

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	20 July 2021
Subject:	Current Appeals and Appeal Decisions Update
Report of:	Development Manager
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

(A) Appeal Decisions	
Application No	20/01071/PIP
Location	Land To The North Of Tying House Main Road Shurdington Cheltenham Gloucestershire GL51 4XF
Proposal	Permission in Principle for the erection of 1 to 2 No. dwellings.
Officer recommendation	Refuse
Decision type	Delegated Decision
PINS reference	APP/G1630/W/21/3267810
PINS decision	Appeal Dismissed
Reason	<p>The Inspector considered the main issues were whether or not the proposal would be inappropriate development in the Green Belt; the effect of the proposal on the openness of the Green Belt; whether or not the appeal site was in a suitable location for new residential development, having regard to local spatial policies and if the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.</p> <p>On these issues the Inspector found:</p> <p>The appeal site is not within the village of Shurdington due to the rural character of the area and its physical separation from the core of the village. The introduction of housing at this location would lead to consolidation of the encroachment of development into the Green Belt. The proposal would therefore be inappropriate development in the Green Belt.</p> <p>The appeal site comprises a rough field surrounded by trees, fencing and mixed hedging. This would be replaced by 1 or 2 houses and associated domestic paraphernalia. The addition of built form and change of use to residential, clearly visible from the main road, would have a harmful effect on the openness of the Green Belt in both visual and spatial terms, albeit this would be modest.</p>

	<p>The appeal site is not within the built-up area of the service village and, for this reason, the proposal would be in conflict with the housing location policies of the JCS. The appeal site is also beyond the proposed settlement boundary for Shurdington referred to by Policies RES2 and RES5 of the emerging Tewkesbury Borough Plan. The proposal would therefore conflict with the emerging policies however the potential conflict attracts limited weight as no information regarding the extent of any unresolved objections to these policies has been provided.</p> <p>The harm to the Green Belt by way of inappropriateness and harm from conflict with the local plan in regard to location would not be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposed development.</p> <p>In light of this the Inspector concluded that the proposal conflicts with the development plan when read as a whole and for this reason, and having regard to all other matters raised, the appeal was dismissed.</p>
Date of appeal decision	09.06.2021

(A) Appeal Decisions	
Application No	PP-08997141
Location	Myrtle Cottage Gretton Road Gretton Cheltenham Gloucestershire GL54 5EP
Proposal	Proposed dropped kerb for creation of a new access. Erection of a garage following the demolition of the existing shed buildings
Officer recommendation	Refuse
Decision type	Delegated Decision
PINS reference	APP/G1630/W/21/3269517
PINS decision	Appeal Dismissed
Reason	<p>Officer to summarise decision</p> <p>The inspector identified the main issues for consideration were the effect of the proposal on the character and appearance of the area including, the Cotswolds Area of Outstanding Natural Beauty (AONB).</p> <p>The inspector acknowledged that the access would cut across the roadside grass verge and necessitate substantial hard standing around its entrance. This hard surfacing would spoil the continuity of the grass verge and rurality of the approach to the village, eroding the impression of landscape dominance in the view.</p> <p>The inspector therefore concluded that the access would</p>

	<p>harm the character and appearance of the area, including the AONB.</p> <p>The inspector did note that the proposed garage would be to the rear of the appeal site and would be obscured from public view. Moreover, it would replace some existing sheds and be placed alongside an existing outbuilding, so that it would not appear out of place.</p>
Date of appeal decision	04.06.2021

(A) Appeal Decisions	
Application No	20/00140/OUT
Location	Land Off A38 Coombe Hill Gloucester Gloucestershire
Proposal	Outline application for up to 150 dwellings, associated infrastructure, ancillary facilities, open space and landscaping. Construction of a new vehicular and pedestrian access from the A38 and pedestrian access to the A4019.
Officer recommendation	Minded to Refuse
Decision type	Committee Decision
PINS reference	APP/G1630/W/20/3257625
PINS decision	Appeal Allowed planning permitted
Reason	<p>In advance of the Public Inquiry, the Appellants invited the Inspector to consider a reduced scheme of up to 95 dwellings.</p> <p>The main issues for the appeal were</p> <ul style="list-style-type: none"> • The scale of development • Ecology • The effects of the proposal on the supply of market and affordable housing. • Education provision <p>The site was allocated for around 40 dwellings in the emerging Borough Plan and the Committee had resolved</p>

	<p>to granted permission for 40 dwellings previously. The Inspector concluded that the evidence showed that there was no reason to believe that a suitable scheme for up to 95 dwellings could not be delivered on the site without undue harm to the character and appearance of the area.</p> <p>Much discussion took place at the Inquiry on the possible impacts on Coombe Hill Canal SSSI and the Severn Estuary Special Protection Area (SPA) given the proposed increased local population, and whether the Appellants proposed mitigation was adequate. The Inspector concluded that the proposals would have no significant adverse effects upon the integrity and conservation objectives of the SPA and that, subject to mitigation, including on site open space, there would be an acceptable impact on the Coombe Hill SSSI.</p> <p>In respect of the delivery of housing, it was common ground that the Council could not demonstrate a five year supply of deliverable housing sites, but the Appellants had based their case on the conclusions of the Inspector in the Cobblers Close, Gotherington appeal. The Inspector in this case however supported the Council's approach in calculating a 4.35-year supply by taking into account past delivery exceeding the annual average of the JC's requirement. He opined that this was <i>"a just approach, because it reflects reality, not a theoretical formula applied without consideration of actual outturns"</i>. Nevertheless, the Inspector recognised that the tilted balance was engaged given the absence of a deliverable five-year supply.</p> <p>In respect of Education the Inspector was persuaded more by the Appellant's evidence in respect of both the calculations of the pupil demand likely to arise from the proposals, and the capacity of existing schools to meet demand. He therefore rejected the County Council's evidence and request for s106 contributions to pre-school, primary and secondary education facilities.</p> <p>Overall, the Inspector concluded that the site was an entirely appropriate location for new development of the scale proposed and there were no adverse effects to outweigh the public benefits to justify withholding permission.</p>
Date of appeal decision	01.06.2021

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

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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
21/00008/DECISI	Sugar Loaf Pirton Lane Churchdown	Technical Details Consent application for a single self-build residential dwelling following previous grant of Planning In Principle application ref 19/01156/PIP.	15.06.2021	W	JWH	
21/00009/DECISI	46 Rookery Road Innsworth	Outline application for the erection of a dwelling with all matters reserved.	15.06.2021	W	JLL	
21/00011/ENFORC	Slate Mill Tewkesbury Road Elmstone Hardwicke	Appeal against Enforcement notice 20/00067/ENFC	25.06.2021	W	VIS	
21/00010/DECISI	Land At Longlands Shurdington Road Badgeworth	Permission in principle application for the erection of up to 5no dwellings.	30.06.2021	W	PAI	
21/00012/NONDET	Part Parcel 3152 Tewkesbury Road Deerhurst	Hybrid planning application seeking; 1. Full planning permission for the erection of a B2 unit (general industrial) with associated landscaping, access and parking. 2. Outline planning permission (all matters reserved except access) for a mix of B1, B2 and B8 use classes (employment).	07.07.2021	W	JLL	

Process Type

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