

16. ANNUAL REPORT ON PLANNING APPEALS 2016/17 (A.1536/AM/JRS/KH)

Purpose of Report

This report summarises the work carried out on planning appeals from 1 April 2016 to 31 March 2017.

Information on Appeals Process

In this period 40 new appeals were received, of which 6 were still in hand as of the 1 April. During the year 41 appeals were decided and 5 were withdrawn.

Of the total new appeals:

- 3 were to follow the informal hearing procedure
- 26 were to follow the written representation procedure (1 of which was an enforcement appeal)
- 5 were to follow the householder appeals procedure
- 2 were to follow the public inquiry procedure (enforcement appeals)
- 1 was to follow the commercial appeals service
- 3 were withdrawn (all enforcement appeals)

Outcome of Appeals

The chart below shows the outcome of appeals over the last five years. The percentage of appeals dismissed in the year 2016/17, at 65% is lower than the previous year, although the context for this is analysed in more detail below.

	2016/17	2105/16	2014/15	2013/14	2012/13
DECISIONS	41	29	35	33	38
Allowed	14 34%	7 24%	15 43%	11 33%	10 26%
Dismissed	27 66%	22 76%	20 57%	22 67%	28 74%

The national average for appeals allowed (according to the figures from the Planning Inspectorate up to the end of December) for 2016/17 was 37% for householder appeals and 33% for all other appeals excluding householder.

Of the 14 appeals allowed during this period, 10 (72%) were dealt with by written representations (1 of which was an enforcement appeal), 2 (14%) by the Householder procedure and procedure and 2 (14%) by the informal hearing process.

Enforcement

During the period 6 new enforcement appeals were handled, of these 1 was allowed, 3 were withdrawn and 2 was awaiting determination.

Householder Appeals

In the year to 31 March 2017, 5 new householder appeals were submitted. Of these, 3 were dismissed, and 2 were allowed.

List of Appeals Allowed

Each appeal decision, whether allowed or dismissed, has been reported to Committee during the year. The following is a list of all the appeals which were allowed or partially allowed during 2016/2017.

Development subject to appeal	Mode of appeal	Decision date	Delegated/ committee	Main issue
Conversion of workshop to residential, demolition of outbuildings, construction of extension and conservatory and construction of garage with ancillary accommodation at Warren Lodge, Barr Road, Curbar	Householder	05/09/16	Committee, contrary to officer recommendation	The effect of the proposed development on the character and appearance of Warren Lodge and the surrounding area and the valued characteristics of the National Park.
Conversion of house to form an accessible holiday let accommodation at Smelters Cottage, Hathersage	Written Reps	16/09/16	Committee, in accordance with officer recommendation	The effect of the proposed development on the character and appearance of the National Park, the effect on the archaeological and historic significance of the site, the effect on highway safety and whether the proposed development represents a sustainable form of tourism development.
Proposed agricultural dwelling at Town End Farm, Main Street, Chelmorton	Written Reps	21/09/16	Committee, contrary to officer recommendation	Whether the proposed development would preserve or enhance the character or appearance of the Chelmorton Conservation Area and whether there are other material considerations for the proposed development that would outweigh any harm caused and any conflict with the development plan.
Removal of conditions 2 and 3 on NP/HPK/1215/1180 at The Hermitage, Edale	Written Reps	27/09/16	Delegated	Whether the proposed development would have an effect upon the character of the area and the Peak District National Park.
Retention of spoil that has been banked up on application site at Swallow Cottage, Pilhough Road, Rowsley	Written Reps	05/10/16	Delegated	Whether the effect of the development on the character and appearance of the Peak District National Park.

Demolition of existing factory building and construction of 26 dwellings (including 4 affordable) and conversion of former factory buildings to two buildings at Dove Dairy, Stonewell Lane, Hartington	Hearing	13/10/16	Committee, contrary to officer recommendation	Whether the proposal would (a) effect the character and appearance of the locality; and, (b) whether the proposed development would be a major development in the National Park.
Demolition of former mill buildings, associated structures and other buildings and full planning permission for hotel development, improvements to existing site access, parking, landscaping and other associated works at Riverside Business Park, Buxton Road, Bakewell	Hearing	01/12/16	Committee, in accordance with officer recommendation	Whether the appeal scheme would be acceptable in terms of local and national planning policy, having regard to its location, and whether the development would be provided with a safe and suitable access; the effect of the proposal on the local residents and the effect of the development on heritage assets.
Material Change of Use of the Outbuilding to an unlawful use as a separate unit of residential accommodation at 4 Court Lane, Ashford-in-the-Water	Written Reps (Enf)	12/12/16	Delegated	The effect on the character and appearance of the Conservation Area and the Peak National Park; the effect on residential amenity and the effect relating to access and parking.
Variation of condition re Hours of Delivery at The Rutland Arms, Calver Road, Baslow	Written Reps	14/12/16	Delegated	<p>Whether the disputed condition was reasonable and necessary with regard to the effect of the development on the living conditions of occupiers of neighbouring properties, in terms of noise and disturbance.</p> <p>An application for a full award of costs by the applicant against the Authority was allowed by the Planning Inspectorate due to the Authority acting unreasonably in preventing/delaying the development which should clearly have been permitted, and also the Authority failing to produce evidence to substantiate the reason for refusal on appeal which resulted in wasted expense for the applicant.</p>

Change of use of stone built outbuilding to holiday accommodation At 1 The Cross, Main Street, Great Longstone	Written Reps	26/01/17	Committee, contrary to officer recommendation	Whether the proposed development would affect the living conditions of neighbouring occupants in respect of privacy, noise and disturbance and highway safety
Provision of parking space and bin dwell area at Dale Cottage, The Dale Hartington (Listed Building Consent)	Written Reps	31/03/17	Delegated	Whether or not the proposed works would preserve a Grade II Listed Building, and any of the features of special architectural or historic interest that it possessed
Provision of parking space and bin dwell area at Dale Cottage, The Dale, Hartington	Written Reps	31/03/17	Delegated	Whether such works would preserve or enhance the character or appearance of the Conservation Area and the effect of the proposal on highway safety
Erection of a new detached garage at The Farm, Main Street, Great Longstone (listed Building Consent)	Written Reps	31/03/17	Delegated	Whether the proposal would preserve the setting of a Grade II Listed Building
Erection of a detached garage at The Farm, Main Street, Great Longstone	Householder	31/03/17	Delegated	Whether the proposal would preserve or enhance the character or appearance of the Conservation Area

Delegation / Planning Committee

Total number of planning applications decided between 1 April 2016 and 31 March 2017 was 1156 of which 1017 (88%) were determined under delegated powers.

Of the 41 appeals decided:

- 25 (61%) related to applications determined under delegated powers. Of these 17 were dismissed and 8 were allowed
- 15 (37%) appeals related to applications determined by Planning Committee. Of these 9 were dismissed and 6 were allowed
- 1 (2%) related to the Prohibition Order at Backdale Quarry/Longstone Edge, where the Inspector found in our favour at a Public Inquiry.

Comment

The percentage of appeals allowed against the Authority's decisions in 2016/17 was higher than last year, at 34% rather than 24%.

Members will be aware of any issues raised by specific appeal decisions (both allowed and dismissed) as the Director of Conservation & Planning sends all members a short analysis of each decision, together with the decision letter itself, when an appeal is determined. Four appeals were allowed this year in cases where Members had overturned the officer recommendation (Warren Lodge, The Farm Chelmorton, Hartington Creamery and No.1 The Cross Great Longstone). Although the Hartington decision was obviously an important one given the scale of the development (26 houses on a brownfield site), it did not raise any significant policy concerns, and the Inspector accepted the Authority's policies as his starting point.

Two other decisions to note were as follows. Firstly, whilst dismissing the appeal for the conversion of a barn to a dwelling at Brink House, Pott Shrigley, the Inspector gave Policy HC1 "*limited weight as it is not fully consistent with Paragraph 55 of the Framework*". This paragraph lists the special circumstances where it may be appropriate to allow new isolated dwellings in the open countryside, one of which is where the conversion relates to the re-use of redundant or disused buildings which leads to the enhancement of the immediate setting. The Inspector considered that as the barn is neither disused nor redundant, the special circumstances set out in Paragraph 55 of the Framework do not apply. However, this is not a view taken by other Inspectors in similar appeals, so officers concluded that it did not justify a review of this policy.

The second decision to note was an appeal against the refusal of an application to vary a condition relating to delivery times at the former Rutland Inn, Baslow. The Inspector allowed the appeal and made an award of costs against the Authority. This was based on the fact that the Environmental Health Officer (EHO) did not provide any technical rebuttal of the appellant's noise assessment, and the Authority did not produce any further evidence, relying solely on the EHO's response (although there were also significant local objections, including the Parish Council). The key lesson to be learned from this decision is that the Authority cannot necessarily rely on the views of statutory or technical consultees, unless they are backed up by appropriate evidence.

Two other significant appeal decisions where the Inspectors gave strong support to the Authority's policies and National Park purposes were the appeals against the making of a Prohibition Order at Longstone Edge/Backdale Quarry, and against the refusal of 12 open market apartments at Deepdale Business Park. With regard to the Prohibition Order, the Secretary of State agreed with the Inspector that safety considerations make the scheme proposed by the Authority the more appropriate restoration scheme for the site, while remaining both reasonable

and practicable. This was a key step in resolving the issues raised over many years by mineral extraction at Longstone Edge.

The appeal at Deepdale Business Park was significant in that it gave clear support to the Authority's housing and employment policies, and supported the resumption against open market housing other than where these meet the Authority's conservation and enhancement objectives.

In terms of the appeal process, there has been an increase in the number of appeals heard at informal hearings, and also an increase in those dealt with by written representations. Nationally the figures (up to the end of December), for public inquiries, hearings and written representations have plateaued, with public inquiries accounting for 3% of all appeals in 2016/17 whilst hearings accounted for 5% in 2016/17 and written representations accounted for 92% in 2016/17.

The householder appeal service continues to be a success, allowing a quicker and simpler process and the opportunity for officers to use the delegated report as the essential evidence to defend the appeal. To date no problems have occurred with the processing of appeals electronically.

Human Rights

The appeals procedure is consistent with human rights legislation.

RECOMMENDATION:

That the report be noted.

Background Papers (not previously published) - None

Appendices – None

Report Author, Job Title and Publication Date

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