
Report to
Planning Committee

Report of
Head of Planning and Regulation

Ward(s) affected:
All

Title:
Appeals progress report

Is this a key decision?
No

This report is for information

Executive Summary:

The appeals progress report provides a summary of appeal decisions in order to keep Members informed about planning and enforcement appeals made against planning decisions taken by the City Council.

Recommendations:

Planning committee are recommended to note the content of the report

List of Appendices included:

None

Background papers:

N/A

Other useful documents

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Appeals progress report

1. Context (or background)

The purpose of this report is to inform Members of appeals lodged and determined in the period 1 July 2019 to 31 August 2019.

When a planning application is refused, the applicant has the right to appeal within six months of the date of decision for non-householder appeals. For householder applications the time limit to appeal is 12 weeks. Appeals can also be lodged against conditions imposed on a planning approval and against the non-determination of an application that has passed the statutory time period for determination.

Where the Council has taken enforcement action, the applicant can lodge an appeal in relation to the served Enforcement Notice. An appeal cannot be lodged though in relation to a breach of condition notice. This is on the basis that if the individual did not agree with the condition then they could have appealed against the condition at the time it was originally imposed.

Appeals are determined by Inspectors appointed by the Secretary of State and administered independently by the Planning Inspectorate.

3. Recommendation

Members are requested to note the appeal decisions of either the Secretary of State or the relevant Inspector that has been appointed to determine appeals within the defined period.

In line with the parameters above the report sets out the main issues of the appeals and summarises the decisions. Where claims for costs are made and/or awarded, either for or against the Council, the decisions have been included within the report.

4. Monitoring

Monitoring of all appeal decisions is undertaken to ensure that the Council's decisions are thoroughly defended and that appropriate and defensible decisions are being made under delegated powers and by Planning Committee. The lack of any monitoring could encourage actions that are contrary to the Council's decision, possibly resulting in poor quality development and also costs being sought against the Council.

5. Financial & legal considerations

An appeal may be determined after a Public Inquiry, a Hearing or most commonly written representations. It is possible for cost applications to be made either by the appellants against the Council or vice versa if it is considered that either party has acted in an unreasonable way.

It is possible for decisions, made by Inspectors on appeal to be challenged through the courts. However, this is only if it is considered that an Inspector has erred in law, for instance by not considering a relevant issue or not following the correct procedure.

A decision cannot be challenged just because a party does not agree with it. A successful challenge would result in an Inspector having to make the decision again following the correct procedure. This may ultimately lead to the same decision being made.

It is possible for Inspectors to make a 'split' decision, where one part of an appeal is allowed but another part is dismissed.

SUMMARY OF APPEALS IN PERIOD OF 1 JULY TO 31 AUGUST 2019

No. APPEALS PENDING	45
No. APPEALS RECEIVED	8
No. APPEAL DECISIONS RECEIVED	17
No. ENFORCEMENT APPEALS LODGED	0
No. ENFORCEMENT APPEAL DECISIONS RECEIVED	1
No. OFFICER DECISIONS ALLOWED	3
No. MEMBER DECISIONS ALLOWED	-

Site Address:	76 Bransford Avenue
Reference Number:	FUL/2018/1796
Description:	Proposed change of use from a dwellinghouse to five self-contained flats (four x one bedroom and one x two-bedroom) for student accommodation (retrospective)
Decision Level:	Delegated
Decision:	Refused on 27/09/2018
Appeal Decision:	<i>Allowed on 02/07/2019</i>

Summary of Decision

The main issue is whether the development provides a suitable residential environment with particular regard to the adequacy of parking for the occupiers.

The development has taken place and involves the subdivision of a large detached dwellinghouse that sits within a generous plot on a suburban housing estate. The Inspector notes that the site is within walking distance of a district retail centre, within cycling/walking distance of the University of Warwick and that a bus service passes the site and therefore he considers that services and facilities are easily accessible by means other than a private car.

The Inspector notes that Bransford Avenue is a wide street and observes that although there is a residents parking scheme which gives some restrictions to parking during the day, the road appears lightly trafficked with no evidence of obstruction or parking stress and that most dwellings near the appeal site have adequate off-road parking.

Appendix 5 of the CDP 216 would require the provision of 7 car parking spaces and only 3 are provided on site but the Inspector is of the view that parking standards are not in themselves a confirmation of car ownership or use and given the size and character of the accommodation and proximity to the University, does not consider it unreasonable to assume that car ownership may be lower than the standards set out in Appendix 5. The Inspector notes the objection from the Highway Authority but considers this to be unsubstantiated other than my reference to the shortfall in parking standards which does not evidence harm to the proper operation of the highway network.

In view of the parking shortfall the Inspector finds some conflict with Policy H3 which seeks to ensure that new housing has adequate parking, but concludes that the proposal makes a small contribution to housing supply which weighs significantly in its favour. Given the sustainability of the location he does not consider the deficiency in parking numbers outweighs the benefits identified and therefore allows the appeal. Conditions are imposed relating to the development being retained in accordance with the approved plans and a requirement for the provision of bin and cycle storage in accordance with details that shall first be submitted to the LPA for approval.

Site Address:	1 Fosseyway Road
Reference Number:	HH/2019/0300
Description:	Extension of a dropped kerb for vehicular access
Decision Level:	Delegated
Decision:	Refused on 04/04/2019
Appeal Decision:	<i>Allowed on 08/07/2019</i>

Summary of Decision

The main issue is the effect of the proposal on the safety of pedestrians using Fosseyway Road.

The site is located within a narrow cul-de-sac and has an existing 3m wide dropped kerb serving a hard-surfaced area at the front of the property. The proposal is to widen this dropped kerb by a further 6m. The Inspector notes that during his site visit there were vehicles parked partly on pavements in addition to those parked on driveways at the front of properties.

The council's argument is that the proposal conflicts with the current technical design standards for dropped kerbs and would not provide an adequate pedestrian refuge and as a result present a danger to pedestrian safety. However, the Inspector notes that in this case, the restricted width and relatively short length of Fosseyway Road together with occasional on-street parking has resulted in vehicles

being likely to move a slow speeds and that there is clear visibility of both pedestrians and drivers because the road is straight. He also considers that being able to park easily on the frontage of the appeal site would be in the interests of highway safety as it will discourage some on-street parking and concludes that the proposal would not have an unacceptable impact on highway safety.

The appeal is allowed with conditions requiring the development to be carried out with three years and in accordance with the approved plans.

Site Address:	Opp Pool Meadow Bus Station Hales Street
Reference Number:	TELO/2018/1998
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 08/07/2019</i>

Site Address:	3 Trinity Street
Reference Number:	TELO//2018/1999
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 08/07/2019</i>

Site Address:	Os Blue Arrow Cross Cheaping
Reference Number:	TELO/2018/2000
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 08/07/2019</i>

Site Address:	OS WH Smith Smithford Way
Reference Number:	TELO/2018/2003
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 08/07/2019</i>

Site Address:	Adj Pravha Bull Yard
Reference Number:	TELO/2018/2004

Description:	Prior approval for the installation of ground based electronic communications apparatus comprising freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 08/07/2019</i>

Summary of Decisions

The appeal decision relates to the five appeals listed above as although they are for different sites, the proposed kiosks are identical and the Inspector considers they raise similar issues. The installation of a public call box was permitted development under Schedule 2, Part 16 Class A of the GDPO but this has been amended by 2019 Regulations which remove this right although an appeal can still be made. Reference is made to a recent judgement; the Westminster judgement, which considered the matter of development for 'the purpose' of an electronic communications network for the purposes of Schedule 2, Part 16, Class A of the GPDO.

The main issue, having regard to the Westminster judgement, is whether the proposals are for the purpose of the operator's electronic communications network. The proposals are for a kiosk/communication hub providing telephony functions, charging and a defibrillator on one side and advertising on the other. The Inspector notes that the Westminster case confirms that 'the whole development for which prior approval is sought must fall within the class relied on, and that no part of it can fall outside it' and that a development falls outside the scope of Part 16, Class A if it is not 'for the purpose' of the operators network. On this basis a development that is partly for something else cannot be 'for the purpose' of the operators network.

The Inspector notes that the rear face of the proposed kiosks include areas designed specifically for the display of commercial advertisements and concludes that the proposals are not therefore solely for the purpose of the operator's electronic communications network and as such fall outside the scope of Schedule 2, Part 16, Class A of the GDPO and therefore dismisses the appeal.

Site Address:	Coventry Transport Museum Hales Street
Reference Number:	ADV/2018/2015
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2018
Appeal Decision: (A)	<i>Dismissed on 08/07/2019</i>

Site Address:	3 Trinity Street
Reference Number:	ADV/2018/2016

Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2018
Appeal Decision: (B)	<i>Dismissed on 08/07/2019</i>

Site Address:	2 Cross Cheaping
Reference Number:	ADV/2018/2017
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2018
Appeal Decision: (C)	<i>Dismissed on 08/07/2019</i>

Site Address:	WH Smith Smithford Way
Reference Number:	ADV/2018/2020
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2018
Appeal Decision: (D)	<i>Dismissed on 08/07/2019</i>

Site Address:	1 Bull Yard
Reference Number:	ADV/2018/2021
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2018
Appeal Decision: (E)	<i>Dismissed on 08/07/2019</i>

Summary of Decisions

The appeal decision relates to the five appeals listed above as although they are for different sites, the Inspector considers they raise similar issues. The main issues in each appeal are whether the proposed advertisements would be acceptable with respect to amenity and public safety.

Appeal A – the site is within a large pedestrianised open area within Lady Herbert's Garden and The Burgess Conservation Area (LHGBCA) and close to the scheduled ancient monuments of Swanswell Gate and the City Walls. The Inspector notes that the significance of the LHGBCA lies in its concentration of well-preserved heritage assets in an open public setting which has been enhanced by the creation of extensive public realm where street furniture is minimal. He considers the advertisement would be prominently displayed within the wide footway where it would be conspicuous in public views from a number of angles and consequently would harm the amenity of the area through its adverse effect on

the character and appearance of the LHGBCA and on the other heritage assets in the locality. The Inspector does not consider that this sign would result in harm to public safety given its proposed location on a broad open footpath.

Appeal B – the site is located within Trinity Street, a busy commercial street where there are a number of bus stops with advertisements. The proposed advertisement would stand alone on the opposite side of the street. The appeal site is just outside the Hill Top Conservation Area (HCA) but would be seen from the public realm within the HCA and the Inspector considers this would be seen close to existing digital advertisement on Ironmonger Row, which cumulatively would create a cluttered appearance. He also considers the advertisement would appear as an isolated and discordant feature in the street scene when viewed from the approach up Trinity Street and concludes that the advertisement in this location would harm the amenity of the area and the setting of the HCA. The Inspector also concludes that the advertisement would pose a danger to public safety as it would be located 0.5m from the edge of the footway and could potentially obscure drivers views of pedestrians stepping out.

Appeal C – the advertisement would be located at the end of Cross Cheaping where it opens out into public open space, which the Inspector notes is planned with a lack of illuminated adverts, forming an important vista towards the Grade I Holy Trinity Church, the locally listed Flying Standard PH and the HCA. He considers the display would introduce a conspicuous and discordant feature which would detract from the co-ordinated design and layout of the public open space and would harm the amenity of the area. The Inspector does not consider the proposal would result in harm to public safety as it would be located on a wide footpath in an open area.

Appeal D – the advertisement would be located on Smithford Way, a busy pedestrianised shopping street where there is a proliferation of street furniture, including benches, cycle storage, street signs and kiosks and freestanding advertisements located nearby. The advert would be located below the entrance sign for West Orchards and would be positioned in front of other street furniture where the Inspector considers it would appear conspicuous and discordant and create a cluttered arrangement when seen with the existing sign and other street furniture. He does not consider that it would result in harm to public safety as the footpath is broad and open.

Appeal E – the advertisement would be located in Bull Yard, a small pedestrianised square surrounded by designated heritage assets including the Grade II* Christchurch Spire, Grade II townhouses in Warwick Road and Grade II mural at the Three Tons PH. The Inspector notes that the advertisement would be located in the centre of the public space and considers it would appear as an unduly conspicuous and discordant feature at odds with the squares open character. Although he does not consider it harmful to the setting of the listed buildings, he considers it would harm the amenity of the area. He also consider it would be harmful to public safety as the size of the advertisement would narrow the footway on either side which would exacerbate the inconvenience to pedestrian movement.

The Inspector concludes that in all of the appeals the proposals would be detrimental to the amenity of the area and there would be conflict with Policy DE1 of the CLP and CC1 of the AAP. In the case of appeals A, B and C he considers there would be harm to the significance of designated heritage assets in conflict with Policy HE2 of the CLP and although this harm would be less than substantial he does not consider that the limited economic benefits would outweigh the harm identified. In the case of appeal A and E he also concludes that the siting would lead to conditions detrimental to public safety and therefore the proposals would be in conflict with Policies AC2 and AC4 of the CLP and CC1 of the AAP

Site Address:	Coventry Saracens Fc Bredon Avenue
Reference Number:	FUL/2018/1351
Description:	Construction of hardsurface for use as car park
Decision Level:	Delegated
Decision:	Refusal on 06/11/2018
Appeal Decision:	<i>Dismissed on 08/07/2019</i>

Summary of Decision

The main issues are the effect of the appeal proposal on: the character and appearance of the area with particular regards to green space and upon the living conditions of nearby dwellings on IbeX Close with particular regard to loss of outlook and noise.

The site is a rectangular area of grass land located between the rugby pitches of Saracens Rugby Club and Bredon Avenue. The club is largely surrounded by dwellings, the closest of which are those on IbeX Close to the southern boundary, which face the site. The proposals are to lay no dig grass reinforced 'Turfmesh' to create a 50 space car park for use on week days on a commercial basis. The Inspector notes that although the use of 'Turfmesh' would have limited visual impact, the presence of up to 50 cars would have a harmful impact upon the character and appearance of the largely residential area and given the level of use would be likely to create a muddy environment in contrast to the current appearance. The Inspector considers that although not a pitch or run-off area, the site provides an area for informal recreation that is available for community use and its use as a car park would result in the loss of green space that is of value for both visual amenity and community use. In this regard, the Inspector concludes that the appeal proposal would harm the character and appearance of the area by replacing an existing area of green space with up to 50 parked cars which would be contrary to Policies GE2, CO2 and DE1 of the CLP as it would result in the loss of green space that is of value for community use.

No information is submitted to demonstrate how the use would be managed and in view of this the Inspector considers that there is insufficient information to demonstrate that the appeal would not be harmful to the living conditions of the occupiers of nearby dwellings on IbeX Close, with particular regard to noise. He also considers that the proximity of the appeal proposal with up to 50 parked cars would harm the living conditions, particularly no.1 IbeX Close, due to loss of outlook and concludes that the proposal would be contrary to Policy H5 of the CLP.

Site Address:	4 Thimbler Road
Reference Number:	FUL/2018/2258
Description:	Change of use of a small scale house in multiple occupation (HMO, use class C4) into a 7 bedroom house in multiple occupation (HMO, sui generis)
Decision Level:	Delegated
Decision:	Refusal on 28/09/2018
Appeal Decision:	<i>Allowed on 26/07/2019</i>
Costs Decision:	<i>Refused on 26/07/2019</i>

Summary of Decision

The main issue is whether the proposed change of use represents over-intensification of the use of the property which would, in turn, cause detriment to the living conditions of the occupiers of neighbouring properties.

The application property is an extended semi-detached house on an open plan estate. The proposal is to extend the existing use from a C4 HMO to 7-bed HMO. The Inspector recognises that the pattern of use of an HMO can differ from family use but notes that the current use is as a 6-bed HMO (C4 use) and considers that the occupation of an additional bedroom is unlikely to increase the level of activity at the dwelling to a discernible degree.

The Inspector notes that a parking survey submitted with the application demonstrates ample availability of on-street parking near the appeal site and is satisfied that the site is in a location well served by public transport and within walking distance of local facilities. He is satisfied that bin storage and cycle storage can be accommodated within the site and concludes that the proposals would accord with Policy H11 of the CLP 2016.

The appeal is allowed with conditions requiring: the development to be maintained in accordance with the approved plans; occupancy to be restricted to 7 residents; bins to be stored within the bin storage area; and the provision of cycle storage in accordance with details that shall first be approved by the LPA.

Costs Decision

The applicant argues that it was unreasonable of the Council to refuse permission as it took no account of the Environmental Projection response (no objection) or of letters of support and have ignored relevant appeal decisions and inconsistently applied relevant appeals.

The Inspector notes inconsistencies with officer reports and reference to appeal decisions but notes that the appeals referred to address physical circumstances of their respective site in reaching their conclusions and in view of this does not consider that the Council failed to properly evaluate the application and had reasonable concerns about the impact of the proposed development which justified its decision. He concludes that unreasonable behaviour resulting in unnecessary expense has not been demonstrated.

Site Address:	1 Grenville Avenue
Reference Number:	FUL/2018/1423
Description:	Erection of a dwellinghouse
Decision Level:	Delegated
Decision:	Refusal on 10/07/2018
Appeal Decision:	<i>Dismissed on 30/07/2019</i>

Summary of Decision

The main issues are the effect of the proposal on the character and appearance of the area and the living conditions of the occupiers of 1 Grenville Avenue with particular regard to overshadowing and outlook.

The site was formerly part of the rear garden of 1 Grenville Avenue. No.1 backs onto properties on Church Lane with an access way running along the back between the two dwellings. The road runs along the side of the site and around the front of No.1 giving the application site a frontage to the road. Properties on Grenville Avenue and Church Lane are predominantly terraced blocks with relatively long back gardens and garages to the rear. The proposal is for a one-bed partly two-storey dwelling located at the rear corner of the appeal site adjacent to the access way that runs between the rear of Grenville Avenue and Church Lane.

The Inspector notes that there is a modest, narrow detached dwelling at 1A Grenville Avenue that was formerly used as a workshop and whilst the appeal proposal has some similarities with the design of this, he does not consider that 1A is indicative of the style of houses or prevailing pattern of development on Church Lane and Grenville Avenue.

The Inspector considers that the siting of the appeal dwelling to the rear of what was formerly garden land would introduce an incongruous feature where the established pattern is terraced dwellings with long gardens and that the design is not in keeping with the style of houses on Grenville Avenue and Church Lane. On this matter the Inspector concludes that the proposal would harm the character and appearance of the area contrary to Policies H3 and DE1 of the CLP.

With regard to living conditions, the Inspector notes that the distance between the proposed dwelling and No.1 would meet the Councils recommended distance between buildings and in view of the overall distance between the dwellings does not consider the proposal would result in harm to the living conditions of No.1 due to overshadowing. However, he considers that the proposed dwelling, whilst similar to the existing view of 1A, would be closer to No.1 and this combined with the erection of a proposed 6ft fence and reduced outdoor space to No.1, would add to the sense of enclosure and result in harm to the living conditions of No.1 with regard to outlook contrary to Policy DE1 of the CLP. The Inspector concludes that the proposal would harm the character and appearance of the area and would harm the living conditions of No.1 with regard to outlook.

Site Address:	71 and 71A Chandos Street
Reference Number:	FUL/2017/2140
Description:	Timber fence installation along the front and side. (Retrospective)
Decision Level:	Delegated
Decision:	Refusal on 10/12/2018
Appeal Decision:	<i>Dismissed on 02/08/2019</i>

Summary of Decision

The main issue is the effect of the development on the character and appearance of the area.

The property is an end terrace with frontages to Chandos Street and Clements Street and located in a residential area characterised by terraced properties with small front gardens. A close boarded fence has been erected on top of a brick wall giving a total boundary height of approximately 1.8m.

The Inspector considers that the fence has an incongruous appearance in the locality as the few properties with front boundary treatment generally have low walls and this is exacerbated by the weathered look of the fence, although this could be painted.

The Inspector understands the appellants concerns in respect of anti-social behaviour but concludes that the height of the fencing in a prominent corner location is harmful to the character and appearance of the area, contrary to Policy DE1 of the CLP.

Site Address:	77 Humber Avenue
Reference Number:	FUL/2018/3298
Description:	Change of use from existing retail (use class A1) to hot food takeaway (use class A5), new shopfront and extraction flue
Decision Level:	Delegated
Decision:	Refusal on 23/01/2019
Appeal Decision: (B)	<i>Dismissed on 05/08/2019</i>

Site Address:	77 Humber Avenue
Reference Number:	ENF/2019/00003
Description:	Appeal against Enforcement Notice; without planning permission the material change of use of the land to a hot food takeaway (Use Class A5)
Issued:	07/02/2019
Appeal Decision: (A)	<i>Dismissed on 05/08/2019 (Enforcement Notice upheld)</i>

Summary of Decisions

The appeal site is an end of terrace property at the junction of Humber Avenue and St Georges Road and prior to its use as a hot food takeaway it was a vacant retail unit (Use Class A1) at ground floor with separate residential flat at first floor. The hot food takeaway is operating and a large extraction flue has been installed to the east elevation and a new shopfront facing Humber Avenue. There are retail units on opposite corners of the junction but the site is located outside a defined shopping area and within a predominantly residential area.

Appeal A on ground (c)

To be successful on this ground it must be shown that either there is planning permission in place for the change of use and the operation development alleged to have been carried out, or that one is not required because, for example, the works constitute permitted development. On this matter the Inspector concludes that the change of use that has occurred is unlawful; there is no planning permission in place and a change of use from Class A1 to Class A5 does not constitute permitted development under the GDPO and that the appeal on ground (c) must therefore fail.

Appeal A on ground (a) and Appeal B

The main issues in both appeals are: whether the principle of a HFT in this location is acceptable; the effect of the change of use on the living conditions of nearby residents; the effect of the extraction flue as fitted on the character and appearance of the residential area; and the effect on the health and wellbeing of school children and the wider population of the City.

With regard to the principle of the use the Inspector notes that the appeal property does not lie within a defined local centre and other than the two other nearby retail units the area is predominantly residential and therefore he concludes that the proposal is contrary to Policy R6 of the CLP in principle.

With regard to the effect on the living conditions of nearby residents, the council is satisfied with the extraction system and noise assessment but still has concerns about the potential for general disturbance. The Inspector shares these concerns with regard to unacceptable levels of noise and disturbance for nearby residents as he notes that the surrounding terraced houses are relatively small and close together. The Inspector does not consider that the measures outlined in the acoustic report would be sufficient to mitigate against the general level of 'comings and goings' (revving engines, slamming doors, gathering of people) associated with a HFT. He concludes that the use would be harmful to residential amenity and contrary to Policy R6 of the CDP and that the use of planning conditions would not be sufficient to overcome the likely harm.

With regard to the effect of the flue, the Inspector accepts that the proposals to change the design to a proposed chimney breast would overcome concerns and provide a visually acceptable solution.

With regard to the effect on health and wellbeing, the Inspector gives limited weight to this consideration as he notes that the effected school is a primary school and that the SPD is not adopted.

The Inspector concludes that the HFT in this location is harmful to both local and national policies which seek to ensure that the living conditions of residents are not detrimentally affected and finds the unauthorised change of use to be contrary to the relevant Policies and therefore both Appeals A and B therefore fail on the merits of the case.

Appeal A on ground (f)

To be successful on this ground, the onus is upon the appellant to show that the steps required to comply with the requirements of the notice are excessive and that lesser steps would overcome the objections. The Inspector finds that the flue and the other alterations have facilitated the unauthorised change of use and that there is no reason to suggest that these operational works are related to anything other than the use of the premises as a hot food takeaway and agrees that it is justified to have included the removal of these operation works as part of the requirements of the enforcement notice. The Inspector agrees with the LPA that the requirements set out in within the enforcement notice are the minimum necessary to ensure the breach of planning control ceases in order to overcome the harm caused by the breach and therefore Appeal A on ground (f) fails.

Appeal A on ground (g)

The appellant argues that the compliance period of 3 months is unreasonable. The Inspector notes that the hot food takeaway has been in operation (unlawfully) since September 2018 and has continued to operate and considers it in the public interest that the hot food takeaway should not be allowed to continue operating unlawfully for any further significant period and finds the 3 month compliance period reasonable.

PLANNING APPEAL PROGRESS REPORT – SUMMARY TABLE

CURRENT APPEALS LODGED

Application Reference & Site Address	Case Officer	Type	Proposal	Progress & Dates
TP/2017/1283 3 <i>Staircase Lane</i>	<i>Robert Penlington</i>	Written Representations	Oak tree – shorten x12 low branches by 4m from dwellings 1 & 3 Staircase Lane	Lodged date: 04/01/2018 Start date: 04/01/2018 Questionnaire: 31/01/2018
ADV/2018/2010 OS The Richard Crossman Building <i>Jordan Well</i>	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged Date: 31/10/2018 Start date: 09/04/2019 Questionnaire/statement date: 01/05/2019
ADV/2018/2011 OS Cosy Club <i>Cathedral Lanes Shopping Centre</i>	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged date: 31/10/2018 Start date: 09/04/2019 Questionnaire/statement date: 01/05/2019
ADV/2018/2012 Lady Godiva News <i>Broadgate</i>	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged date: 31/10/2018 Start date: 09/04/2019 Questionnaire/statement date: 01/05/2019
ADV/2018/2013 Primark Stores <i>Broadgate</i>	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged date: 31/10/2018 Start date: 09/04/2019 Questionnaire/statement date: 01/05/2019
AVI/2018/2014 2-10 <i>Trinity Street</i>	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged date: 31/10/2018 Start date: 09/04/2019 Questionnaire/statement date: 01/05/2019
ADV/2018/2018 40-44 <i>The Precinct</i>	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019

ADV/2018/2019 25 Upper Precinct	Mary-Ann Jones	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
ADV/2018/2022 14-16 Market Way	Mary-Ann Jones	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
ADV/2018/2023 10-12 Market Way	Mary-Ann Jones	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
ADV/2018/2024 Carphone Warehouse Market Way	Mary-Ann Jones	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
ADV/2018/2025 30 Market Way	Mary-Ann Jones	Written Representations	Installation of a freestanding single –sided internally-illuminated digital display screen in association with telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
TELO 2018/1993 Outside The Richard Crossman Building Jordan Well	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 09/04/2018 Questionnaire/statement date: 01/05/2019
TELO/2018/1994 Outside Cosy Club Cathedral Lanes Shopping Centre	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 09/04/2018 Questionnaire/statement date: 01/05/2019
TELO/2018/1995 Os Lady Godiva News Broadgate	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 09/04/2018 Questionnaire/statement date: 01/05/2019
TELO/2018/1996 Adj Primark Broadgate	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 09/04/2018 Questionnaire/statement date: 01/05/2019
TELO/2018/1997 Adj The Flying Standard Trinity Street	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 09/04/2018 Questionnaire/statement date: 01/05/2019

TELO/2018/2001 Os JD Sports 40-44 The Precinct	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
TELO/2018/2002 Os Clintons Cards 25-27 Upper Precinct	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
TELO/2018/2005 Adj Halifax 14 Market Way	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
TELO/2018/2006 IFO Poundland Market Way	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
TELO/2018/2007 Adj Carphone Warehouse Market Way	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
TELO/2018/2008 OS Max Mobility 30 Market Way	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Lodged date: 31/10/2018 Start date: 10/05/2019 Questionnaire date: 23/05/2019 Statement date: 14/06/2019
ADV/2018/2026 36-42 Corporation Street	Mary-Ann Jones	Written Representations	Installation of a freestanding single-sided internally illuminated digital display screen in association with telephone kiosk	Lodged date: 01/11/2018 Start date: 23/04/2019 Questionnaire/statement date: 09/05/2019
OUT/2017/1071 28 and land to rear Tallants Road	Nigel Smith	Written Representations	Demolition of 28 Tallants Road, new access and erection of 11 dwellings on land to rear 9(outline application with access and layout submitted)	Lodged date 03/01/2019 Start date:18/01/2019 Questionnaire/Statement date: 24/01/2019

FUL/2018/3452 89 Windmill Road	<i>Liam D'Onofrio</i>	Written Representations	Change of use of former public house to 11 Bed House in Multiple Occupation	Lodged date 28/02/2019 Start date: 18/03/2019 Questionnaire/statement date: 25/03/2019
FUL/2018/3300 47A Mayfield Road	<i>Emma Spandley</i>	Informal Hearing	Change of use of existing ground floor shop (Use Class A1) and existing living accommodation (Use Class C3) into 2no. houses in multiple occupation (Use Class C4) (Retrospective).	Lodged date: 01/03/2019 Start date: 20/06/2019
HH/2019/0215 70 Torbay Road	<i>Holika Bungre</i>	Written Representations	Erection of single storey rear extension	Lodged date: 04/04/2019 Start date: 03/06/2019 Questionnaire/statement date: 10/06/2019 Appeal withdrawn
TP/2019/0153 The Stables Park Hill	<i>Robert Penlington</i>	Hearing	Trees T1-T14 – Fell.	Lodged date: 11/04/2019 Start date: 11/04/2019 Questionnaire date: 25/04/2019
TP/2019/0505 155 Broad Lane	<i>Robert Penlington</i>	Written Representations	Beech (T1) – Reduce lateral western crown back by approximately 2m (in line with boundary). Chestnut (T2) – Fell. Oak (T3) – Reduce western crown by approx. 2m (in line with boundary).	Lodged date: 07/05/2019 Start date: 07/05/2019 Questionnaire/statement date: 08/05/2019
FUL/2019/0524 55 Yelverton Road	<i>Ayesha Saleem</i>	Written Representations	Erection of single storey rear extension and use of existing dwelling as 3 flats	Lodged date: 14/05/2019 Start date: 21/06/2019 Questionnaire/statement date: 24/06/2019
FUL/2019/0373 5 Rosegreen Close	<i>Peter Anderson</i>	Written Representations	Erection of a two storey front extension	Lodged date: 21/05/2019 Awaiting start date

FUL/2019/0712 110 Hugh Road	<i>Liam D'Onofrio</i>	Written Representations	Extension and conversion of detached garage to create one bed dwelling	Lodged date: 28/05/2019 Start date: 12/06/2019 Questionnaire/statement: 19/06/2019
FUL/2018/2914 519 Tile Hill Lane	<i>Emma Spandley</i>	Written Representations	Demolition of existing Police Station and erection of three 2 bedroomed dwelling houses; two 3 storey buildings, 1 building containing five 1 bedroom flats and 1 building containing six 2 bedroomed flats	Lodged date: 03/06/2019 Start date: 17/06/2019 Questionnaire/statement: 09/07/2019
TP/2019/0732 Binley Business Park, Compton Court Harry Weston Road	<i>Robert Penlington</i>	Informal Hearing	T1 London Plane – fell and grind stump due to included fork replace with 12-14cm girth Liquidambar in same location	Lodged date: 10/06/2019 Start date: 19/06/2019
TP/2019/0693 7 South Avenue	<i>Robert Penlington</i>	Informal Hearing	T1 Lime – Re-pollard to original pollard heads at approximately 4-5m above ground level. T2 Lime – Re-pollard to original pollard heads at approximately 4-5m above ground level	Lodged date: 11/06/2019 Awaiting start date
TP/2019/0628 12 Pinewood Grove	<i>Robert Penlington</i>	Written Representations	6 Thuja trees – Trim heights by up to 2m, trim side growth to: club side by 1.5m, and to applicants side by up to 3m	Lodged date 12/06/2019 Start date: 12/06/2019 Questionnaire/statement: 16/06/2019
OUT/2018/3099 Land adjacent to The Brindles Pickford Green Lane	<i>Ayesha Saleem</i>	Written Representations	Outline application for the erection of up to three dwellings (all matters reserved except for access)	Lodged date: 12/07/2019 Start date: 13/08/2019 Questionnaire/statement:
OUT/2018/3101 Carpet Castle Willenhall Lane	<i>Anne Lynch</i>	Written Representations	Demolition of existing building and erection of hotel (outline application with all matters reserved)	Lodged date: 23/07/2019 Start date: 31/07/2019 Questionnaire/statement:

FUL/2019/1101 1 Seagrave Road	<i>Shamim Chowdhury</i>	Written Representations	Change of use of a 6 bed house in multiple occupation (HIMO, use class C4) into a 7 bed HIMO (sui generis), retention of a boundary fencing and provision of parking spaces	Lodged date: 26/07/2019 Start date: 05/08/2019 Questionnaire/statement:
FUL/2018/3473 The Pilot Hotel Catesby Road	<i>Anne Lynch</i>	Written Representations	Use of part of car park for car sales (sui generis)	Lodged date: 30/07/2019 Start date: 19/08/2019 Questionnaire/statement:
FUL/2019/0975 120 Bridgeacre Gardens	<i>Liam D'Onofrio</i>	Written Representations	Erection of a bungalow	Lodged date: 08/08/2019 Start date: 08/08/2019 Questionnaire/statement: 12/08/2019
OUT/2018/3128 55-77 Stoke Row	<i>Liam D'Onofrio</i>	Written Representations	Outline application for demolition of existing factory premises and erection of 46 residential apartments (matters of landscaping reserved for future consideration)	Lodged date: 12/08/2019 Start date: 27/08/2019 Questionnaire/statement:
HH/2019/0847 51 Thistly Field South	<i>Peter Anderson</i>	Written Representations	First Floor Rear and Single Storey Side Extensions	Lodged date: 13/08/2019 Start date: 22/08/2019 Questionnaire/statement:
FUL/2019/0232 189-191 Charter Avenue	<i>Shamim Chowdhury</i>	Written Representations	Change of use of two dwellinghouses (Use Class C3) to two 10 bedroomed (10 persons) House in Multiple Occupation (HIMO, sui generis)	Lodged date: 27/08/2019 Start date: Questionnaire/statement:

APPEAL DECISIONS RECEIVED

Application Reference Site Address	Case Officer	Type	Proposal	Appeal Decision & date
FUL/2018/1796 76 Bransford Avenue	<i>Liam D'Onofrio</i>	Written Representations	Proposed change of use from a dwellinghouse to five self-contained flats (four x one bedroom and one x two-bedroom) for student accommodation (retrospective)	Decision : ALLOWED 02/07/2019 decision type: <i>Delegated</i>
HH/2019/0300 1 Fosseyway Road	<i>Joshua Veeranna</i>	Written Representations	Extension of a dropped kerb for vehicular access	Decision : ALLOWED 08/07/2019 decision type: <i>Delegated</i>
TELO/2018/1998 Opp Pool Meadow Bus Station Hales Street	<i>Mary-Ann Jones</i>	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising freestanding digital display screen and telephone kiosk	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>
TELO/2018/1999 3 Trinity Street	<i>Mary-Ann Jones</i>	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising freestanding digital display screen and telephone kiosk	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>
TELO/2018/2000 Os Blue Arrow Cross Cheaping	<i>Mary-Ann Jones</i>	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising freestanding digital display screen and telephone kiosk	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>
TELO/2018/2003 OS WHSmith Smithford Way	<i>Mary-Ann Jones</i>	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising freestanding digital display screen and telephone kiosk	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>

TELO/2018/2004 Adj Pravha Bull Yard	<i>Mary-Ann Jones</i>	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising freestanding digital display screen and telephone kiosk	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>
ADV/2018/2015 Coventry Transport Museum Hales Street	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>
ADV/2018/2016 3 Trinity Street	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>
ADV/2018/2017 2 Cross Cheaping	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>
ADV/2018/2020 W H Smith Smithford Way	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>
ADV/2018/2021 1 Bull Yard	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>
FUL/2018/1351 Coventry Saracens Fc Bredon Avenue	<i>Liam D'Onofrio</i>	Written Representations	Construction of hardsurface for use as car park	Decision : DISMISSED 08/07/2019 decision type: <i>Delegated</i>
FUL/2018/2258 4 Thimble Road	<i>Shamim Chowdhury</i>	Written Representations	Change of use of a small scale house in multiple occupation (HIMO, use class C4) into a 7 bedroom house in multiple occupation (HIMO, sui generis)	Decision : ALLOWED 26/07/2019 decision type: <i>Delegated</i> COSTS DECISION: REFUSED

FUL/2018/1423 1 Grenville Avenue	<i>Ayesha Saleem</i>	Written Representations	Erection of a dwellinghouse	Decision : DISMISSED 30/07/2019 decision type: <i>Delegated</i>
FUL/2017/2140 71 and 71A Chandos Street	<i>Liam D'Onofrio</i>	Written Representations	Timber fence installation along the front and side. (Retrospective)	Decision : DISMISSED 02/08/2019 decision type: <i>Delegated</i>
FUL/2018/3298 77 Humber Avenue	<i>Shamim Chowdhury</i>	Written Representations	Change of use from existing retail (use class A1) to hot food takeaway (use class A5), new shopfront and extraction flue	Decision : DISMISSED 05/08/2019 decision type: <i>Delegated</i>
ENF/2019/00003 77 Humber Avenue	<i>Marcus Fothergill</i>	Written Representations	Appeal against Enforcement Notice; without planning permission the material change of use of the land to a hot food takeaway (Use Class A5)	Decision : DISMISSED (Enforcement notice upheld and planning permission refused) 05/08/2019