

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	18 April 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	18/00607/FUL
Location	Greenacres Brookfield Road Churchdown
Development	Removal of existing structures, retention of hardstanding and 3no. agricultural buildings. Erection of proposed polytunnel, additional hardstanding and extension to agricultural track.
Officer recommendation	Minded to permit
Decision Type	Committee decision
DCLG Decision	Appeal withdrawn
Reason	The appeal was withdrawn following the Planning Committee's determination that it would have been 'minded to permit' the application had the Council remained the decision-maker.
Date	03/04/2019

Application No	16/00486/OUT
Location	Land South Of Oakridge Highnam Gloucester Gloucestershire
Development	Outline application for the erection of 40 dwellings with all matters reserved except access.
Officer recommendation	Delegated permit
Decision Type	Committee decision
DCLG Decision	Appeal dismissed
Reason	<p>Planning permission was refused primarily on conflict with the development plan and landscape/urban design grounds. Technical matters in relation to highways, affordable housing and community infrastructure were addressed through a statement of common ground and planning obligations.</p> <p>In dismissing the appeal the Secretary of State (SoS) agreed with the Inspector that the Council could not demonstrate a five year supply of deliverable housing sites and consequently that <i>"the presumption in favour of sustainable development, as set out in paragraph 11 of the Framework, applies"</i>.</p>

	<p>The SoS agreed that there would be clear benefits to the proposal, including the provision of 40 new affordable and market homes and the creation of jobs during construction and afterwards through residual support for the local shop. He agreed with the Inspector that both the new homes and the economic benefits attract significant weight.</p> <p>In respect of the existing settlement pattern, the SoS noted that Oakridge provides a definitive and robust edge between the settlement and open countryside, and that development would result in harm by disrupting the settlement pattern by extending the urban area into open countryside beyond a well-defined edge. He also noted that the site does not fall within a landscape subject to any specific designation however he agreed with the Inspector's assessment that the development would result in a change to the experience of travelling along Oakridge, and that the proposal would be very prominent from other foot and cycle routes. The SoS concluded that these harms carried very substantial weight.</p> <p>Taking into account the above, and noting the conflict with a recently made Neighbourhood Plan, the SoS concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. He considered that there were no material considerations which indicated that the proposal should be determined other than in accordance with the development plan.</p> <p>As members will be aware the Council does not agree with the SoS's conclusions set out within the appeal decision in so far as they relate to the Council's ability to demonstrate a five year supply of deliverable housing sites. If the Council cannot demonstrate a five year supply then its policies for housing are considered to be out of date and the so called 'tilted' balance at paragraph 11 of the NPPF is engaged.</p> <p>In concluding that the Council could not demonstrate a five year supply, the SoS agreed with the Inspector who did not consider that it was appropriate for the Council to include past advanced delivery of housing within the plan period. It is considered that this is a legally flawed interpretation of national policy and so not a part of the decision to be followed.</p>
Date	20/12/2018

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

None

Process Type

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