

# TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Planning Committee
<b>Date of Meeting:</b>	20 April 2021
<b>Subject:</b>	Current Appeals and Appeal Decisions Update
<b>Report of:</b>	Development Manager
<b>Lead Member:</b>	Lead Member for Built Environment
<b>Number of Appendices:</b>	One

**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

(A) Appeal Decisions	
<b>Application No</b>	19/01136/FUL
<b>Location</b>	Former A A Services Centre Cheltenham Road East Churchdown Gloucester Gloucestershire
<b>Proposal</b>	Car sales and mentoring training facility on the site of the former AA Service Centre
<b>Officer recommendation</b>	None-determination
<b>Decision type</b>	N/A
<b>PINS reference</b>	APP/G1630/W/20/3256552
<b>PINS decision</b>	Appeal Dismissed
<b>Reason</b>	<p>The Inspector considered that the main issues were the effect of the proposal on the designated area of Green Infrastructure, whether it would support the adjacent residential and employment uses and its impact on highway safety.</p> <p>The Inspector noted that the site forms part of the Churchdown Strategic Allocation and falls with an area that has been designated as Green Infrastructure. Under JCS Policies INF3 and A2, the role of this Green Infrastructure as part of the Strategic Allocation is, among other things, to deliver a network of linked green corridors across the JCS area, to reinforce the visual link between key landscape areas and to respect the separation between settlements.</p> <p>The Inspector also noted that the site is previously developed land, which was historically used as a roadside service centre. All that is apparent of the former activity on the site are entrances and hard surfacing, which the Inspector considered not to be dominant and concealed by the boundary planting.</p> <p>The proposal would be introducing a significant area of cars on display onto the site as well as 2 mobile cabins, a storage unit akin to a shipping container, and palisade fencing. The Inspector found that these elements mean it would be an intrusive and striking arrangement that would be distinctly at odds with the openness around, eroding the visual links that exist between the various surrounding landscaped areas. Moreover, as the works would be located roughly in the middle of this band of Green Infrastructure when travelling along Cheltenham Road</p>

	<p>East, this would exacerbate their harmful impact still further by increasing their prominence, and by diluting and fragmenting the open area and the separation the Green Infrastructure delivers between Gloucester and Churchdown.</p> <p>Whilst mitigation was proposed in the form of landscaping, this did not allay the Inspector's concerns. He also considered that the site's lawful sui generis planning use as a roadside service centre did not attract significant weight. It was therefore concluded that the proposal would detract unacceptably from the openness and separation this site brings to this area of Green Infrastructure, and so would be contrary to Policies SA1 A2 and INF3 of the JCS.</p> <p>With regard to highway safety, the Inspector found insufficient details to show the junction arrangement is adequate to cope safely with the turning manoeuvres of a car transporter. He also observed that Cheltenham Road East carries a significant traffic flow and the development would cause unacceptable disruption to this if larger car-carrying transporters, being unable to turn around on site, had to load and unload from the kerbside, or reverse onto or off the carriageway. It was therefore concluded that the development would unacceptably affect highway safety.</p> <p>In light of the conflict with the development plan, the appeal was dismissed.</p>
<b>Date of appeal decision</b>	17.02.2021

(A) Appeal Decisions	
<b>Application No</b>	20/00297/FUL
<b>Location</b>	Land Adj. Thrift House Ashleigh Lane Cleeve Hill Cheltenham Gloucestershire GL52 3QF
<b>Proposal</b>	Erection of 2no. dwellings, access improvements and associated works.
<b>Officer recommendation</b>	Refuse
<b>Decision type</b>	Delegated Decision
<b>PINS reference</b>	APP/G1630/W/20/3257703
<b>PINS decision</b>	Appeal Dismissed
<b>Reason</b>	<p>The application was refused on the basis of conflict with the Council's housing policies due to its location and the harm to the landscape within the Cotswold Area of Outstanding Natural Beauty (AONB).</p> <p>In terms of the location of development, the Inspector was satisfied that the proposal was a form of infill</p>

	<p>development as it is a corner plot, which is adjacent to two other dwellings. However, the question remained as to whether the site is in a village for the purposes of policy SD10 of the JCS.</p> <p>The Inspector was satisfied that the settlement of Cleeve Hill is a village but he was of the opinion that the village envelope did not extend a significant distance down the B4632 towards Southam. Indeed, the Inspector noted that the site appeared closer to the village core at Southam although not within its envelope either. It was therefore concluded that the proposal would constitute infilling but would not fall within an existing built-up area of a town or village, contrary to policy SD10. However, due to the lack of a sufficient supply of housing land supply, the Council's housing policies were deemed to be out of date and carried diminished weight.</p> <p>In terms of the impact on the AONB, the Inspector stated that the proposed dwelling would not appear out of character. However, he found that the site is an area of mainly open land that does provide a pleasing gap in the built development along the B4632 between dwellings. The Inspector opined that his section of the B4632 is not continuously built up on all sides, which adds to the rural character of the site surroundings. He found that even with the proposed dwellings design to respond to the topography of the site, there would still be a significant loss of the existing openness this largely undeveloped plot provides.</p> <p>Whilst some mitigation was proposed in the form of the replacement of the front boundary fence and enhanced landscaping, which would have some beneficial effects, it was felt that the loss of openness in this particular location would not be fully outweighed by the eventual matured landscaping proposed. It was therefore concluded that the proposal would not conserve the AONB special qualities, contrary to policies SD6 and SD7 of the JCS.</p> <p>In weighing up the planning balance, the Inspector found that the harm to the AONB provided a clear reason for refusal and therefore the presumption in favour of sustainable development was not engaged. He went on to state that even if the tilted balance was engaged, the harm identified in the inappropriate location for the proposed dwellings and the harm to the AONB would significantly and demonstrably outweigh the benefits. The appeal was therefore dismissed.</p>
<b>Date of appeal decision</b>	11.01.2021

(A) Appeal Decisions	
<b>Application No</b>	20/00417/FUL
<b>Location</b>	The Wynyards Butts Lane Woodmancote Cheltenham Gloucestershire GL52 9QH
<b>Proposal</b>	Erection of a modular annexe
<b>Officer recommendation</b>	Refuse
<b>Decision type</b>	Delegated Decision
<b>PINS reference</b>	APP/G1630/D/20/3266053
<b>PINS decision</b>	Appeal Dismissed
<b>Reason</b>	<p>The main issues with this appeal were as follows:</p> <ul style="list-style-type: none"> <li>• whether the proposal would constitute a new dwelling</li> <li>• the effect of the proposal on the character and appearance of the surrounding area, including the Cotswolds Area of Outstanding Natural Beauty (AONB).</li> </ul> <p>The Inspector considered that the use of the building as 'ancillary accommodation' to The Wynyards could be suitably secured via a planning condition so it would not constitute a new dwelling. The option of enforcement action would potentially be available to the Council in the event of any breach of this condition.</p> <p>In relation to the effect of the proposal on the surrounding area, especially the AONB, the Inspector considered that it would be a structure of considerable size, and due to its prominent position it would stand out as a very obtrusive structure in this visually sensitive location. In this regard, the proposal would interrupt views of the chiefly open countryside from several nearby vantage points negatively impacting on the landscape and its scenic beauty. The existing trees and vegetation on site would only offer a limited amount of screening, such that the harm caused to the character and appearance of the area, and the AONB, would remain.</p> <p>The Inspector concluded that whilst the proposal would not constitute a new dwelling, this does not overcome the conflict with the development plan in relation to matters of character and appearance. The appeal was therefore dismissed.</p>
<b>Date of appeal decision</b>	15.03.2021

(A) Appeal Decisions	
<b>Application No</b>	19/00090/FUL
<b>Location</b>	Land Adjacent To Rosedale Boddington Road Boddington Cheltenham Gloucestershire GL51 0TN
<b>Proposal</b>	Construction of three affordable dwellings with landscaping and associated works
<b>Officer recommendation</b>	Refuse
<b>Decision type</b>	Delegated Decision
<b>PINS reference</b>	APP/G1630/W/20/3255200
<b>PINS decision</b>	Appeal Allowed Application for costs refused
<b>Reason</b>	<p>The appeal proposed 3no. affordable dwellings adjacent to the settlement of Staverton on a site located in the Green Belt.</p> <p>Paragraph 145 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. An exception to this is limited affordable housing for local community needs under policies set out in the development plan. JCS policy SD12 allows affordable housing on rural exception sites subject to various provisos, including where there is clear evidence of housing need that cannot be met elsewhere.</p> <p>The Inspector found that the Housing Need Survey for Staverton Parish submitted with the planning application identified that there was sufficient evidence of a local affordable housing need that is commensurate to the scale of the proposal.</p> <p>The Inspector also considered it was unclear whether the affordable housing that is proposed to be delivered on the Strategic Allocations at South Churchdown, Innsworth, Twigworth and north west of Cheltenham would address the requirements of identified needs in the Housing Need Survey, particularly for those respondents that want to live in Staverton. Also, the Inspector found that unlike the appeal proposal, there is no indication that the affordable housing on the allocated sites would be prioritised to households with a local connection to Staverton Parish.</p> <p>The Inspector therefore considered it is much more likely that the appeal proposal would address the specific need for local affordable units identified in the Housing Need Survey compared to development on the allocated sites.</p> <p>For these reasons, the Inspector found that the proposal would comply with JCS policy SD12 in respect of rural exception sites, and also concluded the scheme would</p>

	<p>fall within the definition of exceptions to inappropriate development as set out at paragraph 145 f) of the NPPF.</p> <p>In light of this conclusion and taking account that the local planning authority cannot currently demonstrate a 5 year housing supply, the Inspector concluded that the adverse impacts of the development (including landscape impact) would not significantly and demonstrably outweigh its benefits when considered against the NPPF. In these circumstances and in light of the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF, the Inspector concluded that the appeal should be allowed.</p> <p>In dismissing the Appellant's application for costs, the Inspector found that the Council had supported its reasons for refusal with evidence and had not acted unreasonably, despite the fact that he had arrived at a different conclusion on the appeal itself.</p>
<b>Date of appeal decision</b>	19.03.2021

(A) Appeal Decisions	
<b>Application No</b>	20/00029/FUL
<b>Location</b>	Ireley Grounds Broadway Road Winchcombe Cheltenham Gloucestershire GL54 5NY
<b>Proposal</b>	Demolition of outbuildings and removal of tennis courts. Sub-division of main dwellinghouse (Ireley Grounds) into two dwellings. Erection of 4 no. detached dwellings, a terrace of 3 no. cottages and associated landscaping.
<b>Officer recommendation</b>	Minded to Refuse
<b>Decision type</b>	Delegated
<b>PINS reference</b>	APP/G1630/W/20/3260965
<b>PINS decision</b>	Appeal Dismissed

<b>Reason</b>	<p>The Inspector considered that there was no conflict with NPPF policies regarding the proposed location, in that it would not be isolated or remote from other settlements, given its proximity to the village of Greet and Winchcombe town.</p> <p>However, the Inspector concluded that the scheme would be akin to a small housing estate in layout and design and would have a suburbanising effect which would lead to encroachment and harm to the character of the landscape of the SLA. Furthermore, the uncharacteristic development was considered by the Inspector, not to represent a natural extension to an existing pattern of development and would contrast with the openness of the site and semi-rural character of the surroundings, in conflict with Policies SD4 and SD6 of the JCS and Saved Policy LND2 of the Local Plan.</p> <p>With regards to highway safety, the Inspector concluded that, in the absence of a mechanism to clear vegetation from the visibility splays in perpetuity (the land in question does not fall within the control of the appellant), it could not be demonstrated that safe connections to the transport network could be provided and maintained, in conflict with JCS Policy INF1 and paragraph 109 of the Framework. Furthermore, there was a lack of evidence that a pedestrian crossing could be safely provided/achieved across the main highway, which had a traffic speed limit of 60mph. As such, the Inspector concluded that the development would not provide for a choice of transport modes as viable alternatives to the private car.</p>
<b>Date of appeal decision</b>	05.03.2020

**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

**Contact Officer:** Appeals Administrator  
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**Appendices:** Appendix 1: List of Appeals received

## Appendix 1

List of Appeals Received						
Reference	Address	Description	Start Date	Appeal Procedure	Appeal Officer	Statement Due
21/00003/DECISI	Land To The North Of Tynning House Main Road Shurdington	Permission in Principle for the erection of 1 to 2 No. dwellings.	08.03.2021	W	Victoria Stone	
21/00004/DECISI	Myrtle Cottage Gretton Road Gretton	Proposed dropped kerb for creation of a new access. Erection of a garage following the demolition of the existing shed buildings	19.03.2021	W	James Lloyd	

### Process Type

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