**Agenda Item No 8**

**Planning and Development Board**

**12 December 2016**

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| **Report of the****Head of Development Control** | **Appeals Update** |

1 **Summary**

1.1 This is a progress report in respect of outstanding appeals.

**Recommendation to the Board**

**That the report be noted.**

2 **Report**

2.1 **Update – Planning Appeal Decisions**

2.1.1 Since the September Board meeting, there have been six appeal decisions received at the time of writing this report.

 **a)** **Southfields Close, Coleshill**

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This is attached at Appendix A. The key issues here were the impact of the development on the parking situation in this small cul-de-sac and the likely change to the character of the area. In respect of the former then the Inspector makes it very clear that as the proposal has its own on-site car parking, it would only result in a marginal increase in traffic. He concludes that there is no evidence to demonstrate that the road is either unsafe or not wide enough to accommodate the extra two dwellings – paras 15 to 18. In respect of the second issue then paragraph 13 is quite clear - for there to be a strong case at appeal in defence of a refusal, there has to be evidence of material harm and not just there being a resistance to change.

 **b) Boulters Lane, Wood End**

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This is attached at Appendix B. The key issues here were about the impact of the development on the character and appearance of the area and whether the proposal accorded with planning policy on housing provision. In respect of the former issue then the Inspector fully supported the Council – the proposal being “incongruous” and an “unrelated add-on” to the village at odds with the strongly linear form (paragraphs 5 to 8). The conclusion in respect of the second issue is welcome. The overall need for new housing did not outweigh the harm caused by the first factor and the fact that the Council had a five year supply weakened the applicant’s case. This does emphasise that the Council should always have a fully deliverable five year housing supply if it is to defend cases such as this.

 **c) 78 Tamworth Road, Polesworth**

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This is attached at Appendix C. The main issue here was the same as the previous case and in particular because the site is in the Meaningful Gap. The Council’s case was supported – paragraphs 4 to 11. The five year housing supply was also a significant factor here – paragraphs 12 to 16. The same paragraphs are also helpful in respect of the Development Plan position – paragraph 12.

Further appeal decisions from around the country strongly point to the view that without a five year housing supply a Development Plan will be considered to be “out-of-date”. It is thus important that the principle of the grant of planning permission should normally be followed through where land is allocated or where it is inside a development boundary.

 **d) The Homestead, Austrey**

This is attached at Appendix D. Notwithstanding the Council’s view, the Inspector clearly points out that in her view the site has a greater affinity with the village rather than the adjoining countryside (para 5). Again as in the Coleshill case she infers that “change” is not a reason for refusal (para 9). On the highways point, then without the support of the County Council in these matters there will be no evidence that highways issues become “severe” which is the when the NPPF comes into effect (para 19).

 **. . .**

**e) The Barge and Bridge, Atherstone**

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This is at Appendix E. Members were concerned about a number of issues here. In respect of the impact on the area then the Inspector considers that there would be no significant difference added to the street scene (para 8) concluding that the development would “improve the quality” of the “run-down” appearance of this part of the town (para 8 to 10). There was no consequential harmful impact on heritage assets either (paras 12 to 17). In terms of highway and parking issues then whilst the Inspector agreed that the WCC conditions would be unenforceable there was no evidence submitted that that access would be a safety hazard (paras 21 to 22). In other words it is not sufficient just to describe an issue; you have to prove with technical evidence that that issue is really going to cause harm.

**f)** **Manor Barns, Newton Lane, Austrey**

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This is attached at Appendix F. The Inspector considered that the site was big enough to accommodate up to 23 houses and that it would “round off the settlement”. Because the application was in outline, the design and appearance of the final development could be dealt with at a later stage. The key interests here are the policy comments. Paragraph 15 indicates that even if we do have a five year supply, the NPPF always requires the supply of housing to be “boosted significantly” regardless of the five year position. In this case that led to a presumption in favour because the proposal was found to be sustainable development. Secondly paragraph 15 shows just how difficult it is to define how far we can go in deciding when to call a halt on the number of new houses in a village because we consider that we are going “too far” above a minimum figure.

2.2 **Update – Other Appeals**

**a) Eastlang Road, Fillongley**

An appeal has been lodged against the refusal here for 27 houses. It is being heard through an exchange of written representations which was completed on the 15 November. A decision has not yet been made.

 **b) The Mancetter Broiler Unit**

An appeal has been lodged and the Inspectorate has decided that the appeal will be heard at a Public Hearing. No date has been agreed.

 **c) St Modwens’s at Junction 10 of the M42**

This appeal was heard at a Public Inquiry in September. The Inspector’s decision is still awaited.

 **d) Fir Tree Paddock, Mancetter**

 The appeal was heard at a hearing in early October. The decision is still awaited.

 **e) Land off Tunnel Road, Ansley**

 This appeal for up to 79 houses was dealt with by way of an Inquiry in early November. A decision is awaited.

 **f) Moor Farm Stables, Corley Moor**

An appeal has been lodged against the refusal of planning permission here to retain an indoor riding arena. This will be heard by an exchange of written representations.

2.3 **Update – Enforcement Matters**

1. **Blackgreaves Farm, Lea Marston**

The appeal against the Notice was heard in early October and dismissed in November – see Appendix G. The decision endorses the Council’s position that there was inconclusive evidence to support the applicant’s claim for a lawful use.

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 **b) The Lakehouse, Nether Whitacre**

The Notice has been served and an appeal lodged. This could be joined with the outstanding Certificate appeal on the same site to be heard at the end of January 2017.

The Contact Officer for this report is Jeff Brown (719310).

**Background Papers**

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

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| Background Paper No | Author | Nature of Background Paper | Date |
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