

## **1.0 Purpose of Report**

- 1.1 To consider the procedures for the reporting of planning appeals and performance within the new Authority.
- 1.2 This report also contains three current appeal summaries for Committee to note.

## **2.0 Decision Required**

- 2.1 This is a discussion document to resolve how and how often Members of the Strategic Board wish to be advised of appeal decisions and performance across the Authority.

## **3.0 Introduction**

- 3.1 It has been the practice of the former Planning Committees which now make up Cheshire East to receive regular summary reports of Appeal Decisions. In addition, Macclesfield also prepared a six monthly report to the Performance and Scrutiny panel of the former Macclesfield Council which compared appeal performance against other Cheshire Authorities and nationally.

## **4.0 The format of the Summaries**

- 4.1 The format which has been utilized in the past has varied across the Authority. An example of the Macclesfield and Congleton summary is attached as Appendix 1 and the report used by Crewe is attached as Appendix 2. Members should note that these cases are historic. The current appeals referred to in para 1.2 is attached as Appendix 3.
- 4.2 There are differences between the formats used by the former Authorities, the most important being a specific consideration of the implications that a Inspector's decision may have for the delivery of planning policy. The 'consideration of implications' section is considered extremely important and allows important issues/ new ways of considering appeals in the light of case law by Inspectors to be reported back to Committee for future reference.

## **5.0 The format of Appeals Performance and Monitoring report**

- 5.1 This report was prepared to identify trends in appeal types and performance in Macclesfield. The report was produced on a six monthly cycle. The report allowed comparison and scrutiny against previous performance and comparison against national standards. Where necessary, it allowed additional resources to be targeted at specific issues that were identified before these issues adversely affected performance. No similar performance report has been utilised at Congleton or Crewe.
- 5.2 The six monthly format allowed trends to be identified and monitored over summer periods and winter periods and allow for seasonal differences. Reporting

back on a shorter or, equally, longer period would not enable a proper consideration of seasonal differences or comparison between the same periods in different years.

## **6.0 Recommendation**

- 6.1 It is recommended that the Appeal Summary format should follow the format used by Macclesfield and Congleton and incorporate a specific section which identifies the implications of that particular Inspector's appeal decision.
- 6.2 It is recommended that an appeals performance monitoring report which compares local performance against other similar Authorities and nationally be presented to Committee on a six monthly rolling programme.

## **APPENDIX 1 – AN EXAMPLE OF THE APPEAL SUMMARY FORMAT USED BY MACCLESFIELD AND CONGLETON BROUGH COUNCILS**

Application number: 07/0431P

Appellant: Mr Cooke

Site Address: 47 Heybridge Lane, Prestbury, Macclesfield, SK10 4ER.

Proposal: Replacement dwelling

Level of Decision: Planning Subcommittee 4.4.2007

Recommendation: Refuse

Decision: Refused 28.3.2007

Appeal Decision: **Allowed** 12.11.2007

### **MAIN ISSUES:**

The Council refused permission due to the negative impact of the development on the character and appearance of the area. The site's plot was one of the smallest in the area with the existing house taking up most of the width and sited in close proximity to the neighbouring boundary of number 49. The proposed development was considered to be overdevelopment of the site by virtue of the scale and bulk of the proposed dwelling. The overdevelopment of the area was in conflict with local plan policies for low-density housing areas, and would also be out of character with the local area. The proposal was considered to be contrary to policies H12, BE1 and DC1 within the Macclesfield Borough Council local plan.

### **INSPECTORS REASONS:**

The Inspector took the view that although the dwelling would be larger and deeper than the existing house on the plot, that it would be largely screened due to being set back in the plot from the road frontage. The Inspector also felt that the replacement of the single storey wings of the house with two storey development was in keeping with the spacious character of the locality, as this derived from the large front gardens of the area, not the proximity between houses. The Inspector felt that although the development of number 47 and number 49 would be closer together than other properties in the road, it was considered that the screening provided by trees and hedges would make this less apparent and the proposal would retain a sizeable front garden. The Inspector commented that within the area other dwellings, most notably number 49, are being redeveloped and that the proposals for number 47 Heybridge Lane amounted to more of the same kind of development, as the designs incorporated many similarities. The Inspector therefore felt that the proposal did not comprise a cramped form of development which would be out of character with the area.

### **IMPLICATIONS FOR THE COUNCIL**

This is a disappointing decision for the Council in that the Inspector held a great deal of store in the development adjoining the site. Whilst this is unfortunate, the issues are site specific and are not considered to have any significant implications.

## DEVELOPMENT CONTROL COMMITTEE - Appendix

### Planning Appeals Monitoring report

No of appeals 6

APP NO	APPEAL AGAINST	PROPOSAL	LOCATION	OFFICER RECOMMENDATION	DECISION	APPEAL RESULT
P07/0927	Refusal of Planning Permission	Agricultural Workers Dwelling for Lower Den Farm	Land Adjacent Higher Den Farm, Den Lane, Wrinehill, Crewe	Refused	Refused	Upheld

**Issues:** The Inspector considered the main issues of the appeal to be the relationship of the proposed dwelling to the main farm complex at Lower Den Farm, the effect of the proposal on the character and appearance of the area and on Great Crested Newts. The Inspector states that Annex A of PPS7 requires new agricultural dwellings should be sited so as to meet the identified functional need and to be well related to existing farm buildings or other dwellings. However, in this case it is clear that further development at Lower Den Farm is severely constrained by the contours of the site, the presence of services and necessity of accommodating further agricultural buildings and installations. The Inspector states that the land falls away steeply from the existing buildings on all sides and there are considerable areas of made ground. The Inspector considers that, contrary to the Council's suggestions, a location within or close to the existing building complex at Lower Den Farm is not feasible. The siting of the proposal close to the buildings at Higher Den Farm represents the next best solution and accords with the advice in PPS7 and broadly with requirements of Policy RES.5; albeit close to, rather than within a nearby group of existing dwellings. The Inspector states that the appeal site is situated 320m from and within sight of the buildings at Lower Den Farm on a road which gives access to the southern part of the appellant's land holding and thereby offers advantages in meeting the identified functional need for the dwelling, and considers that the relationship between the proposed dwelling and the main farm complex is acceptable, consolidating the existing dwellings at Higher Den Farm when viewed in association with them and seen as an integral part of the group, and would not therefore have an adverse effect on the character or appearance of the area. The Inspector also notes that the area around the appeal site supports a significant population of great crested newts; however the appellant's consultant states that there were none to be found in the ponds closest to the appeal site. The Inspector considers that a Method Statement to ensure the exclusion of newts from the appeal site while development takes place and the provision of agreed mitigation measures thereafter should be sufficient. The Inspector considered that subject to the preparation of a Method Statement and the implementation of appropriate mitigation measures, the proposed development will not have an adverse effect on a protected species, and that it will therefore be in accord with the requirements of Policy NE.9. The appeal was upheld.

P08/0061	Refusal of Planning Permission	First Floor Extension Over Porch to Form En-Suite (In Retrospect) and Proposed Single Storey Extension to Kitchen	Gallantry Bank Cottage Bulkeley Hall Lane, Bickerton, Nantwich, Cheshire, SY14 8BA	Refused	Refused	Dismissed
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**Issues:** The Inspector considered that the main issue in this case, was the effect of the proposal on the character and appearance of the existing house and open countryside by reason of its size and design. Gallantry Bank Cottage is a two storey, stone dwelling which has been significantly extended over the years and no longer appears to be a modest cottage. The retrospective first floor extension was subsequently granted planning permission in August 2008 and therefore did not form part of this appeal decision. The single storey extension proposed was to the rear of the dwelling. The Inspector states that the proposed extension would further enlarge the cottage and consolidate the harmful detraction from its character, causing the cottage to no longer be the dominant element. Therefore the design, scale and form of the proposed extension fails to respect the original dwelling, harming the character and appearance of the surrounding countryside and contrary to policy RES.11. The Inspector also considered neighbouring dwellings with extensions, and a replacement dwelling however this did not outweigh the reason above. The appeal was dismissed.

<b>P08/0132</b>	<b>Refusal of Planning Permission</b>	<b>Erection of Stable Block and Associated Access</b>	<b>Land off Wrinehill Road Wybunbury Cheshire</b>	<b>Refused</b>	<b>Refused</b>	<b>Dismissed</b>
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**Issues:** The Inspector considered that the main issues of the appeal were whether the proposal would preserve or enhance the character or appearance of the Wybunbury Conservation Area, and the effect of the proposed development on the open countryside. The appeal site is in a large field alongside Wybunbury Brook. The proposal was for a block of three stables and hay barn with an access way which would provide an area of hardstanding in front of the stables and a turning head. The proposed block would be close to and parallel with Wrinehill Road with its back to the boundary hedge. The Inspector notes that the hedge is of deciduous species and when bare of leaves the proposed building would not be well screened from the road, and the planting of evergreen species would be insensitive in this location. The Inspector considers that the proposed access and track will involve a substantial area of hardstanding, which would be clearly visible from the road. She also notes that the site layout is informed by the need to have good visibility at the access and the proposed stables on higher land which is less susceptible to flooding. However that does not justify the harm that would be caused. The Inspector states that the proposed development would fail to preserve or enhance the character or appearance of the Wybunbury Conservation Area contrary to PPG15 and Local Plan Policy BE.7. The Inspector considers that the building would be plain, functional and characteristic of a rural area, but its size and position together with the access way and intensification of use, would cause harm to the character and appearance of the countryside, contrary Local Plan Policy RT.6. The Inspector also considered the affect the development would have on the adjacent scheduled ancient monument, the British Horse Society size recommendations and the requirement for stables to be 400m or more from existing buildings. However these issues did not outweigh the above and the appeal was therefore dismissed.

<b>P08/0400</b>	<b>Refusal of Planning Permission</b>	<b>Erection of One Dormer Bungalow</b>	<b>Land adjacent to 8 Grenville Close Haslington Crewe Cheshire</b>	<b>Refused</b>	<b>Refused</b>	<b>Dismissed</b>
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**Issues:** The Inspector considered the main issues of the appeal to be the effect of the proposal on the character and appearance of the surrounding area; whether the proposal constitutes overdevelopment and if so, the effect this would have on the provision of the private amenity space for the occupiers. The appeal site is situated in an area of mixed suburban development with detached and semi detached two storey conventionally designed dwellings being the prevailing form of development along Grenville Close, with bungalows on Primrose Avenue. The appeal plot contains a detached garage and lies alongside No.8 Grenville Close, with bungalows to the rear on Primrose Avenue. The Inspector states that the plot more closely addresses the two storey form of development along Grenville Close, and in that context a small dormer bungalow would look quite out of sorts and an alien feature in the street scene

contrasting sharply with the adjacent dwelling No.8 Grenville Close, and others in the cul-de-sac. The Inspector considers that the proposed development would cause unacceptable harm to the streetscene and the character and appearance of the immediate locality, contrary to Policy BE.2. The Inspector considers that the plot is materially smaller than the others in the area and that the rear garden space proposed would be limited to a depth of between 6.5m and 3m. However, it would be the judgement of the prospective owners whether to purchase or not, and therefore he does not consider that the proposal would result in insufficient private amenity space for future occupiers. The Inspector also considers the relationship between No.8 Grenville Close and the bungalow on Primrose Avenue, and concludes that the amenity space would not be unduly overlooked or result in an invasion to the extent that the proposal would conflict with Policy BE.1, and that the development would accord with national ambitions to make better use of urban land. However, the Inspector considers that the harm caused in relation to the impact of the development on the street scene and the character and appearance of the area outweighs other considerations and therefore the appeal is dismissed.

<b>P08/0405</b>	<b>Refusal of Planning Permission</b>	<b>Erection of 12.5m High Telecommunications Installation (GDO Determination)</b>	<b>Readesdale Avenue/Valley Road Wistaston Crewe Cheshire CW2 6QT</b>	<b>Refused</b>	<b>Refused</b>	<b>Dismissed</b>
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**Issues:** The Inspector considered that the main issue of the appeal was the effect of the proposal on the character and appearance of the surrounding area. The appeal site is situated on a grass verge at the crossroads where Readesdale Avenue meets Valley Road, in a largely residential area of moderate sized bungalows and semi-detached houses. The Inspector states that to the north of the junction is a local centre with a Co-op supermarket and some smaller shops, which are flat roofed, single storey buildings with car parking areas to either side. The Inspector states that the associated cabinets would be higher than and protrude above the car park wall, but does not consider that they would be unduly noticeable or obtrusive in the street scene. The proposed mast would be fabricated to resemble a telegraph pole but at 12.5m tall, it would be approximately double the size of the actual poles on Valley Road. The Inspector considered that the mast would be uncharacteristically tall and would appear out-of-scale, incongruous and an alien feature in the suburban and domestically-scaled environment. The Inspector also states that there is mature evergreen on the corner of Danebank Avenue which would restrict views of the mast for the occupiers of No.9. However the other trees in the immediate area are immature or small specimens with limited screening to the properties and the proposed mast would be clearly visible to the residents of neighbouring houses in Valley Road. Therefore it would be visually obtrusive and result in a significant impact upon visual amenity, contrary to Policy NE.18. The Inspector also considered information received relating to other possible sites, and the apparent lack of a sufficient alternatives, and considers that these reasons do not outweigh the significant harm to the character and appearance of the surrounding area that would result from the proposed development, and therefore dismissed the appeal.

<b>P08/0895</b>	<b>Refusal of Planning Permission</b>	<b>Change of Use of Land into Extra Garden</b>	<b>Land Adjacent to 4 Waterworks House, Chester Road, Hurleston, Nantwich, Cheshire, CW5 6BU</b>	<b>Refused</b>	<b>Refused</b>	<b>Upheld</b>
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**Issues:** The Inspector considered that the main issue of the appeal was the affect of the proposal on the open countryside. The appeal site is a plot of land adjacent to No.4, within the compound surrounding Hurleston reservoir which includes the water treatment works and two pairs of semi-detached houses. The proposal is for the occupier of No.4 to use the site as a garden planted with grass, fruit trees, and flowers. An area of hardstanding would also be laid for parking one or two cars. The Inspector notes that the reservoir site is in a rural setting outside the settlement boundary. The Inspector then goes on to state that the appeal site is not agricultural land but mown grass similar to that of other areas of open land around the reservoir compound. The Inspector

*considers that the existing appearance of the land is maintained land which enhances the wider area and the introduction of fruit trees, other plants and a small parking place would not alter this significantly. The Inspector notes that the proposed development does not fall within the exceptions rule of rural development in Policy NE.2, but considers that the proposed development is of a minor nature which would not compromise the objectives of Policy NE.2, with the opinion that the proposal, although not within a settlement boundary, offers a genuine opportunity for development. The Inspector also considered that the views from the road and the reservoir, but considered that the development is appropriate and therefore upheld the appeal.*

## **Application for Costs**

<b>P08/0067</b>	<b>Refusal of Planning Permission</b>	<b>Variation of Condition 7 of Planning Permission 7/04314 (Opening Hours)</b>	<b>613 Crewe Road Wistaston Crewe Cheshire CW2 6PR</b>	<b>Refused</b>	<b>Refused</b>	<b>Withdrawn</b>
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*The Appellant requested an Inquiry into the refused application P08/0067, but subsequently withdrew the appeal after a successful application approved with conditions on 25<sup>th</sup> June 2008. The appellant considered that the Council had behaved unreasonably by refusing the appeal application and subsequently approving a re-submitted application for the same proposal. However the Inspector considered that the Council did not act unreasonably by causing the appellant to incur wasted or unnecessary expense in the appeal. Therefore the costs application fails and no award of costs made against the Council.*

<b>Total number of appeals</b>	<b>.</b>	<b>6</b>
<b>Number of appeals upheld</b>	<b>.</b>	<b>2</b>
<b>Number of appeals dismissed</b>	<b>.</b>	<b>4</b>

## **APPENDIX 3 – CURRENT APPEALS**

**Application No:** 08/0929P

**Appellant:** Mr Brian Jarvis, Vale and Vale

**Site Address:** Apartment 11, Kingsbury House, St. Hilarys Park,  
Alderley Edge, SK9 7DA

**Proposal:** Proposed balcony/terrace

**Level of decision:** Delegation

**Decision:** Refused

**Appeal Decision:** Allowed

### **MAIN ISSUES**

The main issue is the effect of the proposal on the character and appearance of the Alderley Edge Conservation Area. Kingsbury House is prominently located in an elevated site close the junction of 6 roads at the north-west edge of the Conservation Area. The area is predominantly characterised by substantial dwelling, of various designs, set in spacious gardens with winding access roads and plentiful trees.

### **INSPECTOR'S REASONS**

Kingsbury House is a recently constructed large apartment development replacing a former school at the south end of the village centre. Due its large mass, careful design was required to avoid issues of over dominance. A principal feature of the development, in views from the north, is an Italianate turret, which makes a strong visual statement. The design of the existing gable feature to Apartment 11 is purposely well proportioned to fall in the overall composition of the block and to ensure the due prominence of the end turret. The proposed increase in height would challenge and potentially compromise the dominance of the turret. The inspector considered that the presence or absence of a larger gable with a terrace in the roof area would not have a negative effect on the visual impact of the corner turret because that would remain clearly separate and on different faces of the building.

The inspector concluded that the proposal would respect the height, bulk and general form of the original building, it would be secondary to the original building and the extension would not reduce the garden size, a significant feature of this area. The proposal would at least preserve the character and appearance of the Alderley Edge Conservation Area in conformity with the objectives of the saved policies BE1, BE3 & BE12 of the Macclesfield Borough Local Plan 2004.

**IMPLICATIONS FOR THE COUNCIL**

Whilst disappointing this is a site specific decision which further demonstrates the subjectivity of design in planning terms. There are no policy implications for the council.

**Application No:** 08/0188P

**Appellant:** Mr Edward Johnson

**Site Address:** 6 Links Road, Wilmslow

**Proposals:** Two-storey side(s) and single storey rear extension

**Level of decision:** Delegated

**Recommendation:** Refusal

**Decision:** Refused 02.04.2008

**Appeal Decision:** Dismissed 20.02.2009

**MAIN ISSUES:**

The main issues to be considered are the effect the proposal would have on the street scene and the character and appearance of the wider area; the implications for neighbouring amenity; and whether the development would result in additional on-street parking to the detriment of highway safety.

**INSPECTOR'S REASONS:** The Inspector considered that the scheme differs from most other extensions in the area as it would occupy a corner plot. Although the existing dwelling already extends somewhat forward of the existing Church Road building line, the current development would increase this markedly and visually encroach on the junction to a far greater extent, when viewed from all directions. The Inspector was also mindful that it would make it extremely difficult for the Council to resist a similar proposal on the opposite side of the Church Road, thereby adding to the built prominence and reducing the sense of openness around the junction.

Raising the overall height of the building to facilitate a full hipped roof over the right hand extension, whilst not having a profound effect, adds to the height and visual dominance of the structure and is a further negative point. The scale and disposition of the appeal project would be intrusive in the street scene and adversely affect the character and appearance of the wider area. The brick wall proposed around the junction would appear alien and intrusive in an area where boundaries are almost exclusively constructed from natural materials. The proposed development is therefore considered to be contrary to policies BE1, DC1 and DC2.

In respect of neighbouring amenity, the 11-metre separation of the buildings to the gable wall of No. 21 Church Road falls below the 14-metre distance given in Policy DC38 and as such, the Inspector was in no doubt that the proposed extensions would add to the visual dominance and cause an

unacceptable overbearing effect on No. 21. Also, the proposed extensions would reduce sunlight to the front windows and garden of No. 21 and would be contrary to Policy DC3.

Modest changes to the internal layout would result in a sufficient level of off-street parking and therefore the Inspector did not find this to be a determining issue.

The Inspector concluded that 'a raft of Local Plan policies would be breached' and firmly believed that the appeal should fail.

**IMPLICATIONS FOR THE COUNCIL:** This is a site specific decision, however, does re-enforce the Council's adopted planning policy.

**Application No:** 08/0846P

**Appellant:** Mr Alistair McNulty

**Site Address:** The Old Stables, Hollin Farm, off Jackson Lane,  
Kerridge, Macclesfield, SK10 5BE

**Proposal:** CONSTRUCTION OF ACCESS TRACK

**Level of Decision:** Delegated

**Recommendation:** Refusal

**Decision:** Refusal

**Appeal Decision:** **Allowed** 05.03.2009

### **MAIN ISSUES**

The track would be approx. 70m in length and pass to the rear of the dwelling. The track would replace an existing track/vehicle right of way that runs by the front of the dwelling. The site lies within the Green Belt and Kerridge Conservation Area. The key issues are: 1) whether the proposed amounts to inappropriate development within the Green Belt and 2) whether it would cause harm to policies designed to protect the Green Belt and the Conservation Area.

### **INSPECTOR'S REASONS**

The Inspector opined that the proposed track would have a neutral effect on the openness of the green belt and would not fail to safeguard the countryside from encroachment (as the site lies within the built-up limits of Bollington and is surrounded by residential and commercial development, which separates it from open countryside). The Inspector concluded that the proposed did not constitute inappropriate development within the Green Belt and would not cause harm to any policies designed to protect the Green Belt.

The Inspector noted that, following refusal of the appeal application approval was given for an access track taking a different line through the application site. However, in the Inspector's opinion, the appeal scheme was the appellant's preferred route and he regarded the possibility of both tracks being constructed as remote.

### **IMPLICATIONS FOR THE COUNCIL**

In this instance it is considered that the Inspector's interpretation of Green Belt policy differs to that of the Council's. It is, however, a stand alone decision that, whilst disappointing, does not set any precedent for future applications.