

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	20 November 2018
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	17/01046/FUL
Location	Land At Banady Lane Stoke Orchard Cheltenham
Development	Felling of a Perry Pear tree and the subsequent erection of 3no Affordable dwellings with associated car parking and private amenity
Officer recommendation	Refuse
Decision Type	Committee
DCLG Decision	DISMISSED
Reason	<p>The proposed development, was refused due to its siting and the loss of the protected Perry Pear tree and associated open space, which would have a harmful impact on the character and appearance of the street scene and the area as a whole.</p> <p>The Inspector considered the Perry Pear Tree a prominent feature within the streetscene, a feature of exceptional biodiversity value and a prominent reference to the past orchard use of the site.</p> <p>While the proposed houses would fit in with the existing dwellings and streetscene, the development would result in the loss of the tree which contributes strongly to the distinctiveness and character and appearance of the estate.</p> <p>While the proposal would have the benefit of adding to the local housing supply, the Inspector concluded that this benefit would be small and no mechanism had been put forward to secure the future occupation of the dwellings for affordable housing and the benefits would be insufficient to outweigh the unacceptable harm to the character and appearance of the area due to the proposed loss of the existing Perry Pear Tree.</p>
Date	19.10.2018

Application No	17/01114/FUL
Location	Margarets Cottage Sandhurst Lane Sandhurst GL2 9NP
Development	Erection of a single dwelling and associated works.
Officer recommendation	Refuse
Decision Type	Committee
DCLG Decision	DISMISSED
Reason	<p>The application was refused on the basis that the proposal would introduce an incongruous form of development into the area which, by reason of its siting and design, would detract from the setting of the Grade II* listed St Lawrence Church and Margaret's Cottage (non-designated heritage asset) through the restriction of views and erosion of rural character through the infilling of the space.</p> <p>The Inspector considered the undeveloped and attractive characteristics of the application site to be clearly evident and afforded significant weight to the findings of the previously dismissed appeal for one dwelling at the site (dated 19 Nov 1997). Notwithstanding the changes to planning policy in the intervening period, the Inspector did not consider the site characteristics to have materially altered since the previous appeal and also made clear that there remains a statutory duty to have special regard to the desirability of preserving the setting of a listed building. The proposal would be clearly seen in conjunction with the church and the Inspector concurred with the previous appeal decision in that a new modern dwelling in this gap would extend the suburban character of the village and would close the visual gap across the full width of the site, thus blocking views through the site.</p> <p>The Inspector therefore concluded that the proposal would fail to preserve what remains of the rural setting of the church and would cause less than substantial harm to the significance of this designated heritage asset.</p> <p>The Inspector agreed with the Council's assessment of Margaret's Cottage being a non-designated heritage asset and considered that the proposal would obscure much of the attractive side elevation and would result in Margaret's Cottage being physically and visually hemmed in on both sides. As such, the proposal would be seen to significantly undermine what remains of the rural setting of the cottage and would cause substantial harm to the setting of this non-designated heritage asset.</p> <p>In conclusion, the Inspector judged that the proposed dwelling would appear introverted and incongruous within the rural village setting and would not amount to a high standard of design appropriate to this location. He felt that the proposal constituted a harmful form of infill development that would result in unacceptable harm to the character and appearance of the area contrary to JCS</p>

	Policies SD4 and SD6. The proposal would also fail to preserve the setting of the grade II* listed St Lawrence Church and would unacceptably detract from setting of a non-designated heritage asset. This identified harm to the designated heritage asset was not deemed to be sufficiently outweighed by the public benefit of increasing housing supply in the form of one additional dwelling. Thus, it was concluded that the appeal should be dismissed.
Date	25.10.2018

Application No	17/01307/FUL
Location	101 Queens Road Tewkesbury Gloucestershire GL20 5EN
Development	Change of use from Community Centre (Class D1) to residential (Class C3)
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	ALLOWED
Reason	<p>The application had been refused on the grounds that the proposed residential use at ground floor level would fail to make a valuable contribution to the vitality and viability of the designated Retail Area as a whole and would not be consistent with the function of the centre; the associated external alterations to the front elevation would further detract from the character and appearance of the designated Retail Area; and that it had not been demonstrated that there were currently no other suitable or viable uses for the application property.</p> <p>The Inspector noted that the existing lawful use as a community centre was not one listed in Local Plan Policy RET3 as being appropriate in existing local centres and that whilst the unit had been vacant for some time, there was no evidence that this alternative use had impacted on the viability of the other units on the parade. He also noted there had been little interest in occupying the unit since the community use ceased, and what interest there had been had not come to fruition.</p> <p>In terms of the character and appearance of the retail area, the Inspector considered the design was acceptable and would not have an undue impact on the streetscene.</p> <p>For these reasons the Inspector concluded that the proposal would not have an unacceptable impact and allowed the appeal.</p>
Date	19.10.2018

Application No	18/00143/LBC
Location	Tudor House 18 Hailes Street Winchcombe GL54 5HU
Development	Internal alterations to remove staircase in flat 3.
Officer recommendation	Refuse
Decision Type	Delegated
DCLG Decision	DISMISSED
Reason	<p>The Inspector considered that the proposed works to the Grade II listed building, forming the loss of part of the historic fabric of the building comprising the principal staircase, would significantly compromise the plan form and legibility of the historic layout and former function of the building as a large single house. Its removal would further result in the loss of historic joinery contributing to the architectural style and fashion of the building. He did not accept the appellant's view that the staircase had no architectural value nor that it was not part of the original construction, being of a later date. For these reasons he found that the works would adversely affect the significance of this designated heritage asset.</p> <p>Accordingly the Inspector concluded that the works would be harmful to the special architectural and historic interest of the listed building, but in view of the nature and scope of work the harm would be less than substantial and should therefore be weighed against the public benefits.</p> <p>In weighing the public/private benefits the Inspector considered that the benefits of removing the staircase were primarily private rather what is necessary or justified, and that any public benefits would not be sufficient to outweigh the harm identified to the significance of the heritage asset. The works would therefore conflict with the NPPF in relation to listed buildings.</p>
Date	26.10.2018

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
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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
18/00325/FUL	Rollingwood Haymes Drive Cleeve Hill Cheltenham Gloucestershire GL52 3QQ	Erection of first floor / two storey side extension and single storey rear extension.	16/10/2018	H	HMS	
17/01190/FUL	Elm Cottage Shurdington Road Shurdington Cheltenham Gloucestershire GL51 4UA	Retention of residential annexe	19/10/2018	W	SNB	23/11/2018
15/00752/FUL	Leigh Court Church Lane The Leigh Gloucestershire GL19 4AF	Construction of three new poultry units for up to 155000 birds, feed bins, new access road, landscaping (including associated hard surfacing), flood mitigation and associated works.	24/10/2018	W	PAI	28/11/2018

Process Type

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