



Planning Management Committee – 12 June 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 17 April 2019 to 16 April 2019

1.0 Introduction

1.1 This report advises on the outcome of planning appeals determined by the Planning Inspectorate from Appeal decisions from 17 April 2019 to 24 May 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: 29 May 2019					
CFO		MO		CX	

East Northamptonshire Council

DM Appeal Results

For Period from: 17 April 2019 to 24 May 2019

Officer

Procedure

Case Ref. No. Appellant
Proposal

Location

Appeal Type
Date Decided Decision

Amie Baxter

Written Representations

18/00404/FUL Mr K Childs - Damson 158 Wymington Road Rushden
Construction of a terrace of 3 two storey dwellings, demolition of existing

Non-determination

17/04/2019 **Dismissed**

This planning application sought planning permission for the demolition of an existing domestic workshop and the erection of three dwellings. Vehicular access was proposed to be via the existing access for 158 Wymington Road.

The inspector considered the scale and design of the proposed dwellings to be acceptable, in that two storey dwellings would not appear out of keeping and the proposed detailed design/materials proposed would be appropriate. However, the Inspector noted that the width of the three plots would be similar to the combined plot width of the two semi-detached properties opposite the site. Each individual plot would be narrower than any existing plots and the gardens would be small. As such, the terrace would appear compressed at the end of the road and not in keeping with its surroundings. This would have an unacceptable impact on the character and appearance of the area and the proposal would not accord with Policy 8(d) of the North Northamptonshire Joint Core Strategy (JCS) or Policy EN1 of the Rushden Neighbourhood Plan.

In addition to this, the Inspector recognised that the applicant had not paid the required SPA mitigation fee, so the application would not accord with JCS Policy 4.

Anna Lee

18/01038/FUL Mr J Harmon - 77 Kimbolton Road Higham Ferrers
Conversion of two duplex apartments into four apartments, and one large apartment into two
Apartments with off street parking

Against Refusal

26/04/2019 **Allowed**

The main issues in the consideration of this appeal were 1) the effect of the proposal on parking provision and highway safety and 2) whether the proposal should make provision for infrastructure needs.

The application was refused due to the proposal not meeting the parking requirements as set out in Northamptonshire County Councils Parking Standards document (thus also being contrary to Policy 8(b) of the JCS and Policy HF.TC4 of the adopted Higham Ferrers Neighbourhood Plan (HFNP) 2016) and as the applicant had not committed to provide developer contributions and would be contrary to Policy 10 of the JCS and Policy HF.CD1 of the HFNP.

The proposal would result in two duplexes becoming 4 two-bed apartments and one larger two-bed apartment becoming 1 two-bed apartment and 1 one-bed apartment. This would result in a net gain of 3 units and a total of 26 units. Under the proposal, each unit in the corner block would get one parking space each, including the new units.

The Inspector notes that the '*Northamptonshire Parking Standards 2016 (NPS) seeks 1 space per one-bed dwelling and 2 spaces per two/three-bed dwelling plus visitor parking. Applied to the proposal with a net gain of 3 units, this generates a requirement for 6 parking spaces according to both main parties. Thus, there would be a deficit of provision against the NPS*'. Further, he acknowledges that '*paragraph 105 of the National Planning Policy Framework (NPPF) states that parking standards should take into account various matters including the accessibility of the development, the type, mix and use of the development, and the availability of and opportunities for public transport*'.

The Inspector also notes that '*the development is roughly a 5 minute walk to bus stops which provide regular services to nearby towns approximately every half an hour throughout the day on Mondays to Saturdays and hourly on Sundays. The centre of Higham Ferrers is around a further 5 minute walk, with access to local services and facilities including shops and schools. The Inspector states that, because of the site's location, occupants of the existing and proposed development need not be wholly reliant on the private car to access services and facilities including commuting to places of work*'.

It is also acknowledged by the Inspector that, at his mid-morning site visit, he observed that the southern half of Chichele Street was parked up partly due to the presence of two car workshops and a meeting hall as well as double yellow lines towards the junction with Kimbolton Road. Adjoining streets like Grove Street and Lancaster Street were also fairly parked up. However, there were spaces on these and other streets. He notes that the appellant's parking beat survey submitted with the appeal identifies parking stress levels below the 90% commonly used threshold, with spaces available on each street during an overnight observation on a September weekend in 2018.

The Inspector states that '*It is possible that each new unit might require more than one car. However, the proximity of and access to decent public transport links and a range of services and facilities reduces this likelihood*'. The Inspector states, even where off-site parking is required, the parking beat survey and his site visit observations indicate that spare capacity exists within the surrounding area. Further, he explains that '*The proposal might generate some parking from trade vehicles or visitors with the associated risk of accidents, but such parking would be intermittent and unlikely to be a significant amount given the relatively limited increase in the number of units*'.

With regard to the Council's refusal reason relating to developer contributions, the Inspector concluded that the proposal only seeks to provide 3 new dwellings rather than a total of 26. It has not been demonstrated that this additional provision is sufficient to trigger any contributions. Therefore, there would be no conflict with JCS Policy 10 or HFNP Policy HF.CD1.

Anne Dicks

Householder Appeal

18/02254/FUL	Mr K Hackett	84 High Street Raunds Northamptonshire NN9	Against Refusal	
Demolition of existing garage. Construction of new garage, with rooms above.			02/04/2019	Allowed

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 Northamptonshire	Against Condition	
Change of use from (A1) shop with (C3) dwellinghouse above to two ground			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.

Jennifer Wallis

Written Representations

17/01491/FUL Mrs K Chand Barclays Bank Chambers College Street
Renewal of Planning Permission EN/10/01373/FUL to convert first floor into

Against Refusal

17/05/2019 **Dismissed M**

This application for the renewal of planning permission to convert the first floor of the building into two flats, was recommended for approval by officers, however the Planning Management Committee refused the application on the following grounds:

1. No off street parking would be provided;
2. Inadequate provision for bin storage;
3. Failure to meet the National Space Standards.

In addition, during the appeal, the issue of impact on the Nene Valley Special Protection Area (SPA) was highlighted, as the proposal did not include mitigation in the form of the contribution required by the SPA Supplementary Planning Document Addendum.

The Inspector did not agree with the Council's refusal reasons, noting that it was acceptable for no off street parking to be provided in this case as: *'Through the use of nearby car parks, a requirement for convenient and safe access to and from the site would be satisfied.'* Furthermore, the Inspector was satisfied with the bin storage arrangements and despite accepting that the proposal did not comply with the National Space Standards, he concluded that: *'the overall nature of the conflict would not be significant given the height of these rooms and overall size areas of the flats.'* Nonetheless, the appeal was dismissed in relation to the SPA impact.

Roz Johnson

Written Representations

17/01843/LD Mr M Pollard 42 Gretton Road Harringworth Corby
Buildings have been converted to residential property more than four years

Against Refusal

22/03/2019 **Dismissed**

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.

Wayne Cattell

Written Representations

18/02005/FUL T Partrick Land Adjacent 10 Belmont Gardens Raunds Against Refusal
Erection of a single storey detached dwelling (resubmission of 18/00775/FUL) 16/05/2019 **Allowed**

The planning application sought the construction of a detached bungalow on the side garden of a dwelling in a position set back from the frontage of other properties in the street.

The Council refused permission because it was considered that such a proposal was out of keeping with the character of the surroundings.

The Inspector disagreed with the Council. Whilst it was accepted that the proposed dwelling would have been out of keeping with the surroundings, he noted the appellant was claiming that an outbuilding of similar size could be constructed for the property under permitted development rights. Whilst such a building could not be used as a dwelling, it would give the same appearance in the street scene. Accordingly, as it was the appearance of the dwelling in the surroundings which was the Council's concern and there was a fall back position whereby a structure of similar appearance could be built under permitted development rights, the appeal was allowed.

Decided Appeals Dismissed:	3	42.86%	
Decided Appeals Allowed:	4	57.14%	M Denotes Member Decision against Officer advice
Decided Appeals Withdrawn:	0	0.00%	
Decided Appeals Total:	7	100.00%	

East Northamptonshire Council

EN Appeal Results

For Period from: 28 Feb 2019 To 24 May 2019

Officer

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

Written Representations

17/00256/PP James Colin Boon 4 Riverside Close Oundle Peterborough Against Enforcement Notice
Appeal against 25/04/2019 **Dismissed**

The Enforcement Notice sought the removal of a group of four air conditioning units at first floor level on the side elevation of the property, based on them causing a detrimental impact on the neighbouring property in terms of noise and disturbance, plus the negative visual impact the units have on the character of the building and surrounding area.

Even though the Inspector disagreed with the Council that the air conditioning units would cause a noise disturbance to the neighbour, the Inspector did agree with the Council that the visual appearance of the units was having a negative effect to the appearance of the character of the building and the surrounding area, so the appeal was dismissed.

Decided Appeals Dismissed:	1	100%	
Decided Appeals Allowed:	0		
Decided Appeals Withdrawn:	0		
Decided Appeals Total:	1	100%	