

REPORT TO:		Planning Committee	
DATE:		09 October 2019	
PORTFOLIO:		Cllr Miles Parkinson, Leader	
REPORT AUTHOR:		Chief Planning and Transportation Officer	
TITLE OF REPORT:		Planning Appeals	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	Options	Not applicable	
KEY DECISION:	Options	If yes, date of publication:	

1. Purpose of Report

- 1.1 To update Planning Committee on planning appeals that have been determined in the Borough and those that are pending.

2. Recommendations

- 2.1 The report is for information only and is to be noted by members.

3. Reasons for Recommendations and Background

- 3.1 Members will be aware that when the Council refuses planning permission or an associated form of consent (for example advertisement consent) there is a right of appeal available to the applicant. A person also has a right of appeal against planning enforcement notices, one of the grounds for appeal that planning permission should be granted in respect of the alleged breach of planning control.
- 3.2 When refusing planning applications, it is always necessary to ensure that each reason for refusal is reasonable and can be defended by the planning authority.
- 3.3 It should be noted that an Inspectors decision on an appeal is a material consideration that forms part of the planning history of the site. It could be considered unreasonable for a local authority to refuse planning permission for development at a site for a reason that has already been considered by a Planning Inspector who has considered that issue to be satisfactory.
- 3.4 In general, appeals are determined on the same basis as the original application. The decision will be made taking into account national and local policies, and the broader circumstances in

place at the time of the decision. Where any change between the original planning decision and the appeal has the potential to affect the outcome, all parties will have an opportunity to comment on the new material.

- 3.5 The appeal will be determined as if the application for permission had been made to the Secretary of State in the first instance. This means that the Inspector (or the Secretary of State) will come to their own view on the merits of the application. The Inspector (or the Secretary of State) will consider the weight to be given to the relevant planning considerations and come to a decision to allow or refuse the appeal. As Inspectors (or the Secretary of State) are making the decision as if for the first time, they may refuse the permission on different grounds to the local planning authority. Where an appeal is made against the grant of permission with conditions, the Inspector (or the Secretary of State) will make a decision in regard to both the granting of the permission and the imposition of conditions.
- 3.6 The decision made by the Planning Inspectorate will either “Dismiss” the appeal or “allow” the appeal. If the appeal is “allowed” it is likely that the Inspector will allow the appeal subject to planning conditions.

i. Land at Back Owen Street, Accrington 19th December 2018 Dismissed

Refusal of planning permission for supported living units. The key issues raised by this appeal were highways and occupancy conditions. Although the planning application was refused on highway grounds, the Inspector concluded that having considered all matters raised, subject to the imposition of the Grampian condition (to secure the highway improvements), the proposal would have an acceptable effect on the safety of drivers, cyclists and pedestrians. This would be compliant with Policy Env7 of the Hyndburn Core Strategy (January 2012) and Policy DM32 of the DPD, which seek to ensure proposals do not result in unacceptable adverse loss of amenity, that the safety of highway users is properly taken into consideration and that any new development would not have an adverse impact on highway safety.

The Council employed a highways consultant to prepare a statement in defence of the reason for refusal.

In order to make the development acceptable in planning terms, the Inspector believed that it would be necessary to have to be a planning obligation to provide the social housing. Despite the Inspector giving the appellant an opportunity to provide an agreement and noting their intent to provide one, none was forthcoming. As a result there is no means by which to secure the social housing and the appeal was dismissed on this basis.

ii 21 Cannon Street, Accrington 8th April 2019 Dismissed

Appeal against refusal of advertisement consent (retrospective) for the erection of one non-illuminated sign. The appeal was dismissed on the grounds that the advertisement drew undue attention to itself as an incongruous feature within an area more notable for and characterised by, its heritage assets. The advertisement appeared intrusive and this served to

3.8 The Government also monitors local authority performance on appeals. Members will observe that out of the 8 appeals determined only one was allowed. It is considered that the service is performing adequately in this respect.

4. Alternative Options considered and Reasons for Rejection

4.1 The report is for information only.

5. Consultations

5.1 No consultations have been undertaken.

6. Implications

<p>Financial implications (including any future financial commitments for the Council)</p>	<p>In response to appeals Officers sometimes prepare statements for submission to Planning Inspectorate. There are times when more specialist consultancy advice is required to defend appeals, for example at Kirkhams Garage Landscape advice was sought (£1k) and for the appeal at Back Owen Street highways advice was sought (approximately £2k). Landscape consultancy advice will be required in respect of the forthcoming appeal for Devine Fisheries and legal / planning advice may be required in respect of the forthcoming appeal for Smithacres. The costs of this are not known at present.</p>
<p>Legal and human rights implications</p>	<p>None</p>
<p>Assessment of risk</p>	<p>If the Council is not able to reasonably defend reasons for refusal</p>
<p>Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i></p>	<p>None.</p>

**7. Local Government (Access to Information) Act 1985:
List of Background Papers**

7.1 The full planning appeal decision is published on the Council's website under the relevant planning application reference / address.