

<b>Report To:</b>	<b>Planning Committee</b>
<b>Date:</b>	<b>12 June 2024</b>
<b>Heading:</b>	<b>PLANNING APPEAL DECISIONS</b>
<b>Executive Lead Member:</b>	<b>COUNCILLOR MATTHEW RELF, EXECUTIVE LEAD MEMBER FOR REGENERATION AND PLANNING</b>
<b>Ward/s:</b>	<b>GREENWOOD &amp; SUMMIT, HUCKNALL NORTH, HUTHWAITE &amp; BRIERLEY, STANTON HILL &amp; TEVERSAL</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

### **Detailed Information**

Planning Application – Appeal Decisions

#### **Greenwood and Summit**

<b>Planning Application</b>	V/2023/0681
<b>Site</b>	19A Hampden Street, Kirkby in Ashfield, NG17 8DQ
<b>Proposal</b>	Convert Existing Garden to Car Parking and Boundary Fencing
<b>Appeal Decision</b>	Appeal Dismissed

The Inspector disagreed with the Council and Highway Authority and considered that the scheme would provide sufficient off-street parking provision within the curtilage of the property and there would subsequently be no unacceptable harm to highway safety.

However, the Inspector agreed that the close boarded fencing would materially harm the character and appearance of the street scene and concluded that the visual impact arising from the scheme was the overriding concern.

### **Hucknall North**

<b>Planning Application</b>	V/2023/0252
<b>Site</b>	172 Moor Road, Papplewick, NG15 8EQ
<b>Proposal</b>	Extensions and Alterations to Existing Dwelling
<b>Appeal Decision</b>	Appeal Dismissed

The Inspector concluded that the extent of the proposed changes would alter the form and materials of the dwelling to such a degree that that the proposal would be detrimental to the character and appearance of the area, due to the prominence of the building. Further, the proposed access gates would appear incongruous in the street scene due to its height and materials. The Inspector also agreed with the Council that the proposed first floor balcony would cause an unacceptable overlooking of the neighbouring property, to the detriment of their amenity.

### **Huthwaite and Brierley**

<b>Planning Application</b>	V/2022/0601
<b>Site</b>	Land adjacent to Trevelyan, Blackwell Road, Huthwaite, NG17 2RG
<b>Proposal</b>	Construction of 9 Residential Dwellings
<b>Appeal Decision</b>	Appeal Allowed
<b>Costs Decision</b>	Appellant Full Award of Costs Allowed

### **Planning Decision**

Whilst the Inspector agreed with the Council that the scheme would have some conflict with Policy EV2 of the Local Plan, this was afforded limited weight. The Inspector disagreed with the Council and considered that the development of the nine dwellings would not lead to piecemeal or premature development and would not prejudice the possible development of the wider proposed housing allocation, and any development within the wider proposed housing allocation could contribute to any required infrastructure improvements in the area.

The Inspector found that the Council's claim that the proposal would fail to deliver a functional, safe, or an accessible built environment was not substantiated. In concluding the appeal, the Inspector was content that several matters raised by the Council and third parties could be adequately controlled through the imposition of planning conditions.

### **Cost Decision**

An application for a full award of costs was made against the Council by the appellant. Although the Inspector recognised that members of the planning committee were entitled to reach a decision that was contrary to that in the officer report which recommended approval of the application, the reason for refusal, which refers specifically to conflict with Policy ST1 (d) – which seeks to restrict development which would prejudice the comprehensive development of the area – had not been adequately substantiated through reasonable evidence as part of the appeal process and the Council afforded unacceptable weight to a perceived conflict with this policy. Further, no objective evidence had been provided by the Council to substantiate its claim that the proposal would be unacceptable from a functional,

safe, and accessible point of view. The Inspector subsequently concluded that the Council has displayed unreasonable behaviour

### **Stanton Hill and Teversal**

<b>Planning Application</b>	V/2023/0088
<b>Site</b>	Land South of Tibshelf Road, Fackley
<b>Proposal</b>	Outline Application for Nine Dwellings
<b>Appeal Decision</b>	Appeal Dismissed

The Inspector considered that although the site was not isolated, physically separated or remote from housing within the village of Fackley, it was nevertheless within the Countryside and the Inspector was not convinced that the site could appropriately accommodate nine dwellings in a form and layout which would respect the existing character and built form to allow the site to integrate into the existing settlement due to site constraints. In addition, the development of the undeveloped site would adversely affect the intrinsic character and appearance of the site and was considered not to amount to 'infill' development in the Countryside. The Inspector also considered that the location was inappropriate having regard to the accessibility of the site to services and facilities, encouraging the use of the private car.

<b>Planning Application</b>	V/2023/0524
<b>Site</b>	Whiteborough Cottage, 261 Wild Hill, Teversal
<b>Proposal</b>	Application to Vary Condition 2 - Approved Plans to change Materials and Finishes, of Planning Permission V/2021/0756
<b>Appeal Decision</b>	Appeal Allowed
<b>Costs Decision</b>	Appellant Full Award of Costs Refused

### **Planning Decision**

This was an appeal against non-determination within the statutory time period. The Inspector considered that the proposed change to the roof materials, from profile grey metal or fibre cement roof sheets to clay roof tiles, would not have an adverse effect on the character and appearance of the area as the building would still exhibit an agricultural form within an area which displays a mixed agricultural and domestic character. The appeal was therefore allowed.

### **Cost Decision**

The Inspector acknowledged that the Council would likely have granted planning permission, had it been in a position to determine the application. The appellants costs claim related to their dissatisfaction at the length of time taken to reach a decision on the application.

The Inspectorate recognised that the Council explained the delays to the applicant on several occasions, and set out a plan of action and timeframe for determining the application as soon as it was legally allowed to do so following consultations. However the appellant did not allow the process to run its course to a conclusion, but elected to appeal.

The appeal was made by the appellant under the mistaken belief that it could run concurrently with the Council's ongoing assessment of the application, which was a fundamental misunderstanding of the appeal process by the appellant, for which the Council cannot be held responsible.

The Inspector concluded that the Council did not act unreasonably during the application period, and there was no evidence of the Council failing to adhere to any procedural requirements at the appeal stage. The appellants application for costs was therefore not justified, and was refused.

### **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	Costs awarded against the Council
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

### **Risk:**

<b>Risk</b>	<b>Mitigation</b>
N/A	N/A

### **Human Resources:**

No implications

### **Environmental/Sustainability**

None

### **Equalities:**

None

### **Other Implications:**

None

### **Reason(s) for Urgency**

N/A

### **Reason(s) for Exemption**

N/A

## **Background Papers**

None

## **Report Author and Contact Officer**

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