

**Subject:** Appeals Update

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## **Update paper to Committee**

### **U1.0 Introduction**

U1.1 Since the publication of the agenda, there has been an update to a live appeal referenced in section 4.0.

### **U2.0 Planning appeal decisions**

U2.1 One appeal referenced at paragraph 4.1 of the main report has been determined, as summarised below.

[20/01834/FUL \(Appeal Ref: APP/Y0435/W/21/3270231\)](#)

[Erection of five dwellings on land adjacent to Main Road and Cranfield Road, Astwood](#)

U2.2 As noted in the main report, permission was sought for the erection of 5 dwellings. The Panel refused permission contrary to officer recommendation in February 2021, citing conflict with the emerging Neighbourhood Plan (NP) as the main reason. Secondary to this was concern over the effect on the character of the area – particularly due to the proposed entrance gates.

U2.3 The Inspector focussed on Policy H1 of the emerging NP. He noted that the policy both identifies the NP will provide for up to two new homes over the plan period, and that other new housing will be considered on windfall sites that lie within the settlement boundary of Astwood, subject to accordance with other policies of the development plan and other material considerations.

U2.4 Whilst it was noted that the appeal site is not allocated for housing, the dwellings would be located wholly within the settlement boundary. It was therefore held that the proposal should be considered as a windfall site and the degree of weight to be afforded to the emerging NP was not a central issue given the proposal would accord with the policy.

U2.5 In terms of the second reason for refusal, the Inspector considered the development would largely suit the character of the area. However, it was agreed that the gates would represent an overly elaborate entrance for the semi-rural location. Nonetheless, it was noted that the appellant was content to resolve this conflict through the use of a suitably worded condition, and this approach was deemed appropriate.

U2.6 An application for an award of costs was made, with the appellant stating that despite receiving positive pre-application advice, and a positive recommendation to the Panel, Members

demonstrated unreasonable behaviour by attaching too much weight to the emerging NP. It was also suggested that the Panel acted against professional design advice.

- U2.7 The Inspector noted that Members are not obliged to agree with officer advice, but where they disagree, refusal reasons must be substantiated. It was confirmed it is not unreasonable to rely on emerging policy, but in this case, it was not down to weight afforded to policy, but instead an inappropriate interpretation of the policy itself. It was noted that, despite this, the Council presented a case in support of the decision made, so substantiating their position. The same was true for the effect on character and appearance. An award of costs was therefore not justified.