

**PLANNING COMMITTEE – 4th February 2014**

**REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)**

**RE: APPEALS LODGED AND DETERMINED**



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**Wards affected – Cadeby, Carlton, Market Bosworth and Shackerstone; Hinckley DeMontfort; Hinckley Clarendon; Earl Shilton; Barlestone, Nailstone and Osbaston; Twycross, Sheepy and Witherley.**

1. **PURPOSE OF REPORT**

To inform Members of appeals lodged and determined since the last report.

2. **RECOMMENDATION**

That the report be noted.

3. **BACKGROUND TO THE REPORT**

**Appeals Lodged**

- 3.1 **Appeal by Mr John Kent** against refusal by Leicestershire County Council for an outline application (access only) for residential development, including the importation of material and in-fill engineering works to former clay pit to enable residential development (County Council identity Number: 2013/CM/0299/LCC) at 42 Ashby Road, Hinckley, Leicestershire.

Format: Informal Hearing date to be confirmed

**Appeal by Mr S Taylor** against refusal for the erection of a dwelling with associated access and parking at 163 The Park, Market Bosworth, Nuneaton.

Format: Written Representations.

**Appeal by Paynes Garage Ltd** against refusal for the erection of 10 dwellings (outline with access only) at Land off Paddock Way, Hinckley.

Format: Informal Hearing date to be confirmed.

**Appeal by Mr Jason Leech** against refusal against the demolition of existing factory and erection of 15 dwellings (outline- access and layout only) at 40 High Street, Earl Shilton.

**Appeals Determined**

- 3.2 **Appeal by Mr Andrew Lloyd (Tower Pension trustees)** against the refusal to grant planning permission for the demolition of existing public house and erection of 3 detached dwellings at Bulls Head, 88 Main Street, Nailstone.

The application was refused by Officers on the grounds that the applicant had failed to demonstrate that the public house was unviable, and the applicant had failed to demonstrate the significance of the heritage asset.

The Inspector considered the main issues whether the proposal would result in the loss of a viable community facility and whether the proposal would result in the loss of a local heritage asset.

The Inspector considered the size and facilities of the public house as well as the village. Regard was also had to Policy 12 of the Hinckley and Bosworth Core Strategy, and Appendix 10 of the Council's Employment Land and Premises Review which indicated the kind and length of marketing that would be expected to show a business was not viable. These policies the Inspector noted were in accordance with the National Planning Policy Framework (NPPF).

The Inspector observed that the information submitted by the appellant indicated that this business is not financially viable, the Inspector noted that there is a distinction between a facility that is no longer financially viable and a business that becomes no longer financially viable when running the facility. A distinction was not made by the appellant. It was also noted that no marketing of the building has taken place, without which it would not be possible to demonstrate that the facility is no longer financially viable.

The Inspector noted that the Bulls Head was not the only public house in the village, however, this did not negate the need to show that the facility is unviable. Local residents also indicated that the facility plays an important role in the village. It was concluded that there was no evidence submitted to demonstrate that the facility can no longer be operated in a viable manner, and therefore the Inspector found that the proposal would result in the loss of a potentially viable community facility, contrary to Policy 12 of the Core Strategy and NPPF.

The Inspector next considered the loss of a local heritage asset and noted that the Nailstone is one of the villages associated the Gopsall estate, and whilst not listed or within a conservation area it forms part of a number of historic buildings dating from the same period and located at the entrance to the village. The Inspector recognised that the council was in the process of producing a Local Heritage List, which identified the Bulls Head as a heritage asset.

Whilst the appellant attempted to search the Historic Environment Record, no heritage assessment of the building was provided. The Inspector noted that whilst the proposed new house may not harm the character and appearance of the area, it would not make the positive contribution to the streetscene the existing building does. Without the appellant producing evidence demonstrating that it would be unviable to convert to other uses the Inspector considered that insufficient evidence had been submitted to justify the loss of the building which was therefore contrary to Spatial Objective 11 of the Core Strategy and the NPPF.

APPEAL DISMISSED

- 3.3 **Appeal by Mr T Clarke** against the refusal to grant planning permission for the erection of two dwelling on land to the rear of Vine Cottage, 26 Main Road, Sheepy Magna.

The application was refused by Members following an officer recommendation to approve on the grounds that the proposed scheme by

virtue of garden grabbing would result in overdevelopment detrimental to the character of the area.

The Inspector considered the main issues to be the effect of the proposal on the character and appearance of the surrounding area and the living conditions at neighbouring properties.

The Inspector considered the character of the area noting that Vine cottage was unlike any others in the immediate vicinity, and benefits from a large garden. This it was noted results in a significant open space in an otherwise densely developed part of the village, and is visible from views down the cul-de-sac and a public footpath and therefore an important element of the area's overall character.

The Inspector considered that the proposal would introduce a substantial block of buildings, unrelated in layout terms to the surrounding housing resulting in an intrusive and incongruous development detracting from the existing open character. As such the Inspector considered that the proposal would result in significant harm contrary to Policy BE1.

The Inspector observed the impact on the living conditions of surrounding properties, and considered that the greatest impact would be on no. 15 Highfield Close. Whilst the gable wall to Plot 1 would be close to this dwellings rear garden boundary, the proposal would not extend across the gardens full width. Whilst the proposal would have some impact in terms of outlook, it is considered that the effects on the living conditions at no. 15 would not be so significant as to rejecting the proposal for this reason. The Inspector also considered that vehicular activity would be unlikely to significantly increase noise and disturbance from those living in close proximity.

The Inspector acknowledged and addressed concerns raised by local residents, Local History Group and David Tredinnick (MP) regarding turning and parking and flooding.

#### APPEAL DISMISSED

- 3.4 **Appeal by Ms Jane Matthews** against the refusal to grant planning permission for the demolition of existing garage and erection of new dwelling at 25 Woodland Road, Hinckley.

The application was refused by Officers by virtue that the proposal would result in overdevelopment detrimental to the amenities of neighbouring residents and future occupiers.

The Inspector considered that the main issues are the effect of the proposal on the living conditions of existing residents and future occupiers of the proposed dwelling, the character and appearance of the area and parking.

The Inspector noted the close proximity of first floor bedroom windows to the boundary, and considered that these would unacceptably affect the living conditions of the occupiers of no 27 Woodland Road. Whilst the proposal would not affect the amenities of occupiers of no. 25 the Inspector considered the size and position of the garden area for the proposed new dwelling provided inadequate space to meet the domestic needs arising from a three

bedroomed house likely to be occupied by a family. The Inspector noted the applicants offer to increase the garden size however commented that this would worsen concerns regarding overlooking. It was therefore concluded that the proposal would adversely affect the living conditions of the occupiers of neighbouring dwellings, and that the development would fail to provide suitable living conditions with the result that the proposal amounts to overdevelopment of the site.

The Inspector considered the impact of the proposal on the character and appearance of the area, taking into account the form of development in the area, the styles and designs. The Inspector considered that the design of the proposed dwelling would not be out of keeping with the character and appearance of the area and it would have sufficient road frontage. It was concluded that the development would not adversely affect the character or appearance of the area.

The Inspector considered that there is sufficient space to the front of 25 Woodland Road to provide sufficient off street parking for this dwelling; however, the Inspector notes that the off street parking for the proposed dwelling would result in parked vehicles overhanging the highway. Notwithstanding this the Inspector concludes that whilst this is not ideal it would not justify refusal for this reason alone, however it adds weight to the overall conclusions on overdevelopment.

The Inspector had regard to other issues including objections raised by third parties and issues raised by the appellant; however it was concluded that these issues did not go to heart of the planning matter or due to dismissing the appeal on other grounds the Inspector did not give the matter substantial weight.

APPEAL DISMISSED

**4. FINANCIAL IMPLICATIONS [SJE]**

The Council currently has a total net budget for the administration of appeals for 2013/14 of £184,890. The budget for 2014/15 is £107,420, with a specific budget of £28,280 for legal costs.

No costs have been awarded for the cases noted above at this time, and so therefore, there are no financial implications arising directly from this report.

**5. LEGAL IMPLICATIONS [MR ]**

None

**6. CORPORATE PLAN IMPLICATIONS**

This document contributes to Strategic Aim 1 of the Corporate Plan

- Creating a vibrant place to work and live.

**7. CONSULTATION**

None

## 8. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
None	None	

## 9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

This report is for information purposes only to draw member's attention to recent appeals lodged with the Authority and appeal decisions issued by the Planning Inspectorate. As this report is not seeking a decision it is envisaged that there are no equality or rural implications arising as a direct result of this report.

## 10. CORPORATE IMPLICATIONS

By submitting this report, the report author has taken the following into account:

- |                                 |                              |
|---------------------------------|------------------------------|
| - Community Safety implications | None relating to this report |
| - Environmental implications    | None relating to this report |
| - ICT implications              | None relating to this report |
| - Asset Management implications | None relating to this report |
| - Human Resources implications  | None relating to this report |
| - Voluntary Sector              | None relating to this report |

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