



Report To: Planning Committee

Date: 13 January 2026

Subject: Appeal Decisions

Purpose: The purpose of this report is to advise members of the receipt of appeal decisions received since the previous report (dated Oct 202) and highlight any key decisions or themes arising.

Key Decision: N/A

Portfolio Holder: Councillor Chris Mountain: Portfolio Holder - Infrastructure

Report Author: Lewis Humphreys – Principal Planning Officer

Ward(s) Affected: All

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 Oct 2024) and highlight any key decisions or themes arising.

Recommendations

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

Reasons for Recommendations

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. Background

- 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. Report

- 2.1 There have been 11 Appeals since the last report to Members, which comprises of 10 planning decision appeals and 1 enforcement notice appeals. Of these 8 appeals were dismissed, 2 were allowed, and an enforcement notice was upheld.
- 2.2 Of the appeal decisions received by the Local Planning Authority, a summary of the cases and important points are below.
- 2.3 Also included within this report is a summary of the reasons not to contest an on-going appeal

Planning decision appeals

Location	Beck Barn, New Hammond Beck Road, Wyberton, Boston, PE21 7JD
Reference	B/23/0395
Proposal	Outline erection of 2 dwellings with all matters reserved
Delegated/Committee	Delegated
Appeal Decision	Dismissed
Appeal Date	20/12/2024

2.4 Summary:

The application related to the erection of two dwellings and the main issues under consideration for this appeal was whether the site is an appropriate location for new residential development, having regard to i) the spatial strategy and the accessibility of services and facilities for future occupiers; and ii) its risk of flooding.

The Inspector found that site was outside of the settlement boundary and that while the site was only a 10-15 minute walk from the nearest shops and bus stops the majority of this walk would have been along New Hammond Beck Road with no footpath, limited street lighting, and a national speed limit. The Inspector also gave weight to the presence of a nearby employment use which may generate HGV traffic

along this route, which would further deter walking or cycling. The Inspector concluded the proposal was not necessary in a countryside location and was not an appropriate location for new residential development.

Where proposals are in Flood Zone 3 the applicant should demonstrate there are no reasonably available sites at lower risk of flooding that could accommodate the development. The Inspector found that the proposal did not include an adequate demonstration that no suitable reasonably available sites were available and thus failed the sequential test and was contrary to Policy 4 of the Local Plan.

Location	Ashcombe House, Low Road, Wyberton, Boston, Lincolnshire, PE21 7AP
Reference	B/24/0063
Proposal	Outline erection of a single dwellings with all matters reserved
Delegated/Committee	Delegated
Appeal Decision	Dismissed
Appeal Date	02/01/2025

2.5 Summary

The application related to the erection of two dwellings and the main issues under consideration for this appeal was whether the site is an appropriate location for new residential development, having regard to i) the spatial strategy and the accessibility of services and facilities for future occupiers; and ii) its risk of flooding.

The proposal was a frontage gap within a row of 6 dwellings, separated from the settlements of Boston and Wyberton Church End. The Inspector found that to access these settlements would mean travelling along roads without footpaths, street lighting, and that are at the national speed limit and that this would not be safe or desirable for most people particularly during dusk or darkness. The Inspector concluded the proposal was not necessary in a countryside location, would not meet the sustainable development needs of the area and would be contrary to Policy 1 of the Local Plan.

The Inspector also concluded that the rationale for a reduced search area for the sequential test had not been expanded on, nor that the parameters and findings of the sequential test represented a robust and assessment of alternative sites and the concluded the proposal failed the sequential test and was contrary to Policy 4.

Location	The Plantation, Rowdyke Road, Wyberton, Boston PE21 7AQ
Reference	B/22/0491
Proposal	Erection for a dwelling for an essential worker
Delegated/Committee	Committee
Appeal Decision	Allowed
Appeal Date	29/01/25

2.6 Summary:

This application related to a dwelling for a worker at Lincs Firewood Company Ltd and was refused by committee in line with officer recommendation on 5th December 2023.

The main issues were:

- The impact on the character and appearance of the area
- Whether there was a need for the development in the location
- Flood Risk

The Inspector found that the proposals would integrate with the site and would not represent linear encroachment into the open countryside nor did the Inspector consider the dwelling would appear alien in the landscape due to the presence of other nearby dwellings.

The applicant company policy to always have two staff on site following a fatal accident elsewhere and the proposal would provide additional cover for nighttime and periods of sickness and holiday. The Inspector gave weight to the capital expenditure associated with the new dwelling, identifying that if off-site independent accommodation would suffice it would be of no advantage to the business to construct a dwelling and have great weight to the owner of the local rural business in terms of their workforce logistics. The Inspector concluded there was an essential need for the dwelling and the proposal complied with Policies 1, 2, and 3 of the Local Plan.

In concluding there was an essential need for the development in this location, this provided rationale to satisfy the sequential test and the Inspector was satisfied that the withdrawal of the Environment Agency objection meant the proposal would be safe from flooding and satisfied the exceptions tests.

Location	Land to the SE of Sheepgate Equestrian, Sheepgate, Leverton, Boston PE22 0AR
Reference	B/23/0398
Proposal	Outline planning application with some matters reserved (Appearance, Landscaping, Layout & Scale) for later approval for 1no dwelling & detached garage with access
Delegated/Committee	Delegated
Appeal Decision	Dismissed
Appeal Date	17/03/2025

2.7 Summary:

This appeal also related to the erection of a dwelling in a countryside location with considerations relating to the suitability of the location for housing and flood risk. In this instance the appellant argued that the weight given to a proposed self build plot, along with biodiversity and environmental enhancements meant the proposal complied with Policy 1. Again the Inspector identified a reliance on private cars to access the site and did not consider the matters sufficient to comply with Policy 1.

Again the Inspector confirmed a Borough wide search for reasonably available sites was required for the sequential test and that this had not been suitably completed and the proposal would not comply with Policy 4.

Location	1 Hospital Lane, Boston, Lincolnshire PE21 9BY
Reference	B/24/0232
Proposal	Demolition of existing outbuilding and erection of a dwelling
Delegated/Committee	Delegated
Appeal Decision	Dismissed
Appeal Date	20/03/2025

2.8 Summary:

This application concerned the erection of a dwelling on the site of an existing outbuilding to the west of a terrace on Hospital Lane. The main issues were the impact on the character and appearance of the area and whether the proposal would provide acceptable living conditions for future occupants.

The Inspector found that the scale, size, and footprint of the proposal would be out of character and would result in a cramped appearance and found that the design of the dwelling would be incongruous and overtly prominent in the street scene. The Inspector also concluded that the lack of outdoor amenity space would lead to a substandard level of amenity for future occupiers and that the proposal was contrary to Policies 2 and 3.

Location	40 Park Road, Boston, Lincolnshire PE21 7JP
Reference	B/24/0491
Proposal	Construction of 1 no. self build dwelling
Delegated/Committee	Delegated
Appeal Decision	Dismissed
Appeal Date	19/08/2025

2.9 Summary:

The proposal was for the erection of a single dwelling to the rear of an existing row of dwellings. The main issues were whether there was a demonstrated need for the development in this area, whether sites at lower risk of flooding were available, and whether the proposal would have an unacceptable impact on existing dwellings by virtue of noise, disturbance outlook and privacy.

The Inspector found that there sequential test was limited by not including sites that did not currently have planning permission, or considering whether the development could be accommodated within a larger site. The proposal was considered to fail the sequential test.

However, the Inspector did find that the impacts on neighbouring properties would be acceptable and that the impacts arising from noise from additional traffic movements would assimilate within the existing background noise. Furthermore, the impacts to

privacy of No. 42, and No. 13 would not be significantly harmful and that the proposal complied with Policies 2 and 3 of the Local Plan in this regard.

Location	3A Red Lion Street, Boston, United Kingdom PE21 6NY
Reference	B/24/0384
Proposal	Proposed replacement of existing windows and will require moving the placement of each window and alter brick work
Delegated/Committee	Delegated
Appeal Decision	Allowed
Appeal Date	12/09/2025

2.10 Summary:

The application was for the replacement of a large, non-original window with three replacements. The proposed windows were uPVC casements and had been replaced prior to the submission of the application.

The site is within the Boston Conservation Area and within the setting of a listed building. That are statutory duties to preserve or enhance the significance of these designated heritage assets. The Inspector found that, while the proposed windows did not assimilate with the historic development within the Boston Conservation Area but found that as the previous window was more dissimilar in design to historic windows the proposal represented an enhancement to the setting of the heritage assets over the previous windows. As such the appeal was allowed.

Location	Site at London Road, Boston PE21 8TJ
Reference	B/24/0522
Proposal	Outline planning application for storage and distribution site (Use class B8)
Delegated/Committee	Delegated
Appeal Decision	Dismissed and costs refused
Appeal Date	23/10/2025

2.11 Summary:

The proposal was an outline application with all matters reserved for the erection for a storage or distribution centre within the B8 Use Class. The site had a historic permission for the use dating back to 1999 that was not implemented and since that time dwellings on Redbourne Terrace and Alford Terrace have been consented, constructed and occupied.

The main issues were the impacts on those dwellings, whether the sequential test was satisfied, whether Biodiversity Net Gain has been adequately provided for, and whether archaeological issues on the site had been adequately addressed.

The Inspector considered that a scheme could be drawn up that could be compatible with the neighbouring residential uses but acknowledged this was a key issue without substantive details on which to comment, as such, in the absence of sufficient information the Inspector considered it hadn't been demonstrated the proposal would

not have a harmful impact and was therefore contrary to Policies 2, 3 and 30 of the Local Plan.

The Inspector concluded that it would not be acceptable to defer matters related to flood risk and the sequential test to Reserved Matters stage and these details should be provided and assessed upfront. Similarly, the application and appeal were missing details regarding the baseline ecological or archaeological conditions and thus adequate provision was not made in relation to BNG or archaeology.

This appeal was also accompanied by an application for costs by the appellant on the basis the previous permission on the site could still have been implemented at the time the housing permission was granted and thus the two land uses should be considered compatible. The Inspector noted the housing permission was granted towards the end of the 5 year implementation period for the 1999 permission with no pre-commencement conditions agreed and limited likelihood it would still come forward, furthermore, the period of time since that permission included significant material changes in local and national policy and considering the proposal differently did not amount to unreasonable behaviour and the costs application was refused.

Location	88 High Street
Reference	B/25/0089 and B/25/0090
Proposal	Planning Permission and Listed Building Consent for the erection of a ground extension to the rear of the building
Delegated/Committee	Delegated
Appeal Decision	Dismissed
Appeal Date	11/11/25

2.12 Summary:

A joint appeal against refusals for both planning permission and listed consent for the erection of a rear extension on a Grade II Listed Building that had already been completed. The proposals included some remedial work, including rendering the extension and an existing extension.

The form and position of the extension were considered to be acceptable, however, there were concerns regarding the use of modern materials in the extension and the proposals to render some historic brickwork in the existing extension have not been justified and identified harm to the listed building and to the Boston Conservation Area. The Inspector went on to conclude there were no wider public benefits that outweighed the harm to the listed buildings and the proposal would be contrary to policies 3 and 29 of the Local Plan.

Location	Friths Farm, Fen Road, Frampton West, Boston, Lincolnshire PE20 1SA
Reference	B/25/0088
Proposal	Prior Notification - Class Q proposed change of use of agricultural buildings to 6 no. dwellings
Delegated/Committee	Delegated
Appeal Decision	Dismissed and Costs Refused
Appeal Date	19/12/2025

2.13 Summary:

This appeal relates to an application for Prior approval under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO). Prior Approval under Class Q relates to applications for the conversion of agricultural buildings to dwellings, subject to meeting the criteria within the legislation. The appellant also submitted an application for costs against the LPA.

Such an application includes two parts, the first is an assessment as to whether the proposal complies with the limitations set out within the Order, i.e. that the proposal can be considered under this format; the second is an assessment as to whether the LPA's prior approval is required in connection with specific matters, and if the LPA considered it is, whether that approval is granted or not.

In this case, it was considered that prior approval was required in connection with 'whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses)' and was refused due to the living conditions for future occupiers with regard to noise and disturbance.

The proposed dwellings would be in close proximity to existing farm buildings that remain in use, proposed bedroom windows would face towards the agricultural access, and that due to flood mitigation the windows would sit above the height of a proposed acoustic fence. A detailed noise assessment was requested during the course of the application but was not forthcoming, the Inspector identified that, in the absence of such a report demonstrating the proposal would be acceptable, the impacts upon future occupants would be unacceptable,

The appellant identified a scheme they considered to be similar where a noise report was not requested and made a request for an award of costs on this basis, as well as on the basis that the officer assessment included an assessment to Local Plan policies, and that consultee comments from Environmental Health were not publicly available.

The Inspector concluded that it is admissible for the LPA to take account of Local Plan policies insofar as they relate to prior approval matters. The consultee comments were published prior to a decision being made but are removed from the website at the time of decision, however, the consultee comments were clearly set out within the report, which remains publicly available, and as such the appellant was not prejudiced. Lastly, the Inspector concluded that insufficient information was submitted to determine the degree of similarity between the alternative case and the appeal but that each application and appeal are assessed on their own merits. The LPA was found not to have acted unreasonably and the costs award was refused.

On-going Planning Appeals

Location	Agricultural land adjacent to White House Lane, Fishtoft, Boston, PE21 0BE
Reference	B/24/0121
Proposal	Construction of 102no. residential dwellings
Delegated/Committee	Committee
Appeal Decision	On-going

Appeal Date	On-going
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2.14 Summary:

The proposal was for the erection of 102 dwellings on former agricultural land on the edge of the Boston settlement. The application site was allocated for housing in the Local Plan with a notional capacity of 90 dwellings, though that figure is not a ceiling. The application was refused by the Planning Committee contrary to officer recommendation on the single ground of excessive density.

Since the Committee's decision, the Council has lost its ability to demonstrate a 5-year supply of housing land. This is a significant material change with major implications including that housing policies within the Local Plan are rendered 'out of date'. The National Planning Policy Framework (paragraph 11) dictates that under this circumstance applications (including this appeal) must be assessed not against the Local Plan but against specified policies in the Framework. Permission must be granted unless 'adverse impacts of doing so would significantly and demonstrably outweigh the benefits'.

To justify refusal, it would therefore be necessary to show that the proposed density of the scheme was so harmful as to 'significantly and demonstrably outweigh the benefits' of adding 102 units to the Borough housing supply at a time when that supply is inadequate. The density would not be compared to nearby housing, but to the notional density of the allocation – 30 dwellings per hectare compared to the 34 dwellings per hectare proposed.

Against the policies of the Framework such justification was not considered a realistic possibility and hence it would not be reasonable to fight the appeal. In concert with the Portfolio Holder, the Chair and Vice-Chair of the Committee and the ward member who requested call-in it was decided not to contest the appeal. With the agreement of the Planning Inspectorate and the applicant work is progressing on a statement of common ground and other arrangements.

3. Comments on Decisions

- 3.1. These are the appeals determined since October 2024 and while this is a relatively small number of appeals, 8 of the 10 planning decisions appealed have been upheld by the Inspectorate.
- 3.2. No Cost Awards were made in connection with any of the appeals.
- 3.3. There is considerable alignment between the Inspectorate's and Officer's interpretation and application of Local Plan Policy, and in particular in the application of Policy 1 and 4. Of particular note are the several appeals determined in connection with small scale, rural, residential development where these policies were the primary consideration.
- 3.4. Of the two allowed appeals, one was in connection with heritage matters. there are lessons to be learned in ensuring that where the existing position is harmful it is important to assess against whether a proposal would be harmful relative to that existing harm and to consider whether development that may still be harmful would

nonetheless be an improvement. In the second case, the Inspector gave significant weight to the business need and economic case in the consideration of whether a new dwelling was justified and again there are lessons to be learned regarding a more flexible approach in the consideration of these applications.

- 3.5. The two costs applications were both refused, indicating the Inspectorate agree we are making robust decisions on reasonable policy grounds.

4. Performance

- 4.1. The Ministry of Housing, Communities and Local Government (MHCLG) 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 10% 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) and is a tighter target than the 20% used in previous reporting years. 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. MHCLG 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 last published figures cover the period January 2023 to December 2024, at that time performance was 0% for majors and 0.2% for non-majors and represented two allowed appeals for non-major development in 2024.
- 4.3. At the time of writing, the final performance figures for the 24 month period January 2024 to December 2025 are not known. However, based on the data above, it is likely figures will be similar and significantly within the thresholds set by MHCLG. Overall, our Appeal performance remains good and this is a good indicator of the quality of decision taking and the council is not at risk of being classed as poorly performing.

Implications

South and East Lincolnshire Councils Partnership

None

Corporate Priorities

None

Staffing

None

Workforce Capacity Implications

None

Constitutional and Legal Implications

None

Data Protection

None

Financial

None

Risk Management

None

Stakeholder / Consultation / Timescales

None

Reputation

None

Contracts

None

Crime and Disorder

None

Equality and Diversity / Human Rights / Safeguarding

None

Health and Wellbeing

None

Climate Change and Environment Impact Assessment

Not undertaken

Acronyms

BNG - Biodiversity Net Gain

GPDO – Town and Country Planning (General Permitted Development) Order 2015 as amended

LPA - Local Planning Authority

Appendices

None

Background Papers

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

Document title	Where the document can be viewed
Appeal Decision –	All application documents can be found via the council's website and planning search function using the relevant details
B/22/0491	
B/23/0395	
B/23/0398	
B/24/0063	
B/24/0232	
B/24/0384	
B/24/0491	
B/24/0522	
B/25/0088	
B/25/0089	
B/25/0090	
Application and Appeal documents associated with B/24/0151	All application documents can be found via the council's website and planning search function using the relevant details
Assessment of 5 year housing land supply	<u>5-year housing land supply - Boston Borough Council</u>

Chronological History of this Report

Name of Body	Date
Planning committee	October 2024

Report Approval

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