

Subject:	Planning Appeals update		Status:	For Publication	
Report to:	Development Control		Date:	17 th June 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 January 2014.

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, 10 planning appeals are lodged and awaiting decisions from the Planning Inspectorate. The 10 planning appeals are:

- 2014/0033 – 8 to 10 Blackburn Road: Conversion of shop and living space to additional living space
- 2014/0124 – Land adj 20 Sidmouth Avenue, Haslingden: Erection of dwelling
- 2011/0307- 71 Deardengate, Haslingden: Erection of shutters
- 2014/0108 – 390 Bury road, Rawtenstall: Erection of dwelling
- 2013/0500 – Land south of Pewitt Hall Farm, Back Lane Rising Bridge:, Erection of Agricultural Building
- 2013/0075 – Broadclough Farm, Burnley Road, Wier, Bacup: Erection of 42 bed specialist care home and 40 bed extra care apartments
- 2013/0581 – Rear Garden of 1 Broadway, Haslingden: Erection of Dwelling
- 2013/0587 – Lomas Lane, Ballenden: Erection of Dwelling
- 2013/099 – Land off Wallsclough, Whitewell Bottom: Erection of 35m windturbine

- 2013/0490 – Site at Swinnel Brook, Grane Road, Haslingden: Erection of site curtilage to Park Home

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

5.2 Appeals decided since the report taken to 21st January 2014

4 Appeals were determined by the Planning Inspectorate 1st January 31st March 2014, and a further 3 appeals to the date of this report. Of those determined, 5 were dismissed on appeal and 2 were allowed.

In terms of the 2 allowed, One was for 2011/0568 at the former Holden Vale Hotel, Holcombe Road, Haslingden and related to agreement not being reached in relation to the contribution requirements of the Section 106 Obligation subsequent to committee resolution to permit. In relation to that appeal the Inspector took the view that contributions were not required to make the development acceptable. He concluded there was sufficient evidence before him that the viability information submitted by the developer could be challenged (albeit submission was only made at the appeal, not when the application was determined by the Council), and that the former use was not so different to the proposed use in terms of requirements to require upgrading of facilities in the area.

The other appeal allowed related to a proposed agricultural building refused via delegation. The site lies in the Green Belt and the consideration was whether it was inappropriate development in the Green Belt and the effect on the character and appearance of the surrounding area. In allowing the appeal the Inspector concluded as did the Council that the use was acceptable in principle. However, opinion differed in relation to the harm caused by an increase in the scale and size compared to an approved scheme.

The 5 appeals dismissed, were:

- 2013/0017 – Heald Top Farm, Bacup – Erection of 25m to hub turbine
- 2012/0468 – Top of Croft Farm, Edenfield – Erection of 46m turbine
- 2013/0347 – Packhorse Barn Edenfield – Storage of 25 caravans and 2 Wagon Cabs
- 2013/0103 – Land at Dearden Clough, Edenfield – Erection of 7 houses and access
- 2013/0085 – Carter Place Stables. - Relocation of a mobile Home

Of the 5 appeals above all were delegated items except for 2013/0103. Committee concluding on this application particularly having regard to verbal evidence given on the night by objectors / local ward councillors that there were grounds to go against the officer's recommendation on this application. Having regard to the subsequent submissions made by officers, the inspector dismissed the appeal due to insufficient evidence to overcome concerns regarding land instability, and that the proposal would result in unacceptable access issues and exacerbation of on street parking difficulties. The Inspector also reaffirmed the Council's position that it can demonstrate it has got a 5 years plus 20% supply of deliverable housing sites to meet its housing requirement target.

Cost claims were submitted on 2 of the 7 appeals. These related to 2011/0568 and 2013/0103. In relation to the latter, the costs claim was dismissed.

In relation to the former, a partial award of costs was given. The Inspector concluding that the Council needed to make a decision on the original application when the viability assessment was not forthcoming after committee resolution to approve the application and

secondly because the Council had not sufficiently justified that the viability information subsequently submitted at appeal was incorrect and that as the matter had gone to appeal the appellant had been put to wasted expense by having to go to appeal.

The Council is disappointed with the decision as the council had sought to deal with the matter through negotiation with the applicant without the need for appeal by requesting the viability information be submitted with the application considered by the committee and then subsequently by suggesting a resubmission of the application with accompanying viability information. However, it is recognised in hindsight in the absence of the viability information being forthcoming with the submitted application, the Council should have determined the application.

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

Difficulties have remained in appeals received being pulled through into the IT system so they can be put on the weekly list for members' information. Accordingly, the Planning Administration Manager will put measures in to ensure relevant local ward members are informed when appeals are received in their respective areas along with the relevant portfolio holder and chair of planning committee..

Most appeals as members may be aware are dealt with by the Written Representations format. However, "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 for 2011/ 0568 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 relevant application numbers are: 2013/0017, 2011/0568, 2012/0468, 2013/0347, 2013/0103, 2013/0500, 2013/0085, 2014/0033, 2014/0124, 2014/0108, 2013/0500, 2013/0075, 2013/0581, 2013/0587, 2013/099 and 2013/0490.