

PLANNING COMMITTEE – 10th December 2013

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 – Hinckley, Nailstone, Desford, Burbage, Sheepy Magna

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 Andrew Lloyd** against refusal for the demolition of an existing public house and erection of three detached dwellings at the Bulls Head, 88 Main Street, Nailstone.

Format: Informal Hearing

- 3.2 **Appeal by Mrs Jane Matthews** against refusal for the demolition of an existing garage and erection of a new dwelling at 25 Woodland Road, Hinckley.

Format: Written Representations.

- 3.3 Appeal by Mr T Clarke against refusal for the erection of two dwellings at Vine Cottage, 26 Main Road, Sheepy Magna.

Format: Written Representations

Appeals Determined

- 3.4 **Appeal by Mr & Mrs Thompson** against the refusal to grant outline planning permission for a new dwelling and private access at Lindridge Wood, Lindridge Lane, Desford.

The application was refused under delegated powers on the grounds of the site being in an unsustainable location outside of the settlement boundary, resulting in an un-justified harm to the countryside.

The Inspector considered the main issues of the appeal to be whether the proposed development would be in a sustainable location for development having regard to local and national policy and the effect of the proposed development on the character and appearance of the area.

The Inspector considered that Lindridge Lane is an unlit derestricted rural road, with a number of bends, and has no roadside footpaths for a considerable distance from the appeal site. The Inspector stated these factors make it unlikely that the walking route would be inaccessible, or at least unattractive, to many people. Overall it is a route which would be far more likely to encourage a general reliance on the car rather than walking and cycling. Therefore, the Inspector considered that the appeal site would not be well connected to existing village facilities and services, and hence would not be in a sustainable location which would conflict with the overarching aims and intentions of the National Planning Policy Framework and Policy NE5 of the Local Plan which seeks to restrict development to within the boundaries of existing settlements.

In terms of character and appearance the Inspector considered the appellants' view that the proposal would add to the vitality of the village and would help to sustain local services and facilities. However, the Inspector felt that the benefit from the addition of a single dwelling would be small scale, and hence could not realistically be construed as important to the local economy in accordance with Policy NE5 (criterion a). Since the proposal would not fall within criteria (b) or (c) of the policy, the Inspector concluded that it would conflict with the adopted Local Plan policy for development in the countryside.

The Inspector considered that the site would be well screened from the highway by mature trees and other vegetation, noting the appellants' view that this could be further enhanced with landscaping. The Inspector did not consider that this would justify the proposal as an exception to the local and national policy requirements or would overcome the harm to the rural character and appearance of the countryside.

The Inspector accepted the appellants' argument regarding the existence of a few other dwellings relatively nearby. However, he felt that as they sat within a landscape that was a predominately rural in character and appearance the construction of a new detached dwelling would be contrary to local and national policy requirements and would be a further unjustified incursion into the countryside and detrimental to its rural character and appearance.

Conclusion

The Inspector considered the proposed development would be unsustainably located in relation to the village of Desford and the proposal would detrimentally impact upon the character and appearance of the rural area. The appeal was therefore dismissed.

APPEAL DISMISSED

3.5 **Appeal by Mr P Dodd** against the refusal to grant planning permission for the erection of one new dwelling and subdivision of residential curtilage at 34 The Fairway, Burbage.

The application was refused under delegated powers on the grounds that the proposal would have an overbearing impact on the bedroom window of the neighbouring dwelling No. 36 The Fairway leading to a loss of amenity.

The Inspector considered the main issue of the appeal to be the effect of the proposed dwelling on the living conditions of the occupiers of No. 36 The Fairway, with particular reference to outlook.

In the view of the Inspector, the proposed dwelling would result in a blank side elevation wall facing No. 36. The window in this property's elevation would be at a separation distance of 1.6 metres with the eaves of the proposed dwelling located approximately half way up the window.

The Inspector considered that this close proximity would result in an overbearing effect on the bedroom window to No. 36. Although the bedroom has two other roof lights for daylight, the Inspector felt that the side window would not be secondary to the roof lights. The proximity and height of the proposed dwelling would significantly affect the overall outlook from this window, leaving a view largely made up of blank wall and roof.

The Inspector noted the appellant's point that the existing window to No. 36 is currently located 8.5 metres away from a similar bedroom window on the gable end of No. 34 and that this distance could give rise to privacy issues. However, the Inspector did not consider that this existing fact mitigated the effect that the proposed dwelling would have on this window.

Conclusion

The Inspector concluded that the proposal would have an unacceptable adverse impact on the living conditions of No. 36 The Fairway contrary to Policy BE1 (criterion a) of the Local Plan. As such the appeal was dismissed.

APPEAL DISMISSED

4. FINANCIAL IMPLICATIONS [DMe]

- 4.1 The Council has a total net budget for the administration of appeals for 2013/2014 of £154,760. This includes a base budget of £12,600 specifically for legal costs
- 4.2 No costs have been awarded for those cases noted above and therefore there are no financial implications arising directly from this report.
- 4.3 A proposal to set up an appeals reserve to manage costs associated with appeals will be taken to Council in December 2013.

5. LEGAL IMPLICATIONS [MR]

- 5.1 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:

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|---------------------------------|------------------------------|
| - 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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