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### 13. HEAD OF LAW REPORT - PLANNING APPEALS (A.1536/AMC)

#### 1. APPEALS LODGED

The following appeals have been lodged during this month.

<u>Reference</u>	<u>Details</u>	<u>Method of Appeal</u>	<u>Committee/ Delegated</u>
NP/SM/1216/1201 3182690	Change of use of land to a seasonal caravan & camping site and change of use of an outbuilding for mixed use at Wallbrook House Caravan & Campsite, Wallbrook Lane, Longnor	Written Representations	Committee
NP/K/0317/0264 3183587	Renovation of farmhouse and change of use of barn to form a single dwelling house at Royd, Magdalen Road, Meltham	Written Representations	Delegated
NP/DDD/0717/0693 3184389	Erection of 15m climbable monopole at Bradwell Sports Club, Stretfield Road, Bradwell, S33 9ST	Written Representations	Delegated

#### 2. APPEALS WITHDRAWN

There have been no appeals withdrawn during this month.

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#### 3. APPEALS DECIDED

The following appeals have been decided during this month.

<u>Reference</u>	<u>Details</u>	<u>Method of Appeal</u>	<u>Decision</u>	<u>Committee/ Delegated</u>
NP/SM/116/1188 3178788	Removal of condition 4 - use as holiday lets only on NP/SM/0601/056 at Greenhead Cottage Farm, Pothooks Lane, Butterton, ST13 7TA	Written Representations	Dismissed	Delegated

The removal of the condition would allow the building to be used as an unrestricted dwelling. The Inspector considered that the removal of the condition would be contrary to Policy HC1 of the Core Strategy, and felt that the disputed condition was both reasonable and necessary and met the tests relating to the conditions set out in the Planning Practice guidance. The dwelling would not address a local need or provide for a key rural worker, nor was there any evidence that the building was likely to fall into disrepair, so consequently the proposal would not meet any of the exceptions set out in Policy HC1. The Inspector dismissed the appeal.

NP/HPK/1216/1261 3177925	Lawful Development Certificate for material change of use of a detached building for a period in excess of four years at The Coach House, Blackbrook	Public Inquiry	Dismissed	Delegated
ENF 15/0141 3177720 & 3177721	Without planning permission material change of use of the outbuilding to an unlawful use as a dwelling house at The Coach House, Blackbrook	Public Inquiry	Dismissed & Notice Upheld with a Variation	Delegated

Both the above appeals were dealt with at a 3 day Public Inquiry held in December 2017. The main issue of the appeals was whether the appellants, on the balance of probability, had changed the use of the outbuilding to a dwelling house, and that such use then continued actively without significant interruption for a period of 4 years after the date of change.

The Inspector concluded on the balance of probability and as a matter of fact and degree, that The Coach House had the ability to afford those who used it, the facilities required for day-to-day private domestic existence by the end of August 2011. However, he then went on to conclude that each of the significantly longer periods of non-occupancy identified in 2013 and 2014 was sufficient to break the continuity of use. They were each more than de minimis and, in the circumstances of this case, the NPA would not have had the opportunity to take enforcement action, as to all intents and purposes the dwelling looked like a garage/outbuilding, not a dwelling house; the appellants had not registered for Council Tax; they were not on the Register of Electors; and the works that had been undertaken by the appellants were not subject of any Building Regulations applications. Accordingly, the appellants failed to prove on the balance of probability that the use as a dwellinghouse continued for any unbroken period of 4 years following the date of change in August 2011. The appeal on ground (d) therefore failed.

The ground (g) appeal succeeded; the issue on this ground was whether 6 months would be a reasonable period for compliance with the notice. The Inspector considered it reasonable and proportionate to extend the compliance period to 12 months.

The Lawful Development Certificate (LDC) appeal was dismissed on the same grounds as the ground (d) enforcement appeal.

The Authority's application for costs against the appellants was refused. The Inspector concluded that although he did not accept the appellants' case, the appellants presented an arguable case that residential use had taken place and that it was not hopeless or unreasonable of them to pursue it.

#### 4. **RECOMMENDATION:**

**That the report be received.**