

PLANNING COMMITTEE

DATE OF MEETING: 15 JANUARY 2020

TITLE OF REPORT: UPDATE ON PLANNING APPEALS

Report of: Head of Place

1 PURPOSE OF REPORT

1.1 To update Members of the Planning Committee with details of planning appeal performance along with details of some key appeal decisions.

2 OFFICER RECOMMENDATION

2.1 That the Committee notes the report.

3 BACKGROUND

3.1 This report advises the Committee of the number of appeals that have been lodged and the number of decisions that have been received in respect of planning appeals in 2019, together with details of appeals that are awaiting a decision.

4 APPEALS AWAITING DECISION

4.1 Attached is a list of appeals that are currently valid but awaiting a decision from the Inspectorate. Of the 19 appeals awaiting a decision, two are Informal Hearings with dates scheduled for February 2020. In addition there are a further 6 appeals that have been lodged with the Planning Inspectorate that have not yet been validated.

5 APPEALS DECIDED (2019)

5.1 Members are notified of all appeal decisions when they are received. Of the decisions received in 2019 the following are notable decisions:

5.2 Bramshill (references 16/00720/FUL, 16/00721/LBC, 16/00722/FUL, 16/00723/LBC, 16/00724/FUL, 16/00726/LBC, 16/00727/FUL)

Members will recall that the appeals involved a number of different proposals for the site. There were three different options for the use of the mansion (single dwelling, office and conversion to flats plus museum space) along with three separate applications for new housing in the grounds.

5.3 After a very lengthy Public Inquiry (October 2017-February 2018) the Inspectorate issued their decision in January 2019. The appellants were successful in relation to the proposed conversion of the Mansion to a single dwelling and an office as it was concluded that these proposals would not cause harm to the heritage assets. However the other appeals were dismissed. Members were briefed on the outcome at the time.

5.4 However by way of a further update the appellants challenged these decisions in the courts along with the decision to dismiss some of the enforcement notices and the

decision to refuse to allow the reuse of the existing accommodation on site for independent dwellinghouses. The Judicial Review was heard in November 2019 with a decision issued in December 2019. The Judge concluded that the Inspector had not erred in law in her decisions in the majority of cases. However he concluded that one of the grounds of challenge (out of seven) was successful and as a result the decisions on several of the enforcement notices and on the reuse of the existing buildings for dwellings have been quashed. This means that these appeals will be remitted back to the Planning Inspectorate for redetermination.

5.5 Pale Lane (reference I6/03129/OUT)

5.6 This was an application for up to 700 dwellings plus associated infrastructure located North and South of Pale Lane. The appeal was “called in” by the Secretary of State (SoS) and a decision issued on 4th November 2019; the public inquiry was held January 2019.

5.7 The appeal was dismissed by the SoS on the following grounds;

- 1) Prematurity;
- 2) That there would be harm to the setting of listed buildings (at Pale Lane Farm);
- 3) There would be a major and harmful adverse effect on the character of the countryside leading to the loss of an important part of the Countryside around Fleet; and
- 4) That there would be the loss of the best and most versatile agricultural land.

5.8 In finding that the scheme was “premature” the SoS agreed with the Council that there wasn’t any need at this time to deliver 700 homes in this location and that allowing the appeal would predetermine the location of a significant urban extension that the Plan-making process had already considered inappropriate for the District.

5.9 The SoS considered that Saved Policies RUR2 and CON22 were inconsistent with the National Planning Policy Framework (NPPF) and as a consequence he gave them moderate weight. The SoS also considered that the Emerging Plan, due to its advanced stage should be given moderate weight. The Hartley Wintney Neighbourhood Plan which covered part of the site was given significant weight as it formed part of the Development Plan and he noted that it did not allocate the site for housing.

5.10 The full appeal decision can be downloaded from the Council’s website.

5.11 The Bailey, Branksomewood Road, Fleet (17/00330/FUL)

5.12 The application sought planning permission for 14 2-bed sheltered housing apartments.

5.13 This original application was recommended to Planning Committee for approval. Members overturned the officer recommendation and considered that there was harm to the Conservation Area due to the loss of a non-designated heritage asset (the Bailey) as well as harm to the amenities of the neighbouring properties.

5.14 The appeal was determined by way of a Public Inquiry.

- 5.15** The Inspector gave the Emerging Plan and the Fleet Neighbourhood Plan limited weight due to the stages in the plan-making processes that they had reached at the time of the Inquiry.
- 5.16** The Inspector concluded that the significance of the Conservation Area lays in its *“enclosed nature reflecting the fact that it is a heavily treed and verdant area of housing with buildings usually hidden in whole or part”*. He found that it is the *“sylvan quality, allied to some unmade roads, grass verges and (in places) undulating topography which give the Conservation Area its special character”*. The Inspector concluded that whilst the Bailey is a pleasant building it is not of listable quality and not particularly noteworthy of its time. Overall the Inspector concluded that the site’s contribution to the significance of the Conservation Area was the boundary wall and established vegetation and as both of these were being retained there would be no overall harm to the Conservation Area.
- 5.17** The Inspector also disagreed with the Council regarding the impact that the proposed development would have on the amenities of the neighbouring occupiers.
- 5.18** The full appeal decision can be downloaded from the Council’s website.
- 5.19** **Land at Southwood, Thackhams Lane, Hartley Wintney (17/01816/FUL)**
- 5.20** The application sought planning permission for the erection of a 60-bed care home of the outskirts of Hartley Wintney. The application was principally refused by officers due to its impact on the setting of Hartley Wintney and the character of the area.
- 5.21** The Inspector concluded that although the site was located outside of the settlement boundary, the scheme would not cause harm to the character of this part of the countryside so would not be in conflict with CON22 or the second part of RUR2. The Inspector noted the Council’s need for older person’s accommodation as reflected in the then Emerging Hartley Wintney Neighbourhood Plan and Emerging Local Plan.
- 5.22** Overall, whilst there was some conflict with the adopted Development Plan, due to the need for older persons accommodation in the District along with the fact that the Inspector concluded that there was no harm to the character of the area, he weighed in favour of the development.
- 5.23** The full appeal decision can be downloaded from the Council’s website.
- 5.24** **Hazeley Lodges, Bramshill House (18/01363/FUL & 18/01364/LBC)**
- 5.25** These applications sought planning permission and listed building consent for the extension to the Lodges to the Bramshill Mansion. The appeal was heard by a Planning Inquiry.
- 5.26** The Inspector agreed with the Council that the size and design of the extensions were harmful to the significance of the heritage assets (including the lodges themselves, the setting of the Mansion and the Registered Park and Gardens).

- 5.27** The Inspector acknowledged the deteriorated condition of the lodges but did not find that the appellants had deliberately neglected them.
- 5.28** The Inspector considered that there were alternatives available that would repair and bring the lodges back into use that could be achieved without causing the level of harm that the appeal scheme would cause.
- 5.29** The Council successfully defended an application for costs against it made by the Appellants.
- 5.30** The full appeal decision can be downloaded from the Council's website.
- 5.31** **Land to South Chatter Alley, Dogmersfield (18/00877/FUL)**
- 5.32** The application sought planning permission for the erection of 5 dwellings, the creation of a 20 space public car park and amenity space.
- 5.33** The main issues related to the effect on the character of the area (countryside) and the Conservation Area and the impact on the Thames Basin Heaths Special Protection Area (TBHSPA).
- 5.34** The Inspector considered that the proposal would erode a visual gap which is important in terms of the character of the village but also the Conservation Area. The proposal would cause less than substantial harm to the character of the Conservation Area as a result.
- 5.35** The Inspector considered that the removal of overhead cables would be a benefit as would the creation of the car park, however these benefits would not outweigh the harm caused by the development.
- 5.36** The full appeal decision can be downloaded from the Council's website.
- 5.37** **Lord Wandsworth College, The Street, South Warnborough (18/02670/FUL)**
- 5.38** The application sought planning permission for 17 market dwellings, 8 affordable dwelling, the expansion of a car park and the creation of a Multi-use Games Area (MUGA) both to serve Long Sutton Primary school. The market and affordable houses would be located on different sites in the village (both outside of the settlement boundary).
- 5.39** The application was determined by officers and the appeal was heard by way of an Informal Hearing.
- 5.40** Due to the advanced stage of the Emerging Plan the Inspector gave it significant weight.
- 5.41** The Inspector concluded that the scheme would cause harm to the setting of the Conservation Area and that the housing would be poorly related to the established character of Long Sutton.

- 5.42** The scheme would only provide 32% affordable housing. The appellants did not put forwards a viability case to justify a provision less than 40% therefore the Inspector found the scheme unacceptable in that regard. The appellants suggested that the funds from the development would cross subsidise works at Lord Wandsworth School however there wasn't any evidence that the works at the school were made necessary by the development. Additionally there wasn't any mechanism to ensure that the funds would be spent on those works. The Inspector also concluded that the appellant's approach of separating the market and affordable housing into two separate parcels of land was the "*antithesis of the approach required*" by policy.
- 5.43** The Inspector attached limited weight to the benefits of the car park extension and the MUGA especially as there were concerns about future maintenance of them.
- 5.44** The full appeal decision can be downloaded from the Council's website.

6. APPEAL PERFORMANCE (2019)

6.1 The following table lists the Council's performance in respect of Development Management Appeals; this excludes Enforcement and Tree Preservation Order application Appeals.

Application type	No. Appeals Determined	No. Allowed	% Allowed
Total	94	31	33%
Major Applications	15	4	27%
Minor Applications	26	2	8%
Others	51	25	49%
Lawful Development Certificates	2	0	0%
Householder	25	13	52%
Listed Building Consent	24	12	50%

- 6.2** The Government measures a Local Authorities performance on a number of measures. In relation to planning applications they measure the quality of a Planning Authorities decision by looking at the cumulative performance over a two year period. The measure looks at the total number of appeals allowed as a percentage of the total number of decisions taken. The Government looks specifically at Major applications and Non-Major applications. For the purposes of this measure Major applications are
- Number of dwellings proposed is greater than 10 or if the number is unknown the site area is greater than 0.5 hectares; or
 - Provision of floorspace to be provided is greater than 1,000 square meters; or
 - Site area is greater than 1 hectare.

Non-Major applications relate to the following types of application:

- Number of dwellings proposed is between 1 and 9; or
- Floorspace to be created is less than 1,000 square meters; or
- Site area is less than 1 hectare; or
- Householder application; or
- Application for a change of use (no operational development).

6.3 The Government has set targets of no more than 10% of appeals being allowed as a % of total applications determined for the two year period for each measure. Where a Local Authority exceeds 10% on this quality measure they are at risk of being put into Special Measures and becoming a “designated” Authority. This would mean that the power to determine applications being lost to the Planning Inspectorate for which ever category the Authority is designated for. The Government looks at these figures with a 9 month lag, however in order to understand how this may affect the Council moving forwards it is important to consider not only the figure reported by the Government but also future performance.

The position at 31st December 2019 is:

	total appeals determined	appeals allowed	total applications determined	Quality measure
Majors	16	4	75	5.33%
Non Majors	77	22	1758	1.25%

Ministry of Housing, Communities and Local Government latest reported statistics (24 months ending March 2018):

	total appeals determined	appeals allowed	total applications determined	Quality measure
Majors	7	2	72	2.78%
Non Majors	51	20	1961	1.02%

6.4 The Quality Measure figures show a drop in performance in the Major appeals however performance remains below the 10% threshold. Performance in respect of Non-major applications remains fairly constant.

6.5 Performance will need to be monitored over the next year especially in relation to Major applications to ensure that the quality of decisions remains below the threshold.

- 6.6** Members will also note the significant number of Major planning appeals determined in the last two years. Appeals included a number at Bramshill, Netherhouse Copse, West of Hook and Pale Lane all of which involved Public Inquiries.
- 6.7** Looking forwards, it is anticipated that the likely adoption of the Emerging Local Plan will ease the pressures that these large applications have had on resources both in terms of staff time and also financially.

7. FINANCIAL AND RESOURCE IMPLICATIONS

There are no anticipated financial or resource implications.

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APPENDICES

Appendix I - List of Appeals Awaiting a Decision

Development Control Appeals In Progress

Appeals

Officer in Charge of Case: Julia Taylor

<u>Application Ref:</u> 19/00704/HOU	<u>Type of appeal</u> Status: INPROG	W	<u>Questionnaire</u> Statement Sent:	08/11/2019 06/12/2019
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Appellant

Mr & Mrs T Wilks

Site

Erlands House, Hyde Lane Crondall Farnham GU10 5QW

Proposal:

Demolition of existing outbuilding, retention of stable and hayloft, replacement of existing swimming pool, and erection of a detached outbuilding, with glazed link to retained stable and hayloft, to provide a ground floor games room, changing room, WC and wash up area with first floor gallery area overlooking games room

<u>Application Ref:</u> 19/00705/LBC	<u>Type of appeal</u> Status: INPROG	W	<u>Questionnaire</u> Statement Sent:	08/11/2019 06/12/2019
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Appellant

Mr & Mrs T Wilks

Site

Erlands House, Hyde Lane Crondall Farnham GU10 5QW

Proposal:

Demolition of existing outbuilding, retention of stable and hayloft, replacement of existing swimming pool, and erection of a detached outbuilding, with glazed link to retained stable and hayloft, to provide a ground floor games room, changing room, WC and wash up area with first floor gallery area overlooking games room

Application Ref: 19/00782/HOU **Type of** W **Questionnaire** 11/11/2019
Status: INPROG **Statement Sent:** 09/12/2019

Appellant

Mrs Fiona Lowe

Site

Fir Tree Cottage (Formerly Thatched Bungalow) Church Path Hook Hampshire RG27 9LY

Proposal:

Repairs to the existing building and erection of a single storey side extension to the west and east with associated works. Installation of velux windows to the rear. Creation of vehicular access.

Application Ref: 19/00783/LBC **Type of** W **Questionnaire** 11/11/2019
Status: INPROG **Statement Sent:** 09/12/2019

Appellant

Site

Fir Tree Cottage (Formerly Thatched Bungalow) Church Path Hook Hampshire RG27 9LY

Proposal:

Repairs to the existing building and erection of a single storey side extension to the west and east with associated works. Installation of velux windows to the rear. Creation of vehicular access.

Officer in Charge of Case: Miguel Martinez

Application Ref: 17/03036/FUL **Type of** W **Questionnaire** 22/11/2019
Status: INPROG **Statement Sent:**

Appellant

Mr James Cooke

Site

Wychwood Carp Farm, Farnham Road Odiham Hook RG29 1HS

Proposal:

Retention of change of use of land for commercial storage facilities (Land Use Class B8) and stationing of 154 metal containers (double stacked).

Application Ref: 18/00795/FUL
Appellant Mr Mark Watson
Type of W
Status: INPROG
Questionnaire 21/11/2019
Statement Sent:

Site
Wogsbarn Cottage, The Street, Rotherwick Hook Hampshire RG27 9BL

Proposal:
Construction of two storey detached dwelling, associated vehicular access and car parking.

Application Ref: 19/00543/FUL
Appellant Mr & Mrs J.E Champion, Ms
Type of W
Status: INPROG
Questionnaire 03/12/2019
Statement Sent:

Site
Albion Yard, Hook Road North Warnborough Hook RG29 1EU

Proposal:
Erection of ten dwellings (two 1 bed, four 2 bed, three 5 bed, one 6 bed) four detached cart shed garages and associated site works with plots 1-4 being self-build by applicants

Application Ref: 19/01912/FUL
Appellant Mr Andrew Hill
Type of W
Status: INPROG
Questionnaire
Statement Sent:

Site
39A Kingsway Blackwater Camberley GU17 0JJ

Proposal:
Retention of conversion of one 1 bedroom flat to two x 1 bedroom flats, alterations to windows/doors and an additional car parking space.

Officer in Charge of Case: Peter Lee

<u>Application Ref:</u> 17/00054/FUL <u>Appellant</u> Mr H Schneck	<u>Type of</u> <u>Status:</u> INPROG	I	<u>Questionnaire</u> <u>Statement Sent:</u> <u>Date of Hearing</u>	16/08/2019 09/09/2019 27/11/2019
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Site

Pioneer House Unit 2 Fleetwood Park Barley Way Fleet Hampshire

Proposal:

Create two additional floors of development creating 25 new flats (net increase in 18 units) including external alterations

<u>Application Ref:</u> 18/00045/OUT <u>Appellant</u> Mr John Hirst	<u>Type of</u> <u>Status:</u> INPROG	P	<u>Questionnaire</u> <u>Statement Sent:</u> <u>Date of Hearing/Inq:</u> <u>Deadline for Proofs:</u>	18/12/2018 15/01/2019 10/09/2019 10/08/2019
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Site

Cross Farm House Crondall Road Crookham Village Fleet Hampshire GU51 5SS

Proposal:

Outline planning application (access only) for the construction of a 160-unit care village with 64 bed care home [class C2] and central facilities building; as well as associated vehicular and pedestrian accesses, junction improvement, estate roads, parking areas and garages, footpaths/cycle ways and the change of use of agricultural land and woods to public open space [for SANG] and landscaping.

<u>Application Ref:</u> 18/00334/FUL <u>Appellant</u> Mr David Lee	<u>Type of</u> <u>Status:</u> INPROG	I	<u>Questionnaire</u> <u>Statement Sent:</u> <u>Date of Hearing/Inq:</u> <u>Deadline for Proofs:</u>	10/10/2019 07/11/2019
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Site

Hawley Park Farm, Hawley Road Blackwater Camberley GU17 9EF

Proposal:

Full planning application for the erection of 158 dwellings, vehicular access from Hawley Road and the provision of SANG, public open space, landscaping and associated works - site layout alterations to re-site the blocks of flats from adjacent to Fernhill Lane to elsewhere in the site.

Application Ref: **Type of** **W** **Questionnaire**
19/01844/PRIOR **Status: INPROG** **Statement Sent:**

Appellant

Mr Victor Bernard Smythe

Site

Gazings Farm Redlands Lane Ewshot Farnham Surrey GU10 5AR

Proposal:

Prior Notification under Class Q, Part 3, Schedule 2 of the Town and County Planning (General Permitted Development) Order 2015 as amended in 2018 to convert an agricultural building into a dwellinghouse

Officer in Charge of Case: **Robert Moorhouse**

Application Ref: **Type of** **W** **Questionnaire** 28/10/2019
18/00175/LDC **Status: INPROG** **Statement Sent:** 25/11/2019

Appellant

Ms Ann Miller

Site

The Annexe, 57 Bloomsbury Way Blackwater Camberley GU17 9LY

Proposal:

Use of "The Annexe" as a separate dwellinghouse.

Application Ref: **Type of** **W** **Questionnaire** 04/09/2019
18/02810/FUL **Status: INPROG** **Statement Sent:** 01/10/2019

Appellant

Mr C Hogben

Site

Bel & Dragon At The George 101 - 102 High Street Odiham Hook Hampshire RG29 1LP

Proposal:

Erection of three 3 bedroom houses with associated landscaping, car and cycle parking, refuse and recycling storage and collection and reorganised hotel parking

Officer in Charge of Case: Sharon Embleton

<u>Application Ref:</u> 18/01160/FUL	<u>Type of</u> <u>Status:</u> INPROG	W	<u>Questionnaire</u> <u>Statement Sent:</u>	06/06/2019 05/07/2019
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Appellant

Mr Roger DUNN

Site

72 Frogmore Road Blackwater Camberley GU17 0DF

Proposal:

Extension and conversion of double garage to form new 2-bedroomed dwelling

Officer in Charge of Case: Stephanie Baker

<u>Application Ref:</u> 18/00503/OUT	<u>Type of</u> <u>Status:</u> INPROG	I	<u>Questionnaire</u> <u>Statement Sent:</u> <u>Date of Hearing/Inq:</u>	03/09/2019 30/09/2019 11/02/2020
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Appellant

Mr Terence Lyons

Site

Land Off Holt Lane Hook Hampshire

Proposal:

Erection of a new veterinary practice (including ancillary overnight accommodation)

<u>Application Ref:</u> 18/02285/FUL	<u>Type of</u> <u>Status:</u> INPROG	W	<u>Questionnaire</u> <u>Statement Sent:</u>	06/08/2019 02/09/2019
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Appellant

Mr Roger Atkinson

Site

Imac Systems Ltd, Upper Street Fleet GU51 3PE

Proposal:

Demolition of the existing building and replacement with a development of 8 x 2-bed apartments

<u>Application Ref:</u> 18/02489/LDC	<u>Type of</u> <u>Status:</u> INPROG	W	<u>Questionnaire</u> <u>Statement Sent:</u>	29/11/2019 20/12/2019
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Appellant

Mr Joey Macedo

Site

106 - 108 Fleet Road Fleet Hampshire

Proposal:

Application for a Lawful Development Certificate for a proposed change of use of the first floor from Class A2 to two flats.

<u>Application Ref:</u> 19/00562/FUL	<u>Type of</u> <u>Status:</u> INPROG	W	<u>Questionnaire</u> <u>Statement Sent:</u>	02/12/2019 20/12/2019
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Appellant

Mr David Lofthouse

Site

Proposal:

Erection of a detached five bedroom dwelling, detached garage and associated works