

<b>Report To:</b>	<b>Planning Committee</b>	<b>Date:</b>	<b>22<sup>nd</sup> January 2020</b>
<b>Heading:</b>	<b>PLANNING APPEAL DECISIONS</b>		
<b>Portfolio Holder:</b>	<b>PLACE, PLANNING AND REGENERATION</b>		
<b>Ward/s:</b>	<b>CENTRAL AND NEW CROSS, KIRKBY CROSS AND PORTLAND, HUCKNALL CENTRAL, KINGSWAY &amp; LARWOOD</b>		
<b>Key Decision:</b>	<b>No</b>		
<b>Subject to Call-In:</b>	<b>No</b>		

**Purpose of Report**

To inform Members of recent Planning Appeal Decisions.

**Recommendation(s)**

**To Note the Appeal Decisions.**

**Reasons for Recommendation(s)**

To bring to Members attention the recent Appeal Decisions.

**Alternative Options Considered**

*(with reasons why not adopted)*

N/A

**High Court Decisions**

**CENTRAL AND NEW CROSS**

Planning Application – V/2018/0221

**Site** – Land off Mansfield Road, Sutton in Ashfield NG17 4HR

**Proposal** – Erection of retail store with car parking and landscaping.

**High Court Decision** – Planning Permission Quashed.

The planning permission was quashed, as it was considered that insufficient reasons were given for granting planning permission. The central issue was whether the Council gave sufficient reasons for considering that the sequential test had been met. No rationale was also given from departing from an earlier refusal. The Council acknowledged that the decision to grant should be quashed. No order for costs was made.

## KIRKBY CROSS AND PORTLAND

Planning Application – V/2017/0588

**Site** – 1 Lower Portland Cottage, Lower Portland, Kirkby in Ashfield NG17 9LD

**Proposal** – Barn Conversion to Form 1 Dwelling

**High Court Decision** – Permission to pursue the claim refused

This was an application to convert a barn to a dwelling which was refused by the Council and dismissed on appeal. The appellant challenged the Inspectors decision to dismiss the appeal and refuse planning permission on 5 Grounds

1. The Inspector made errors of fact, which were based on an “*untutored inspection*”
2. The Inspector failed to allow an opportunity to make representations on the findings of fact, including by rejecting the views of the Claimant’s structural engineer ‘witness’
3. The Inspector erred by taking into account immaterial considerations, such as the effect of previous uses and the SPD
4. The Inspector failed to take into account material considerations, including the right of the Appellant to re-build the building to its pre-existing state
5. The Inspector irrationally concluded that there would be a material impact on the openness of the Green Belt

The Challenge was dismissed on all grounds following written submissions and permission to pursue the claim was dismissed following a verbal hearing.

## Appeal Decisions

### Hucknall Central

Planning Application – V/2018/0745

**Site** – Land rear of 17 Annesley Road, Hucknall

**Proposal** – Demolition of garage and erection of a dwelling

**Appeal Decision** – Dismissed

**Application for Costs** – Refused

The site is located within Flood Zones 2 and 3, and a sequential test was submitted in the planning application but not accepted to meet the test by the Council. The Inspector deemed that the methodology used in the sequential test was flawed and incorrectly discounted alternative available sites. The Inspector considered that the proposal fundamentally failed to meet the aims of reducing development in flood risk areas. The Inspector also deemed that the development would result in an unacceptable impact on highway safety due to parking concerns.

An application for costs was refused on the grounds that the Council reached a rounded view when coming to a decision having regard to all relevant matters. The Council had reasonable concerns about the impact of the proposed development and appropriately justified its decision.

### Kingsway

Planning Application – V/2019/0180

**Site** – Happy House (Classic Canton), 23 Kingsway, Kirkby in Ashfield

**Proposal** – Installation of roller shutters

**Appeal Decision** – Dismissed

The Inspector concluded that the installation of the roller shutter would cause harm to the character and appearance of the street scene and the area in general, and would cause visual harm to the external façade of the building by virtue of the scale and protrusion of the roller shutter box and the colour of the shutter. It was also concluded that given the use of the premises as a takeaway the shutter would create an inactive frontage and unwelcoming environment throughout much of the day.

## **Larwood**

Planning Application – V/2018/0563

**Site** – Van Elle Ltd, Summit Close, Kirkby in Ashfield

**Proposal** – Approval of details reserved by condition 5 of planning permission V/2016/0326 (scheme to control noise)

**Appeal Decision** – Dismissed

The Inspector concluded that the ‘Noise Plan and Assessment’ submitted, which included details of the location of outdoor training, hours of training delivery and the installation of white noise audible alarms to machinery, would be not be sufficient enough to prevent harm to the living conditions of neighbouring residential occupiers.

## **Implications**

### **Corporate Plan:**

Reporting these decisions ensures we are open and transparent in our decision making process.

### **Legal:**

Legal issues relating to specific planning appeals are set out in the report. As the report is for noting, there are no legal issues associated with the recommendation in the report.

### **Finance:**

<b>Budget Area</b>	<b>Implication</b>
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

### **Risk: N/A**

<b>Risk</b>	<b>Mitigation</b>

**Human Resources:**

No implications

**Equalities:**

*(to be completed by the author)*

None

**Other Implications:**

*(if applicable)*

None

**Reason(s) for Urgency**

*(if applicable)*

N/A

**Reason(s) for Exemption**

*(if applicable)*

N/A

**Background Papers**

*(if applicable)*

None

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