

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	15 February 2022
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 Department for Levelling Up, Housing and Communities 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 Department for Levelling Up, Housing and Communities appeal decisions that have recently been issued.

2.0 APPEAL DECISIONS

2.1 The following decisions have been issued by the Department for Levelling Up, Housing and Communities:

Application No	PP-08488381
Location	35 Medway Crescent Brockworth Gloucester Gloucestershire GL3 4LE
Proposal	Erection of detached double garage and new access at the side
Officer recommendation	Refuse
Decision type	Delegated Decision
PINS reference	APP/G1630/D/21/3280742
PINS decision	Appeal Dismissed
Reason	<p>The main issues were the effect of the development on:</p> <ul style="list-style-type: none">• the character and appearance of the existing dwelling and surrounding area; and• the living conditions of the occupiers of 16 Ribble Close, having particular regard to outlook and light. <p>Character and Appearance of the existing dwelling and the surrounding area:</p> <p>The Inspector considered that the proposed garage would be substantial in scale, covering a similar footprint to the existing property and surrounding dwellings, and extending almost the full width of the rear garden. It would occupy much of the bottom half of the garden, with parking and turning areas to the front, leaving only limited garden space at the rear of the dwelling. Its substantial scale would be clearly larger than any other visible garden buildings, including a single garage building at the end of Avon Crescent. The combined width, depth and scale would be disproportionate to the size of the existing dwelling and garden area, resulting in a dominant and obtrusive form of development.</p> <p>The Inspector concluded that the proposal would be harmful to the character and appearance of the existing property and surrounding area. There is conflict with Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017) (JCS) and LP Policy HOU8, which, amongst other matters, require development to respect the character of the site and its surroundings. These policies are consistent with the National Planning Policy Framework (the Framework)</p>

	<p>which seeks to ensure that development is sympathetic to its context and to local character.</p> <p>The Living conditions of the occupiers of 16 Ribble Close</p> <p>The garage would sit in close proximity to the rear boundary with No 16 Ribble Close. Given the land levels, it would also sit on a slightly higher level.</p> <p>The occupiers of No. 16 currently have an outlook facing over the close boarded boundary fence across their rear gardens towards the appeal property. The Inspector considered that although the outlook would change with the development of the appeal proposal, he was satisfied that its single storey nature and four way pitched roof design of the garage would ensure that it would not be an overly prominent or intrusive feature in views from the garden area and would not be overbearing on the outlook from the rear of this property.</p> <p>Given the single storey nature of the garage building and the roof design, the garage would not materially affect the amount of light received by habitable rooms or the rear garden of No 16. The Inspector concluded that the proposed development would not be harmful to the living conditions of the occupiers of No 16 Ribble Close.</p> <p>Conclusion:</p> <p>The Inspector concluded that the proposal would be harmful to the character and appearance of the existing property and the area in conflict with the development plan. There are no other considerations, including the provisions of the Framework, which outweigh this finding. For the reasons given above and having had regard to all other matters raised the appeal was dismissed.</p>
Date of appeal decision	17.01.2022

Application No	19/00362/OUT
Location	Land Adjacent Puckrup Hall Puckrup Lane Twyning Tewkesbury Gloucestershire
Proposal	Outline application for the erection of 1 no. dwelling (all matters reserved).
Officer recommendation	Refuse Consent
Decision type	Delegated Decision
PINS reference	APP/G1630/W/21/3276325
PINS decision	Appeal Dismissed

Reason	<p>The proposal was for a single dwelling located outside of a defined settlement boundary.</p> <p>The main issues were whether or not the proposal may be assessed as for a replacement dwelling in the countryside; and whether or not the location of the proposed development is acceptable with regard to access to facilities.</p> <p>The Inspector noted that Policy GD1 of the Twynning Parish Neighbourhood Development Plan allows new dwellings in open countryside where they are a replacement for an existing dwelling, there being no net increase in housing as a result. The Inspector judged that the replacement of the static home would amount to a replacement dwelling under criterion a. of Policy GD1.</p> <p>However, the Inspector judged that the proposal could not reasonably be considered to infill existing built development under the terms of Policy SD10 of the JCS. Notwithstanding the lack of 5 year housing supply, the Inspector concluded that the, the benefit arising from one replacement dwelling would inevitably be very limited and harm would arise from reliance on travel by car from its future occupants. The Inspector set out that the adverse impacts of granting consent would significantly and demonstrably outweigh its benefits. Consequently, other material considerations in favour of the proposal do not justify taking a decision contrary to the development plan.</p>
Date of appeal decision	22.10.2021

Application No	21/00061/FUL
Location	1 Lypiatt Cottage Brockworth Road Churchdown Gloucester Gloucestershire GL3 2NH
Proposal	Erection of timber fence with gate to the front of the property (Retrospective)
Officer recommendation	Refuse
Decision type	Delegated Decision
PINS reference	APP/G1630/D/21/3284212
PINS decision	Appeal Dismissed

<p>Reason</p>	<p>The Inspector agrees with the Officer that none of the exceptions in the list of appropriate development within the NPPF relate to the retrospective fence and gate. As such the proposal represents inappropriate development in the Green Belt which is harmful by definition.</p> <p>The development comprises fencing and gates across the whole of the roadside frontage of the property. While not taller than the adjacent vegetation, the maximum height of the fence is in the region of 1.8m. Therefore, the appeal scheme has reduced the openness of the Green Belt in spatial terms.</p> <p>For the reasons set out in the Appeal decision and within the Officer's delegated report, the Inspector agrees that the scheme has reduced visual openness of the Green Belt as a result of the appearance of the tall solid timber structure in situ together with its prominence on the approach to the site either side. It is noted within the Appeal decision that the Inspector confirms that the scheme contrasts unfavourable with the surrounding frontage treatments.</p> <p>The Inspector acknowledges that the possibility to alter the colour of the development would reduce its prominence to some degree, however due to the proposals scale and form, it would stand out against 'the more natural and flowing appearance of the mature landscaping it is seen with'. The Inspector goes on to state that mitigation by planting would reduce the visual effects of the scheme but not the spatial ones and would take time to mature.</p> <p>Consequently, in both visual terms and spatial terms the development has reduced the openness of the Green Belt. Although the harm is small, this is contrary to the Framework where it states openness is an essential characteristic of the Green Belt.</p> <p>The Inspector summarises that the proposal has also led to a small degree of harm to the character and appearance of the area and agrees with the officer's second refusal reason relating to Policy HOU8 of the Local Plan, Policies SD4 and SD6 of the JCS, Policy RES10 of the PSTBLP and Policies CHIN2 and CHIN3 of the NDP.</p> <p>A number of very special circumstances have been detailed within the decision notice that the Inspector makes comments on which relate to the PD-fall back (1m in height), security and speed of road users. The Inspector concludes that the VCSs put forward do not amount to those that would outweigh the identified harms.</p>
<p>Date of appeal decision</p>	<p>07.01.2022</p>

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	Start Date	Appeal Procedure	Appeal Officer	Statement Due
21/00435/FUL	Dawleys Caravan Site Owls End Lane Twyning	Erection of a replacement dwelling.	20.01.2022	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