

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	22 January 2019
Subject:	Current Appeals and Appeal Decisions Update
Report of:	Development Manager
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Built Environment
Number of Appendices:	1

Executive Summary:

To inform Members of current planning and enforcement appeals and Ministry of Housing, Communities and Local Government (MHCLG) appeal decisions issued.

Recommendation:

To CONSIDER the report

Reasons for Recommendation:

To inform Members of recent appeal decisions

Resource Implications:

None

Legal Implications:

None

Risk Management Implications:

None

Performance Management Follow-up:

None

Environmental Implications:

None

1.0 INTRODUCTION/BACKGROUND

1.1 At each Planning Committee meeting, Members are informed of current planning and enforcement appeals and Ministry of Housing, Communities and Local Government (MHCLG) appeal decisions that have recently been issued.

2.0 APPEAL DECISIONS

2.1 The following decisions have been issued by the MHCLG:

Application No	16/01285/FUL
Location	Brookside Stables Cold Pool Lane Badgeworth Cheltenham GL51 5UP
Appellant	
Development	Change of use of land to allow for permanent use as a residential Gypsy site for 7 No. Mobile homes and 5 No. Touring caravans and associated works.
Officer recommendation	Permit
Decision Type	Committee Decision – Refuse
DCLG Decision	Allow for limited time of 4 years
Reason	<p>The application was refused due to the proposal's conflict with Green Belt policy, the impact on the rural character and appearance of the landscape and the site's remote location in the open countryside.</p> <p>The Inspector agreed with the Council that the proposed use is inappropriate development in the Green Belt and the main issue for consideration was whether the harm to the Green Belt by reason of its inappropriateness, along with other harms – namely the proposal's impact on openness, landscape character and open countryside location – is clearly outweighed by other considerations and if these amount to very special circumstances to justify the development.</p> <p>In terms of openness of the Green Belt, the Inspector made some allowance for the previous untidy condition of the site but considered the proposed change of use would cause a significant loss of openness by comparison with the current lawful use as agricultural or equestrian land. The Inspector also considered that the proposal would encroach onto the countryside, contrary to one of the five purposes of the Green Belt.</p> <p>With regard to visual impact, both on the openness of the Green Belt and the rural character and appearance of the landscape, the Inspector considered the site to be relatively well screened in its immediate vicinity due to strong roadside hedgerows but recognised its prominence in mid-range views from Cold Pool Lane to the north. However, the Inspector considered that the landscaping scheme would, in time, substantially mitigate the visual impact of the development and also commented that gypsy and traveller sites are common sight in the countryside and not intrinsically discordant or out of character. In this case, the Inspector considered the moderate scale of the site, together with the improved</p>

and more spacious layout and proposed planting, would enable the development to integrate satisfactorily with the surrounding landscape, which includes other sporadic roadside development of similar scale along Cold Pool Lane, and would not therefore conflict with JCS Policy SD6. The Inspector also concluded that the harm to Green Belt openness would not have a significant visual dimension.

The Inspector agreed with the Council that the site is located away from an existing settlement and recognised that the nearest village (Badgeworth) has no community facilities. However, the Inspector went on to consider the site to be located within the Cheltenham hinterland and did not consider the site to be within a 'remote' area. It was also acknowledged that the site is not well served by public transport and access to services and facilities would, in most cases, be dependent on private car. However, the Inspector considered these would only involve short journeys and made reference to the NPPF which states that sustainable transport solutions will vary between urban and rural areas. The Inspector therefore considered, on balance, the proposal would accord with JCS Policy SD13 and relevant national policy on the basis that the site is not in a remote location that would lead to unsustainable patterns of travel nor would it cause significant difficulties in accessing services or social integration.

In terms of other considerations, the Appellant questioned the Council's evidence base, specifically the methodology with regard to calculating the need for and provision of gypsy and traveller sites as set out in the *Gloucestershire Gypsy and Traveller Accommodation Assessment (GTAA)* published in March 2017. The Inspector did not consider it wholly appropriate to revisit the Appellant's criticisms of the methodology in the context of this planning appeal less than a year after adoption of the JCS, whereby the examining Inspector had considered the GTAA and its methodology to be robust. However, the Inspector did take the opportunity to review the percentage figure applied to 'unknown' households in the GTAA, applying a factor of 25% rather than the 10% identified in the GTAA methodology. This had the effect of increasing the need for gypsy and traveller sites over the next five year period to 2023 from 5 pitches to 8 pitches. Even if the higher 'unknown' figure was to be applied, the Inspector concluded the Council would still be able to identify a 5 year supply of specific deliverable sites in accordance with the requirements of national planning policy.

The emerging Tewkesbury Borough Plan, which includes the site as a proposed allocation for gypsy and traveller accommodation, was also taken into account by the Inspector. It was considered that the site's inclusion as an allocation in a limited number of site means that there

	<p>is reasonable prospect of it coming forward as an allocated site in the future. This was taken to provide substantial weight in favour of a temporary permission while the site remains under consideration as part of the plan-making process.</p> <p>In the overall planning balance, the Inspector identified the definitional harm to the Green Belt by reason of its inappropriateness, loss of openness and encroachment on the countryside to carry very substantial weight against the grant of a permanent permission. Factors weighing in favour of the proposal included the personal circumstances of the site occupants, the undersupply of traveller sites regionally and nationally, and the current lack of sustainable alternative sites in the Borough to meet the immediate needs of the site occupants. The Inspector concluded that the material considerations in favour of the development did not clearly outweigh the Green Belt harm so far as to constitute very special circumstances and is therefore contrary to JCS Policy SD5 and the NPPF.</p> <p>In considering the case for a temporary permission, the Inspector concluded any Green Belt harm would be time-limited. It was acknowledged that a temporary permission would enable the site to be fully assessed as part of the emerging Borough Plan and the Inspector concluded, on balance, a temporary permission for a period of 4 years would be justified in the circumstances, whereby the weight of material considerations were deemed sufficient to clearly outweigh the time-limited harm to the Green Belt and establish the very special circumstances necessary to accord with JCS Policy SD5 and the NPPF.</p>
Date	27.11.2018

Application No	18/00325/FUL
Location	Rollingwood Haymes Drive Cleeve Hill Cheltenham GL52 3QQ
Appellant	
Development	Erection of first floor / two storey side extension and single storey rear extension.
Officer recommendation	Permit
Decision Type	Committee Decision
DCLG Decision	ALLOW
Reason	<p>The application was refused on grounds that the proposal would result in over-development of the site, which would fail to respect the character and appearance of the existing dwelling and the Special Landscape Area (SLA), and would have an overbearing impact and cause unacceptable harm to the residential amenity of neighbouring property ('Broadmead').</p> <p>The Inspector agreed that the proposed extension would significantly increase the volume of the house. However, the Inspector considered the proposal to be subservient</p>

	<p>in terms of its size and visual impact and commented that the scale of the increase proposed would not result in an over-development or cramped form of development in the context of this site. Similarly, the Inspector concluded that the proposed extension would be seen within the context of an existing domestic curtilage and a residential area and the proposal would have no adverse impact to the Special Landscape Area.</p> <p>With regard to impact of the proposal on the residential amenity of neighbouring property, the Inspector acknowledged the proposed extension would be close to the boundary with Broadmead but considered there to be sufficient separation distance between this neighbouring house (including its conservatory) and the proposed extension to avoid any significant overshadowing or overbearing effect. The change in site levels was also taken into account and the Inspector considered the fact that the proposed development would be at a lower level than Broadmead would mean the extension would not appear overly tall or imposing when viewed from this neighbouring house. There would be some overshadowing to part of the rear garden of Broadmead as a result of the proposed development but the Inspector did not consider this to be over and above existing overshadowing caused by the existing dwelling at Rollingwood.</p> <p>The Inspector was satisfied that the proposed first floor windows which would have views towards the house at Broadmead could be reasonably conditioned to be obscure glazed to sufficiently mitigate against any significant loss of privacy to these neighbours.</p> <p>For these reasons, the Inspector concluded the proposed development would not result in significant adverse effects to the living conditions of the occupiers of Broadmead or any other neighbouring dwelling and would be of an appropriate design and scale which would not result in an over-developed site and preserves the character and appearance of the Special Landscape Area. The proposal was therefore deemed to accord with the requirements of Local Plan Policies HOU8 and LND2, JCS Policies SD4 and SD14 and the NPPF. The appeal was subsequently allowed.</p>
Date	11.12.2018

3.0 ENFORCEMENT APPEAL DECISIONS

3.1 None

4.0 OTHER OPTIONS CONSIDERED

4.1 None

5.0 CONSULTATION

5.1 None

6.0 RELEVANT COUNCIL POLICIES/STRATEGIES

6.1 None

7.0 RELEVANT GOVERNMENT POLICIES

7.1 None

8.0 RESOURCE IMPLICATIONS (Human/Property)

8.1 None

9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

9.1 None

10.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

10.1 None

11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

11.1 None

Background Papers: None

Contact Officer: Appeals Administrator
01684 272062 AppealsAdmin@tewkesbury.gov.uk

Appendices: Appendix 1: List of Appeals received

List of Appeals Received						
Reference	Address	Description	Date Appeal Lodged	Appeal Procedure	Appeal Officer	Statement Due
17/01243/FUL	104 Brookfield Road Churchdown Gloucester Gloucestershire GL3 2PD	Erection of 1no. 2 storey house and detached garage.	07/12/2018	W	HMS	11/01/2019
18/00276/FUL	Toddington Grange Burberry Hill Toddington Cheltenham Gloucestershire GL54 5DN	Single storey side extension to form car port and log/garden machinery store	10/12/2018	F	EMP	
18/00628/FUL	24 Homecroft Drive Uckington Cheltenham Gloucestershire GL51 9SN	Construction of two storey rear extension and external alterations.	12/12/2018	F	HMS	

Process Type

- **FAS** indicates FastTrack Household Appeal Service
- **HH** indicates Householder Appeal
- **W** indicates Written Reps
- **H** indicates Informal Hearing
- **I** indicates Public Inquiry