

TRAFFORD COUNCIL

Report to: Planning Development Control Committee
Date: 10 September 2015
Report for: Information
Report of: Head of Planning Services

Report Title

Planning appeal decisions Update: 1st April 2015 – 30 June 2015

Summary

This report is to inform Planning Development Control Committee about the appeal decisions received over the first quarter of the year.

Recommendation

That Planning and Development Control Committee note the contents of this report.

Contact person for access to background papers and further information:

Name: David Pearson
Extension: 3198

Electronic copies of decision notices are available from Michelle Cody in Democratic Services. Extension: 2775.

1. Introduction

- 1.1 This report provides a summary of appeal decisions received in relation to planning applications, other related applications and enforcement notices over the period 01 April 2015 to 30 June 2015. It will be supplemented by further updates at regular intervals.

2 Commentary

- 2.1 In the period from 01 April 2015 to 30 June 2015 a total of 12 appeal decisions were received. Of these, 6 were allowed and 6 were dismissed.
- 2.2 Of all the appeals decided, five related to Householder development (two allowed and three dismissed); four were full applications (two allowed and two dismissed); one was a Listed Building Consent which was dismissed; and two were Prior Approval applications relating to permitted development proposals, one for office to residential use, the other for a house extension (both of which were allowed.)

2.3 In percentage terms, 40% of Householder appeals were allowed and 50% of Full applications were allowed. Nationally, the Government has set a target that suggests that no more than 40% of Householder appeals should be allowed and no more than 30% of written representation appeals against other applications should be allowed. The statistics for the first quarter of the year in relation to full applications are disappointing.

2.4 Appeal record 1st April 2015 – 30 June 2015 is summarised in the table below:

	No. of Appeals Decided	No. of Appeals Allowed	% of Appeals Allowed
Householder	5	2	40%
Full	4	2	50%
Listed Building Consent	1	0	0%
Prior Approval Office to residential	1	1	100%
Prior Approval Householder	1	1	100%
Total	12	6	50%

2.5 Details of the planning appeal decisions received are provided at Appendix A.

Analysis of the decisions

2.6 There were an interesting mix of appeals determined, but unfortunately costs were awarded against the Council on the appeals relating to the change of use to airport parking at Clay Lane and a prior approval application for a change of use from office to residential use at Ashley House, Ashley Road in Hale. Both appeals were allowed and in both cases, costs were awarded against the Council.

Award of Costs against the Council

2.7 National Planning Practice Guidance (NPPG) advises that where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. NPPG provides examples of the type of behaviour that may give rise to a substantive award of costs against a local planning authority. These include, but are not limited to, the failure to produce evidence to substantiate each reason for refusal on appeal, and refusing planning permission on a planning ground capable of being dealt with by conditions. This risks an award of costs where it is concluded that suitable conditions would enable the proposed development to go ahead.

Clay Lane

2.8 In the Clay Lane case, which was a particularly disappointing decision, whilst the Inspector allowed the appeal, she did not regard the reasons for refusal or the Council's case to be vague or generalised and was content that the Council had not made inaccurate assertions as to the proposal's impact. However, she did consider that the harm that the Council identified could have been dealt with by way of condition.

2.9 The Council had contended that the use of open land between the glass houses would impact on the openness of the Green Belt. However, the Appellant argued that manoeuvring outside glasshouses would take place on existing hardstanding areas and that the parking of cars outside the glasshouses did not form part of the proposal. The Appellant argued that the business did not rely on overspill car parking to external areas at times of peak demand, rather if the glass houses were at capacity, business would be turned away. Nor would any manoeuvring of cars take place on the open grassed area between the glass houses. The Inspector found that subject to the imposition of conditions limiting the storage of cars to the glass houses and precluding the use of the grassed area by vehicles (along with the provision of barriers) the proposal would not be inappropriate development in the Green Belt. In combination with those conditions, further conditions to control the hours of operation of the appeal business (to ensure the use operates only between 09.00 and 17.00 hours on any day) and to secure an acoustic fence would mean that the proposal would cause no undue harm to the living conditions of the occupiers of 2 Clay Lane. Additionally a condition limiting the permission to a temporary period of 3 years would allow the effect of the proposal on the area to be assessed. A full award was given by the Inspector. This decision has cost the Council £955.

2.10 It is clear that the Council needs to be particularly mindful when refusing applications to carefully consider whether any harm identified could be overcome by the use of conditions.

Ashley House

2.11 This prior approval application involved a proposal to change the use of the existing office block to 32 apartments. The prior approval process allows the Council to assess such development on transport and highways impacts, contamination risks on site, and the flooding risks on the site only. The proposal included 27 car parking spaces and 32 cycle spaces for the 32 apartments, although the dimensions of the spaces did not conform to the Council's minimum size for a parking space. The Council was concerned that the proposal would result in additional on-street parking, particularly over-night, which would not be able to be accommodated within the area. The Inspector, in allowing the appeal, noted that whilst it was clear that levels of on-street parking are high both during the day and at night in the vicinity of the site, it was also clear that the current office users had no difficulty in using the spaces, or manoeuvring around the car park. The Inspector saw no reason why this would be any different for the residential occupiers, and ultimately did not see that a slight shortfall in parking numbers would cause so much harm as to warrant refusal of the application, citing Paragraph 32 of the NPPF which indicates that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

2.12 In relation to the award of costs, the Inspector argued that given that the proposal related to an existing car park in use by the occupiers of the offices, the Council's concerns regarding the usability of the spaces, and the circulation space within the car park, could have been easily verified by observations on site. The Inspector concluded that the Council had relied on generalised and inaccurate assertions about the traffic and highway impacts of the scheme which represented unreasonable behaviour and this resulted directly in the need for the appeal. A full award of costs was considered appropriate. The actual cost claim from the appellant has not yet been resolved.

Heritage Assets

- 2.13 **Suffolk House Suffolk Rd Altrincham** is a listed building in the Devisdale Conservation Area, the significance of which lies in its architectural interest. The appeal related to an application for external alterations to include construction of basement extension, excavation of garden to form sunken area, and associated works. In dismissing the appeal, the Inspector noted that whilst the proposed extension would not be readily visible from outside the site, its positioning on one of the property's principal elevations would give it considerable prominence when seen from within the curtilage, detracting from the existing architectural character of the building. The Inspector concluded that the proposal would result in the loss of part of the historic fabric of the building which would not be easily reversible. Consequently the proposed works would result in substantial harm to the heritage asset, and in accordance with the guidance in the 'NPPF' should be refused consent, unless there would be a substantial public benefit. Whilst the Appellant wanted to maximise the internal layout of the house, which is not currently considered to meet his needs, the Inspector concluded that the alterations did not appear to be necessary to allow for the continued family occupation of the building. There would be no substantial public benefits from the proposal such as to outweigh the significant harm to the listed building.
- 2.14 The Inspector also concluded that the proposal would lead to a loss of spaciousness in the grounds associated with the property which is intrinsic to the character of the conservation area.
- 2.15 An application for the demolition of the existing house and replacement with a new property at **18 Harrop Road, Hale** was refused because the existing dwelling had been identified as making a positive contribution to the significance of the South Hale Conservation Area. In allowing the appeal, the Inspector concluded that overall, the house lacked the visual coherence, interest, and architectural merit seen in many of the other houses in the area. Whilst historically the house represented the development of the conservation area during the inter-war period, there was no evidence to indicate that within the conservation area houses dating from this period were particularly limited in number. Nor was there any suggestion that this house represents an outstanding example of the architectural design prevalent in this period.
- 2.16 The Inspector concluded that by retaining much of the mature landscaping and ensuring that the proposed house would not be more visible or prominent than the existing one, the appeal scheme would preserve all the features that so strongly define the character and appearance of the conservation area.

House extensions

- 2.17 In terms of the other appeals allowed, two related to large house extensions; **8 Brookfield Avenue**, was for an extension to semi-detached property which took an existing outrigger 8.7m in length closer to the common boundary with the neighbour.
- 2.18 **5 Heath Road, Hale** was a prior approval application for a 5 metre long rear extension close to an adjoining neighbour's window, almost 2 metres longer than the Council's guidelines would normally allow. Whilst on this occasion the neighbour objected, the Inspector allowed the appeal because she didn't think its impact would be that much greater than a previous application which was determined as not requiring prior approval. The previous application was determined as not requiring prior approval simply because the neighbour didn't object at the time.

- 2.19 The appeal allowed at **27 St. Leonards Drive** related to a retrospective application for 1.8m fence, refused because of concerns over highway and pedestrian safety. The Inspector didn't think it would result in a significant increase in the potential for harm to pedestrians or other road users in the vicinity.
- 2.20 In relation to house extension appeals that were dismissed, the decision at **36 Frieston Road, Timperley** encouragingly supported the Council's stance on two storey side extensions, which seeks to retain an appropriate gap to the common boundary (normally at least 1 metre), and the protection SPD 4 seeks to give to neighbours in terms of overbearing impact of an extension. The decision at **8 Balmoral Drive** also supported the latter point.

Other appeals

- 2.21 In the appeal against the refusal of a proposal to create a new office in the rear garden of a dwelling at **152 Moss Lane Hale**, the Inspector concurred with the Council's view that the proposed building would significantly harm the character and appearance of the area by failing to reflect the urban grain and pattern of development of the surrounding area; give rise to a significant amount of activity which could be harmful to occupiers' living conditions and put pedestrian safety at risk.
- 2.22 At **24 Seymour Grove Old Trafford** the Inspector concurred with the Council that a retrospective proposal for a dormer and extraction flue would be particularly prominent features on the terrace and would harm the character and appearance of the host property and the surrounding area. The Appellant had suggested that, as a result of the changes to permitted development rights, dormers are now a common feature on residential properties. However, the Inspector attached little weight to this argument noting that dormers were not a feature on this terrace, or in the immediate area; that the PD rights did not extend to properties such as this; and that the NPPF highlights the importance of well-designed schemes that protect or enhance the built environment. The appeal proposal would not achieve this. Unfortunately in this particular case, the Council had previously sought to take enforcement action against the unauthorised works, but the case was unsuccessful in court.

3.0 Recommendation

- 3.1 That Planning and Development Control Committee note the contents of this report.

Appendix A - Planning Appeal Decisions Received.

Part A - Planning Appeal Decisions Allowed and Part Allowed

Application Number	Address	Proposal	Decision / Date	Inspector
82848/HHA/2014 Householder Appeal (APP/Q4245/D/14/3006177)	27 St. Leonards Drive, Timperley WA15 7RS	Erection of 1.8m fence fronting Bexhill Avenue <i>(Determination Level – Delegated Decision)</i>	Allowed 21/04/15	P. Eggleton
84035/FULL/2014 Written Representations (APP/Q4245/W/15/3004518)	18 Harrop Road, Hale WA15 9BZ	Demolition of existing dwelling and outbuildings and erection of new two storey dwelling <i>(Determination Level – Delegated Decision)</i>	Allowed subject to conditions 03/06/15	Alison Partington
83480/FULL/2014 Written Representations (APP/Q4245/W/15/3005495)	Clay Lane Nurseries, Thorley Lane, Timperley WA15 7AF	Change of use from garden nursery to airport car parking <i>(Determination Level – Delegated Decision)</i>	Allowed subject to conditions – Application for Costs Allowed 05/06/15	Elaine Worthington
83339/PAC/2014 Written Representations (APP/Q4245/W/15/3006171)	Ashley House, Ashley Road, Altrincham WA14 2DW	Change of use from offices (Class B1) to 32 no. apartments (Class C3). Application for determination as to whether prior approval is required under Schedule 2 Part 3 Class J of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) <i>(Determination Level – Delegated Decision)</i>	Allowed subject to condition – Application for Costs Allowed 05/06/15	Alison Partington
84107/HHA/2014 Householder Appeal (APP/Q4245/D/15/3009549)	8 Brookfield Avenue, Timperley WA15 6TH	Demolition of single storey rear element and erection of single storey extension <i>(Determination Level – Delegated Decision)</i>	Allowed subject to conditions 16/06/15	Mark Caine

Application Number	Address	Proposal	Decision / Date	Inspector
84730/PAH/15 Householder Appeal (APP/Q4245/D/15/3008359)	5 Heath Road, Hale WA114 2UJ	Erection of a single storey rear extension with a maximum projection of 5 metres beyond the original rear wall, a maximum height of 4 metres and eaves height of 2.9 metres. Application for prior approval under Part 1 of Schedule 2 Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). <i>(Determination Level – Delegated Decision)</i>	Allowed 23/06/15	Elaine Benson

Part B - Planning Appeal Decisions Dismissed

Application Number	Address	Proposal	Decision / Date	Inspector
82707/HHA/2014 Householder Appeal (APP/Q4245/D/14/2222435)	36 Frieston Road, Timperley WA14 5AP	Erection of two storey and part single storey side and rear extensions <i>(Determination Level – Delegated Decision)</i>	Dismissed 01/04/15	Claire Sherrat
82359/HHA/2014 Written representations (APP/Q4245/A/14/2223635)	Suffolk House, Suffolk Road, Altrincham WA14 4QX	External alterations to include construction of basement extension, excavation of garden to form sunken area, formation of two light wells, three window openings, access and all associated works <i>(Determination Level – Delegated Decision)</i>	Dismissed 15/04/15	Declan Beggan
82204/LB/2014 Written Representations (APP/Q4245/E/14/2223641)	Suffolk House, Suffolk Road, Altrincham WA14 4QX	Listed Building Consent for internal and external alterations to include construction of basement extension, excavation of garden to form sunken area, erection of balustrade and access and all associated works <i>(Determination Level – Delegated Decision)</i>	Dismissed 15/04/15	Declan Beggan
83904/HHA/2014 Householder Appeal (APP/Q4245/D/15/3003647)	8 Balmoral Drive, Timperley WA14 5AQ	Erection of 2 storey side and rear extension and single storey rear extension <i>(Determination Level – Committee Decision - Call-in)</i>	Dismissed 22/04/15	C. Thomas
83167/FULL/2014 Written Representations (APP/Q4245/W/15/3003577)	Land to the rear of 152 Moss Lane, Hale, Altrincham	Erection of single storey detached office building (Use Class B1), with access from Sandleigh Drive, car parking and landscaping <i>(Determination Level – Delegated Decision)</i>	Dismissed 27/05/15	C. Thomas
84377/FUL/14 Written Representations (APP/Q4245/W/15/3007094)	24 Seymour Grove, Old Trafford M16 0LH	Erection of extraction ventilation flue to rear of building and rear dormer. External alterations to include the creation of door to rear <i>(Determination Level – Delegated Decision)</i>	Dismissed 01/06/15	Alison Partington

