

## PLANNING COMMITTEE – 3 April 2012

### REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION) RE: APPEALS LODGED AND DETERMINED

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#### 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

**Appeal by Mr Paul Chapman** against the refusal of full planning permission for the erection of dwelling, sub-division of existing detached garage, creation of new access and re-alignment of existing access 11/00399/FUL at The Bungalow, Popular Terrace, Congerstone (*Informal Hearing*)

**Appeal by Mrs P. Taylor** against the refusal of full planning permission and conservation area consent for demolition of existing dwelling and the erection of 6 dwellings with associated access 11/00602/FUL and 11/00603/CON at 4 Pipe Lane, Orton on the Hill (*Written Representation*)

**Appeal by David Wilson Homes East Midlands** against the refusal of full planning permission for erection of 52 no. dwellings with garages and associated infrastructure 11/00823/FUL at Land South of 26-28 Britannia Road, Burbage (*Public Inquiry*)

**Appeal by Mr and Mrs D Hughes** against the refusal of full planning permission for extensions and alterations to dwelling 11/00876/FUL at 1 A Main Street, Thornton (*Written Representation*)

**Appeal by Mr Richard Wheatley** against the refusal of full planning permission for the erection of 7 dwellings with associated access, 11/00627/FUL, on land at the rear of 31 & 33 Canning Street, Hinckley (*Written Representation*)

##### Appeals Determined

**Appeal by Mr David Thompson** against a refusal to grant outline planning permission for the erection of a bungalow 11/00347/OUT at 15 Barlestone Drive, Hinckley.

The Planning Inspector considered the three main issues were the effect of the proposed development on: (i.) the character and appearance of the area; (ii.) play and open space facilities; and (iii.) whether the proposal demonstrates Code Level 3 of the Code for Sustainable Homes.

When making on-site observations of the properties in the immediate surrounding area, it was noted that dwellings had frontages which faced onto either roads or footways. Given the position of the site the Planning Inspector agreed with the council that it would not be possible to provide frontage development in this case.

It was considered by the Planning Inspector that the density of the proposed development would be uncharacteristically high. Any bungalow on the site would have a significantly short rear garden in comparison to other rear garden lengths of similar properties in the vicinity. The illustrative plans showed a rear garden length of about four metres, which fell well short of the normal minimal requirement of 12.5 metres rear garden length as set out in the Councils Design Guide for New Development Supplementary Planning Guidance.

The total garden size would also fail to meet the minimum size for a 2 bedroom dwelling of 60 sqm. as set out in the SPG. To provide sufficient space for at least two on-site car parking spaces as requested by Highways in their consultation response it was considered by the Planning Inspector much of the area to the front of the house would be taken up with driveway and parking rather than being available as usable garden area.

On this issue the Planning Inspector concluded that the proposed development would be out of character with the existing character of the area both in terms of its position and the space around the dwelling. It would be cramped in its position on the plot and would be obvious in public views from the end of Weston Close. Therefore the proposal would be harmful to the character and appearance of the area, contrary to policies BE1 and RES5 of the Local Plan and the councils adopted SPG.

The second reason for refusal related to the lack of contribution to play and open space facilities. The Planning Inspector recognised that the appellant had submitted a signed and dated Unilateral Undertaking for the amount which the Council indicated was required. The required payment was considered necessary, directly, fairly and reasonably related to the development proposed and therefore meets the tests in Circular 05/2005 Planning Obligations and Regulations 122 of the Community Infrastructure Regulations 2010.

The third issue over the Code for Sustainable homes was then addressed. The Planning Inspector made reference to a point made by

the Council that the specification for the building in terms of sustainable design measures could be overcome by the imposition of a suitably worded condition. With this condition in place, the proposal would be in accordance with Policy 24 of the Core Strategy. The Planning Inspector then addressed other matters relating to housing land supply, the status of garden land in PPS3, objections to obstructing access and impact on neighbours amenities.

Overall, the Planning Inspector concluded that a sufficient contribution towards recreational facilities would be made through the completed planning obligation and the Code for Sustainable Homes could be enforced through a suitably worded condition. Nevertheless, these matters would not outweigh the harm that would be caused to the character and appearance of the area and for that reason the appeal should be dismissed.

#### Inspector's Decision

Appeal dismissed (Delegated decision)

#### **4. FINANCIAL IMPLICATIONS [CB]**

There is currently a budget in place to cover appeals and their associated costs. However, in the case of the appeal by David Wilson Homes East Midlands there is the potential of significant costs should HBBC lose. As there is unlikely to be sufficient budget to cover this amount it would need to be taken from the Council's reserves.

#### **5. LEGAL IMPLICATIONS [MR]**

Set out in the Report

#### **6. CORPORATE PLAN IMPLICATIONS**

This document contributes to Strategic Aim 3 of the Corporate Plan

- Safer and Healthier Borough.

#### **7. CONSULTATION**

None

#### **8. RISK IMPLICATIONS**

None

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

None

## 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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Background papers: Appeal Decisions

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