



Planning Management Committee – 13 February 2019

Appeal Decision Monitoring Report

Purpose of report

Update on appeal decisions from the Planning Inspectorate and an analysis of the main issues, to monitor consistency between the council's and Planning Inspectorate's decisions.

Attachment(s)

Appendix 1 - Appeal decisions from 7 January to 25 January 2019

1.0 Introduction

1.1 This report advises on the outcome of planning appeals determined by the Planning Inspectorate from Appeal decisions from 7 January to 25 January 2019 and analyses the decisions made by the Planning Management Committee and officers under delegated authority. Details of costs awarded against the council (if any) are also given.

2.0 Equality and Diversity Implications

2.1 There are no equality and diversity implications arising from the proposals.

3.0 Legal Implications

3.1 There are no legal implications arising from the proposals.

4.0 Risk Management

4.1 There are no significant risks arising from the proposals.

5.0 Financial implications

5.1 There are no financial implications arising from the proposals, except for those decisions where costs have been awarded against the council.

6.0 Privacy Impact Assessment

6.1 There are no privacy implications.

7.0 Corporate Outcomes

7.1 The report supports priority outcomes set out in the Corporate Plan - Effective Management; and Value for Money.

7.2 The report is submitted for information.

Legal	Power: Planning and Compulsory Purchase Act 2004				
	Other considerations: None				
Background Papers: Office Files					
Person Originating Report: Rosalind Johnson, Planning Development Manager ☎ 01832 742045 ✉ rjohnson@east-northamptonshire.gov.uk					
Date: 31 January 2019					
CFO		MO		CX	

East Northamptonshire Council

DC Appeal Results

For Period from: 07 January to 25 January 2019

Officer

Case Ref. No.	Appellant	Location	Appeal Type
Proposal	Date Decided		Decision

Carolyn Tait

Written Representations

18/00379/FUL Mr S Singh - Metkey 1 Land Corner of Washbrook and Pytchley Road Against Refusal
Erection of two apartments (resubmission of 17/01261/FUL) 18/01/2019 **Dismissed**

Planning permission was refused for 4 reasons:

1. The effect of the proposal on the character of the area;
2. The proposed one bedroom flats would not meet an identified need;
3. The effect of the proposal on highway safety; and
4. The failure to pay the habitat mitigation payment.

The Inspector found that the bulk and location of the proposed flats would materially harm the openness of the prominent corner location and did not contain any landscaping to the front of the site, and would not mitigate the effect of the loss of views of shrubs and vegetation within the urban environment.

The Rushden Housing Mix Requirement (RHMR) documents provide relatively recent analysis showing a need for one bedroomed dwellings in Rushden over the period to 2031. However, the Inspector concluded that this need is not specifically for flats. Furthermore, the RHMR is explicit that consideration should be given to the development of smaller houses and bungalows rather than flats. The Rushden Neighbourhood Plan (RNP) also sets out that future housing should provide houses, maisonettes or bungalows rather than flats. Policy H4 was made before the introduction of the NPPF but the policy does not conflict with the aims of the NPPF in terms of addressing the needs of groups with specific housing requirements. The application provided no evidence of an identified need for flats at the appeal site.

The applicant argued that a dwelling could not be accommodated on the site and that only flats would be suitable. However, the Inspector disagreed with this, concluding that no plans or evidence had been submitted to determine whether a house could be constructed on the site.

The Inspector was unable to determine, from the evidence submitted, whether the proposal would have resulted in an over-concentration of flats in the area and therefore the applicant had consequently failed to demonstrate that the proposal accorded with Policy 30 of the Joint Core Strategy. The Inspector concluded on this point that the proposal would not be located in a suitable area.

The Inspector agreed that the proposed building would be too close to the highway and that construction and foundations would undermine or encroach upon the highway. The inspector agreed that Highways 1 metre clearance is not unreasonable.

The proposal did not show any off street parking. The applicant had provided a parking beat survey which found that there were 5 available on-street parking spaces on several streets around the appeal site on a Thursday in May between 00:30 and 01:30. This figure reduced to no available spaces on the Sunday. The survey therefore demonstrated that there was limited availability of convenient on-street parking at the time of the survey. At the time of the site visit on a weekday morning there was good on-street parking availability on Washbrook Road but not on Pytchley Road. It was also noted that parking outside the proposed development would not be possible due to the location of double yellow lines.

The Inspector reported that no evidence had been submitted as part of the appeal to demonstrate that there was or is a local parking issue in the vicinity of the site and considered the site to be in a sustainable location with a range of services and employment available locally and where there are other options to travel apart from car. The applicant had demonstrated a number of services within 800 metres of the site that is considered an appropriate walking distance as per the Manual for Streets. The Inspector concluded that there was no evidence submitted to demonstrate a local parking issue and even if there was a material deficiency, it would not necessarily follow that it would lead to a harmful effect on highway safety.

The SPA payment was received prior to the appeal and as such this reason for refusal was withdrawn.

An application for costs was submitted by the applicant. This was refused by the Inspector who concluded that the Council had not acted unreasonably in reaching their decision.

Dean Wishart

Informal Hearing

17/02142/RE Mr A Gaggini - Orbit Land Between Oakleas Rise And A14 Midland Against Refusal Reserved matters Appearance Landscaping Layout and Scale pursuant to 2/01/2019 **Dismissed M**

The main issue was whether the proposed development would have resulted in an acceptable overall layout, having regard to issues including the internal space within the dwellings; the relationship to surrounding development; and parking arrangements.

The Inspector found that 12 of the affordable units would not have met the National Space Standards and whilst the applicant argued that they would meet the Housing Quality Index by Homes England, this does not form part of the development plan and therefore was not relevant to the appeal. The Inspector stated that she had no evidence of how viability of the development would be altered by the additional floorspace for the 12 units to comply with the National Space Standards and concluded that the proposed dwellings, by being below the Space Standards would have resulted in a development that would not have provided acceptable living conditions for its intended occupiers.

The Inspector was of the view that harm would be caused to the occupiers of No.55 Oakleas Rise given the close distance and blank side elevation that was proposed. The Inspector was also of the view that the proposed garage block to plots 33 and 34 would have been too close to a dining room window at No.6 Ash Court and would have resulted in a loss of light. She also considered that the development proposed for plots 33 to 36, built across the entire southern boundary of No.6 and at 2.5 metres tall, would have resulted in an overbearing impact on the occupiers of No.6 Ash Court.

The Inspector attached limited weight to Northamptonshire Highway's Parking Standards 2016 and determined that Policy 6 of the Rural North Oundle and Thrapston Plan does not accord with the NPPF as it sets a maximum limit for parking, where this should only be set where there is clear and compelling justification that maximum standards are necessary for managing local road networks or for optimising the density of a development. Therefore the Inspector reached the view that the relevant Policy was Policy 8 of the Joint Core Strategy.

The Inspector did not agree that garages cannot be included as parking spaces as appropriate conditions could be added to a decision to ensure that any garages were retained for parking. The Inspector concluded that in the absence of any up to date parking standards in the development plan that there was no cogent evidence to demonstrate that the appeal provision included insufficient overall parking provision for proposed residents and visitors. The Inspector was of the view that tandem parking is not unusual and it would not be unreasonable to expect occupiers to manage their own driveway and parking allocation, and any inconvenience to other road users would only be for a short time while manoeuvring a vehicle. However, this particular proposal included elements of tandem parking that were within shared parking courts with no evidence to demonstrate that these areas could be managed, particularly if any properties were in a shared ownership arrangement where the individual occupier would have been responsible for parking and she was not convinced that this was an acceptable form of parking.

The Inspector was of the view that the proposal was parking dominated and that the proposed parking spaces would not have been effective or usable. In addition she was concerned by the length of dropped kerb which could have created conflict between vehicles and pedestrians.

The Inspector concluded that the proposal would have contributed to the delivery of housing on an allocated urban extension, including an agreed proportion of affordable housing and that this weighed in favour of the appeal. However, she considered that the impacts of the development would outweigh this and dismissed the appeal.

A verbal application for costs was made at the hearing by the applicant against the Council. The Inspector refused the application and the costs were not awarded.

Jennifer Wallis

Written Representations

17/02370/FUL Ms A Robinson 5 Cotterstock Road Oundle Peterborough	Against Refusal
Proposed new 2 bedroom dwelling land adjacent to 5 Cotterstock Road	11/01/2019 Dismissed

The planning application proposed the erection of a dwelling in the rear garden of 5 Cotterstock Road (fronting Lime Avenue). The application was refused for the following 2 reasons:

1. The proposal would result in a cramped and incongruous form of development that would have a detrimental visual impact on the street scene and the character and appearance of the area as viewed from Lime Avenue.
2. By reason of its siting and appearance the development would have a detrimental overbearing and overshadowing impact on No. 5 and 7 Cotterstock Road. Furthermore, the proposal would result in an unacceptable level of private amenity space for both the future occupiers of the new dwelling and the existing/future occupiers of the host property.

In considering the appeal, the Inspector concluded in respect of the first issue (as listed above) that *'Whilst the proposed dwelling's scale would be subservient to the host building, the close proximity between the two, at between 3.6 and 5.6 metres, would give rise to a cramped appearance when considered together with the proximity of No 5 to No 7.... This enclosed impression would be untypical of the generally open appearance of Lime Avenue and as a result would represent an incongruous form of development.'*

Turning to the Council's second reason for refusal, the Inspector did not agree that there would be an unacceptable impact on the outlook of numbers 5 and 7 Cotterstock Road, nor that the garden area serving the new dwelling would be inadequate, however they did agree with the Council, that the garden which would remain for the host dwelling would not be sufficient for a property of its size and thus residential amenity would be harmed. Consequently the appeal was dismissed.

Henry Pearson

Informal Hearing

17/02320/TP Alchemy Tree Surgery Chestnut Court High Street Raunds	Against Refusal
TPO 0211 T1 Horse Chestnut - Fell to near ground level and re-plant with a	16/01/2019 Dismissed

This appeal was made against the Council's decision to refuse consent for the felling of a mature Horse Chestnut tree which is protected by preservation order. The Council refused consent, as it was considered that the reasons put forward by the applicant to justify the felling (falling leaves and fruit) were not sufficient and there were no solid arboricultural reasons to remove the tree.

Following an appeal hearing, the Inspector concluded that whilst there was some dispute over the ownership of the tree and therefore where the responsibility of its maintenance lies. This matter had little bearing on the determination of the appeal and would be an issue for the relevant parties to agree on or discuss separately. The Inspector stated that *'With any application to fell a protected tree, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case, the proposed felling of the important tree would result in significant harm to the character and appearance of the area and, in my judgement, insufficient justification has been demonstrated for the proposed works.'*

Marzena Johnson

Written Representations

18/00453/FUL Mr Daniel Groves - 22 Orchard Lane Woodnewton Peterborough Against Refusal
Change of use of paddock land to garden land within domestic curtilage of 22 16/01/2019 **Dismissed**

This planning application sought consent for the change of use of paddock land to garden land and works to include a proposed upper floor extension and alterations to the dwelling with garage/workshop extension to rear.

Planning permission was refused for the following reasons:

1. The effect of the proposed development on the character and appearance of the countryside and;
2. The effect of the extension on the character and appearance of the main dwelling and the surrounding area.

The Inspector found that the proposed garden extension would be too large and would harmfully alter the transition between residential development within the village boundary and the landscape of the open countryside. Although they acknowledged that some of the land to the rear of the adjacent properties might have a slightly more domestic appearance, the appellant had not provided any evidence to demonstrate that a planning permission has been granted for the change of use of this land.

The appellant argued that a statutory declaration from 1967 showed that all of the land is to be used as domestic plot. However, the inspector concluded that this declaration relates to civil law and a planning application has to be determined against the development plan and on its planning merits.

With regard to the second issue, the inspector noted that Orchard Lane creates a transition between built development within the village and the open countryside beyond to the north of the village. The northern side of the lane is mainly characterised by spaciouly set detached bungalows and some chalet bungalows, which are set back from the highway.

The Inspector concluded that the proposal would result in a large, two storey house, which due to its bulk, height and overall design would be out of keeping with the character and appearance of the main dwelling and the northern side of Orchard Lane.

Roz Johnson

Written Representations

18/00688/FUL Mr Philip Murphy 40 Oak Lane Kings Cliffe Northamptonshire Against Refusal
Change of use: Move our side and rear garden wall to incorporate the piece of 10/01/2019 **Dismissed**

The planning application sought to incorporate the land to the side of the house within its garden and enclose it with a 2m tall fence / wall. The Council refused planning permission following an objection from the Local Highway Authority, as it was deemed that the application site currently provides visibility for the road junction and the proposal to incorporate and enclose the area of land would unacceptably obstruct and compromise visibility, and prejudice highway safety. The Inspector agreed that although the boundary treatment would be set back from the front elevation, it would still restrict the visibility of traffic in views around the corner of the property. He stated that in his judgement, the extent to which visibility would be reduced would unacceptably harm highway safety. Consequently the appeal was dismissed.

Wayne Cattell

Written Representations

18/00627/FUL Mr M Elborne Land And Buildings Adjacent To Bluefields
Change of use of barns and associated land from agricultural to wedding venue. 08/01/2019 **Against Refusal Allowed**

This application was refused on the advice of the County Highway Authority because they considered the Apethorpe to Nassington Road was not of an acceptable standard to be able to cope with the traffic associated with the development and also because they considered the applicant had failed to demonstrate that the access to the site would be safe to use.

The Inspector noted Nassington Road is a classified road and considered it is wide enough for two cars to pass each other. He also added that various gentle bends in the road and good forward visibility provide oncoming drivers of all sizes of vehicles sufficient time to slow down so that they may safely pass vehicles travelling in the opposite direction. He also noted that school buses use Nassington Road on a daily basis, along with agricultural vehicles, and that there have been no records of road traffic accidents involving personal injury on the road in the last 5 years.

In relation to the access to the site, he noted from an amended Highway Report submitted in connection with the appeal that satisfactory visibility splays in both directions would be provided allowing vehicles exiting the site to safely join Nassington Road. He added that the provision of such splays could be achieved without the removal of either of two mature trees by the access.

Overall, the Inspector concluded that safe access would be provided to the proposed development and that highway safety would not be harmed. He therefore allowed the appeal.

Decided Appeals Dismissed	6	85.71%	
Decided Appeals Allowed	1	14.29%	M – Denotes Member
Decided Appeals Withdrawn :	0	0.00%	Decision against Officer advice
Decided Appeals Total	7	100.00%	