

BOLSOVER DISTRICT COUNCIL

Meeting of the Planning Committee on 21st January 2026

Report: Appeal Decisions: July 2025 – December 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 the appeal decisions made over the last reporting period and any issues arising / learning

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.

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. During the January-June 2025 monitoring 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 appeals determined within that period.

- 1.4 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 Appeal Performance within the Previous Six Months, Overall Performance and Reasons for Recommendation

- 2.1 The latest monitoring period was July-December 2025. During this period the council had no appeal decisions on major planning applications and three appeal decisions on non-major planning applications. One of these appeals was dismissed and the other two were allowed. However, this only equates to 1.43% of the number of non-major applications determined within this period.
- 2.2 One appeal decision was also made against the refusal to grant prior approval for the erection of a forestry building. That appeal was dismissed. The performance of Local Authorities on the outcome of prior approval appeals is not measured in the same way as planning appeals. However, it is considered useful to report these appeals within the same time period to address any issues and allow any lessons to be learnt from these appeal decisions.
- 2.3 The assessment period for the quality of decisions is two years up to and including the most recent quarter for which data on planning application decisions are available. No appeals have been made in respect of applications for major development over this period and only six appeals against decisions to refuse planning permission for non-major development have been allowed. This comprises only 1.02% of the total number of decisions on applications for such development, far exceeding the government target for no more than 10% of decisions being allowed at appeal.
- 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, with 60% of the total number of appeals received being dismissed. It is recommended that the appeal 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 targets.

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. That the quality of decision making / appeal performance and report be noted.
2. That appeal decisions continue to be reported to Committee members every 6 months.

IMPLICATIONS:

<u>Finance and Risk</u>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
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		
<u>Legal (including Data Protection)</u>		
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.		
<u>Staffing</u>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
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.		
<u>Equality and Diversity, and Consultation</u>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Details:		

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

By monitoring appeal decisions, it allows us to check that equality considerations are considered correctly in the assessment of planning applications. 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 ensures the environmental objective of achieving sustainable development, namely to protect and enhance the natural, built and historic environment, including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy is met.

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:

Yes No

(a) (b)

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.

(a) (b)

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)

All

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

<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p> <p>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>)</p> <p>Consultation carried out: (this is any consultation carried out prior to the report being presented for approval)</p> <p>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"/></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
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Links to Council Ambition: Customers, Economy, Environment, Housing

DOCUMENT INFORMATION:

Appendix No 1	<u>Planning Appeal Decisions Period July 2025 – December 2025</u>
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Appeal Ref: APP/R1010/W/25/3371087: Meadow View Stables, Newton Road, Tibshelf, DE55 5PH

The application was for the retention of two mobile homes. The application was refused.

Main Issues

The main issues were:

- a) Whether the appeal site was an appropriate location having regard to local planning policies; and
- b) The effect of the development on the character and appearance of the surrounding area.

Conclusion

The Inspector agreed that the site was outside of the development envelope within the open countryside. The Inspector did not consider the land on which the caravans are sited to be previously developed land, nor did they fall within any other categories under which the development may be acceptable under policy SS9 of the Local Plan which restricts development in the countryside unless it falls within specific categories. The Inspector concluded that the site did not provide a suitable location for the development

as it would conflict with the development plan strategy to restrict development in the countryside, and conflict with Policy SS9 of the Local Plan.

The Inspector considered the character and appearance of the area to be semi-rural, with a sense of openness and greenery which resonated with the identification of the area as an important open break area in the Local Plan. In such areas, Policy SS11 of the Local Plan aims to restrict development to that which does not detract from the objective of maintaining an open character which contributes to the separation of settlements. The Inspector considered the site to be an area of grassed land, which was largely devoid of built form which, notwithstanding the presence of other nearby buildings, reinforced the open, rural qualities of the landscape and separation of settlements. The Inspector considered that the presence of two mobile homes, owing to their boxy, utilitarian form and associated volume, adversely encroached upon the sense of openness. The Inspector also felt that the activity, domestic paraphernalia, parked vehicles and lighting associated with their occupation exacerbated that harm by diluting the rural qualities of the area.

The Inspector considered that the caravans could not be widely seen but felt that Policy SS11 is not expressly confined to those areas which are widely seen from public points, rather it seeks to maintain the separation of settlements. So, whilst limited visibility from the road may restrict the extent of harm, it did not negate it.

The Inspector concluded that the proposal would result in harm to the character and appearance of the surrounding area contrary to Policy SS11 of the Local Plan. The Inspector also concluded that the proposal further conflicts with Policy SS9 which requires new development to respect the form, scale and character of the landscape and Policy SC5 which supports development only where it is in keeping with and enhances the original character of the landscape and where a curtilage can be created that does not adversely affect the landscape character. For similar reasons it runs counter to Policy BE2 of the Tibshelf Neighbourhood Plan 2017-2033 (May 2023) which seeks to ensure that new development in this location respects local character having regard to landscape.

For these reasons the Inspector concluded that the proposal would conflict with the development plan as a whole and there were no material considerations that indicated that the development should be determined otherwise than in accordance with it.

The appeal was dismissed.

Recommendation

None

The decision was made in accordance with Local plan policies SS9, SS11 and SC5. The Inspector agreed with the interpretation of these policies.

Appeal Ref: APP/R1010/W/25/3365670: Greenacres, Budge Lane, Scarcliffe, S44 6TA

The application was for the erection of five dwellings and the construction of an access road. The application was refused.

Main Issues

The main issues for consideration were:

- Whether the proposal represents a suitable location for residential development, having regard to the development plan and national guidance
- The effect of the proposal on the character and appearance of the area
- The effect on the settings of the Scarcliffe Conservation Area (SCA) and non-designated heritage assets, and
- Whether the proposal would accord with local and national requirements to provide net gains for biodiversity.

Conclusion

The Inspector concluded that the development would result in conflict with the development plan as its location would be contrary to the settlement strategy for the district. However, the harm in this respect was tempered by the fact that the proposed dwellings would be adjacent to the village, as close as other dwellings within the settlement limit to the village's facilities. The proposal would also re-use land which, though not formally previously developed land, had previously had structures on it, and for which planning permission has previously been granted for an identical design. He also concluded it would not have a harmful effect on the surrounding landscape or nearby designated and non-designated heritage assets.

Set against this harm, the Inspector considered the proposal would be consistent with several key aims of the Framework, including adding to the district's overall and rural housing stock, making effective use of land and, through its location close to other dwellings, local facilities and public transport, making small but positive social, economic and environmental contributions that would help maintain the vitality of rural communities. The Inspector also considered there would also be modest, but nonetheless positive net gains for biodiversity.

The Inspector considered that these material considerations weighing in favour of the proposal, taken together, outweighed the limited harm arising from the locational conflict with the spatial strategy and justified a decision other than in accordance with the development plan in this case.

The appeal was allowed, and planning permission was granted subject to conditions.

Recommendation

None. In this instance the Inspector agreed with the council's interpretation of Policies SS3 and SS9 of the Local Plan but gave greater weight to what they considered the benefits of the proposal and to the previous recently lapsed planning permission. The policies relating to the development are generally in line with the National Planning Policy Framework.

Appeal Ref: APP/R1010/W/24/3368227: Land adjacent to 36 Harvester Way, Clowne, S43 4FF

The application was for change of use of land to equestrian use and the siting of two field shelters. The application was recommended for approval subject to conditions. The application was refused at Planning Committee contrary to officer recommendation.

Main Issues

The main issue for consideration was the loss of protected green space, as identified in the development plan.

Conclusion

The Inspector considered that the site is identified as protected green space in the local plan where the change of use of such land to other uses is resisted by Policy ITCR6 of the LP unless either a satisfactory replacement facility is provided, or the proposal is of a greater overall benefit to the local community than existing or realistic potential uses of the green space. No replacement facility is proposed as part of the appeal submission.

However, the Inspector agreed that it formed neither part of the adjacent housing development nor did it form part of the adjacent sports facility.

In such a context, the Inspector acknowledged the Council focused on the potential future uses of the green space, as there has never been a formal 'existing' use in green space terms and the intention to explore the possibility of compulsorily purchasing the land so that it can be used as green space in the future. However, the Inspector considered the details of whether this was likely to be possible, whether it would represent a good use of public money, and any details in terms of progress that had been made in moving that process forward since the planning application was submitted were notably lacking.

The Inspector considered that even if this was shown to be a realistic future use, there is evidence in the many representations received from interested parties that the equestrian use has been of considerable benefit to the community, who for the most part welcome the presence of the horses on the site. Reference is made both to the benefits of having horses on the site as a relief from the urban feel of the housing estate and to the land being maintained in a good condition as a result of the use. This use also maintains the land as open in character, albeit without public access. In comparison, there would be a more limited benefit in securing the appeal site as green space, given that it is a narrow section of land and that there is a much larger and more usable area of public green space adjacent.

The Inspector also acknowledged the reference by the Council to the potential for a footpath link to be created across the appeal site to the adjacent playing fields. However, the Inspector considered that, the appeal site runs parallel with an all-weather pitch enclosed by fencing which is not accessible to the general public without prior booking and payment and that crossing the appeal site would not be the only option to playing fields via the protected green space in the area. The Inspector went on to say that it had not been demonstrated that such a link is a longstanding or safeguarded aspiration, there were footpath options in the vicinity and in these circumstances, a potential footpath link would not outweigh the benefits identified as arising from the equestrian use.

The Inspector concluded that the site did not form part of the intended green space for the adjacent housing development and that the use of the appeal site for equestrian purposes has had a greater overall benefit to the local community than the potential future use as a green space would, an occurrence which in any event was far from certain to occur. Consequently, the development accorded with Policy ITCR6 of the local plan, where it sets out the criteria under which the loss of green space will be permitted.

The Inspector concluded that the proposal failed to accord with Policy SS9 of the local plan as a type of new development in the countryside that is not referred to in that policy. However, the Inspector concurred with the Council that there was no harm in landscape or visual terms, and that there has been no notable built development involved. The Inspector concluded that the compliance with Policy ITCR6 and the community benefits which had arisen from the use outweighed what was a technical 'in principle' breach of Policy SS9 and meant that planning permission should be granted.

The appeal was allowed, and planning permission was granted for the change of use to equestrian and siting of 2 x wooden field shelters subject to a condition requiring compliance with the submitted plans and the use of the land and buildings to be for the

keeping of horses for private use only with no trade, business or commercial use being carried out.

The Inspector did not consider a condition requiring the field shelters being maintained in a dark colour was necessary. The Inspector also considered a condition limiting the planning permission to a temporary period was unnecessary because the use was considered acceptable and that its benefits outweighed the alternative benefits outlined by the Council, thus ensuring compliance with the relevant policy of the development plan that relates to the loss of green space.

Recommendation

None. In this instance the Inspector agreed with the council's recommendation to approve the application and the interpretation of Policies SS9 and ITCR6 of the Local Plan but took a different view on the reasonableness of a temporary consent. The policies relating to the development are generally in line with the National Planning Policy Framework.

Committee members should ensure that if they determine an application contrary to an officer recommendation, that decision should be restricted to planning considerations and should be made in accordance with the Policies in the local plan unless the report advises of material planning considerations which indicate otherwise.

Appendix No 2	Prior Approval Application Appeal Decisions Period July 2025 – December 2025
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Appeal Ref: APP/R1010/W/25/3367844 17 Kingfisher View , Clowne, S43 4GP

The appeal was made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The development proposed was a storage building for forestry use.

Main Issues

Part 6, Class E of the General Permitted Development (England) Order 2015 (the GPDO) permits the carrying out on land used for the purposes of forestry, development reasonably necessary for those purposes, including the erection of a building. The Council argued that the proposed development would not qualify as permitted development because the land was not used for forestry purposes and the erection of the proposed building would not be reasonably necessary.

The main issue in this case was therefore whether or not the land was used for forestry purposes and if so, whether or not the proposed building would be reasonably necessary for those forestry purposes.

Conclusion

The Inspector concluded that the site area was not sufficient in size to be considered as a forest, and it therefore followed the land was not used for forestry purposes, and the proposed building couldn't be considered as associated permitted development.

Accordingly, the Inspector found that the conditions and limitations of Class E of the GPDO had not been met. Given that the proposal couldn't be considered as permitted

development under Class E, it was not necessary to proceed to consider the matter of reasonable necessity in this case.

The appeal was dismissed.

Recommendations

None

The decision was made in accordance with the relevant legislation. The Inspector agreed with the interpretation of this legislation.

Background Papers

(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).