

Meeting: Planning and Development
Committee

Agenda Item:

Date: Tuesday 10 January 2023

INFORMATION REPORT - APPEALS / CALLED IN APPLICATIONS

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1. APPEALS RECEIVED

- 1.1 22/00307/ENF. Car park to side of 8 Aintree Way. Appeal against the serving of an enforcement notice to remove the structure built around the car parking space and return the communal parking spaces to their original condition.

2. DECISIONS AWAITED

- 2.1 21/01152/ENF. 68 Basils Road. Appeal against the serving of an enforcement notice to remove the first floor of the two storey rear extension which was refused under planning permission reference number 21/01256/FPH.
- 2.2 21/01256/FPH. 68 Basils Road. Appeal against the refusal of planning permission for the retention of a part two storey, part single storey rear extension.
- 2.3 21/01101/FP, 303 Ripon Road. Appeal against refusal of planning permission for the conversion of 1 no. 4 bedroom dwelling to 3 no. studios, single storey front and rear extensions and conversion of garage including the change of use from public amenity land to residential use and associated parking.
- 2.4 21/00717/ENFAPL, 134 Marymead Drive. Appeal against the serving of an Enforcement Notice relating to the unauthorised erection of an outbuilding and front extension.
- 2.5 21/01025/ENFAPL, 7 Boxfield Green. Appeal against the serving of an Enforcement Notice relating to the development not in accordance with approved plans under planning permission reference number 17/00734/FPH.

3. DECISIONS RECEIVED

- 3.1 21/00057/FP, Land Between Watercress Close, Coopers Close and Walnut Tree Close. Appeal against refusal of planning permission for the erection of two detached dwelling houses including new site access from Watercress Close and 560sqm of publicly accessible open space to the south of the site.
- 3.2 The appeal was allowed and planning permission was granted subject to conditions. The appeal was also subject to the completion of a Section 106 Legal agreement to secure financial obligations relating to Biodiversity Net Gain.
- 3.3 In his decision letter, the inspector understood that prior to the enclosure of the open space, the site was maintained by the Council and formed a well-used open space for various

forms of recreation and provided access through the housing estate. However, the inspector noted that following the erection of hoardings, the site no longer functions as a public open space.

- 3.4 The inspector sets out that the appeal site is in private ownership and whilst He appreciates it can serve as public open space, He points out that there is no apparent mechanism to compel the landowner to return the site to its former use. As such, the inspector considered that if the appeal was dismissed, the evidence before him does not suggest that the site has a realistic prospect of being brought back into use as public open space. Consequently, the inspector considered the appeal proposal would not compromise the access to the use of the land as public open space, since such access has already ceased.
- 3.5 Given the appeal site is inaccessible to the public and no longer functions as open space, the proposal would accord with the requirements of Local Plan Policy NH6 which permits the development of open space in such circumstances. In addition, as a small, vacant site, the inspector also considered it satisfied the requirements of Local Plan Policy HO5. The inspector noted that the Council had raised concerns the appeal proposal would set an undesirable precedent for the loss of open spaces through development. However, the inspector argued that the local area appears green in character with amenity land and open spaces as common features within the street. Therefore, whilst such spaces could attract development proposals in the future, the inspector did not consider his decision would create a precedent since he reached his decision based on the specific merits of the case and found it accords with the Development Plan.

Other matters

- 3.6 The inspector noted that written comments and objections were submitted by local people in response to the proposal. The inspector explains that he has a great deal of sympathy with those residents with respect to the loss of the recreational function of the site prior to its enclosure. However, the inspector has based his decision on the evidence before him along with his observations of the site's present condition.
- 3.7 In terms of the concerns raised that the proposal conflicts with the requirements of the original 1980s permission for the estate, the inspector argues that his decision is in accordance with the current Development Plan, as required by Planning Law. In terms of some comments about the former value of the site in providing connections to surrounding streets, the inspector argues that the proposed development would include an area of open space which would reinstate pedestrian access. Therefore, he considered this to be a public benefit of the scheme.
- 3.8 With respect to concerns about impact on wildlife, the inspector points out there is a completed S.106 agreement with a financial obligation towards biodiversity enhancements. He considers this obligation to meet the tests in the NPPF and therefore, considers this is also a benefit of the scheme. In relation to concerns around the design of the scheme and effects on living conditions, reference is made to the officers committee report and it is noted that the Council did not consider these were reasons to refuse the application. In addition, the inspector advises that he has been provided no substantive evidence which would prompt him to disagree with the Council's conclusions on these matters.

Conclusion

- 3.9 Subject to the inclusion of conditions, the inspector concluded the development accords with the development plan taken as a whole and therefore, sets out that the appeal should succeed.