

Report to District Development Control Committee

Date of meeting: 8 August 2006

Subject: Spindrift, Bournebridge Lane, Stapleford Abbotts



Officer contact for further information: A Sebbinger Ext 4294
Committee Secretary: S Hill Ext 4249

Recommendation(s):

That the Committee considers a recommendation of Area Plans Sub-Committee C that planning permission be granted for retention of use of the existing building and the site for residential purposes on a permanent basis.

Report Detail

Background

1. This application has been referred to this Committee by Area Plans Sub-Committee C with the recommendation that planning permission be granted.
2. The application was reported to Plans Sub-Committee C on 7th June 2006 with a recommendation that planning permission be refused. A copy of that report is attached. To grant planning permission would be contrary to policy and is therefore referred to this committee for a decision.

Planning Issues

3. The main issues in determining the application concern whether very special circumstances exist, which allow an exception to be made to Green Belt Policy.
4. The site is located away from the main village envelope of Stapleford Abbotts in the rural part of Bournebridge Lane.
5. When considering this application Members of the Area Plans Sub-Committee were concerned about the lack of action to ensure compliance with the Enforcement Notice of 1999 and felt that the enforcement inactivity by the authority could be considered created very special circumstances in this case, which could overcome the policy objection to the proposal.
6. Whilst Officers agree with the Committee members regarding the length of time that has lapsed between the issue of the Enforcement Notice and the current situation, this has been so that the occupiers could find their own solution to their difficulties rather than the Council be seen to force a family out of their home. The fact of the matter remains that the building itself is not of permanent and substantial construction, and not suitable for a permanent dwelling and would appear out of character as a permanent dwelling.
7. Furthermore, the building remains suitable for recreational and tourism use only, but is inappropriate for conversion to a dwelling. Consequently Officers are of the opinion that

the development is contrary to Policies GB2, GB8 of the Local Plan and Policy C2 of the Essex and Southend on Sea Replacement Structure Plan.

Conclusion

8. Should the Committee be minded to grant permission for this development, officers suggest the imposition of the following condition to prevent further enlargement of this property without the control of the Council:

“Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any other order revoking, further amending or re-enacting that order) no development generally permitted by virtue of Part 1 Classes A, B & E shall be undertaken without the prior written permission of the Local Planning Authority.”

9. Nevertheless, officers remain of the view that the proposal seeks to set aside Green Belt policy to a significant effect by reason of the fabric of the existing building, and that the retention of this use would be inappropriate development that would result in harm to the amenities of the Green Belt, and continue to recommend that planning permission should be refused.

Report Item No: 9

APPLICATION No:	EPF/0248/06
SITE ADDRESS:	Spindrift Bournebridge Lane Stapleford Abbots Epping Essex RM4 1LT
PARISH:	Stapleford Abbots
APPLICANT:	Mr & Mrs D White
DESCRIPTION OF PROPOSAL:	Retention of use of existing building and site for residential purposes on a permanent basis.
RECOMMENDED DECISION:	REFUSE

REASONS:

- 1 The existing building is not of permanent and substantial construction, its use as a permanent dwelling would be out of keeping with its surroundings and it remains suitable for recreational/tourism use only. As such the development is contrary to Policy GB8 of the adopted Local Plan and inappropriate development in the Green belt in context of Policy GB2 of the Plan and Policy C2 of the Essex and Southend on Sea Replacement Structure Plan. Furthermore, the other material considerations advanced by the applicant are insufficient to outweigh the very strong policy considerations against inappropriate development in the Green Belt.

Description of Proposal:

Permission is sought to retain the existing residential use of both the application site and the building thereon for residential purposes on a permanent basis. No extensions or external alterations are proposed to the building.

The site currently has the appearance of a residential curtilage and the single storey building is in use and occupied as a dwelling house comprising a lounge, bathroom, kitchen and 2 bedrooms.

Description of Site:

The application site lies within the Green Belt to the west of Stapleford Abbots. It is occupied by a single storey building with a part pitched, part flat roof, in a poor state of repair and currently used as a dwelling house. The remainder of the site is used as its curtilage. To the front of the site a gravelled area provides off road car parking facilities.

The frontage of the site and the eastern boundary are relatively well screened, but there are more exposed views in other directions, onto open countryside.

Relevant History:

EPO/443/68 for a replacement recreational hut was granted with conditions in November 1968. EPO/443A/68 for the retention of a recreational hut was granted with conditions in November 1970.

EPO/423/71 for the use of the chalet for residential accommodation was granted with conditions in September 1971. This consent restricted occupation of the chalet to the then applicant, a Mrs G M Major, and required that the chalet should be removed if the applicant no longer resided there.

EPF/1044/77 for the retention of the chalet for recreational purposes was approved with conditions in October 1997. This was granted following the death of the previous applicant and restricted the use of the building to a recreational chalet, and then for five years only.

In February 1999, an Enforcement Notice was served in respect of the unauthorized use as a permanent dwelling. No appeal was lodge against this Notice and it came in to effect on 30 April 1999, with a compliance period of one year.

EPF/488/99 for the retention of use for permanent residential occupancy was refused in June 1999, on Green Belt Policy grounds.

The unauthorised permanent residential use of the land and building continues.

Policies Applied:

Replacement Essex Structure Plan: C2 - Development within the Metropolitan Green Belt.

Adopted Local Plan: BF2 - Development in the Green Belt.

GB8 - Changes of use in the Green Belt.

Issues and Considerations:

The main issues in the consideration of this application are the appropriateness of the development in the Green Belt and its effect on its openness and character. Weight also has to be given to other material considerations, including the personal circumstances and human rights of the applicants.

A statement in support of the application has been submitted, which makes the following main points:

- * The present applicants have occupied the property since February 1998.
- * Previous owners have also occupied the building as a full time residence.
- * No action has been taken by the Council to secure compliance with the Enforcement Notice.
- * Were the Notice enforced, the applicants and their daughter would become homeless and their daughter may not be able to attend the local school.
- * Local people have raised no objections to the permanent residential occupation of this site.

Green Belt Policy

The existing building, by reason of it having originally been erected for recreational purposes and due to its poor appearance and state of repair, cannot be said to be of permanent and substantial construction. Moreover, as a dwelling its form, bulk and design is not in keeping with its surroundings.

The proposed use does not fall within any of those listed as appropriate in Local Plan Policy GB2, it is not related to recreation or tourism, nor is any business or storage use envisaged. Residential use is only permitted by local plan policy GB8 where the building is unsuitable for those other uses, and in this case there is no reason why the building is not suitable for its original recreational/tourism use.

Therefore, whilst permanent residential use is unlikely to generate levels of vehicular traffic materially in excess of the lawful use, it is considered that the development fails to comply with Policy GB8 and is by definition inappropriate in the Green Belt in the context of Policy GB2.

Other Material Considerations:

It is acknowledged that the Council have not sought compliance with the Enforcement Notice, but the applicants were in occupation at the property at the time it was served in February 1999, and are aware of its requirements. They also had an application for permanent residential use refused in June 1999. Earlier occupations of the site may also have been breaches of planning control but the Council sought to remedy these by the service of the Enforcement Notice.

Were the applicants and their daughter to become homeless, the Local Authority would be obliged to re-house them having regard to their daughter's educational needs. Moreover, there is no suggestion that the family have claimed gypsy status. It is acknowledged that there have been no objections to this and earlier applications, but that alone does not justify permitting inappropriate development in the Green Belt.

Therefore, it is considered that the circumstances advanced by the applicant are insufficient to outweigh the very strong presumption against inappropriate development in the Green Belt.

Human Rights:

Whilst the refusal of planning permission and subsequent enforcement proceedings might mean that the family will become homeless, the Local Authority will be obliged to re-house them in suitable accommodation. In any event the right to respect for a home under Article 8 of the European Convention for Human Rights, as enacted by the Human Rights Act, 1988 is a qualified one where the interference by a Public Authority is justified where in accordance with the law and necessary in a democratic society in the interests of the economic well-being of the country and the protection of the rights and freedoms of others. The maintenance of a key planning policy falls within such wide definition.

Whilst there may be some interference with the applicants' property under Article 1 of the First Protocol of the Convention, this right is qualified and interference is justified in the public interest and subject to the conditions provide for by law. Moreover, it does not prevent the right of a State to enforce such laws, as it deems necessary to control the use of property in accordance with the general interest.

The applicant's daughter will continue to be provided with education at either her current school or a suitable alternative, and as such, her right to education under Article 2 of the First Protocol will not be infringed.

Therefore, it is considered that a refusal of planning permission will not infringe the human rights of either the applicants or their family.

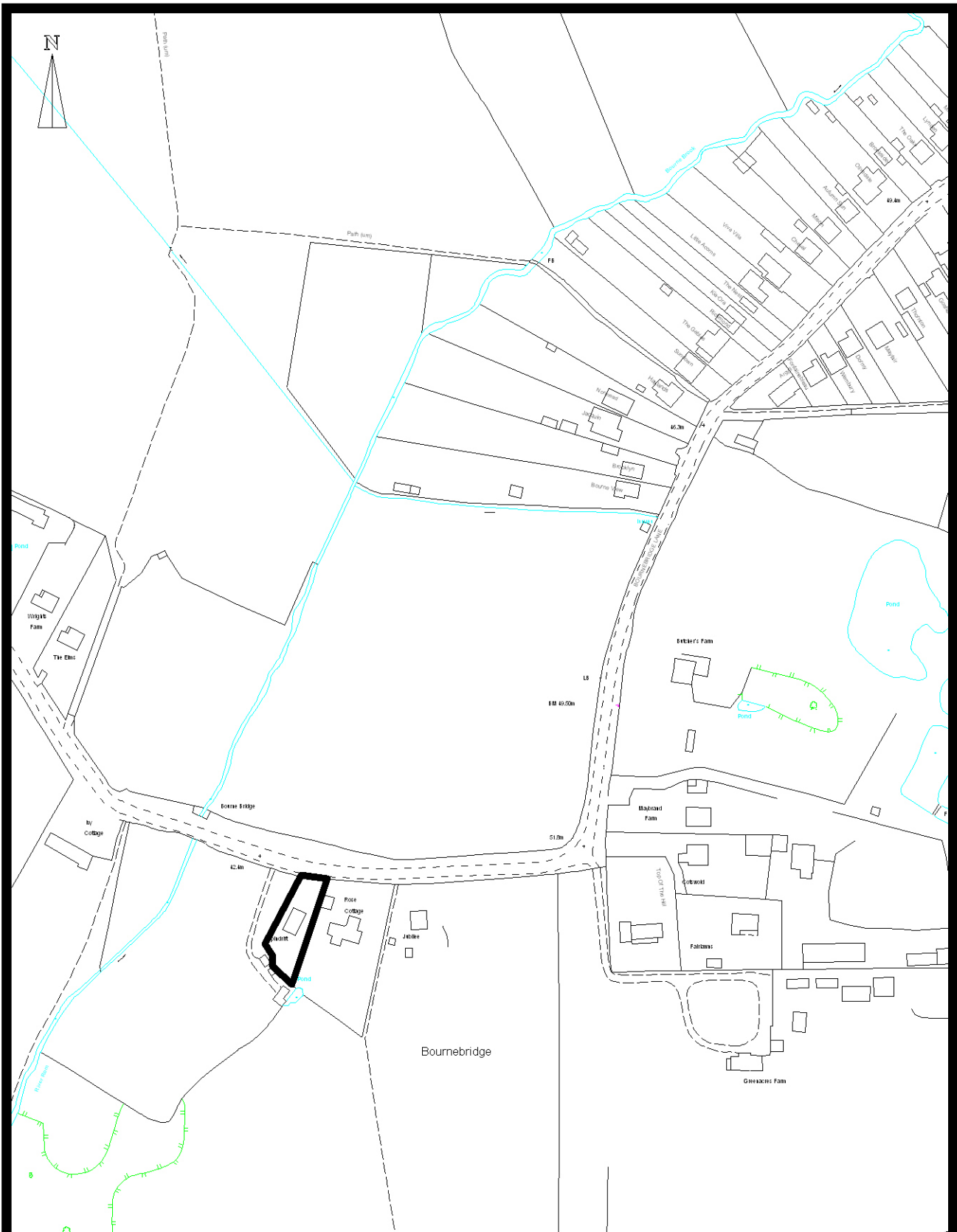
Conclusion:

The provisions of the relevant Local Plan Policies are not met, and other material considerations, including human rights issues, are insufficient to outweigh those policy considerations. Disregard

for the policy aims in this case, despite the personal situation, could set a dangerous precedent to the overall detriment of the Green Belt. Therefore, it is recommended that permission in this case be refused.

SUMMARY OF REPRESENTATIONS:

PARISH COUNCIL - There was no objection to this application.



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