

# South Northamptonshire Council

## Planning Committee

11 April 2019

### Appeals Progress Report

#### Report of Assistant Director of Planning and Economy

This report is public

#### Purpose of Report

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled or appeal results achieved.

#### 1.0 Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

#### 2.0 Report Details

##### 2.1 New Planning Appeals

###### Public Inquiry

###### **S/2018/0608/MAF Land at Lyne Walk Hackleton**

Appeal by Larkfleet Homes against the refusal of Planning Permission for the Construction of 21 new dwellings and associated infrastructure

**Start Date:** 06/03/2019    **Inquiry Date:** tbc

###### Informal Hearing

Nil

###### Written Reps

###### **S/2018/2875/FUL The Stables The Priory Road To Ivy Cottage Cosgrove**

Appeal by Mr T Phipps against the refusal of Planning Permission for Subdivision of the stables dwelling to three dwellings, change of use of the Old

Dairy from residential security annexe to dwelling with attendant boundary treatments, landscaping and car parking.

**Start Date:** 06.03.2019 **Statement Due:** 10.04.2019

**S/2018/1147/MAF Land off Moat Lane Towcester**

Appeal by Clayson Country Homes against the refusal of an application for the Variation of Condition 28 (noise and odour control) of S/2017/1579/MAF (Variation of condition 2 (Plans), condition 4 (Use) and Condition 23 & 26 (Remove reference to B1 (c) use) and removal of condition 6 (code level 3) and condition 32 (Activity connected with B1 (c) use) to S/2012/1476/MAF (The Regeneration of Moat Lane)(The original application was submitted with an Environmental Statement) to enable change of use from approved offices (B1 (a)) and light industrial (B1 (c)) units and reduction in floor space of the A3 use from 330sq m to 171sq m to create a further 17 residential units.) to allow occupation of plots A, B, and C subject to implementation measures outlined in the Technical Assessment September 2018 Version 1.3 by Joynes Nash.

**Start Date:** 05/03/2019 **Statement Due:** 29.04.2019

**S/2018/2055/AGD Land to the west of Duck End Hinton in the Hedges**

Appeal by Mr Kear Fuller against the determination as to whether prior approval is required (under Class A of Part 6 of the above Order) for the erection of an agricultural building in respect of: the siting, design and external appearance of the building.

**Start Date:** 27.03.2019 **Statement Due:** 01.05.2019

**S/2018/2640/AGD Land to the west of Duck End Hinton in the Hedges**

Appeal by Mr Kear Fuller against the determination as to whether prior approval is required (under Class A of Part 6 of the above Order) for the erection of an agricultural building in respect of: the siting, design and external appearance of the building.

**Start Date:** 27.03.2019 **Statement Due:** 01.05.2019

## 2.2 New Enforcement Appeals

**S/2019/0386/EN 11 Brackley Road Silverstone**

Appeal by Mr Steve Rams Absolute Coverings Ltd against an Enforcement Notice relating to the Siting of a portable cabin to provide office accommodation and the associated levelling of land and provision of a hard surface.

**Method of determination:** Written Reps

**Key Dates: Start Date:** 25.02.2019 **Statement Due:** 08.04.2019

**S/2019/0019/EN 53D Main Road Middleton Cheney**

Appeal by Miss Joanna Collis against an Enforcement Notice relating to works without planning permission for the demolition and replacement of the dormer window on the front elevation and the utilisation of uPVC window casements.

**Method of determination:** Written Reps

**Key Dates: Start Date:** 25.02.2019 **Statement Due:** 08.04.2019

## 2.3 Appeals in progress

### Public Inquiries

#### **S/2017/2620/MAO Land south of Kislingbury Road Rothersthorpe.**

Appeal by R L Collins, S Collins, C L Passmore-Jones, A Jones & Hollins Strategic Land LLP against the refusal of Outline planning permission for up to 66 dwellings with associated landscaping, open space and vehicular and pedestrian access

**Start Date:** 25/07/2018    **Inquiry Date:** 30/04/2019

### Hearings

Nil

### Written Representations

#### **S/2018/2252/FUL The Priory The Stables Road To Ivy Cottage Cosgrove**

**MK19 7JJ** Appeal by Peak 19 Ltd against the refusal of Planning Permission for the Subdivision of the stables dwelling to three dwellings and change of use of the Old Dairy to dwelling with attendant boundary treatments, landscaping and car parking

**Key Dates:**    **Start Date:** 30.01.2019    **Decision:** Awaited

#### **S/2018/1466/MAF 35 Station Road Cogenhoe NN7 1LT**

Appeal by Danelaw Partners LLP against the refusal of Planning Permission for the demolition of existing car workshop and erection of 10 residential dwellings.

**Key Dates:**    **Start Date:** 28.01.2019    **Decision:** Awaited

#### **S/2018/1230/LBC Keepers Cottage Owl End Lane Lower Boddington**

**NN11 6XZ** Appeal by Mr Andrew Duncan against the refusal of Listed Building Consent for the Garden room extension at the North-West elevation of the existing house.

**Key Dates:**    **Start Date:** 22.01.2019    **Decision:** Awaited

#### **S/2018/1229/FUL Keepers Cottage Owl End Lane Lower Boddington**

**NN11 6XZ** Appeal by Mr Andrew Duncan against the refusal of Planning Permission for the Garden room extension at the North-West elevation of the existing house.

**Key Dates:**    **Start Date:** 22.01.2019    **Decision:** Awaited

#### **S/2018/1082/FUL 24 Church Lane Brafield On The Green NN7 1BA**

Appeal by Mrs S Brockwell against the refusal of Planning Permission for Two detached dwellings.

**Key Dates:**    **Start Date:** 18.01.2019    **Decision:** Awaited

#### **S/2018/0596/LBC Pound Cottage 4 Memorial Green Road NN7 2NY**

Appeal by Mr Michael Davies against the refusal of Listed Building Consent to Replace four windows and patio doors on south and west elevations.

**Key Dates: Start Date:** 22.01.2019 **Decision:** Awaited

**S/2017/2762/FUL 11 Brackley Road Silverstone.** Appeal by Absolute Coverings Ltd against the refusal for the Siting of a portacabin to provide office accommodation and levelling of land.

**Key Dates: Start Date:** 08/06/2018 **Decision:** Awaited

**S/2017/2612/MAF Cherwell Valley Silos Banbury Lane Kings Sutton OX17 3AS** Appeal by Framptons against the refusal of permission for the Removal of condition 9 (use) of S/2017/1787/MAF (Erection of building for Class B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) purposes (Unit 7); car parking and servicing area)

**Key Dates: Start Date:** 05.09.2018 **Decision:** Awaited

**S/2018/0101/106DV Land at Heyford Cottage 6 The Green Bugbrooke Road Nether Heyford** Appeal by Mr John Smith against the refusal of an application for a Deed of Variation to revoke the S106 Legal Agreement entered into in respect of planning permission S/2001/0919/P [Conversion and extension of existing barn to form dwelling, erection of 3 detached dwellings and attached garage for existing dwelling and new access road].

**Key Dates: Start Date:** 03.01.2019 **Decision:** Awaited

**S/2018/0091/FUL Land To The Rear Of 4B The Green Nether Heyford NN7 3LE** Appeal by Mr John Smith against the refusal of Planning Permission for a Detached dwelling.

**Key Dates: Start Date:** 03.01.2019 **Decision:** Awaited

**S/2018/0973/OUT The Paddock Hinton in the Hedges NN135NG**

Appeal by Mr Miklos Parrag against the refusal of Planning Permission for a Single dwelling (outline)

**Key Dates: Start Date:** 07.01.2019 **Decision:** Awaited

**S/2018/2136/FUL Land to the side of 11 Greenside Blisworth NN7 3BY**

Appeal by Mr & Mrs Scriven against the refusal of Planning Permission for the Demolition of existing garage and construction of new dwelling with associated car parking and car parking to no.11 Greenside Blisworth

**Key Dates: Start Date:** 07.01.2019 **Decision:** Awaited

**S/2018/1648/FUL The Old Chapel Chapel Lane Stoke Bruerne NN12 7SQ**

Appeal by Mrs Elaine Pieris against the refusal of Planning Permission for a Rear Wooden pagoda (Retrospective)

**Key Dates: Start Date:** 07.01.2019 **Decision:** Awaited

**S/2018/1591/FUL 23 Church Street Blakesley NN12 8RA**

Appeal by Mr John Linnell against the refusal of Planning Permission for a 3 no. bedroom detached dwelling.

**Key Dates: Start Date:** 07.01.2019 **Decision:** Awaited

## 2.3 Forthcoming Public Inquires and Hearings between 11<sup>th</sup> April 2019 and 16th May 2019

### **S/2017/2620/MAO Land south of Kislingbury Road Rothersthorpe.**

Appeal by R L Collins, S Collins, C L Passmore-Jones, A Jones & Hollins Strategic Land LLP against the refusal of Outline planning permission for up to 66 dwellings with associated landscaping, open space and vehicular and pedestrian access

**Inquiry Date:** 30/04/2019

## 2.4 Planning Appeal Results

Inspectors appointed by the Secretary of State have:

### **Dismissed the Appeal reference S/2018/0730/FUL 2 Field Way Helmdon Brackley NN13 5QN by Mr P Duncombe against the refusal of Planning Permission for the construction of new biomass boiler housing and installation of a biomass boiler without Planning Permission.**

As the boiler housing had been approved under a separate permission the Inspector considered that the main issues were the effect of the flue on the character and appearance of the area, and the effect on the living conditions of occupiers of nearby residential properties with particular regard to air quality.

In terms of the character / appearance of the area the Inspector acknowledged that the site is in the open countryside and contrary to the appellants view the flue is substantial in terms of its width and overall height. It is not similar or akin to the type of agricultural equipment or plant that might normally be seen in an agricultural or rural setting. As such the Inspector concluded that it has a distinctly intrusive and industrialising effect which contrasts harshly with the context of the attractive countryside environment in which it is located. It thereby results in significant harm to the character and appearance of the area.

On the issue of harm to living conditions, the Inspector accepted the Council's view that based on history of the boilers operation it did not provide confidence that odours and smoke pollution would not continue to be a problem for some of the nearest local residents. On this second main issue, the Inspector concluded that overall the boiler is likely to result in an adverse impact upon the air quality and living conditions of occupiers of nearby residential properties and therefore in conflict with saved LP Policy G3(D,E).

### **Dismissed the Appeal reference S/2018/2426/EN 2 Field Way Helmdon NN13 5QN by Mr P Duncombe against an Enforcement Notice regarding the construction of new biomass boiler housing and installation of a biomass boiler without Planning Permission.**

The Enforcement Notice required the following steps:

- (i) Cease operating the biomass boiler
- (ii) Dismantle and remove from site the biomass boiler, associated flue and all boiler housing
- (iii) Remove from site all gravel around the rear and side elevations of the building housing the boiler, therefore removing any obstruction upon the existing public right of way
- (iv) Remove from site all timber pallets and any raw material used in the operation of the boiler

In accordance with section 174(2) of the Town and Country Planning Act 1990, the appellant appealed against the enforcement notice on four grounds; A (a deemed planning application), E (the notice was not properly served on everyone with an interest in the land, F (the steps contained within the notice are excessive) and G (the time to comply with the notice is too short).

The Council argued against all these points with specific reference being made to how it would be significantly detrimental to retain the boiler, flue and the boiler housing from both an environmental and visual point of view.

The Inspector concurred with the view that in terms of Ground A (deemed planning application), the flue did significantly harm the character and appearance of the area.

With regard to the argument that the appellant put forward for Ground E (the notice was not properly served), the Inspector concluded that not only was the notice served in accordance with the requirements of section 172(3)(a) and (b) of the Act, the appellant was also able to make an appeal against the notice which clearly showed that there had been no disadvantage caused.

In terms of the argument with regard to Ground F (the steps required are excessive); the notice had alleged that there was operational development on the land rather than a change of use of the land. The Council had already granted permission for the building to be retained therefore it could not be considered a change of use and as such there is no longer the need to remove the gravel or timber pallets. In his view these operations did not form part of the alleged breach of planning control and consequently the notice could not require their removal. These elements were deleted from the notice.

Finally with regard to Ground G (the compliance period is too short), the Inspector did consider that as the Council had suggested 3 months and the appellant 6 months, a period of 5 months for compliance is a fair balance given that it would require careful dismantling in case it would be used elsewhere. The notice was therefore amended to reflect this revised timescale.

**Dismissed the Appeal reference S/2018/0534/ADV Unit 1 West Balk Industrial Estate Bugbrooke Road Kislingbury NN7 4AY by Kizzle Autos Ltd against the Erection of a sign 4.4M high (Retrospective)**

The main issues in the consideration of this case were impact of the advertisement on the character and appearance of the area and highway safety. In dismissing the appeal, the inspector felt that whilst the sign is not in a position that would result in harm to highway safety, they concluded that the sign was in a prominent location which is exacerbated by the rising land levels; that the scale and height was very large and is incongruous against the backdrop; and that the absence of other signage makes it more noticeable and prominent resulting in harm to the visual amenities of the surrounding area.

**Dismissed the Appeal reference S/2018/1795/PIP Land at 30 Grays Lane Paulerspury NN12 7NW by Mr Stuart Horn against the refusal of a Planning in Principle application for the residential development of land.**

This application sought Permission in Principle (PiP) for the erection of a single dwelling house on the site. PiP is a new type of planning application created by the Government with the aim of speeding up the planning process. As such only three matters can be considered during a PiP application: location, land use and amount of development.

The Council argued that development on the site would erode the spacious appearance of the area and therefore harm the character of the area. The location was therefore unsuitable for new residential development. The Inspector upheld the Council's position that whilst it was beyond the scope of the application to consider matters of design and layout, it was relevant to consider whether it would be possible to develop the site in a way that would not conflict with the character and appearance of the area. The Inspector subsequently concluded that it had not been demonstrated that it would be possible to do so and therefore the introduction of a dwelling into this location would be likely to harm the character and appearance of the area. The appeal was therefore dismissed.

**Allowed the Appeal reference S/2018/2217/FUL The Coach House Pury Hill Farm Alderton Road Paulerspury NN12 7LS by Mr and Mrs Taylor against the refusal of Planning Permission for the temporary erection (3 years) of an aluminium conservatory and conversion of carport to form family room (Retrospective)**

Summary -

- Appeal site is located to the rear of a country house, set back from highway, behind a boundary wall, having a negligible effect on the street scene and with limited public views
- The Coach House and main house are not heritage assets, the retrospective proposal is a grey aluminium framed conservatory enclosing a four bay car port for residential use. Works are considered to be minor alterations to the existing fabric of the building and are reversible
- The appellant submitted temporary approval for three years, it is not his intention to retain the structure on a permanent basis whilst building works take place on the main house

- The inspector considers the conservatory complements the coach house, subservient in scale and form and has design merit
- Results in no material harm to the surrounding area
- Small proposal, limited harm to the character and appearance of the Coach House, the harm is outweighed by the appellants justification of requiring an onsite presence whilst buildings works are completed to his existing home

Condition: The conservatory hereby permitted shall be for a limited period of three years from the date of this decision. The conservatory hereby permitted shall be removed, and the land restored to its former condition.

**Allowed the Appeal reference APP/TPO/Z2830/6965 12 The Slade Silverstone NN128UH by Mrs Kathryn Patient, against the refusal of permission to fell an Ash Tree - TPO 93/1970**

The application sought to fell an early mature ash tree and the submitted reports alleged the tree to be a factor in historic cracking in the adjacent structure, 12 The Slade, Silverstone.

The council argued that the tree makes a positive contribution to the character of the area and that insufficient evidence had been made available, (no level monitoring, root analysis etc), to implicate the ash tree, on the balance of probability, with any historic damage or that the tree poses an unacceptable potential for it to cause damage on any adjacent structure.

The inspector considered that the harm to the character and appearance of the area if the tree were to be removed would be limited. The inspector also favoured a pragmatic approach and considered that sufficient justification had been provided to fell the Ash tree. In reaching their decision regard to the five letters in support of the proposal were also taken into account.

### **3.0 Consultation**

None

### **4.0 Alternative Options and Reasons for Rejection**

- 4.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To accept the position statement.

Option 2: Not to accept the position statement. This is not recommended as the report is submitted for Members' information only.

### **5.0 Implications**

#### **Financial and Resource Implications**



- 5.1 The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.

Comments checked by:

Linda Turland, Principal Accountant For Place and Growth, 01327 322236  
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### **Legal Implications**

- 5.2 There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.

Comments checked by:

Matthew Barrett, Planning Solicitor - Planning & Litigation 01295 753798  
[Matthew.Barrett@cherwellandsouthnorthants.gov.uk](mailto:Matthew.Barrett@cherwellandsouthnorthants.gov.uk)

### **Risk Management**

- 5.3 This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:

Matthew Barrett, Planning Solicitor - Planning & Litigation 01295 753798  
[Matthew.Barrett@cherwellandsouthnorthants.gov.uk](mailto:Matthew.Barrett@cherwellandsouthnorthants.gov.uk)

## **6.0 Decision Information**

### **Wards Affected**

All

### **Links to Corporate Plan and Policy Framework**

A district of opportunity

### **Lead Councillor**

Councillor Roger Clarke

### **Document Information**

<b>Appendix No</b>	<b>Title</b>
None	
<b>Background Papers</b>	
None	
<b>Report Author</b>	Paul Seckington, Senior Manager of Development Management

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