

# REPORT FOR NOTING

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| <b>DECISION OF:</b>   | <b>PLANNING CONTROL COMMITTEE</b>   |
| <b>DATE:</b>  | <b>25 January 2022</b>  |
| <b>SUBJECT:</b>   | <b>PLANNING APPEALS</b>   |
| <b>REPORT FROM:</b>   | <b>HEAD OF DEVELOPMENT MANAGEMENT</b>   |
| <b>CONTACT OFFICER:</b>   | <b>DAVID MARNO</b>  |
| <b>TYPE OF DECISION:</b>  | <b>COUNCIL</b>  |
| <b>FREEDOM OF INFORMATION/STATUS:</b>   | This paper is within the public domain  |
| <b>SUMMARY:</b>   | <p>Planning Appeals:</p> <ul style="list-style-type: none"> <li>- Lodged</li> <li>- Determined</li> </ul> <p>Enforcement Appeals</p> <ul style="list-style-type: none"> <li>- Lodged</li> <li>- Determined</li> </ul> |
| <b>OPTIONS &amp; RECOMMENDED OPTION</b>   | The Committee is recommended to the note the report and appendices  |
| <b>IMPLICATIONS:</b>  |   |
| <b>Corporate Aims/Policy Framework:</b>   | Do the proposals accord with the Policy Framework? Yes  |
| <b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b> | Executive Director of Resources to advise regarding risk management   |
| <b>Statement by Executive Director of Resources:</b>                                  | N/A   |
| <b>Equality/Diversity implications:</b>   | No  |
| <b>Considered by Monitoring Officer:</b>  | N/A   |
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|                           |            |
|---------------------------|------------|
| <b>Wards Affected:</b>    | All listed |
| <b>Scrutiny Interest:</b> | N/A        |

## TRACKING/PROCESS

## DIRECTOR:

| Chief Executive/<br>Strategic Leadership<br>Team | Executive<br>Member/Chair | Ward Members | Partners |
|--|---------------------------|--------------|----------|
|  |                           |              |          |
| Scrutiny Committee                               | Committee                 | Council      |          |
|  |                           |              |          |

### 1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

### 2.0 CONCLUSION

That the item be noted.

### List of Background Papers:-

#### Contact Details:-

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**Planning Appeals Lodged  
between 06/12/2021 and 16/01/2022**



**Application No.:** 67532/FUL

**Appeal lodged:** 04/01/2022

**Decision level:** DEL

**Appeal Type:**

**Recommended Decision:** Refuse

**Applicant:** Mr Jason Briggs

**Location** Kirklees Valley Farm, Lower Kirklees Street, Tottington, Bury, BL8 3NY

**Proposal** Erection of single storey dwelling to replace existing dwelling

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**Application No.:** 67603/LDCP

**Appeal lodged:** 09/12/2021

**Decision level:** DEL

**Appeal Type:** Written Representations

**Recommended Decision:** Refuse

**Applicant:** Safe Hands Care & Support Services Ltd

**Location** 5 Shelley Road, Prestwich, Manchester, M25 9GH

**Proposal** Lawful development certificate for proposed change of use of existing dwelling house (Class C3(a)) to supported housing scheme for 4 young adults (Class C3(b))

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**Total Number of Appeals Lodged: 2**

## **The Ombudsman's final decision**

Summary: We will not investigate Ms X's complaints about the Council's decisions to approve planning permissions on sites near her home. There is not enough evidence of fault in the planning process, and we do not consider that Ms X has suffered a significant personal injustice which justifies an investigation.

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## **The complaint**

1. The complainant, I shall call Ms X, complains the Council has approved several planning applications in the conservation area where she lives. She says the area is protected by an Article 4 Direction. And she thinks the Council has not given correct weight to arguments against the applications.
2. Mr X says she has spent 15 months either objecting to applications or making complaints.

## **The Ombudsman's role and powers**

3. The Ombudsman investigates complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse impact on the person making the complaint, which we call 'injustice'. We provide a free service but must use public money carefully. We do not start or may decide not to continue with an investigation if we decide:
  - there is not enough evidence of fault to justify investigating, or
  - any injustice is not significant enough to justify our involvement.

*(Local Government Act 1974, section 24A(6))*

## **How I considered this complaint**

4. I considered information provided by Ms X and the Council.
5. I considered the Ombudsman's Assessment Code.

## **My assessment**

6. We cannot question the professional judgement decisions of council officers or elected Members unless there has been fault in the processes they have followed which, but for that fault, would have led to a different decision.
7. Ms X considers the Council is biased for the applicants and:
  - the applications did not enhance the area or benefit the public

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- the Council ignored the objections from the local community
  - the developments harm the character of the landscape and an historic building; and
  - the developments do not follow the Council's plan to safeguard views from a Grade 2 listed monument
8. National government guidance to local planning authorities is to support development unless there are good reason a particular one should not be allowed. I have not seen evidence the Council acted in a biased way in favour of the applicant or their application which would give us grounds to investigate.
  9. Ms X says the Council ignored the objections made by residents against the application. I do not agree. The Council's planning officers summarised and reflected in their report to the committee the objections they received. Objections on material planning matters were responded to in the report.
  10. The report also details the national and local planning policies relevant to the application. It explains why officers considered the proposals acceptable and why they did not consider there to be enough grounds to recommend refusing the application. I have not seen evidence that officers ignored residents' or any other party's objections here which justifies an investigation.
  11. As part of their assessment of the application, officers considered the sensitivity of its location in a Conservation Area. They took the view the impacts of the development on the area, were not sufficient for them to recommend committee Members to refuse the application. In reaching their view, officers took account of the relevant policies and material objections received.
  12. The planning committee visited the sites before the committee meetings. The meetings were held online to comply with the Covid-19 restrictions in place at the time. The applications and the objections received were considered. The Committee voted to grant planning permission for proposed schemes.
  13. Ms X disagrees with the decisions to approve the applications. And she says the Committee failed to give correct weight to the objections and planning policy. However, it is for the decision makers, in the case the Planning Committee, to decide what weight to give to any material planning considerations when determining planning applications. It is not fault for a council to properly form a view with which someone disagrees. It was within the Committee's power to refuse the applications, if Members had decided they did not have enough information or if the application were unacceptable.
  14. Ms X says claimed injustice is that she has spent 15 months either objecting to planning applications or complaining.
  15. The Council must determine all valid planning applications it receives. It is not the fault of the Council that Ms X has chosen to object to planning applications submitted to the Council. It is also Ms X's choice to complain to Councillors and/or officers. I do not consider that making objections or complaints is a significant personal injustice.

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## **Final decision**

16. I will not investigate this complaint. This is because from the information I have seen, it is unlikely we will find fault in the way the Council considered the planning applications for sites in the area where she lives. Nor do I consider that Ms X has suffered a significant personal injustice which warrants our involvement.

## **Investigator's decision on behalf of the Ombudsman**