

Subject:	Planning Appeals update		Status:	For Publication	
Report to:	Development Control		Date:	21 st January 2014	
Report of:	Planning Manager		Portfolio Holder:	Development Control and Operations	
Key Decision:	NA	Forward Plan	NA	General Exception	Special Urgency NA
Equality Impact Assessment:	Required:		No	Attached:	No
Biodiversity Impact Assessment	Required:		No	Attached:	No
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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 2013.

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, 4 planning appeals are lodged and awaiting decisions from the Planning Inspectorate. The 4 planning appeals are:

- 2011/0568 – Holden Vale Hotel, Helmshore – Conversion of Hotel to 15 apartments – appeal relates to signing of the S106 Planning Obligation
- 2012/0546 - 1 Laburnum Street – Haslingden – change of use from retail & Storage to retail, storage and tyre fitting
- 2013/0103 - Land off Dearden Clough, Edenfield for 7 houses
- 2013/0347 - Land behind Packhorse Barn, Market Street, Edenfield for Change of use of land from haulage yard for not more than 5 HGVs and 4 trailers to storage of 25 caravans and 2 trailers.

An update on undecided Enforcement appeals along with the Enforcement Notice appeal decisions determined by PINS since October 2013 appears elsewhere on the agenda of this committee.

5.2 Appeals decided since 1st September 2013 to 31st December 2013

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Members may recall my previous Appeals report taken to the 3rd September 2013. As a follow up to that report, I should advise that one appeal decision was received on the 22nd August 2013 but was received too late to be included in the previous report. This appeal at 4 East View, Shawforth (App 2012/0585) for demolition of existing buildings and erection of a bungalow in the Green Belt was allowed. The inspector concluding in this particular case it would not have a greater impact on the openness of the green belt than the existing buildings, nor would it have greater impact on the purposes of including land in the green belt and because in the inspector's view the existing buildings did not have an agricultural appearance, were seen in the context of neighbouring urban development and the proposal would result in visual improvement.

8 planning appeals have been determined by the Planning Inspectorate during the period 1st September to 31st December 2013. Of those determined, 6 were dismissed and 2 were allowed. In terms of those allowed, one was refused through delegated powers by Officers (App 2013/0297 - 19 the Hedgerows, Whitworth – proposed house extension), and one was overturned by Committee (App 2012/0410 - Land at John Henry Street, Shawforth for the erection of a bungalow). In these cases the inspector taking a different view in relation to design considerations and impact on neighbour amenity.

Of the 6 dismissed, 1 had been to committee, App 2013/0033 – the Former Furniture Centre, Beaconsfield Street, Haslingden. The application had come before committee because there were high numbers of both objectors and supporters to the application. The application was recommended for refusal by officers and refused by the committee.

Of the others dismissed, of particular note were applications 2012/0440 – 89 Goodshaw Avenue North, Goodshaw and the Former Scout Hut, New Line, Bacup. Both applications proposed residential development outside the urban boundary and the applicants contended that the Council could not demonstrate it has sufficient sites to accommodate 5 years plus 20% housing supply of the housing provision target set out in the adopted Core Strategy. In each case, the Inspector accepted the Council's argument that it could demonstrate it had sufficient suitable sites to meet its housing provision responsibilities.

Cost claims were submitted on 2 of the 8 appeals. A partial award of costs was given in respect of the delegated decision for refusal of the dwelling at 89 Goodshaw Avenue (APP 2012/0440). The cost relating to a second reason for refusal on impact on Tree Protection grounds notwithstanding the fact, the appeal itself was dismissed on the grounds it would detract from the character and appearance of the area, would harm the living conditions at houses opposite and would not be sustainable development. In relation to this cost, it related to Tree Preservation Records being out of date. It is recognised that a piece of work is required in updating some of the Council's Tree Preservation Records.

The other cost claim in respect of an appeal against refusal to discharge 2 drainage conditions on proposed residential development at Moorgate, Tong Lane, Bacup (App 2013/0029) was dismissed.

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. Due to technical difficulties, it has not been possible to circulate details of appeals on the weekly list as originally intended and referred to in the past report. However, it has been agreed with the chair and portfolio holder to inform relevant members when an appeal is received in their respective ward. This process is now in place.

"Informal Hearings" and "formal Inquiries" 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 are informed. The case officer can then update the Councillor on

the date of the hearing when it has been fixed by the Planning Inspectorate.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 The partial award of costs related to 89 Goodshaw Avenue, Goodshaw has now been actioned.

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: 2012/0585, 2012/0440, 2012/0515, 2012/0410, 2013/0026, 2013/0033, 2013/0297, 2013/0029 and 2013/0266.