

# TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Planning Committee
<b>Date of Meeting:</b>	3 July 2018
<b>Subject:</b>	Current Appeals and Appeal Decisions Update
<b>Report of:</b>	Paul Skelton, Development Manager
<b>Corporate Lead:</b>	Robert Weaver, Deputy Chief Executive
<b>Lead Member:</b>	Cllr M A Gore, Lead Member for Built Environment
<b>Number of Appendices:</b>	1

## **Executive Summary:**

To inform Members of current Planning and Enforcement Appeals and of Communities and Local Government (CLG) 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 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>	17/00494/PDAD
<b>Location</b>	Barn At The Furzens Furzens Lane Elmstone Hardwicke Cheltenham GL51 9TQ
<b>Appellant</b>	Mr Paul Johnstone
<b>Development</b>	Prior approval for conversion of agricultural buildings into 1 no. dwelling (use class C3) and associated building operations
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated Decision
<b>DCLG Decision</b>	<b>Dismissed</b>
<b>Reason</b>	<p>The Inspector acknowledged that, whilst building operations are permitted under Class Q, including the replacement or installation of exterior walls, roofs, doors and windows, it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. The Inspector specified that it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.</p> <p>The Inspector noted that, in this case, the steel framed barn would not be capable of functioning as the proposed dwelling without significant works. The Inspector considered that, even with the retention of its steel frame, the extent of the open sides of the barn would be such that it could not function as a dwelling unless new walls were constructed. The Inspector acknowledged that, whilst exterior installation or replacement works fall under the scope of permitted development, the extent of the open sides of the barn would be such that the provision of new walls would go beyond what could be described as conversion.</p> <p>In addition to these works, the proposal would also include new roofs for both barns, and the Inspector acknowledged that the ridge of the roof of the block-work barn shows evidence of slight sagging. The Inspector noted that, although the metal trusses of both barns would be retained, further supports would be needed for the replacement roof materials, albeit loading onto internal walls.</p>

Cont'd.../

	<p>Thus, the Inspector noted that both new walls and roofs would be necessary to allow the barns to function as a dwelling, and the Inspector considered that the extent of the totality of the works would go beyond conversion and that which would be reasonably necessary for the buildings to function as a dwelling. As such the Inspector considered that the existing buildings are not already suitable for conversion to residential use.</p> <p>Consequently, the Inspector concluded that the works required to convert the existing buildings into a dwelling would not fall within the scope of that permissible under Class Q, and the proposal would not be development permitted by it.</p> <p>Thus, for the reasons given above and having considered all other matters raised, the Inspector concluded that the appeal is dismissed.</p>
<b>Date</b>	11.05.2018

<b>Application No</b>	17/01044/FUL
<b>Location</b>	Land Rear Of Rectory Farm Maisemore Gloucester GL2 8HQ
<b>Appellant</b>	Mr Michael Bubb
<b>Development</b>	Retrospective application for the erection of a wooden fence and gateway
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated Decision
<b>DCLG Decision</b>	<b>Allowed</b>
<b>Reason</b>	<p>The Inspector considered main issue to be the effect of the development on the character and appearance of the surrounding area.</p> <p>The Inspector noted that the majority of the fence and the gate is relatively high compared to others in the surrounding fields and it occupies a fairly wide break in the roadside hedgerow. However, he considered that by virtue of the height of the existing hedges the development structures are either totally or at least significantly screened from sight from most points along that road, other than immediately in front of the access or the close approaches to it.</p> <p>From more immediate views opposite the gate and fence the Inspector opined that the spacing between the timbers allows a degree of permeability which, along with the brown finish, has a softening effect. Additionally, whilst located beyond the edge of the village, it is seen in the context of some other generally more prominent structures close by including overhead cables and associated supporting poles and structures.</p> <p style="text-align: right;">Cont'd....</p>

	<p>The Inspector therefore concluded that the development is not a dominating or jarring feature of the lane or surrounding rural area generally and does not cause unacceptable harm to the character and appearance of the surrounding area.</p> <p>No additional landscaping (as suggested by the Council) was considered necessary.</p>
<b>Date</b>	11.05.2018

<b>Application No</b>	17/00474/FUL
<b>Location</b>	23A Gray Close Innsworth Gloucester GL3 1EE
<b>Appellant</b>	Susan Gardner
<b>Development</b>	Single storey front extension.
<b>Officer recommendation</b>	Non-determination
<b>Decision Type</b>	Delegated Decision
<b>DCLG Decision</b>	<b>Dismissed</b>
<b>Reason</b>	<p>The application site is the end of a short terrace of three modest brick built dwellings, with open plan frontages, at the end of a cul de sac. The Inspector considered that the proposed front extension would have a materially harmful impact on the character and appearance of the appeal property and street scene, by reason of it disrupting the rhythm and design of the property in respect of layout and appearance, and severely compromising the uniform and distinct appearance of the terrace block. The Inspector further considered that the proposed extension would have a harmful impact on the outlook of the occupiers of the adjoining dwelling as a consequence of its siting close to the side boundary, depth and height, resulting in a large expanse of brickwork that would have an unduly dominating and enclosing effect and erode the open outlook.</p>
<b>Date</b>	21.05.2018

<b>Application No</b>	17/00696/FUL
<b>Location</b>	Bayeux Bamfurlong Lane Staverton Cheltenham GL51 6SW
<b>Appellant</b>	Ms Carol Proctor
<b>Development</b>	Construction of 1 No 2 bedroom bungalow
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated Decision
<b>DCLG Decision</b>	<b>Dismissed</b>
<b>LPA Application for Costs</b>	<b>Dismissed</b>
<b>Reason</b>	<p>The Inspector concluded that, although there was other residential dwellings near the site, there were no facilities or services associated with the dwellings that it would be expected to find in a village. He considered that the site was not in a village for the purposes of SD10.</p> <p>He considered the proposal to be inappropriate development in the Green Belt, as the site was not located within a village and therefore could not be considered as limited infilling in a village.</p> <p>The introduction of the proposed dwelling would largely close the visual gap through the introduction of significant built form where none currently exists. This would restrict the views through the site to the countryside beyond and lead to a clear erosion of the openness of the Green Belt. The proposed dwelling would consolidate a short row of development and result in a more intensified domestication of the site to the detriment of its rural and open location.</p>
<b>Date</b>	30.05.2018

<b>Application No</b>	17/00952/FUL
<b>Location</b>	Doctors Surgery Chance Street Tewkesbury GL20 5RF
<b>Appellant</b>	Jesmond House
<b>Development</b>	Proposed demolition of existing doctors' surgery and associated outbuildings and erection of 3no. 3 bedroom dwellings, associated landscaping and parking.
<b>Officer recommendation</b>	Refuse
<b>Decision Type</b>	Delegated Decision
<b>DCLG Decision</b>	<b>Dismissed</b>
<b>Appellants Application for Costs</b>	<b>Refused</b>
<b>Reason</b>	<p>The Inspector considered that main issues of the case to be the effect of the proposal upon the character and appearance of the surrounding area and the effect upon the living conditions of future occupiers. The Inspector concluded, that since the Council accepts the principle of residential development on this site, any such development would result in significant levels of overlooking. While there would be some overlooking, the Inspector considered that this would be unlikely to result</p> <p style="text-align: right;">Cont'd...</p>

	<p>in any significant harm in this high density town centre location. Furthermore, although it was noted that the rear of the proposed dwellings would be surrounded on all four sides by buildings of two storeys or more, and this would inevitably provide a relatively poor outlook, in view of the separation distance, the Inspector concluded that there would be an improvement on that which currently exists. In respect of design, the Inspector acknowledged the limited amounts of architectural detailing and unbalanced fenestration within the proposal but considered that this would only have limited impact upon the character and appearance of the surrounding area. However, with regards to proposed siting, the Inspector noted that the terrace row would be sited some 6m further forward than the existing building and would appear to jut out into the street, thereby reducing the sense of spaciousness that positively contributes to the character of the surroundings and impacting negatively on local distinctiveness.</p> <p>With regards to the Costs Application, the Inspector refused the award of costs submitted by the Appellant on the grounds that the Council's stated concerns were cogent, clear and not without merit and as such, the Council had not acted unreasonably in this case.</p>
<b>Date</b>	31.05.2018

**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

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**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
18/00143/LBC	Tudor House 18 Hailes Street Winchcombe Cheltenham Gloucestershire GL54 5HU	Internal alterations to remove staircase in flat 3.	17/05/2018	W	SDA	21/06/2018
17/01307/FUL	101 Queens Road Tewkesbury Gloucestershire GL20 5EN	Change of use from Community Centre (Class D1) to residential (Class C3)	17/05/2018	W	EMB	21/06/2018
16/01285/FUL	Brookside Stables Cold Pool Lane Badgeworth Cheltenham Gloucestershire GL51 5UP	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.	22/05/2018	I	JWH	26/06/2018
14/00074/ENF	Part Parcel 0025 Stump Lane Hucclecote Gloucester Gloucestershire	Appeal against alleged unauthorised commercial use of land	23/05/2018	W	EMP	27/06/2018

### Process Type

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