

Report of the Director of Planning and Community Development

APPEAL DECISIONS

1. **06/00231/FUL**
Construct dwelling on land at Temple Lake, Kimberley Road, Nuthall

03/00293/FUL
Modification Order in respect of consent for one dwelling

The Secretary of State has considered the report of her inspector to the public inquiry held in October 2006 in respect of two proposals arising from the development at Temple Lake. The dwelling had been built under a consent granted in September 2003, but during construction a number of alterations had taken place that had been the subject of a revised application in 2006 subsequently refused by the council. At that time the council also made a Modification Order to the 2003 consent to prevent further changes being made to the dwelling on the original consent that would have been detrimental to the conservation area and have impacted on the neighbouring property at 7b Edward Road.

The history of the Temple Lake case is well rehearsed and is not therefore repeated here. The Secretary of State noted the history of the application and agreed with the inspector that the dwelling makes a negative contribution to the conservation area, would have a harmful visual impact on the green belt and an overbearing impact on the neighbouring property at 7b Edward Road. Nevertheless the Secretary of State accepted that the 2003 consent was validly made and that this would be a "fall back" position. She agreed that without modification (as proposed by the Council) this would result in a development that is harmful in terms of neighbour amenity and conservation interests. Furthermore, the 2003 permission would stand whether the planning appeal (to the 2006 refusal) succeeds or not and unless revoked or enforced against, the development could be completed under it. The Secretary of State therefore agreed with the inspector's conclusion that there would be no clear disbenefit from confirming the Modification Order as it would significantly increase the certainty that the development would be completed in accordance with the planning application subject of the section 78 appeal (the 2006 application), and in compliance with the conditions of the planning permission, which would be expedient in terms of Local Plan policies E1 (good design) and H7 *residential development within built up areas).

In addition the Secretary of State agreed with the inspector's conclusion that allowing the planning appeal in respect of the 2006 application, in combination with confirming the Modification Order, would be the least unsatisfactory outcome in all the circumstances. In coming to this conclusion the Secretary of State had considered the arguments for revocation of the 2003 permission, or alternatively the making of a Discontinuance Order, but accepted the inspector's conclusion on those matters; that the commencement of the 2003 permission was a valid "fall back" that would render

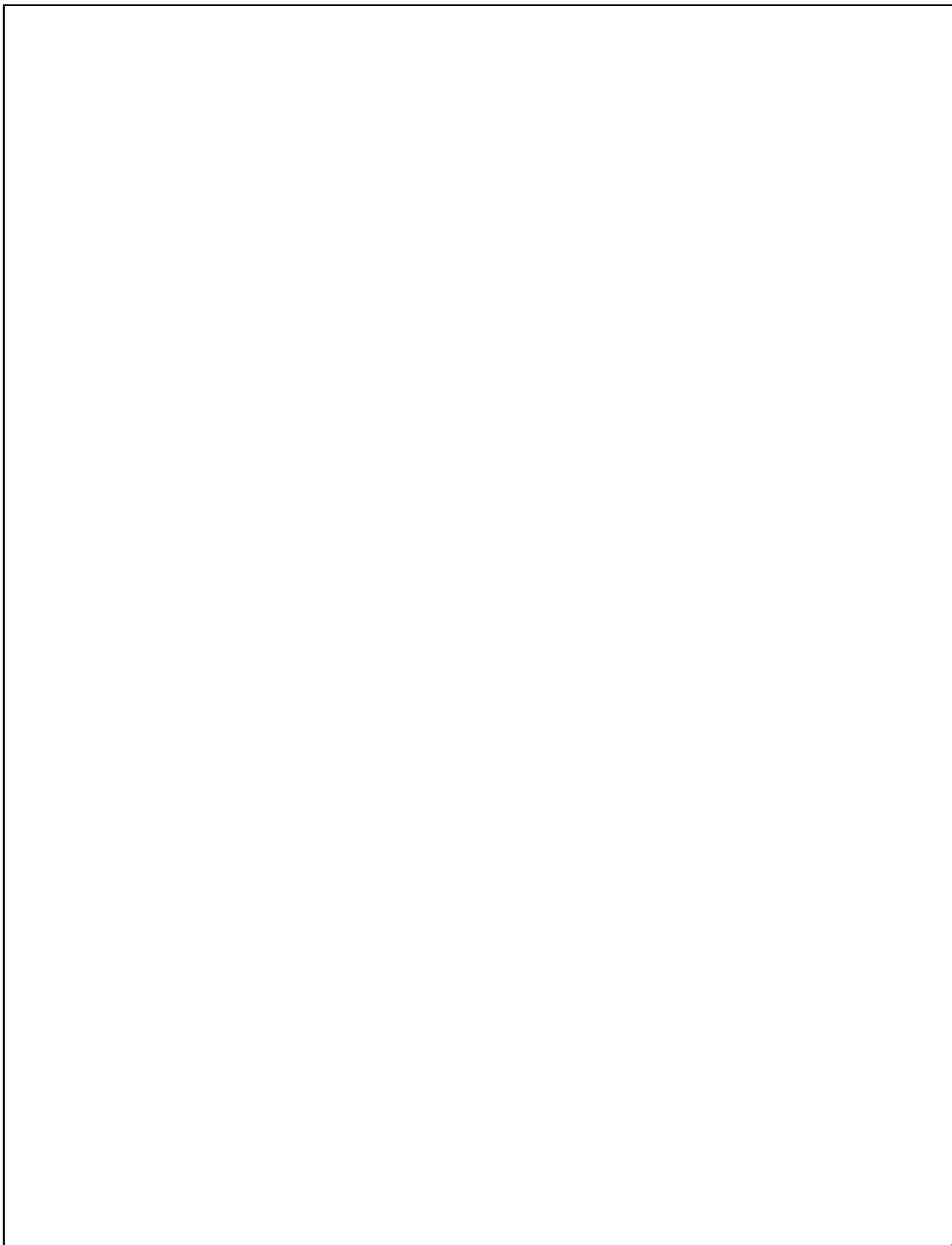
action to revoke disproportionate and with the likelihood that revocation may not succeed, also noting that a discontinuance order was not a suitable power in this particular case.

Planning permission was therefore granted for the 2006 application (06/00231/FUL) subject to conditions controlling

- Commencement and completion of works
- The prevention of use of the Edward Road access for construction related traffic
- The submission of accurate floor plans
- Amendments to the design of the dormer and some windows
- Obscured glazing of windows on the north elevation
- Future extensions to the dwelling or any works and structures within the curtilage
- Submission and approval of landscaping details
- The provision of side hung timber garage doors
- No part of the building or curtilage being used in connection with any trade or business
- The completion of the tree management plan
- The protection of trees during construction

The Modification Order was approved subject to conditions to clarify the changes to the design of the 2003 permission and to similar conditions to the 2006 consent in respect of commencement of development, obscure glazing, landscape work and alterations to the garage doors.

Applications for costs from both the applicant and the neighbouring objectors were considered but with no awards being made in either case.



Construct dwelling on land at Temple Lake, Kimberley Road, Nuthall

Development Control Committee 14 April 2008

Scale: 1: 1,250

Directorate of Planning & Community Development: Director P. M. Stone

2. **07/00060/FUL**
Anglo Baltic Ltd
Floors 2 Go Unit 13 Amber Trading Estate, Artic Way
Change of use from industrial storage and distribution (B1/B8) to mixed use
trade and retail sales (trade counter)

APPEAL DISMISSED

Planning permission had been refused for change of use of a Floors 2 Go operation because it was considered that the proposal represents an out of town retail shopping development and would cause a loss of an employment site. The Inspector noted that the principle of PPS6 and Local Plan policy S5 encourages retail activities to be grouped, preferably within or on the edge of town centres. However, the proposed retail unit is outside nearby designated town centres in Eastwood and Kimberley and away from a grouping of shops aimed to meet local shopping needs. Such a proposal would be contrary to national and local planning policy on appropriate locations for retail uses. The Inspector also noted that the introduction of retail use on this trading estate would cause loss of employment use on the site and would conflict with the intentions of Council policy EM2 which aims to safeguard employment land within the Borough. The inspector concluded that the proposal would undermine the vitality and viability of nearby town centres in the long term, and result in an undesirable change of use in this employment area.

Floors 2 Go Unit 13, Amber Trading Estate, Artic Way
Change of use from industrial storage and distribution (B1/B8) to mixed use trade and retail sales (trade counter)

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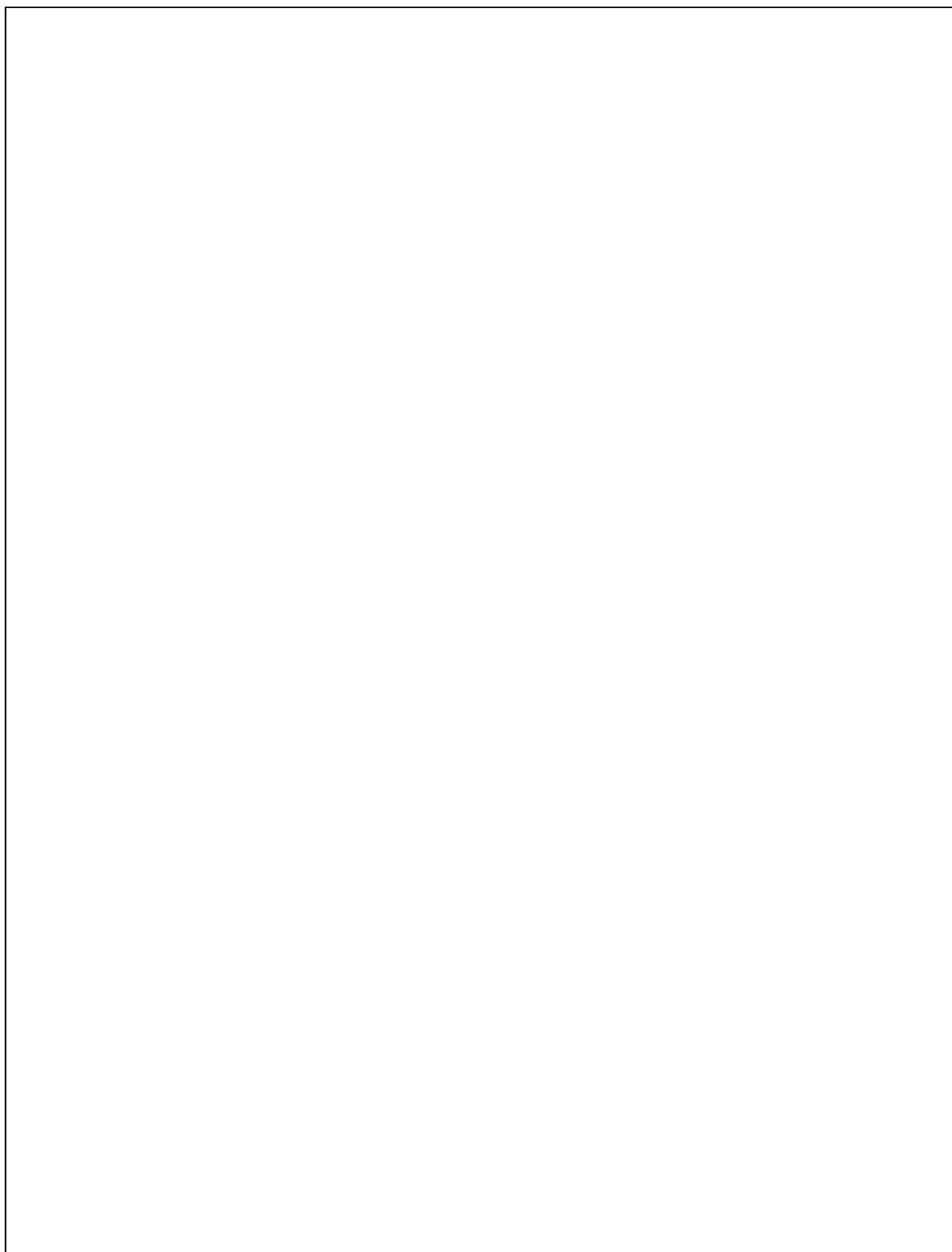
Directorate of Planning & Community Development: Director P. M. Stone

3. **06/00677/FUL & 06/00065/ENF**
Beeston Fields Golf Club
Beeston Fields Golf Club Beeston Fields Drive Beeston
Retain boundary fence

APPEAL ALLOWED

The appellant erected a fence which exceeded 2m in height on part of the boundary of the golf course beside Cator Lane North and a public footpath. Following the refusal of planning permission, an enforcement notice was served requiring the removal of the fence. The appeal was made against the enforcement notice.

The Inspector considered the main issue to be whether the fence significantly harmed the character and appearance of the area. He was mindful of the 'fall back position' and felt that the difference in height between the fence as erected and the permitted development height was insignificant. However, he considered that the stark appearance of the fence adjacent the cul-de-sac head of Cator Lane North should be softened by planting and therefore imposed a landscaping condition on the permission.



Beeston Fields Golf Course, Beeston Fields Drive, Beeston
Retain 2.1 metre high fence

Development Control Committee 14 April 2008

Scale: 1: 1,250

Directorate of Planning & Community Development: Director P. M. Stone