

Subject:	Planning Appeals update	Status:	For Publication
Report to:	Development Control	Date:	3 September 2013
Report of:	Planning Manager	Portfolio Holder:	Development Control and Operations
Key Decision:	NA	Forward Plan	NA
Equality Impact Assessment:	Required:	No	Attached: No
Biodiversity Impact Assessment	Required:	No	Attached: No
General Exception	NA	Special Urgency	NA
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1.	RECOMMENDATION(S)
1.1	That members of the committee note the report

2. PURPOSE OF REPORT

2.1 To inform Committee Members about the scale of Appeal activity, and the Appeal decisions received from the Planning Inspectorate, since September 2012.

3. CORPORATE PRIORITIES

3.1 The matters discussed in this report impact directly on the following corporate priorities:

- **Regenerating Rossendale:** This priority focuses on regeneration in its broadest sense, so it means supporting communities that get on well together, attracting sustainable investment, promoting Rossendale, as well as working as an enabler to promote the physical regeneration of Rossendale.
- **Responsive Value for Money Services:** This priority is about the Council working collaboratively, being a provider, procurer and a commissioner of services that are efficient and that meet the needs of local people.
- **Clean Green Rossendale:** This priority focuses on clean streets and town centres and well managed open spaces, whilst recognising that the Council has to work with communities and as a partner to deliver this ambition.

4. RISK ASSESSMENT IMPLICATIONS

4.1 There are no specific risk issues for members to consider arising from this report.

5. BACKGROUND

5.1 Appeals received but currently undetermined

At the time of writing, 9 planning appeals are lodged and awaiting decisions from the Planning Inspectorate. Appendix 1 shows the 9 planning appeals plus 1 condition discharge appeal and 1 enforcement notice appeal related to a previously submitted planning application which was refused and lost on appeal. There are a number of other outstanding Planning Enforcement Notice appeals but as they have no previous planning history they do not appear on Appendix 1. An update on undecided Enforcement appeals along with the Enforcement Notice appeal decisions determined by PINS since September 2012 will be provided next month along with the Enforcement cases update.

5.2 Appeals decided since September 2012

Since September 2012, 11 planning appeals have been determined by the Planning Inspectorate and one appeal has been withdrawn due to a further application for a similar development being granted on the site. Of those determined, 7 were dismissed and 4 were allowed. In terms of those allowed, one was recommended for refusal by Officers, whereas the other three were recommended for approval by Officers, but were overturned by Committee. Of the 7 dismissed, 2 had been to committee, Land off

Hardsough Lane (2012/0125) and Eden Lane (2011/0618), Edenfield due to Cllr “call in” but were refused by the committee.

The four appeals allowed since September 2012 were:

2011/0363 – Erection of 4 x 24.2m to tip wind turbines at Scar End, Weir Bottom, Bacup – Committee decision

2011/0556 - Erection of 5 town houses with amenity area to the side Lawson Street, Crawshawbooth – Committee Decision

2012/0251 Erection of dwelling and removal of existing residential caravan Willow Stables Gib Hill Lane Crawshawbooth – Officer Decision

2012/0566 Change of use of business premises to school for emotional behavioural difficult children At Mercedes House, Market St, Shawforth – Committee Decision

Cost claims were submitted on 2 of the 11 appeals. A partial award of costs was given in respect of a delegated decision for refusal for a Wind turbine at Thorn House Farm (APP 2012/0316). The cost relating to a second reason for refusal on noise grounds notwithstanding the fact, the appeal itself was dismissed on the grounds of visual intrusion. Officers are surprised at this decision as it appears inconsistent with a previous appeal decision for the same site and in officers’ opinion reflects an inconsistent approach between inspectors. Finally, full costs were awarded in respect of 2012/0566. For information, the Planning Inspectorate does have a complaints process. However, both appeal decisions and cost awards can only be overturned by successful challenge at judicial review, which often would be of higher cost than the costs award itself. The Council could only recover judicial review costs if the Planning Inspectorate has acted so unreasonably / incorrectly that the Council could recover its costs. This would be highly unlikely to ever occur.

5.3 Keeping members informed

Members have recently asked to be kept informed when new appeals are lodged so that they can track them. Accordingly, the Planning Service will provide a weekly report circulated to all Councillors in similar manner to the weekly list for applications. “Informal Hearings” are heard in public and so councillors can attend should they wish to do so. Members interested in attending informal hearings will need to advise the relevant case officer accordingly when they see it appear on the weekly list. The case officer can then update the Councillor on the date of the hearing when it has been fixed by the Planning Inspectorate. Of the informal hearings listed in Appendix 1, at the present time only Heald Top Farm has yet to be heard and no date has yet been set. The other “Informal Hearings” are now awaiting decisions from the Inspectorate following the hearings being completed.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 The costs of the appeals with successful cost awards mentioned above have yet to be determined, and are subject to on-going negotiations / deliberations.

7. MONITORING OFFICER

7.1 Report is for information purposes only

8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

8.1 None contained within this report, however, appeal decisions can inform interpretation / implementation of Planning Policies.

9. CONCLUSION

9.1 For members to note the update provided in the report

Background Papers

Copies of the full appeal decisions can be viewed on the Council's website by entering the application number on the search box of the homepage. The application numbers in decision date order are: 2012/0125, 2011/0636, 2011/0363, 2011/0618, 2012/0281, 2011/0629, 2012/0316, 2011/0556, 2012/0251, 2012/0566 and 2012/0328