



## Planning Management Committee – 08 May 2019

### Appeal Decision Monitoring Report

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#### **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 28 February 2019 to 16 April 2019

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#### **1.0 Introduction**

1.1 This report advises on the outcome of planning appeals determined by the Planning Inspectorate from Appeal decisions from 28 February 2019 to 16 April 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.

<b>Legal</b>	Power: Planning and Compulsory Purchase Act 2004				
	Other considerations: None				
<b>Background Papers:</b> Office Files					
<b>Person Originating Report:</b> Rosalind Johnson, Planning Development Manager ☎ 01832 742045 ✉ rjohnson@east-northamptonshire.gov.uk					
<b>Date:</b> 23 April 2019					
<b>CFO</b>		<b>MO</b>		<b>CX</b>	

# East Northamptonshire Council

## DM Appeal Results

For Period from: 28 February 2019 to 16 April 2019

Officer

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

### Roz Johnson

#### Written Representations

17/01843/LDE	Mr M Pollard	42 Gretton Road, Harringworth, Corby	Against Refusal	
	Buildings have been converted to residential property more than four years		22/03/2019	<b>Dismissed</b>

The main issue in this appeal was whether or not the Council's refusal to grant a certificate of lawful use/development for an existing use of the land as a self-contained residential unit with ancillary garden and parking was well-founded. The Inspector noted that the burden of proof is on the Appellant to show on the balance of probability that the use of the appeal building as a self-contained residential unit, and the area of land identified for use as garden and parking, took place more than four years before the date of the application and that the use had continued without material interruption since that date. The relevant date being 31 August 2013.

The Inspector concluded that: *'The evidence provided by the appellant is not sufficiently precise and unambiguous, on the balance of probabilities, to discharge the onus of proof.'* She noted that it was unclear when a material change of use of the appeal building took place to form a self-contained dwelling and when the original planning unit of No 42 was subdivided into two separate units and she commented that it *'may well have taken place when No 42 was sold in April 2017 and then occupied separately.'*

A costs application was submitted by officers as it was considered that the Appellant had acted unreasonably in submitting substantial new information at the appeal stage and this had resulted in additional cost to the Council. However the Inspector did not allow the costs application, as she considered that as the proposal had not been amended it was acceptable for the additional information to be submitted.

The case has now been referred to the Planning Enforcement Team for further investigation/appropriate action.

### Anne Dicks

#### Written Representations

18/02254/FUL	Mr K Hackett	84 High Street, Raunds	Against Refusal	
	Demolition of existing garage. Construction of new garage, with rooms above.			
	Increase in ridge height to dwelling house to provide bedroom accommodation at first floor level, demolition of conservatory, replace with single storey side extension		02/04/2019	<b>Allowed</b>

The planning application sought the demolition of a dilapidated single garage to the front of the 1970's style bungalow and extensive extensions to the dwelling, to include an attached garage and the raising of the roof.

Planning permission was refused as it was considered that the proposed development would fail to appear as a visually subordinate extension, due to excessive scale and massing. It was further considered that the applicant had failed to demonstrate that the proposal would not have an adverse effect on residential amenity, with respect to overshadowing and overlooking impact on the properties to the rear.

The Inspector disagreed with the Council, concluding that the development would not have a harmful effect on the character and appearance of the host dwelling and consequently was not contrary to Policy 8 (d) of the North Northamptonshire Joint Core Strategy. He also concluded that the proposal would not result in harm to the living conditions of the occupiers of Blott's Cottages, with regard to natural light and privacy and therefore would not be contrary to criterion (e) of the same policy.

# Carolyn Tait

## Written Representations

18/01710/FUL Mr N Briggs

119 High Street, Rushden

Against Condition

Change of use from (A1) shop with (C3) dwellinghouse above to two ground floor shops (A1) 15/04/2019 **Allowed**

Planning permission was granted for a change of use of the building from shop with flat above to two shops with ancillary storage above. A condition was added to remove a number of permitted development rights, to prevent the building being converted to a number of residential units because of the impact on residential amenity (living standards) and the impact on highway safety.

Despite setting this concern out clearly to the Planning Inspector, he allowed the condition to be removed for the following reasons:

- The Council did not identify how the current or any future mixed use of the site harms or would harm residential amenity or highway safety.
- An A1 or A2 use is unlikely to increase demand for parking given the existing A1 use. Therefore in the absence of any clear justification or exceptional circumstances, part a) of the disputed condition is neither reasonable nor necessary.
- Parts b) and c) of the condition are not reasonable or necessary given that the site is in a Conservation Area and does not benefit from these rights.
- The Council has provided no evidence as to how Class V of the Legislation would harm residential amenity or highway safety and therefore in the absence of clear justification or exceptional circumstances, part d) of the condition is neither reasonable nor necessary.

The Inspector stated that although there has been pressure for residential uses in the past, there is now an extant permission for a solely retail use. The removal of the disputed condition would not result in the unavoidable loss of a town centre use and neither would it negatively affect residential amenity or highway safety. In the absence of a clear justification or exceptional circumstances for the removal of these permitted development rights, the condition should be deleted.

Officers are not convinced that the Officer's appeal statement has been considered as part of the decision, as the statement specifically set out the justification for each part of the condition as well as providing the relevant evidence. This does not appear to have been mentioned anywhere in the Inspector's decision and therefore the Planning Inspectorate has been contacted for a response on this matter.

<b>Decided Appeals Dismissed :</b>	<b>1</b>	<b>33.33%</b>	
<b>Decided Appeals Allowed :</b>	<b>2</b>	<b>66.67%</b>	<b>M</b> Denotes Member Decision against Officer advice
<b>Decided Appeals Withdrawn :</b>	<b>0</b>	<b>0.00%</b>	
<b>Decided Appeals Total :</b>	<b>3</b>	<b>100.00%</b>	