

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



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**WARDS AFFECTED: ALL WARDS**

1. **PURPOSE OF REPORT**

1.1 To inform Members of the Planning and Enforcement appeal determinations that have been made during the first six months of 2014.

2. **RECOMMENDATION**

2.1 That the report be noted.

3. **BACKGROUND TO THE REPORT**

3.1 Since the last report to the Scrutiny Commission in January 2014 there have been 9 appeal decisions made by the Planning Inspectorate. 5 appeals have been allowed and 4 appeals have been dismissed.

3.2 Of the 5 appeals that have been allowed, 4 were recommended for approval and Members resolved to refuse the applications. 1 was an officer delegated refusal.

3.3 The table below provides a summary of the 9 appeal decisions:

<b>Appellant</b>	<b>Site Address and Proposal</b>	<b>Method</b>	<b>Appeal Decision</b>	<b>Decision Level</b>	<b>Recommendation</b>
David Wilson Homes and Andrew Granger & Company	Land off Three Pots Road Burbage Hinckley for 34 Dwellings	Inquiry	Allowed Costs refused	Committee	Member refusal contrary to officer recommendation
Bellway Homes Ltd	Land at Workhouse Lane Burbage for 35 Dwellings	Inquiry	Allowed Costs partially allowed to appellant	Committee	Member refusal contrary to officer recommendation
Mr Andrew Lloyd	Bulls Head, 88 Main Street, Nailstone for Demolition of pub and replace with 3 houses	Hearing	Dismissed	Delegated	Officer Refusal
Mr T Clarke	26 Main Road, Sheepy Magna Atherstone for two houses	Written Reps	Dismissed	Committee	Member refusal contrary to officer recommendation
Ms Jane Matthews	25 Woodland Road, Hinckley for one house	Written Reps	Dismissed	Delegated	Officer Refusal
Mr Michael Taberer	48 Roseway Stoke Golding for	Written Reps	Dismissed	Delegated	Officer Refusal

	a Certificate of lawful use for land				
Milner Arable	Land Adjacent Stanton-Under-Bardon Primary School, Main Street, Stanton-Under-Bardon for Outline – Up to 25 dwellings	Hearing	Allowed	Delegated	Officer Refusal
Mr Peter Mayne	The Stables, Pine Close, Stoke Golding for Solar Panel Field	Written Reps	Allowed	Committee	Member refusal contrary to officer recommendation
Paynes Garages Limited	Land off Paddock Way, Hinckley for Outline – 10 dwellings	Hearing	Allowed	Committee	Member refusal contrary to officer recommendation

#### 4. **APPEALS ALLOWED**

- 4.1 Appeal by David Wilson Homes and Andrew Granger & Company against the refusal to grant planning permission for the erection of 34 dwellings and associated infrastructure at Land East of Wolvey Road, Three Pots, Burbage. The application was refused on the grounds of the scheme being outside the settlement boundary of Burbage and the landscape impact.
- 4.2 In allowing the appeal, the Inspector found that the Council's housing supply policies were out of date by virtue of paragraph 49 of the NPPF, although policy NE5 (Development in the Countryside) was not. However the Inspector took the view that a blanket protection of the countryside regardless of its landscape merits is not in conformity with the NPPF and the weight ascribed to it is accordingly reduced.
- 4.3 The Inspector stated that as the site would be heavily screened, the development would provide a gentle introduction to the village and would not detract from any perceived clear demarcation which, in any case, lies mainly to the east. Although the site slopes upwards towards Burbage, the slope is gentle and would have little effect on the visibility of the houses. The proposals would not have a significant impact.
- 4.4 A signed s106 agreement between the appellant, the Borough and County Council was provided which detailed payments or other arrangements to secure open space, children's play space, 7 affordable housing units, an education contribution and money for library, civic amenity, bus passes and travel packs. All of these relate to the development and there was no dispute they passed the CIL tests. A costs application by the appellant was rejected by the Inspector.
- 4.5 Appeal by Bellway Homes Limited against the refusal to grant planning permission for demolition of a residential dwelling and erection of 35 dwellings with associated highway and engineering operations on Land at Workhouse Lane, Burbage. The application was refused on lack of housing need in Burbage and the development being in an unsustainable location.
- 4.6 The Inspector took the view that the lack of housing land supply outweighs the harm to local landscape quality through loss of part of the undeveloped land marking the setting of Burbage and separating it from the M69. The Inspector stated that the adverse consequences identified would not be so weighty as to significantly and

demonstrably override the benefits of allowing what would be a sustainable form of development.

- 4.7 The concern about piecemeal development in Burbage was articulated by a number of objectors. However, the Inspector stated that each proposal that comes forward has to be considered on its particular site merits, on the basis of the national and local policy position, and having regard to the Council's housing land supply circumstances at that time.
- 4.8 Contributions (education, public open space, health, library and civic amenity and affordable homes) were secured through the S106 agreement are necessary, directly related to the development and have shown to be fairly and reasonably related to its scale and kind.
- 4.9 A costs application was partially allowed in relation to those costs incurred by the appellant in providing evidence to the appeal that there remains a residual need for housing in Burbage.
- 4.10 Appeal by Milner Arable against the refusal to grant outline planning permission for up to 25 dwellings with associated parking, vehicular access and surface water balancing pond on land adjacent to Stanton-Under-Bardon Primary School. The application was refused by the Council on the grounds of local housing need and the site being in an unsustainable development.
- 4.11 In allowing the appeal, the Inspector stated that the lack of housing land supply outweighs the visual harm of the development. Weight was given to the fact that the proposals would contribute towards the provision of affordable housing. Collectively, the Inspector determined that these factors weighed heavily in favour of allowing the appeal. Concerns that allowing the appeal would set a precedent for similar development on edges of other rural villages were not accepted.
- 4.12 A S106 agreement to deliver affordable housing, play and open space, National Forest planting and a civic amenity site was agreed.
- 4.13 Appeal by Peter Mayne against the refusal to grant planning permission for erection of a solar panel field and associated infrastructure at The Stables, Pine Close, Stoke Golding. The application was refused by the Council on grounds of the industrial nature of the development adversely impacting upon the visual amenity of the local area and the character and appearance of the countryside.
- 4.14 The Inspector did not agree with the council. In allowing the appeal, it was acknowledged that whilst there would be some visual intrusion and loss of rural character but, after mitigation, the harm would be limited. The Inspector stated that the degree of conflict with policy would be limited and the landscaping would accord with policy objectives.
- 4.15 The Inspector considered that the lack of provision in the Local Plan for renewable energy development, contrary to advice within the NPPF, weighed in favour of allowing the appeal.
- 4.16 Appeal by Paynes Garages Limited against the refusal to grant planning permission for the construction of 10 dwellings and access and laying out of public open space at land off Paddock Way, Hinckley. The application was refused by the Council due to concerns about the effect of the proposal on the character and appearance of the surrounding area.
- 4.17 In allowing the appeal, the Inspector referred to the Council's inability to demonstrate a five year supply of deliverable housing sites was a significant factor that weighed in

support of the development. The proposal would represent sustainable development and which lends substantial weight to the scheme.

- 4.18 The Inspector received no technical evidence to suggest that the provision of an additional 10 dwellings would be likely to generate traffic on a scale that would have a materially adverse impact on highway safety. Nor was there any substantive evidence to indicate that the site could not be adequately drained. The Inspector took the view that there was no conclusive evidence to suggest that the site has any special historic value or significance or that the proposed development would have an adverse effect on archaeology.
- 4.19 The Inspector determined that the living conditions of the occupants of neighbouring properties could be satisfactorily safeguarded. He also found that proposed West Clarendon Hinckley Neighbourhood Development Plan was at a very early stage and therefore there was no basis for dismissing the appeal on the grounds of prematurity.

## **5. FINANCIAL IMPLICATIONS (SJE)**

- 5.1 The Council had a total net budget for the administration of appeals for 2013/2014 of £184,890. This included a budget of £81,460 specifically for legal costs. The 2014/2015 budget for the administration of appeals is £130,478 with a budget of £52,780 for legal costs.
- 5.2 £6,000 is expected to be awarded to appellants as costs awarded against the Council for those appeals detailed in section 4.
- 5.3 Establishment of an appeals reserve to manage costs associated with the appeals process reserve setting process was agreed by the Scrutiny Commission in November 2013.

## **6. LEGAL IMPLICATIONS (MR)**

- 6.1 None directly from the statistics in this report but officers and members will need to be alert to the Council's ongoing performance against the targets set out in the document "Improving planning performance: Criteria for designation" and possible changes to the designation regime brought about by the consultation paper "Planning performance and planning contributions"

## **7. CORPORATE PLAN IMPLICATIONS**

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

## **8. CONSULTATION**

- 8.1 None

## **9. RISK IMPLICATIONS**

- 9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 9.2 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.

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

<b>Management of Significant (Net Red) Risks</b>		
<b>Risk Description</b>	<b>Mitigating Actions</b>	<b>Owner</b>
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 / Andrew Thompson

10. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

10.1 None.

11. **CORPORATE IMPLICATIONS**

11.1 None.

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Background papers: Application files and appeal documentation

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