

# TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Planning Committee
<b>Date of Meeting:</b>	22 November 2016
<b>Subject:</b>	Current Appeals and Appeal Decisions Update
<b>Report of:</b>	Paul Skelton, Development Manager
<b>Corporate Lead:</b>	Deputy Chief Executive
<b>Lead Member:</b>	Cllr D M M Davies, Lead Member for Built Environment
<b>Number of Appendices:</b>	None

## **Executive Summary:**

To inform Members of current Planning and Enforcement Appeals and of Communities and Local Government (CLG) Appeal Decisions issued September and October 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:

<b>Application No</b>	13/01215/CLE
<b>Location</b>	Green Garden Coopers Hill Gloucester GL3 4SD
<b>Appellant</b>	Mr Norman Mander
<b>Development</b>	Use of land for purposes incidental to the enjoyment of the residential dwelling at Green Garden.
<b>Officer recommendation</b>	Refuse Certificate
<b>Decision Type</b>	Delegated
<b>DCLG Decision</b>	Allowed
<b>Reason</b>	<p>The Inspector concluded that, as a matter of fact and degree and on the basis of probabilities, the land was likely to have been in continuous use as a garden / amenity space in association with the residential use of dwelling known as Green Garden for a period in excess of ten years and so as to be immune from enforcement action.</p> <p>The Council also argued that the use of a caravan for residential occupation had resulted in the creation of a separate planning unit distinct from the residential use of Green Garden. However, the inspector did not consider the use of the caravan as part of the appeal and noted that his decision did not preclude the Council from taking enforcement action against the use of the caravan as a separate dwelling should it be minded to.</p>
<b>Date</b>	13.09.2016

<b>Application No</b>	15/00841/FUL
<b>Location</b>	Land Rear Of Church Row, Church Row, Gretton
<b>Appellant</b>	Spitfire Properties LLP
<b>Development</b>	Residential development for the erection of 23 no. dwellings (including 9 affordable units) and associated landscaping, a new access, public open space and associated works
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Committee
<b>DCLG Decision</b>	<b>Allowed</b>
<b>Reason</b>	<p>The Inspector identified that the proposed development would result in some landscape harm and would also have a very slight harm on the setting of the adjacent Grade II Listed Church. However the inspector gave great weight to the current lack of 5 year housing supply. The inspector also went on to identified the scheme as being of a high quality design. It was also concluded that the impact of the development on Trees and Protected Species could be effectively mitigated. The Inspector concluded that the adverse impacts of the scheme, did not significantly and demonstrably out-weigh the benefits in accordance with paragraph 14 of the NPPF and therefore the appeal should be allowed.</p>

<b>Date</b>	05/10/2016
<b>Application No</b>	16/00250/FUL
<b>Location</b>	Rear Of Ashley Villa, Badgeworth Lane, Badgeworth
<b>Appellant</b>	Mr Rob McKelvey
<b>Development</b>	Proposed new dwelling and a garage. Amended access.
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated
<b>DCLG Decision</b>	<b>Dismissed</b>
<b>Reason</b>	<p>The Inspector considered that there were 3 main issues to be considered:</p> <p><b><i>Whether the proposal is inappropriate development.</i></b></p> <p>On the first issue the Inspector concluded that as the development would be on an undeveloped greenfield site outside the existing village, and there were no mechanisms in place to ensure that it would deliver affordable housing for local community needs the proposal would represent inappropriate development which, by definition, would be harmful to the Green Belt</p> <p><b><i>The effect that the proposal would have on the openness of the Green Belt and on the character and appearance of the area.</i></b></p> <p>Here the Inspector concluded the proposal would lead to a significant loss of openness to the area, thereby undermining one of the essential characteristics of Green Belts as defined in the NPPF. Furthermore, it would represent an encroachment into the countryside that would materially harm the character and appearance of the area, all contrary to Policy. The Inspector also shared the Council's concerns relating to the poor design of the dwelling.</p> <p><b><i>Whether there are very special circumstances to justify the proposed development.</i></b></p> <p>It was commented that the presumption in favour of sustainable development set out in the NPPF did not apply in this case given that the proposal represents inappropriate development in the Green Belt and only very limited weight could be given to the public benefits of providing one additional dwelling. Furthermore, future residents would be likely to be heavily dependent on the use of private motor vehicles.</p> <p>The Inspector therefore concluded that the substantial harm that would be caused would not be clearly outweighed by the other considerations, and therefore very special circumstances to justify the proposal do not exist</p>
<b>Date</b>	13.10.16

<b>Application No</b>	16/00362/PDAD
<b>Location</b>	Barn At Parcel 1819, Stow Road, Alderton
<b>Appellant</b>	J J Farm Services Ltd

<b>Development</b>	Proposed barn conversion to create a single dwelling house (Class C3)
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated
<b>DCLG Decision</b>	<b>Appeal Withdrawn</b>
<b>Reason</b>	N/A
<b>Date</b>	17.10.16

<b>Application No</b>	15/00123/FUL
<b>Location</b>	The Wharf, Tolsey Lane, Tewkesbury
<b>Appellant</b>	Mr Nick Walker
<b>Development</b>	Retention of decking, fencing and bunded storage tank and change of use to residential curtilage. Retention and re-positioning of floating pontoon mooring and installation of additional floating pontoon.
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated
<b>DCLG Decision</b>	<b>Dismissed</b>
<b>Reason</b>	The Inspector considered that the decking area with seating, pizza oven and hot tub could allow a sustained period of activity close to the apartments at Shakespeare Court, as opposed to the previous use in association with riverboat cruises. The previous use would have involved passengers entering and exiting boats and therefore, the noise and disturbance would not be prolonged. The Inspector also considered that odours and smoke arising from the pizza oven and wood burner would have a harmful effect on neighbours residing at the apartments above. Therefore, the residential use of the decking would enable a sustained and harmful level of noise, disturbance, odour and fumes close to residents at Shakespeare Court, contrary to emerging JCS Policy SD15. The Inspector found no harm in relation to the proposal's effect on the character and appearance of the Tewkesbury Conservation Area and flood risk, but considered that these neutral factors were outweighed by the harm identified to the living conditions of adjoining neighbours.
<b>Date</b>	17.10.16

### 3.0 ENFORCEMENT APPEAL DECISIONS

3.1

<b>Application No</b>	<b>15/00111/ENFA</b>
<b>Location</b>	<b>Ripple Landfill, Brockeridge Common, Ripple, Tewkesbury</b>
<b>Appellant</b>	<b>Mark Adam Southall</b>
<b>Enforcement Notice Served On</b>	<b>22.09.2015</b>
<b>Unauthorised Development</b>	<b>Unauthorised gypsy and traveller site.</b>
<b>DCLG Decision</b>	<b>Allowed</b>
<b>Reason</b>	<p>The Inspector found that the site lies in a sustainable location in the wider context of the National Planning Policy Framework (NPPF) although he recognised that the inhabitants of the caravan site, like many other local residents, would be likely to travel by car or other vehicle for some of their day to day needs.</p> <p>The inspector went on to conclude that the caravan use would only have a limited and local visual effect on the appearance of the rural landscape and it is not harmful to the character of the wider setting of the countryside.</p> <p>In relation to the matter of land contamination the inspector concluded that it had not been established that there remains a material risk from ground contamination. Nevertheless, he preferred the view of a single local resident that she was unaware of any recent problems, above the precautionary approach of the Council and the appellants own contaminated land consultant.</p> <p>The Inspector concluded that the proposal generally accorded with the development plan and the national guidance, and the identified harms did not outweigh the benefits of the proposal.</p>
<b>Date</b>	<b>25.10.16</b>

**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

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**Background Papers:** None

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**Appendices:** None