



B O S T O N

B O R O U G H C O U N C I L

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| REPORT TO: | Planning Committee |
| DATE: | 22 November 2023 |
| SUBJECT: | Receipt of Appeal Decisions |
| PORTFOLIO HOLDER: | Councillor John Baxter |
| REPORT AUTHOR: | Abbie Marwood – Deputy Development Manager – Planning |
| EXEMPT REPORT? | No |

SUMMARY

The purpose of this report is to advise members of the receipt of appeal decisions received since the previous report (dated Feb 2023) and highlight any key decisions or themes arising.

RECOMMENDATION

The Committee are asked to note this report and the decisions attached.

REASONS FOR RECOMMENDATION

To provide an update on Appeal performance/outcomes; and pick up any key learning around planning policy or approach to decision making in order to ensure quality of decisions in future.

1.0 INTRODUCTION

- 1.1 It is established practice that all appeal decisions are reported to Planning Committee as part of performance monitoring and to consider if any particular decisions raise issues which might influence practice or future decision making.
- 1.2 All applicants have a right of appeal against the decision of the planning authority, over a refusal, an approval with conditions (if the conditions are unacceptable to the applicant) and in cases of 'non-determination' where the authority has not issued a decision within the prescribed 8 or 13-week period without an agreed 'extension of time'. The right of appeal applies to all categories and types of applications – including

Enforcement and other Notices where there are defined categories or grounds of appeal which an appellant has to follow.

- 1.3 Decisions are published on our website, and are circulated to Members when received as part of the weekly list.

2.0 APPEAL DECISIONS

- 2.1 There have been 4 Appeals since the last report to Members. Of these, none were allowed, and all 4 were dismissed. The Appeals relate to proposed new dwellings in the countryside.

- 2.2 Of the decisions received, a summary of the important points are below:

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| Location | Land adjacent Holly Cottage, Station Road, Old Leake |
| Reference | B/22/0087 |
| Proposal | Proposed residential dwelling |
| Delegated Committee | / Delegated |
| Appeal Decision | Dismissed |
| Appeal Date | 23 May 2023 |

- 2.3 Summary:

This appeal relates to 1 no proposed dwelling located outside of a settlement boundary of Leake Commonsides. Reasons for refusal and consideration within the appeal were:

- Whether the appeal site is an appropriate location for residential development, with regard to the development plan and accessibility;
- The effect of the proposed development of the character and appearance of the area; and
- Whether the proposal would comply with national planning policy which seeks to steer new development away from areas at highest risk of flooding.

The Planning Inspectorate concluded that the site, whilst not 'isolated' was remote from day-to-day services, accessed via narrow roads with no pedestrian footpaths or street-lighting and had limited access to public transport and therefore concluded that the site was not an appropriate location for development.

In addition the Inspector concluded that the proposal would result in the loss of openness, resulting in harm to the character of the area and that the proposal had not demonstrated a successful sequential test had been undertaken, ultimately concluding that the site would not comply with National Planning Practice Framework in relation to flood risk.

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|------------------------------|--------------------------------------------------|
| Location | The Old Whitehouse, Lade Bank, Old Leake, Boston |
| Reference | B/22/0287 |
| Proposal | Outline application for one dwelling |
| Delegated Committee / | Delegated |
| Appeal Decision | Dismissed |
| Appeal Date | 29 September 2023 |

2.4 Summary:

This appeal relates to the proposed outline application for one dwelling with all matters reserved located outside a settlement boundary within countryside location. Reasons for refusal and consideration within the appeal were:

- Whether the appeal site is an appropriate location for residential development, with regard to the development plan and accessibility;
- Whether the proposal would comply with national planning policy which seeks to steer new development away from areas at highest risk of flooding.

The Inspector found that the proposal had not demonstrated it would be necessary to its location, or that it would meet the sustainable development needs of the area. In addition, the site is remote from sustainable travel routes and no evidence was provided in relation to how the dwelling would support the vitality of a rural community.

The Inspector found that the lack of a sequential test was contrary to Local Plan Policy 4 and the NPPF and therefore the proposal was unacceptable in terms of flood risk.

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|------------------------------|--------------------------------------------------------------------------|
| Location | Sandringham, Ralphps Lane, Frampton, Boston |
| Reference | B/22/0310 |
| Proposal | Change of use from caravan site to a site for two-storey dwelling house. |
| Delegated Committee / | Delegated |
| Appeal Decision | Dismissed |
| Appeal Date | 29 Sept 2023 |

2.5 Summary:

The main issue under consideration for this appeal were:

- Whether the appeal site is an appropriate location for residential development, with regard to the development plan and accessibility;
- Whether the proposal would comply with national planning policy which seeks to steer new development away from areas at highest risk of flooding.

In addition, the appellant relied upon a fall-back position of the site being used as a residential caravan site. The Inspector found that insufficient evidence had been provided to demonstrate a lawful residential use had occurred on the site. Therefore the decision was based on a proposal for a new dwelling outside of a settlement boundary, within the countryside.

The Inspector found that the proposal had not demonstrated it would be necessary to its location, or that it would meet the sustainable development needs of the area. In addition, the site is remote from sustainable travel routes, with no footpath and no evidence was provided in relation to how the dwelling would support the vitality of a rural community.

The Inspector found that the lack of a sequential test was contrary to Local Plan Policy 4 and the NPPF and therefore the proposal was unacceptable in terms of flood risk.

| | |
|----------------------------|-----------------------------------------------------------------------|
| Location | The Barn, Station Road, Sutterton, Boston |
| Reference | B/22/0405 |
| Proposal | Outline application for residential development of up to 8 dwellings. |
| Delegated Committee | / Delegated |
| Appeal Decision | Dismissed |
| Appeal Date | 29 September 2023 |

2.6 Summary:

The appeal concerned a proposal for 8no dwellings on a site outside of the settlement boundary of Sutterton, within the countryside. The main issues under consideration for this appeal were:

- Whether the appeal site is an appropriate location for residential development, with regard to the development plan and accessibility;
- Whether the proposal would comply with national planning policy which seeks to steer new development away from areas at highest risk of flooding; and
- The effect of the proposed development of the character and appearance of the area.

The Inspector noted that 8no dwellings would provide economic benefits during construction and support the services and facilities within Sutterton, with a lit footpath that provided sustainable access options. However, the Inspector concluded that the site was located outside of the settlement boundary and located within an area of ribbon development, comprising mixed residential and employment uses. The proposal did not demonstrate it was necessary to its location, nor that it would support the rural vitality in its location. The Inspector also found that the site would have an unacceptable impact on the character and appearance of the countryside and therefore contrary to Policy 2 and 3 of the Local Plan.

In addition, the Inspector found no sequential test had been submitted and therefore the application was contrary to the Local Plan Policy 4 and National Planning Policy Framework, resulting in an unacceptable impact in flood risk terms.

3.0 COMMENTS ON DECISIONS

3.1 This is the first update since February 2023, and whilst there is a small number of appeals all 4 have been dismissed.

3.2 No Costs Awards were made in connection with any of the Appeals.

3.3 In general terms, the Council has been able to demonstrate its position in respect of all Appeals, generally the Local Plan policy continues to perform well with all those appeals that were determined being dismissed by Inspectors in line with Officer Decisions. In addition, all of the reasons for refusal cited by Officers were upheld by the Inspectors.

It was notable that Inspectors afforded weight to other material considerations including the general sustainability of locations and environmental, social and economic benefits of proposals when forming their planning balance. This is not uncharacteristic when considering wider decisions across the Partnership and the general trend nationally and is in accordance with Planning Officers approach to decision making.

3.4 Overall, our Appeal performance remains good and is better than national target over the rolling 2 year period. This is a good indicator of the quality of decision taking. This is also considered to be reflective of the current position with the adopted local plan, which will have an effect in terms of guiding development and reducing the Councils exposure to speculative applications.

4.0 PERFORMANCE

4.1 The Department of Levelling Up, Housing and Communities (DLUHC) monitors authorities in relation to the number of major and non-major applications overturned (i.e. allowed) at appeal. The threshold is for fewer than 20% of all major applications determined overturned at appeal over a rolling two-year period (i.e. the total number of major decisions divided by the total number overturned). For authorities who exceed this target, they will be classed as ‘poorly performing’ and applications for major developments may be made by developers directly to the Planning Inspectorate. DLUHC also monitor the threshold for quality of decisions for non-major applications, the threshold for which is 10%. Like the major threshold, this is the total number of non-major applications overturned at appeal compared to the total number of non-major decisions made.

4.2 The following tables set out the Councils position in relation to the rolling two-year period (Nov 2021 – Oct 2023):

| 2 year - Appeals performance - Majors | | | 2 year - Appeals performance - Non-Major | |
|---------------------------------------------------|----|--|--------------------------------------------------------------------------------|-----|
| Total number of decisions – Planning Applications | 72 | | Total number of decisions – Planning Applications (Minor and Other Categories) | 605 |
| Total number of Appeals | 1 | | Total number of Appeals * | 15 |
| Dismissed | 1 | | Dismissed | 10 |
| Allowed | 0 | | Allowed | 4 |

| | | | | |
|-----------------------------------------------------------------|-----------|--|---------------------------------------------------------------------|--------------|
| Withdrawn | 0 | | Withdrawn | 1 |
| % indicator (majors allowed / total number of decisions) | 0% | | % indicator (non-majors allowed / total number of decisions) | 0.66% |

* this figure includes appeals for other application types in addition to Planning Applications, i.e. Lawful Development Certificate and Condition Discharge, which do not fall within the Minor or Other recording categories.

4.3 Given the aforementioned performance, the Council is therefore significantly within government's target and not at risk of being classed as poorly performing.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

None

ANY OTHER IMPLICATIONS

None

CONSULTATION

None undertaken

BACKGROUND PAPERS

Background papers used in the production of this report are listed below: -

Document title
Appeal decision –

Planning References:

- B/22/0287
- B/22/0405
- B/22/0310
- B/22/0087

Where the document can be viewed

All application documents are available via the Councils website using the relevant details.