



# B O S T O N

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

REPORT TO:	Planning Committee
DATE:	6 <sup>th</sup> February 2018
SUBJECT:	Receipt of Appeal Decision
PORTFOLIO HOLDER:	Councillor Michael Cooper
REPORT AUTHOR:	Interim Development Manager
EXEMPT REPORT?	No

### SUMMARY

The purpose of this report is to advise members of the receipt of an appeal decision in respect of a condition attached to a delegated approval at Holly Cottage, 107 Sea Lane, Butterwick, Boston PE22 0HN.

The appeal against the condition was allowed. A copy of the Inspector's decision letter is attached to this report.

### RECOMMENDATION

The Committee are asked to note this report and the comments arising from it.

### REASONS FOR RECOMMENDATION

To address Service Delivery Action Plan points for 2017/18.

## 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'. This 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 any appellant has to follow.

## **2.0 APPEAL DECISION**

### **Holly Cottage, 107 Sea Lane, Butterwick, Boston PE22 0HN**

2.1 Planning application reference B/17/004, for a change of use from agricultural Dutch barn to log storage and use of log splitting machinery in the outside yard area was approved (under delegated authority) on 27 April 2017.

2.2 Condition 5 attached to the permission stated:

*“The operations associated with the log splitting operation, including the operations of equipment, moving of storage bins, timber stacking, site clearance and preparation, shall not take place more than 3 days in any one calendar month and shall not take place except between 1 October and 31 May each year. The operations associated with the log splitting operation, including the operation of equipment, moving of storage bins, timber stacking and preparation, shall only take place between the hours of 09.00am and 5.00pm Mondays to Fridays, and at no time on Saturdays, Sundays or on public holidays.”*

The reason given for the condition was:

*“In the interests of the amenity of nearby residents and to accord with Adopted Local Plan Policy G1.”*

2.3 The appellant appealed against this condition, seeking to increase the total number of days allowed each year by 3, from 24 to 27 days.

2.4 The Inspector considered the main issue to be whether the disputed condition is necessary and reasonable in the interests of the living conditions of the occupiers of neighbouring “Field View” with particular reference to noise and disturbance.

2.5 The Inspector concluded that the condition was, in principle, necessary and reasonable in the interests of the neighbouring occupiers, with particular reference to noise and disturbance. However, she stated that there was no cogent evidence to explain why the period of October to May was imposed. The inclusion of the additional month sought would, in her view, only allow an extra 3 days of log splitting and associated operations and, as such, would still comply with Policy G1 of the Boston Borough Local Plan which, amongst other things, seeks to ensure that developments would not have a harmful effect on nearby residents.

2.6 The appeal was allowed and Condition 5 was amended to allow operations to take place from 1 September, rather than 1 October.

## **3.0 CONCLUSION**

3.1 For the year to date (from 1 April 2017) seven out of 11 appeal decisions (64%), including enforcement appeals, have gone in favour of the Council, and four against (36%). This is below the Performance Target, which would tolerate 1 out of 5 going against the Council (20%).

**FINANCIAL IMPLICATIONS**

None

**LEGAL IMPLICATIONS**

None

**ANY OTHER IMPLICATIONS**

None

**CONSULTATION** Portfolio Holder: Councillor Michael Cooper

**APPENDICES**

Appeal decision Holly Cottage, 107 Sea Lane, Butterwick, Boston PE22 0HN

**BACKGROUND PAPERS**

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

**Document title**

Appeal file and application file.  
Holly Cottage, 107 Sea Lane,  
Butterwick, Boston. B/16/0366

**Where the document can be viewed**

Development Management