

PLANNING COMMITTEE – 7 FEBRUARY 2012

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

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 Tony Morris against the refusal of outline planning permission for the erection of four dwellings (access and layout only) (11/00719/OUT) at St Marys Court, Barwell

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, Poplar Terrace, Congerstone, Nuneaton

Appeals Determined

Appeal by Mr K McEwan against an enforcement notice issued for the erection of a metal fence along the western boundary and northern boundary of the land (10/00176/UNAUTH) at 30 High Street, Earl Shilton.

It was considered by the Inspector that it was up to the appellant to demonstrate that development had not occurred or that planning permission was not required for the metal fencing. It was the Inspectors opinion that the works carried out constituted building operations and as such amounted to development for the purposes of section 55 (1) of the Town and Country Planning Act 1990. The next issue is whether the development falls within permitted development.

The appellant was of the view that the fence was previously 3.96 metres in height. From the photographic evidence provided it became apparent that the original fencing (wire mesh with rusty metal posts) has not been improved or altered, but simply formed a new palisade-type metal fencing. Since the original fencing had been replaced, the Inspector considered that the metal fencing erected exceeded two metres in height therefore was not permitted development under the provisions of the General Permitted Development Order 1995. Consequently, development had taken place without the necessary planning permission and a breach of planning control had occurred as alleged in the enforcement notice.

The issue then turned to whether the steps required by the enforcement notice exceeded what is considered necessary to remedy the breach of planning control. It was highlighted that the notice requires both sides of the western fence to be painted green and either the removal of the northern fence or its reduction in height to two metres and painting both sides green. This was viewed by the Inspector to be a completely reasonable and pragmatic approach and consequently the requirements of the notice were not unduly onerous or excessive.

Finally, the compliance period given was then scrutinised. Whilst the appellant argued that the time period given was too short and not workable to make arrangements to remedy the breach of planning control, it was noted no alternative period was suggested. The Inspector dismissed the appellant's claim. It was considered by the Inspector that the compliance period given appeared to constitute a reasonable and proportionate response to the breach of planning control.

As the appellant had not paid the relevant fee, the Inspector did not consider whether or not planning permission should be granted for the fence.

Given the fencing constitutes development and is not permitted development due to being a brand new fence in excess of two metres in height, the Inspector dismissed the appeal and upheld the enforcement notice.

Inspector's Decision

Appeal dismissed (Delegated decision)

Appeal by Mrs Jayne Barnes against the refusal of planning permission for the demolition of existing dwelling and garage and the erection of a replacement dwelling with an altered vehicular access and parking provision (11/00471/FUL) at 6 Boyslade Road East, Burbage

The Inspector considered there were two main issues to be considered. Firstly the effect of the proposed dwelling on the character and appearance of the area and, secondly, its implications for the living conditions of neighbouring residents, with particular reference to their outlook.

With regards to the first issue on character and appearance, the Inspector stated that Boyslade Road East is characterised by a mix of properties including houses, chalet-style dwellings and bungalows of varying ages, scale and architectural style that are set back a similar distance from the road.

In relation to the character of the area and the buildings appearance, the main façade of the new dwelling would appear significantly more imposing than the other houses on either side due to its significant bulk and extensive frontage. The imposing scale of the dwelling will be accentuated by the two projecting gables and its ridge height in comparison to the neighbouring properties.

As a result, the proposed replacement dwelling was considered to constitute a clear and abrupt change in the scale and character of housing in this particular locality. The Inspector therefore concluded that the dwelling would

detract from the character and appearance of the streetscene and the area, contrary to Local Plan Policy BE1 of the Local Plan.

In terms of the second issue over impact on living conditions, the Inspector refers to the Council's reason for refusal on the grounds that the dwelling would have an overbearing effect on the neighbouring residents. The Inspector disagreed with this assertion since in his opinion it will not project to an unacceptable degree beyond adjacent neighbouring properties and given the disposition of their flank elevations. The Inspector concluded that the scheme would not be inconsistent with the aims of Local Plan Policy BE1, insofar as it seeks to protect the amenity of local residents.

In conclusion the Inspector considered that the impact of the proposal on the character and appearance of the area outweighed the fact that the proposal did not have an impact on the amenity of local residents. On this basis, the Inspector dismissed the appeal.

Inspector's Decision

Appeal dismissed (committee decision)

4. FINANCIAL IMPLICATIONS

There are sufficient funds within existing budgets to cover the appeals noted above [DMe]

5. LEGAL IMPLICATIONS

Contained in the report [MR]

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:

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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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Background papers: Appeal Decisions

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