



# B O S T O N

## B O R O U G H C O U N C I L

REPORT TO:	Planning Committee
DATE:	11 <sup>th</sup> February 2020
SUBJECT:	Receipt of Appeal Decisions
PORTFOLIO HOLDER:	Councillor Nigel Welton
REPORT AUTHOR:	Mike Gildersleeves - Growth Manager
EXEMPT REPORT?	No

### SUMMARY

The purpose of this report is to advise members of the receipt of appeal decisions received since the previous report.

2 decisions have been received:

- 1 Allowed - Blue Bungalow, Pode Lane, Old Leake, Boston, PE22 9NB
- 1 Dismissed - The Old Smithy, Highgate, Leverton, Boston, PE22 0AJ.

### RECOMMENDATION

The Committee are asked to note this report.

### REASONS FOR RECOMMENDATION

To address the Service Plan 2019/20.

## 1.0 INTRODUCTION

- 1.1 It is established practice that all appeal decisions are reported to Planning Committee as part of performance monitoring and to consider if any particular decisions raise issues which might influence practice or future decision making.
- 1.2 All applicants have a right of appeal against the decision of the planning authority, over a refusal, an approval with conditions (if the conditions are unacceptable to the applicant) and in cases of 'non-determination' where the authority has not issued a decision within the prescribed 8 or 13-week period without an agreed 'extension of

time'. The right of appeal applies to all categories and types of applications – including Enforcement and other Notices where there are defined categories or grounds of appeal which an appellant has to follow.

## 2.0 APPEAL DECISIONS

<b>Location</b>	Blue Bungalow, Pode Lane, Old Leake, Boston, PE22 9NB
<b>Reference</b>	B/18/0456
<b>Proposal</b>	Outline application with all matters (layout, scale, appearance, access and landscaping) reserved for the construction of up to 5 dwellings
<b>Delegated / Committee</b>	Committee
<b>Appeal Decision</b>	Allowed
<b>Appeal Date</b>	03/01/2020

- 2.1 The above decision follows the refusal of the application by the Planning Committee, the reasons for refusal cited over-development by virtue of the number of dwellings proposed and the impact on the character of the area.
- 2.2 The Inspector recognised the change in policy (the adoption of the SELLP) since the refusal, and recognised the outline nature of the proposal (with all matters reserved) with the indicative plans being afforded some limited weight, accepting that a Reserved Matters application would be necessary to fix matters such as layout and scale.
- 2.3 The Inspector highlighted the edge of settlement nature of the site and the changing density and form of nearby development. They noted that the indicative plans showed development comparable to that to the east, but that the Reserved Matters could dictate the final layout and number of dwellings, along with their scale and appearance.
- 2.4 The Inspector concluded that the scheme was an improvement on the previous iteration for 6 units and that it would better assimilate with its surroundings. The Inspector advised that subject to conditions the proposal would comply with policies 2 and 3 of the SELLP.
- 2.5 Under other matters the Inspector highlighted the Councils 5YHLS, and discussed other concerns raised by various parties, imposing conditions where appropriate.
- 2.6 It is noted that condition 5 prevents no more than 5 dwellings on the site, including the existing if that is to be retained.

### **Growth Manager comments:**

- 2.7 Although disappointing that the Council have 'lost' this Appeal decision, the outcome is not entirely surprising. The previous iteration and the dismissed Appeal as reported in July 2019 clearly indicated that there was potential for a revised scheme to come forward.

- 2.8 Equally, in November 2019, permission was granted in outline form for 3 dwellings under Delegated Powers.
- 2.9 As such, it is clear that there was agreement from both the Council and the Inspectorate that the site was suitable for housing. The onus being now on the applicants/developers of the site to bring forward a suitable scheme under the Reserved Matters which would be duly assessed against the policies of the Local Plan. Subject to an acceptable scheme being presented, there is the ability for up to 5 dwellings to come forward on this site.

<b>Location</b>	The Old Smithy, Highgate, Leverton, Boston, PE22 0AJ
<b>Reference</b>	B/19/0026
<b>Proposal</b>	Application for Prior Approval change of use from agricultural building to dwelling house (Class C3)
<b>Delegated / Committee</b>	Delegated
<b>Appeal Decision</b>	Dismissed
<b>Appeal Date</b>	13/01/2020

- 2.10 This application related to a Prior Approval to change the use of an agricultural building to a dwellinghouse, under Class Q of Part 3 of the GDPO 2015. The application was refused on technical grounds relating to the previous use of the building, and the size of the dwellinghouse proposed, both of which failed to comply with the relevant aspects of the legislation.
- 2.11 The Inspector agreed the building did not appear to have been solely used for agriculture, and that there was a lack of evidence to the contrary. As such the scheme did not comply with Class Q.
- 2.12 Further, he noted that there were concerns regarding the extent of curtilage, but this could be defined within the decision if the scheme had met all other requirements of Class Q. As it did not, no further consideration was given.
- 2.13 The Inspector concluded that the scheme was not permitted development, and thus dismissed the Appeal.

**Growth Manager comments:**

- 2.14 There are no comments to make on this decision as it related purely to technical considerations relating to compliance with the legislation.

**3.0 CONCLUSION**

- 3.1 The Council has received 16 decisions from 1<sup>st</sup> April 2019 to 28<sup>th</sup> January 2020, of which 7 were allowed and 9 were dismissed.
- 3.2 The Ministry of Housing, Communities and Local Government (MHCLG) monitors authorities in relation to the number of major and non-major applications overturned (i.e. allowed) at appeal. The threshold is for fewer than 20% of all major applications determined overturned at appeal over a rolling two-year period (i.e. the total number of major decisions divided by the total number overturned). For authorities who exceed

this target, they will be classed as 'poorly performing' and applications for major developments may be made by developers directly to the Planning Inspectorate. MHCLG also monitor the threshold for quality of decisions for non-major applications, the threshold for which is 10%. Like the major threshold this is the total number of non-major applications overturned at appeal compared to the total number of non-major decisions made.

- 3.3 The following tables set out the Councils position in relation to the rolling two year period. In this case between 31<sup>st</sup> January 2018 to 28<sup>th</sup> January 2020:

<b>2 year - Appeals performance - Majors</b>			<b>2 year - Appeals performance - Non-Major</b>	
Total number of decisions	87		Total number of decisions	778
Total number of Appeals	3		Total number of Appeals	24
Dismissed	2		Dismissed	12
Allowed	1		Allowed	10
Withdrawn	0		Withdrawn	2
<b>% indicator (majors allowed / total number of decisions)</b>	<b>1.1%</b>		<b>% indicator (non-majors allowed / total number of decisions)</b>	<b>1.28%</b>

- 3.4 Given the aforementioned performance, the Council is therefore significantly within government's target and not at risk of being classed as poorly performing.

#### **FINANCIAL IMPLICATIONS**

None

#### **LEGAL IMPLICATIONS**

None

#### **ANY OTHER IMPLICATIONS**

None

**CONSULTATION** None undertaken

**BACKGROUND PAPERS**

Background papers used in the production of this report are listed below: -

**Document title**

Application file including Appeal documents –

**Planning References:**

- B/18/0456
- B/19/0026

**Where the document can be viewed**

All application documents are available via the Councils website using the relevant details.