

BOLSOVER DISTRICT COUNCIL

Meeting of the Planning Committee on 9th July 2025

Appeal Decisions Report: January 2025 – June 2025

Report of the Development Management and Land Charges Planning Manager
(Prepared by Karen Wake)

Classification	This report is Public
Contact Officer	Karen Wake/Chris Whitmore

PURPOSE/SUMMARY OF REPORT

- To report the Planning Service’s performance against the Government’s quality of decision making targets.
- To report any issues or lessons learnt from the appeal decisions.

REPORT DETAILS

1. Background

- 1.1 In November 2016 (updated December 2024) The Department for Communities and Local Government produced guidance entitled “Improving Planning Performance which included guidance on speed of Planning decisions and Quality of Planning Decisions. This report relates to the quality of decision making targets.
- 1.2 The measure to be used is the percentage of the total number of decisions made by the authority on applications that are then subsequently overturned at appeal.
- 1.3 The threshold or designation on applications for both major and non-major development, above which a local planning authority is eligible for designation, is **10 per cent** of an authority’s total number of decisions on applications made during the assessment period being overturned at appeal.
- 1.4 During the 6-month monitoring period Jan-June 2023 the council had no appeals on major planning applications determined. The council had three appeal decisions on non-major applications. Two appeals were allowed, and one was dismissed. The council therefore only successfully defended 33% of appeals determined within this period, however this only equated to 1.14% of the number of non-major applications determined within that period. During the July-Dec 2023 monitoring period the council had no appeals on major planning applications and three appeal decisions on non-major applications. Two of these appeals were dismissed and

one was allowed. However, this only equated to 0.57% of the number of non-major applications determined within that period. During the Jan-June 2024 monitoring period the council had no appeals on major planning applications and three appeal decisions on non-major planning applications. All three of these appeals were dismissed. The council therefore successfully defended 100% of the appeals determined within that period. During the July-December 2024 the council had no appeals on major planning applications and five appeal decisions on non-major planning applications. Two of these appeals were dismissed and three were allowed. However, this only equated to 1.66% of the number of non-major applications determined within that period.

- 1.5 Following the first report of appeal decisions to Planning Committee in January 2019 it was agreed that appeal decisions continue to be reported to Committee members every 6 months.

2. Details of Proposal or Information and Reasons for Recommendation

- 2.1 The latest monitoring period was January-June 2025. During this period the council had no appeals on major planning applications and four appeal decisions on non-major planning applications. All four of these appeals were dismissed. The council therefore successfully defended 100% of the decisions appealed within that period.
- 2.2 When/if appeals are not successfully defended, the reporting of decisions provides an opportunity to learn from these decisions. A full summary of the decisions made is provided at appendix 1.
- 2.3 The council had one appeal decision against the issue of an enforcement notice. The performance of local authorities in relation to the outcome of enforcement appeals is not currently measured in the same way as planning appeals. However, it is considered useful to report the enforcement appeals within the same time period to address any issues or lessons learnt from these appeal decisions.
- 2.4 The lack of appeals generally against planning decisions taken indicates current decision making is sound and the Council's performance in successfully defending decisions at appeal is good. It is recommended the appeals performance and this report be noted and that members continue to be briefed on appeal decisions and performance on an ongoing 6 monthly basis to learn from the decisions made and ensure quality of decision-making meets and exceeds government aspirations.

3 Alternative Options and Reasons for Rejection

- 3.1 An alternative option would be to not publish appeal decisions to members. It is however considered useful to report decisions due to the threat of intervention if the council does not meet the nationally set targets. Members of Planning Committee should understand the soundness of decision making and soundness of Planning Policies.
- 3.2 In the June 2021 internal audit, the process of reporting appeal decisions to Planning Committee and reflecting on decisions taken was reported. The process supported the Planning Department achieving 'substantial' reassurance in the latest internal audit of 'Planning Processes and Appeals'.

RECOMMENDATION(S)

1. This report be noted.
 2. Recommend appeal decisions continue to be reported to planning committee every 6 months.
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IMPLICATIONS:

Finance and Risk Yes No

Details:

Costs can be awarded against the council if an appeal is lost and the council has acted unreasonably

The council can be put into special measures if it does not meet its targets

Legal (including Data Protection) Yes No

Details:

Appeal documents are publicly available to view online. Responsibility for data is PINS during the appeal process.

Decisions are open to challenge but only on procedural matters.

Staffing Yes No

Details:

Factored into normal officer workload and if original application report is thorough it reduces the additional work created by a written representations appeal. Additional workload created if the appeal is a hearing or public enquiry.

Equality and Diversity, and Consultation Yes No

Details:

Consultations are carried out with each application and appeal. Consultations on this report of appeal decisions is not necessary.

Appeal decisions do not need an equality impact assessment in their own right but by monitoring appeal decisions it allows us to check that equalities are considered correctly in every application. There have been no appeal decisions reporting equalities have been incorrectly addressed.

Environment **Yes** **No**

Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment.

Sound planning decision making helps to ensure the environmental impact of development is given due consideration to ensure that it is not offset/outweighed by other benefits

DECISION INFORMATION:

Please indicate which threshold applies:

Is the decision a Key Decision?

A Key Decision is an Executive decision which has a significant impact on two or more wards in the District or which results in income or expenditure to the Council above the following thresholds:

Revenue (a) Results in the Council making Revenue Savings of £75,000 or more or **(b)** Results in the Council incurring Revenue Expenditure of £75,000 or more.

Capital (a) Results in the Council making Capital Income of £150,000 or more or **(b)** Results in the Council incurring Capital Expenditure of £150,000 or more.

District Wards Significantly Affected:

(to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District)

Please state below which wards are affected or tick **All** if all wards are affected:

Yes **No**

(a) **(b)**

(a) **(b)**

All

Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If No, is the call-in period to be waived in respect of the decision(s) proposed within this report? <i>(decisions may only be classified as exempt from call-in with the agreement of the Monitoring Officer)</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Consultation carried out: <i>(this is any consultation carried out prior to the report being presented for approval)</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Leader <input type="checkbox"/> Deputy Leader <input type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	

Links to Council Ambition: Customers, Economy, Environment, Housing
Providing excellent services and protecting the quality of life for residents and meeting environmental challenges.

DOCUMENT INFORMATION:

Appendix No 1	<u>Planning Appeal Decisions Period January 2025 – June 2025</u>
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Appeal Ref: APP/R1010/D/25/3358823 31 Sunnyside, Whitwell, Worksop Derbyshire S80 4SR

The planning application was for the creation of a raised patio area above an existing patio. The application was refused.

Main Issues

The main issue in this case was the effect of the development on the living conditions of occupiers of neighbouring dwellings, having particular regard to overlooking and privacy.

Conclusion

The property is a two storey, mid-terrace dwelling that has been extended to a depth of around 3.56 metres to the rear. Ground levels fall to the rear with steps from the rear of the extension down to a patio. The proposal was to create a raised deck area over the patio at the height of the rear of the extension. The decking area would extend some 3.64m beyond the back wall of the rear extension at the property. Neither of the adjacent properties have been extended. Consequently, the decking area would project some 7.2 metres beyond the rear elevations of those dwellings with the adjacent rear gardens at the lower level. The Inspector agreed with the council that this would result in the elevated decking area proposed having direct, elevated views into the adjacent gardens, with a consequent significant loss of privacy for occupiers.

The Inspector also agreed that this issue could not be overcome by erecting a screen fence around the decking as this would require a 1.8 metre high fence above the height of the elevated decking area, at least 3 metres above the height of the adjacent garden areas. The Inspector considered that would have an unacceptably overbearing, if not overwhelming, visual impact, dominating the outlook from the rear of adjacent dwellings and their rear gardens and that there would also be implications in terms of the loss of sunlight to the rear garden of No 33, which lies to the north of the appeal site.

The Inspector concluded that the harm to privacy and amenity caused by the development meant it was contrary to the requirements of policies SC3 and SC11 of the Local Plan for Bolsover District and the Council's published design guidance 'Successful Places' which, among other things, seek to ensure high quality design in new development in order to provide a good standard of amenity for existing residents in terms of their privacy, outlook and daylight/sunlight.

The Inspector also concluded the proposal would conflict with paragraph 135(f) of the National Planning Policy Framework, which seeks to ensure a high standard of amenity for existing residents. On balance, therefore, I conclude that the appeal should not succeed.

The appeal was dismissed.

Recommendations

None

The decision was made in accordance with Local plan policies. The Inspector agreed with the interpretation of these policies and that the Local Plan policies relating to residential amenity are in line with the National Planning Policy Framework.

Appeal Ref: APP/R1010/D/25/3354338: 31 Queens Road, Hodthorpe, Derbyshire, S80 4UW

The application was for the retention of a vehicular access. The application was refused.

Main Issues

The main issues were the effect of the development on highway safety and whether the appellant's personal circumstances and need for the proposed development outweighed any harm to highway safety to indicate a decision otherwise than in accordance with the development plan.

Conclusion

The appeal property is a dwelling on the corner of Queens Road and King Street. A driveway has already been laid and entrance gates installed. The proposed vehicular access would result in vehicles manoeuvring between the driveway and Queens Road, the main road through Hodthorpe.

The Inspector considered that a car accessing or exiting the driveway would potentially have to stop and possibly obstruct traffic on Queens Road temporarily while the gates are opened or closed. Furthermore, a vehicle using its indicator when approaching on Queens Road from either direction could be confusing for the driver of a vehicle exiting

King Street as it would be unclear whether the vehicle is indicating for King Street or the driveway. This could increase the risk of a collision.

The Inspector also considered that drivers on Queens Road, exiting King Street and pedestrians would have a reasonable view of the vehicle on the driveway at the appeal site but the new gates are slightly higher than the boundary wall and visibility for a driver exiting the driveway would be reduced when they are open and adjacent to the wall which could also increase the risk of a collision with another vehicle or a pedestrian.

The Inspector concluded that even if the proposal eased the on-street parking situation, the potential for obstructing traffic on Queens Road and the increased risk of collisions between vehicles and pedestrians would cause significant harm to highway safety. The proposal would therefore conflict with Policy SC3 of the Local Plan for Bolsover District (2020) (LP), insofar as it requires development to provide spaces which are safe.

The Inspector acknowledged that the provision of a vehicular access would improve accessibility for a disabled member of the appellant's family but that this must be balanced against the matter of highway safety that would be in the wider public interest. The Inspector concluded that the proposal would put road users, and those using the new access, at unacceptable risk and this would outweigh the accessibility benefits.

The appeal was dismissed.

Recommendation

None

The decision was made in accordance with Local plan policy SC3. The Inspector agreed with the interpretation of this policy and that the Local Plan policy relating to highway safety is in line with the National Planning Policy Framework.

Appeal Ref: APP/R1010/W/25/3359979: Birchwood House, Birchwood Lane, South Normanton, Derbyshire DE55 3DE

The application was in outline, with all matters reserved, for a self-build/custom build dwelling. The application was refused.

Main Issues

The main issues for consideration were whether the site would be suitably located with regard to its accessibility and the impact of the development on the character and appearance of the area.

Conclusion

The site was part of a field used for parking lorries. The applicant claimed this was previously developed land, but this was disputed by the council. The Inspector advised that the definition of previously developed land requires that it is land which has been lawfully developed. The Inspector considered that evidence provided was insufficient to establish the lawful status of the existing use but advised the lawful status of the site had not been determinative in the appeal decision.

The Inspector concluded that the site was outside the development envelope within an area of open countryside where policy SS9 would only accept development in certain circumstances. One of these circumstances is the re-use of previously developed land. The Inspector did not take a view on whether the site was considered to be previously

developed land because the policy also required development to be in a sustainable location. The Inspector considered the site to be in an unsustainable location and as such, regardless of whether the land was previously developed, its location meant the proposal would not comply with Policy SS9 of the adopted Local Plan.

The Inspector went on to say, the site's unsustainable location also meant the development was contrary to the requirements of Policies SS1, SS3, SS9 and ITCR10 and as such the development conflicted with the development plan when considered as a whole.

The Inspector considered that in the National Planning Policy Framework, there is support for self-build and custom build housing, particularly given the shortfall in provision accepted by the council and that The Framework offers some flexibility with regard to accessibility in these circumstances. However, overall, the Inspector concluded that the benefits of providing one custom self-build plot would not be sufficient to outweigh the locational concerns that would lead to a reliance on less sustainable transport options; and the harm to the countryside from the consolidation of development within it. The Inspector concluded that on balance, the proposal would also conflict with the overall objectives of the Framework.

The appeal was dismissed.

Recommendation

None. In this instance the Inspector agreed with the council's interpretation of Policies SS1, SS3, SS9 and ITCR10 of the Local Plan and the weight given to the benefits of providing one custom self-build plot in this location. The policies relating to the development are generally in line with the National Planning Policy Framework.

Appeal Ref: APP/R1010/W/24/3357033: Land north of 4 to 10 Meadow View, Clowne, S43 4GP

The application was for change of use of land for nature based woodland play area including erection of shelter building. The application was refused.

Main Issues

The main issue for consideration was whether the proposal would preserve or enhance the character or appearance of the conservation area; and whether this represented a suitable location for new development given its location within the countryside.

Conclusion

The Inspector considered that the proposal would have a number of public and other benefits. An active use would help to prevent the anti-social behaviour which had been a historic problem at this site and would allow some access to the area which was currently not available. He also considered the benefits of early years outdoor play and socialisation are not disputed and there would also be benefits for parents and carers who would similarly benefit from such interactions. The Inspector considered that, whilst this is a commercial enterprise, this does not diminish these benefits. The business activity and employment would also contribute to the economy.

The Inspector considered the activity levels would be relatively limited and did not consider noise levels or hours of use proposed would result in harm to neighbouring living conditions.

Access to the site is limited to pedestrian access. Users of the facility would need to park elsewhere if using a car and then use the public footpath network. The Inspector did not consider this to be a matter that weighed against the proposal, he considered the encouragement of such activity would be a benefit. He acknowledged that movement within the site would be over mown grass rather than made tracks and whilst this may not result in a high level of accessibility for some and may limit inclusivity, any more formal movement arrangements would detract from the character of the area. The Inspector considered the lack of infrastructure, other than the building, was a positive as it would retain, as far as practical, the existing character of the site and wider area.

The Inspector considered the main concern related to the proposed building. He considered views of the building would be limited however, the building would reduce the openness of this area and the openness is of importance to the setting of the nearby listed buildings and the conservation area in general. The Inspector concluded that the building would result in harm to the conservation area from the loss of openness and that the introduction of a formal structure within this open area would detract from the landscape of the Craggs and would not preserve or enhance the character or appearance of the conservation area. The Inspector considered the proposal would result in less than substantial harm as defined by the National Planning Policy Framework 2024. The Framework advises that great weight should be given to the asset's conservation. The Inspector was also mindful that the Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty requiring that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas and that Policy SC16 of the Bolsover District Local Plan supports development in a conservation area only if it preserves or enhances the character and appearance of the area and its setting. The Inspector concluded the proposal would not gain support from this policy.

The Inspector concluded that The Framework requires that where a development leads to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The Inspector felt there were a number of public benefits to the proposal which were afforded considerable weight but that overall, the public benefits of the proposal did not outweigh the harm that would result to the conservation area. The Inspector therefore concluded the proposal also conflicted with the heritage requirements of the Framework.

The Inspector considered the site to be outside the development envelopes within the countryside but that given the nature of the activity proposed and the benefits it would offer, it could be considered as a change of use that would be relatively sustainable and appropriate to the location and that the building would be beneficial for the efficient and viable operation of a land-based business. It would also represent a small-scale employment use relating to recreation. It would therefore fall within, to some degree, categories (a) – (c) of the policy. The policy also requires that development respect the form, scale and character of the landscape, through careful location, design and use of materials. The Inspector concluded that if the site was not within the conservation area, the design details and materials of the building would be suitable for a countryside setting although, in this location, it would result in some harm to the landscape of the Craggs, it would not conflict with policy SS9.

The Inspector also considered the proposal would comply with policy WC3 as it would provide rural employment in the countryside that would provide community facilities that meet a local need and it would allow a small business to diversify.

With regard to design quality, the Inspector felt the proposal would meet many of the objectives of policy SC3 as the low key structure would not impact on important views, it would help support the vitality of the area, reduce opportunities for crime, enhance biodiversity and watercourse management, allow for active travel choices, promote health and social well-being, encourage physical activity and maintain the amenity levels of neighbouring land users. It would limit the adverse impacts on the established character, local distinctiveness and on local heritage whilst going some way to integrate itself into its setting. The Inspector therefore concluded it would meet many of the requirements of the policy and the conflict with other elements would be relatively limited and given the benefits of the proposal, the concerns in this respect, aside from the heritage and character issues, would not weigh significantly against the proposal.

Local Plan policy SC5 relates to changes of use in the countryside. The Inspector considered that the proposal would not enhance the character of the area, but the design details had sought to limit its impact and the other matters within the policy, where relevant, could be adequately addressed.

Policy SS1 relates to sustainable development and the Inspector generally found support for the proposal with regard to many of the criteria set out but considered it would conflict with its requirement with regard to heritage assets. When considering the costs and benefits together, as required by the policy, the Inspector concluded the cost with regard to heritage assets would outweigh the other benefits.

The Inspector concluded that regard had been given to the potential ecological, recreational, educational, social, health and well-being benefits of the proposal and afforded them considerable weight. Although private land, he considered the proposed use would complement the other public open spaces uses and provide greater access to this additional area. He felt it would not be at odds with the Bolsover Regeneration Framework or Green Space Strategy as it would complement provisions within Clowne Linear Park. He also considered the economic activity and employment provision would similarly be a significant benefit and gain support from policy WC3.

The Inspector concluded that, generally, setting aside the conservation area concerns, this would be a low-key activity that could take place without significant harm, and it would make an efficient use of the site. It would not undermine the countryside protection policies and would provide a range of benefits. The Inspector did not share the council's concerns with regard to policy SS9 and considered that it gained support from policy WC3. He considered there would be some conflict with policies SS1 and SC5 but generally these concerns related to heritage and character issues only.

However, the Inspector concluded that the proposal would not preserve or enhance the character or appearance of the conservation area and would conflict with policy SC16 of the Local Plan. As the public benefits would not outweigh the harm to the conservation area, it would also conflict with the heritage requirements of the Framework. Given this conflict, it would not represent sustainable development, despite the numerous benefits in that regard. Whilst the Inspector had few concerns with regard to the proposed use, he considered the need for a new building within the conservation area would not preserve or enhance the character or appearance of the conservation area. It would

result in harm to the landscape of the Craggs and that harm would not be outweighed by the benefits of the proposal.

The appeal was dismissed.

Recommendation

None. In this instance the Inspector agreed with the council's interpretation of Policy SC16 but took a different view on the interpretation of policies WC3 and SS9 of the Local Plan. The policies relating to the development are generally in line with the National Planning Policy Framework.

Appendix No 2	<u>Enforcement Appeal Decisions Period January 2025 – June 2025</u>
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Appeal Ref: APP/R1010/C/24/3342204: Land south of Pasture Lane, Hilcote, Alfreton

An appeal was submitted against an enforcement notice issued by the council requiring the unauthorised use of land and buildings for residential use to cease within 6 months of the date of the notice.

Main Issues

The appeal was originally made on ground (a), however as the required fee was not paid, this ground of appeal lapsed. It was accepted that an appeal on ground (f) could be pursued instead.

An appeal under ground (f) is that the steps required by the enforcement notice to be taken, or the activities required by the enforcement notice to cease, exceed what is necessary to remedy any breach of planning control or, to remedy any injury to amenity which has been caused by any such breach.

The appellant did not explain why they consider the requirements of the enforcement notice were excessive. Neither did they suggest any lesser steps which, in their opinion, would overcome the breach.

Conclusions

The enforcement notice required the residential occupation of the land and buildings to cease. The purpose of the enforcement notice was to remedy the breach of planning control. The Inspector concluded there were no lesser steps that would achieve the enforcement notice's purpose and consequently, the steps required by the enforcement notice were not excessive to remedy the breach of planning control.

The wording of the enforcement notice was amended slightly but the otherwise the Inspector concluded that the appeal should not succeed, and the enforcement notice was upheld.

Recommendation

None

The requirements and time periods set out in the enforcement notice were considered reasonable and appropriate by the Inspector.

Background Papers
<i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).</i>