



PLANNING AND ENFORCEMENT APPEAL DECISIONS
REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)

WARDS AFFECTED: ALL WARDS

1. PURPOSE OF REPORT

1.1 To inform Members of the Planning and Enforcement appeal decisions that have been made in the last six months of 2015.

2. RECOMMENDATION

2.1 That Scrutiny Commission notes the report.

3. BACKGROUND TO THE REPORT

3.1 In the period since July 2015 and December 2015 there have been 13 appeal decisions. The table below provides a summary of the appeal decisions.

3.2 The key issues and learning points arising in the appeal decisions are:

- i) The Council's five-year housing land supply remains a key issue and whilst two appeal decisions during this period have upheld the Council's current supply position, it is constantly being tested through all appeals relating to residential development. However, with a five year supply, landscape impacts are equally key material considerations (*Markfield Road, Ratby and Bullfurlong Lane, Burbage*).
- ii) The Council must continue to grant permissions for residential development in sustainable locations, where there is no material harm that can be evidenced, to ensure the five year supply position is maintained and to boost the supply of housing as per the requirements of the National Planning Policy Framework (Markfield Road, Ratby).
- iii) The Council is continuing to take a robust approach towards enforcing breaches of planning control and the key to success is a result of gathering and collating relevant evidence to prove beyond all reasonable doubt that a breach has occurred at appeal (*Elis Taylor, Leicester Road, Hinckley*).

Appellant	Site Address & Proposal	Method	Appeal Decision	Recommendation
The Crown Estate 16 New Burlington Place London W1S 2HX	Beanfields Farm Derby Lane Shackerstone <i>(Relocation of existing field entrance and formation of an agricultural access track)</i> 14/00706/FUL	Written Reps Delegated	Allowed 17.07.15	Officer refusal
Mr Jack Woodward Grove Farm Wolds Lane Wolvey Nr Hinckley	The Brockey Farm Kirkby Road Barwell <i>(Removal of hedgerow)</i> 14/00989/HEDGE	Written Reps Delegated	Dismissed 26.08.15	Officer refusal

Mr P Bockhouse A5 Aquatics Watling Street Nuneaton	Land North Of Watling Street Nuneaton <i>(Erection of a dwelling and attached garage incorporating a photovoltaic roof panel array)</i> 14/00778/FUL	Written Reps Delegated	Dismissed 02.09.15	Officer refusal
Mr Steve Wong Kingscliffe 48 Barton Road Market Bosworth	Kingscliffe 48 Barton Road Market Bosworth <i>(Erection of a dwelling with associated parking)</i> 14/00966/FUL	Written Reps Delegated	Dismissed 24.09.15	Officer refusal
Mr Andrew Milne Aspects Homes (Midlands) Ltd Harborough Road Brixworth Northants NN6 9BX	Land South Of Bonita Bullfurlong Lane Burbage <i>(Erection of 14 dwellings with vehicular access (outline - access, layout and scale))</i> 14/00715/OUT	Written Reps Non- determination	Dismissed 29.09.15	N/A
Mr Kamal Ullah 4 Cardinal Drive Burbage Hinckley	The Pantry 102 Rugby Road Hinckley <i>(Change of use from ground floor hot food takeaway (Use Class A5) to Bangladeshi meeting centre (Use Class D1) and alterations to front elevation (revised proposal))</i> 15/00074/COU	Written Reps Committee	Allowed 30.09.15	Member refusal in accordance with the officer recommendation
Mr Elis John Taylor Leachmore House Workhouse Lane Burbage Hinckley	Land South Of Leicester Road Hinckley <i>(Without planning permission the change of use of land from agricultural use to the storage of non agricultural waste and equipment)</i> 15/00008/ENF 12/00121/S	Hearing Enforcement	Dismissed 02.10.15	Following an enforcement notice served by officers

Mr Elis John Taylor Leachmore House Workhouse Lane Burbage Hinckley	Land South Of Leicester Road Hinckley <i>(Without planning permission the creation of hard standing and the unauthorised parking of non-agricultural vehicles)</i> 12/00121/S 15/00007/ENF	Hearing Enforcement	Dismissed 02.10.15	Following an enforcement notice served by officers
Cawrey Limited Kirby Grange Farm Taverner Drive Ratby	Land South Of Markfield Road Ratby <i>(Residential development (outline - access only))</i> 14/00108/OUT	Public Inquiry Committee	Dismissed 09.10.15	Member refusal contrary to officer recommendation
Forest View Grangewood Netherseal Derbyshire	148 Kirkby Road Barwell <i>(Erection of a dwelling (resubmitted scheme))</i> 14/01074/FUL	Written Reps Delegated	Dismissed 28.10.15	Officer refusal

KEY APPEALS SUMMARY

Appeal at Land off Markfield Road, Ratby

- 3.3 The application was refused at Planning Committee following an officer recommendation of approval, based on the Council being unable to demonstrate a five year supply at this time.
- 3.4 The two reasons for refusal related to the landscape impact of the proposal and that the proposal would significantly exceed the housing requirement for Ratby, adversely impacting upon local infrastructure and facilities.
- 3.5 As there was no evidence to defend the suggested impact on local infrastructure and facilities counsel advised that this reason for refusal was un-defendable. As such following this advice the reason for refusal was dropped leaving the reason for refusal relating to landscape impact remaining.
- 3.6 The Inspector considered that the appellants assessment of the Council's housing land supply position was unrealistic and suggested that whilst there had been delays in respect of the two Sustainable Urban Extensions it was unlikely that they would not deliver any housing within the five year trajectory. The Inspector therefore agreed with the Council's evidence in relation to its five year housing land supply position and that paragraph 49 of the National Planning Policy Framework in respect of the presumption in favour of sustainable development was not engaged.
- 3.7 The Inspector considered that whilst the landscape setting of the site amounted to ordinary countryside, it did contribute and add value to the setting of the village. Given that the proposal would encroach beyond natural field boundaries it would cause an unwarranted intrusion into open countryside contrary to Policy NE5 of the Local Plan and the environmental strand of sustainability as set out in the NPPF. On this basis the appeal was dismissed.

The Pantry, Rugby Road, Hinckley

- 3.8 This application was refused at Planning Committee due to noise and disturbance caused by the proposal to neighbouring residents from the intensification of use of the premises, with an unsatisfactory level of parking proposed to the rear.
- 3.9 The Inspector considered that the numbers of people congregating outside of the building would be low and that this would not be materially more significant than those using the extant use as a hot food takeaway. In addition, because of the busy nature of Rugby Road, the comings and goings of people would not be significantly harmful to the amenity of those in the surrounding area.
- 3.10 In respect of the parking provision to the rear of the premises, whilst the Inspector found this to be insufficient for the proposed use, there is an existing number of parking bays within the highway that could be used. In addition, the site is located within an urban area which is considered to be sustainable, with access to public transport.
- 3.11 For the reasons set out above the appeal was allowed subject to conditions.

Appeals at Elis Taylor Skip Hire, Leicester Road, Hinckley

- 3.12 Two enforcement notices were served by the Council in respect of the change of use of land from agriculture to waste and equipment and a second one was served in respect of the creation of hard standing and the parking of commercial non-agricultural vehicles.
- 3.13 At the hearing the Inspector considered the evidence and established that the appellant could not demonstrate that the use of the site for storage had not taken place for a period of 10 years or more and agreed with the Council's evidence that suggested that a break in the use had occurred. The Inspector considered that both the use of the land for the storage of material and the storage of commercial vehicles constituted uses detrimental to the open, undeveloped character of the green wedge.

In both cases the enforcement notices were upheld and the appeals dismissed.

4. FINANCIAL IMPLICATIONS (TF)

- 4.1 As these appeals have been completed there will be no further financial implications arising directly from this report.
- 4.2 Of the two cases that were lost there were no costs claimed against the council.

5. LEGAL IMPLICATIONS (MR)

- 5.1 None

6. CORPORATE PLAN IMPLICATIONS

- 6.1 The Council needs to manage performance through its Performance Management Framework in relation to appeals.

7. CONSULTATION

- 7.1 None

8. RISK IMPLICATIONS

- 8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 8.2 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.
- 8.3 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
Financial implications to the Council in defending appeals	Take into account the risk in refusing planning applications and the likely success of an appeal	Nic Thomas

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 9.1 The report provides an update to Scrutiny Commission relating to recent planning appeal decisions. The implications of these decisions are determined on a case by case basis and can affect the planning balance when considering individual planning applications affecting all sections of the community.
- 9.2 As this report does not propose any amendment to a service or policy, an Equality Impact Assessment is not relevant.

10. CORPORATE IMPLICATIONS

- 10.1 By submitting this report, the report author has taken the following into account:
- Community Safety implications
 - Environmental implications
 - ICT implications
 - Asset Management implications
 - Human Resources implications
 - Planning Implications
 - Voluntary Sector

Contact Officer: Simon Atha, Ext. 5919

Executive Member: Councillor Mike Hall