolved and there will be no case for enforcement action. If not completed within this timetable, a further report will be submitted addressing future course(s) of action.

Background Documents:

Planning application file ref: 09/00941/FUL

Contact Officer:

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