



## North Devon Council

Report Date: 4<sup>th</sup> July 2022

Topic: Planning and Enforcement Appeal Decisions received since last report to Planning Committee. See Agenda for Planning Committee held on 5<sup>th</sup> May 2022 together with information re Appeal decisions received .

Report by: Sue Thomas – Senior Planning Support Officer (Appeals)

### 1. INTRODUCTION

1.1. This report is to inform Planning Committee Members of the Planning and Enforcement Appeal Decisions received from the Planning Inspectorate.

### 2. RECOMMENDATIONS

2.1. That Members and other interested parties note the appeal decisions reported.

### 3. REASONS FOR RECOMMENDATIONS

3.1. The Appeal Decisions are reported for general information and to enable consideration of any implications they may have on future cases.

### 4. REPORT

4.1 Appendix A - Planning Appeal Decision and Appeal Costs Decision re 72245 – Partial change of use from B1 (Offices), to C3 (Residential) to the First and Second Floors & retaining Use Class B1 to the Ground Floor at 3 Taw Vale, Barnstaple EX32 8NJ – Planning Appeal Dismissed and Appellant's Planning Appeal Costs Claim Refused on 28<sup>th</sup> March 2022.

4.2 Appendix B - Planning Appeal Decision re 73624 - Outline application for erection of one dwelling (with all matters reserved) at Garden of 35a The Brittons, Braunton EX33 2HF – Planning Appeal Dismissed on 20<sup>th</sup> June 2022.

4.3 Appendix C – Minor Commercial Appeal Decision re 74191 - Siting of 1 Internally Illuminated 10mtr Bucket Pole Sign at Kentucky Fried Chicken, Roundswell Services, Barnstaple, Devon EX31 3RZ – Minor Commercial Appeal Dismissed on 27<sup>th</sup> June 2022.

4.4 Appendix D – Planning Appeal Decision and Appeal Costs Decision re 60823 - Hybrid application:

(A) full application for access, scale & layout of site including raising of ground levels, removal of any contamination, demolition of buildings, flood defence works, site access works & highway infrastructure, together with purpose built bat building and vehicle parking for Tarka Trail.

(B) outline application for 250 dwellings (Use Class C3(a)), up to 3000sqm employment space (Use Class E(g)(i) and E(g)(ii) was Use Class B1). Retail Space of up to 250sqm gross floorspace (Use Class E(a) was Use Class A1);

Space for the Sale of food and drink of up to 2000sqm Gross floorspace (Use Class E(b) Was Use Class A3); Service and Community Space of up to 500sqm Gross floorspace (Use Class E(d) E(e), E(f) and F1(a), F1(b), F1(e), and F2(b) was Use Class D1 and D2); including all associated infrastructure, roads, footpaths, cycleway, drainage (incl. attenuation works), landscaping & appearance, public open space, & utilities.

(Agreed Amended Description) at Former Yelland Power Station, Lower Yelland EX31 3FZ - Planning Appeal Allowed and Appellant's Planning Appeal Costs Claim Allowed in part on 30<sup>th</sup> June 2022.

- 4.5 Appendix E – Householder Appeal Decision re 74722 – Erection of workshop and storage building with log store at 5 Taw View, Chittlehamholt, Umberleigh EX37 9PA – Appeal Dismissed on 1<sup>st</sup> July 2022.

4.6

#### **Appeal decisions rec'd 28/05/2019 – 01/07/2022**

Total appeal decisions rec'd – 137

Of those:

Total Dismissed – 77

Total Allowed – 43

Total “split” decision – 5

Total Withdrawn before determination by PINS – 12

#### **Appeal Costs**

Total cost claims made by appellant against LPA – 30

Total of those that were allowed in favour of appellant – 13\*

Total of claims that were unsuccessful – 17

\*NB. This total includes the 5 cases re Oakland Poultry Farm (64059 – 64063) where a partial award of costs was given in the appellant's favour but we have never received the claim!

## 5. RESOURCE IMPLICATIONS

- 5.1. Where an application by the appellant for an award of Appeal Costs is successful it is expected that this will be paid from the Planning budget (financial resource implication)

5.2. Where an application by the LPA for an award of Appeal Costs from the appellant is successful it is expected that this will be paid into the Planning budget (financial resource implication)

5.3. There may be a financial implication if Consultants are employed to confirm that any claim for Appeal Costs is reasonable/acceptable (financial resource implication)

5.4. There may be a call on NDC staff (Planning/Legal) to confirm that any claim for Appeal Costs is reasonable/acceptable (staffing resource implication)

## 6. EQUALITIES ASSESSMENT

6.1. There are not any equalities implications anticipated as a result of this report.

## 7. ENVIRONMENTAL ASSESSMENT

7.1. It is considered by the Author that, as this report is simply to advise Planning Committee Members and other interested parties of recent Planning and Enforcement Appeal decisions, there are no Environmental implications arising from its contents.

## 8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: - Positive as will learn lessons to reduce potential costs awards against the Council

8.1.2. Improving customer focus and/or – Positive as will learn lessons for future consideration

8.1.3. Regeneration or economic development – Positive as will learn lessons for future consideration

## 9. CONSTITUTIONAL CONTEXT

9.1. Article of Part 3 Annexe 1 paragraph: - Not applicable

9.2. Referred or delegated power? – Not applicable

## 10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

11.1 Planning Inspector's Appeal decision re 72245 (Appendix A)

11.2 Planning Inspector's Appeal decision re 73624 (Appendix B)

11.3 Planning Inspector's Appeal decision re 74191 (Appendix C)



11.4 Planning Inspector's Appeal decision and Appeal Costs decision re 60823 (Appendix D)

11.5 Planning Inspector's Appeal decision re 74722 (Appendix E)

11.6 Statistical information from MasterGov re Appeal decisions and Appeal Costs decisions received 2019 - 2022

## 12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Sue Thomas – Senior Planning Support Officer (Appeals) - Planning, Housing & Health