

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	Tuesday 5 July 2016
Subject:	Current Appeals and Appeal Decisions Update
Report of:	Paul Skelton, Development Manager
Corporate Lead:	Rachel North, Deputy Chief Executive
Lead Member:	Cllr D M M Davies, Lead Member for Built Environment
Number of Appendices:	1

Executive Summary:

To inform Members of current Planning and Enforcement Appeals and of Communities and Local Government (CLG) Appeal Decisions issued June 2016.

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 of Communities and Local Government (CLG) Appeal

Decisions that have recently been issued.

2.0 APPEAL DECISIONS

2.1 The following decisions have been issued by the First Secretary of State of CLG:

Application No	15/00409/FUL
Location	Over Farm, Over, Gloucester, GL2 8DB
Appellant	Over Farm Solar Ltd
Development	Construction of a ground-mounted solar PV generation project (including 9.6ha of solar panels) and associated works.
Officer recommendation	Permit
Decision Type	Committee
DCLG Decision	Allowed
Reason	<p>The Appeal was lodged against the Council's decision to refuse the proposed solar farm for the reason that it considered it would have had a harmful to the rural character and appearance of the area.</p> <p>In allowing the appeal the Inspector accepted that there would be harm to the landscape, but noted that the proposed solar panels would be located in a generally lower area of land that would not be prominent and that the addition of the proposed solar panels within the existing field pattern, screened by a mixture of hedgerow enhancement and by new planting, would not seriously compromise the landscape character of the area.</p> <p>The Inspector also noted that the layout had been reduced in extent to avoid the rising ground on the western slopes of the site which would limit the impact on the Grade I listed Church of the Holy Innocents and considered the impact on the Church and other affected heritage assets would fall well within the category of 'less than substantial' in terms of the advice in paragraph 134 of the NPPF.</p> <p>In terms of other impacts, the Inspector considered there would be very little potential for cumulative impact with the scheme for a solar installation at Two Mile Lane (Highnam) and that the site was not 'Best and Most Versatile' agricultural land.</p> <p>The Inspector also identified the benefits of the scheme that included the production of up to 5.6 MW of renewable energy producing energy for approximately 1697 homes which he considered was "...a very significant factor in favour, along with the contribution that would be made to addressing climate change". The scheme would also add a new income stream to the land holding, and would be returned to agriculture after 25 years.</p> <p>The Inspector concluded that the benefits of the proposal outweighed the harm and considered that the scheme would comply with LP and emerging JCS policies viewed as a whole. The proposal would be in accordance with</p>

	national policy in the NPPF and the advice in PPG and should be permitted.
Date	06.06.16

Application No	15/00410/FUL
Location	Land At Highnam Farm, Two Mile Lane, Highnam
Appellant	Highnam Farm Solar Ltd.
Development	Construction of a ground-mounted solar PV generation project and associated works.
Officer recommendation	Permit
Decision Type	Committee
DCLG Decision	Allowed
Reason	<p>The Appeal was lodged against the Council's decision to refuse the proposed solar farm for the reason that it considered it would have had a harmful to the rural character and appearance of the area and would result in the loss of an area of Best and most versatile Agricultural Land.</p> <p>In allowing the appeal the Inspector accepted that there would be an initial degree of harm to landscape character and visual amenity within a short distance of the site but this would only moderately diminish the overall landscape character of the area and the impact would reduce with time.</p> <p>Further whilst the proposal would result in the loss of agricultural land the inspector concluded that the return of the land to arable production after 25 years means that it would not be taken out of production in the long term and the intention to continue to use the land for grazing, and this carries important weight.</p> <p>The Inspector considered the production of up to 6.3 MW of renewable energy producing energy for approximately 1909 homes to be a very significant factor in favour, along with the associated reduction in carbon dioxide emissions and the contribution that would be made to addressing climate change. He concluded that the benefits associated with the development would outweigh the identified harm and concludes, "Overall, the balance lies firmly in favour of the scheme. There is a most compelling argument in favour of granting planning permission. The scheme would comply with LP and emerging JCS policies viewed as a whole. The proposal would be in accordance with national policy in the NPPF and the advice in PPG and should be permitted".</p>
Date	06.06.16

Application No	15/00951/OUT
Location	Plot 14, Alpha Close, Tewkesbury

Appellant	Noriker Power Ltd
Development	Outline application for the erection of a power plant compound including generators, bunded fuel storage tanks and containerised substation located within perimeter fencing, erection of switchroom, flood lighting and provision of access road (landscaping to be reserved for future consideration)
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	Dismissed
Reason	<p>The application was made in Outline form with Landscaping being a reserved matter. The Council refused the application for the reason that the applicant had failed to submit details to demonstrate that the proposed development would be acceptable in terms of its visual impact and in terms of the impact on adjoining occupiers in terms of noise levels.</p> <p>The Inspector considered that there were two inter-dependent issues flowing from the reason for refusal: (1) the impact of noise and (2) the visual impact of the proposal.</p> <p>The Inspector considered that whilst it was a reasonable assumption to conclude that it would be physically possible to design an appropriate barrier, and that, in principle, there is no reason why a compound enclosed by a double-fence system to provide security should look out of place in the surroundings, on the evidence available to him there was too much uncertainty about the height or appearance of the wall or fence that would be required. Consequently, the uncertainty about how or whether it could be acceptably designed in terms of its visual impact, left too much open to question – including, most importantly, whether an outline planning permission might not be capable of implementation because of the potential inability to satisfy the landscaping reserved matter. The Inspector noted that it might be likely that a satisfactory solution could be found but it would not be certain – and an outline planning permission ought not to be granted if inability to satisfy any reserved matter would render that permission incapable of implementation.</p> <p>The Inspector concluded that the proposal failed against saved Local Plan Policy EVT3 because, without an appropriate acoustic barrier, it would generate unacceptable levels of noise, it is unclear what sort of acoustic barrier would be required and it is thus unclear that such a barrier could be designed so as to avoid any unduly harmful visual impact.</p>
Date	07.06.16

Application No	14/00926/FUL
Location	The Paddocks, Grundy Hill, Downfield Lane, Twyning
Appellant	Mr Liam Ratcliffe

Development	Change of use to residential caravan site for two gypsy families, each with two caravans, and erection of two amenity buildings and laying of hardstanding.
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	Allowed
Reason	<p>The Inspector concluded that the proposal is in a sustainable location, in accordance with Local Plan Policy TPT1, the NPPF and Planning Policy for Traveller Sites (PPTS).</p> <p>The Inspector considered that significant harm would be caused by the development in terms of the character and appearance of the area and that this carries significant weight against the proposal. However, unlike the previous dismissed appeal in which other harm was also identified, the Inspector concluded that the harm does not significantly and demonstrably outweigh the significant benefits that the development would provide to each of the following matters: the identified need for gypsy and traveller sites in the area including the lack of a five year supply; and the lack of reasonable alternative accommodation in the area; together with the limited benefit to the appellant and his family's personal needs.</p> <p>The Inspector found the proposal to be sustainable development and as there are currently no suitable sites, a condition for a temporary planning permission was not considered necessary. Conditions were also imposed tying occupation of the site to members of the gypsy and traveller community; limiting the number of pitches to two; restricting commercial activities and storage; additional landscaping measures and provision of visibility splays.</p>
Date	15.06.16

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

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Appendices: Appendix 1: List of Appeals received

List of Appeals Received						
Reference	Address	Description	Date Appeal Lodged	Appeal Procedure	Appeal Officer	Statement Due
15/00166/OUT	Land At Stoke Road Bishops Cleeve GL52 7DG	Outline planning application for up to 265 dwellings and A1 convenience retail store of up to 200 sq m, with associated open space and landscaping with all matters reserved, except for access. Access defined as off Stoke Road to 15m in to the site.	20/05/2016	I	PDS	01/07/2016
15/00965/OUT	Land Off Nup End Ashleworth	Development of up to 35 dwellings on land off Nup End, Ashleworth with all matters except for "access" reserved for future consideration.	26/05/2016	W	MAT	30/06/2016

Process Type

- "HH" Indicates Householder Appeal
- "W" Indicates Written Reps
- "H" Indicates Informal Hearing
- " I " Indicates Public Inquiry