

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	15 March 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	20/00636/OUT
Location	Parcel 4967 Opposite Cherry Orchard Lane Twynning
Proposal	Outline application including access, with all other matters reserved for up to 36 (maximum) residential dwellings for over 55's
Officer recommendation	Refuse
Decision type	Committee Decision
PINS reference	APP/G1630/W/21/3273676
PINS decision	Appeal Allowed planning permitted
Reason	<p>The application site comprises a broadly triangular parcel of land which is separated from the built-up area of Twynning by a paddock and area of Public Open space.</p> <p>The main issues identified by the Inspector were (i) whether the proposal would be in a suitable location (ii) its effect on the character and appearance of the area, (iii) the effect on biodiversity, and (iv) the planning obligations</p> <p>In respect of these issues the Inspector concluded that the proposal would not be in a suitable location having regard to JCS policies SP2 and SD10 and NDP policy GD1, however the harm caused in this respect would be tempered by the scheme's accordance with the Framework's provisions on the location of rural housing where it would enhance or maintain the vitality of rural communities and that village services are accessible by foot.</p> <p>The proposal would not fully integrate with the existing built development and would diminish the openness and the rural qualities of the countryside setting to Twynning. It would be possible to mitigate this harm to a degree but, even so, the Inspector concludes the development would be detrimental to the character and appearance of the area.</p> <p>While protected species have been identified the development would not have an unacceptable effect on biodiversity.</p> <p>Unilateral undertakings were submitted to address affordable housing however the inspector concluded that</p>

	<p>contributions towards education and transport were not required.</p> <p>In terms of other matters the Inspector concluded that drainage concerns could be addressed by condition, there would be no adverse impacts on the highway network or local services.</p> <p>The Inspector set out that while the proposal would not accord with the development plan, a 5 year housing land supply can-not be demonstrated and the tilted balance is engaged and the Twyning Neighbourhood Plan was made more than 2 years ago.</p> <p>The proposal would make a meaningful contribution towards the boroughs housing shortfall and would include affordable housing and accommodation for people over 55, that evidence indicates that only a small proportion of existing properties within Twyning are affordable and the Council acknowledges a general need for homes suitable for the elderly. These factors are afforded considerable weight, which would outweigh the harm to the landscape and conflict with policies.</p>
Date of appeal decision	11.11.2021

Application No	21/00363/PDAD
Location	Smallholding Plot 11 Warren Fruit Farm Evesham Road Greet
Proposal	Prior approval for conversion of agricultural building into 1no. smaller dwellinghouse (use class C3) and associated works.
Officer recommendation	Prior Approval Refused
Decision type	Delegated Decision
PINS reference	APP/G1630/W/21/3280097
PINS decision	Appeal Dismissed
Reason	<p>The above application 21/00363/PDAD (Appeal B) and another application on site 21/00357/PDAD (Appeal A) are separate appeals, but were dealt with under the same appeal decision as the Inspector considered the circumstances and common evidence to both. Appeal B is referred to as Plot 11 in the Decision.</p> <p>The Inspector acknowledges that statutory declarations have been submitted that state Plot 11 had been operating as an agricultural business since 2013. Notwithstanding this, some of the statutory declarations do not appear to be signed under oath and are undated.</p> <p>Details of the statements include a tractor invoice and letter from the Rural Payments Agency (2006), energy invoice reminder (2009) and fuel invoice (2013). The smallholders are said to have sold hard fruit, free frange eggs and supplied produce to a pub. However, it was</p>

	<p>concluded that there was no evidence whether this was part of a regular ongoing business arrangement or a one off event.</p> <p>Evidence of monthly payments are submitted that are said to be payments for produce grown by the smallholders and sold by the cooperative on their behalf. Notwithstanding this evidence, the Inspector concluded that it cannot be identified whether the site is selling incidental or surplus produce primarily for leisure, hobby or domestic purposes, opposed to on a commercial basis.</p> <p>In addition to this, no business accounts are provided, nor any indication of profit or turnover achieved. Moreover, no invoices or payment records are provided for those specific plots.</p> <p>The Inspector concluded, on a finely balanced case, that all the evidence before them suggests that Plot 2 was not used for agricultural purposes of a trade of business, as part of a separate agricultural units on 20 March 2013. The proposal therefore failed paragraph Q.1.(a)(i) and was dismissed.</p>
Date of appeal decision	03.02.2022

Application No	21/00357/PDAD
Location	Plot 2 Warren Fruit Farm Evesham Road Greet
Proposal	Prior approval for conversion of agricultural building into 1no. smaller dwellinghouse (use class C3) and associated works.
Officer recommendation	Prior Approval Refused
Decision type	Delegated Decision
PINS reference	APP/G1630/W/21/3279781
PINS decision	Appeal Dismissed
Reason	<p>The above application 21/00357/PDAD (Appeal A) and another application on site 21/00363/PDAD (Appeal B) are separate appeals, but were dealt with under the same appeal decision as the Inspector considered the circumstances and common evidence to both. Appeal A is referred to as Plot 2 in the Decision.</p> <p>The Inspector acknowledges that statutory declarations have been submitted that state Plot 2 had been operating as an agricultural business since 2013. Notwithstanding this, some of the statutory declarations do not appear to be signed under oath and are undated.</p> <p>Details of the statements include a tractor invoice and letter from the Rural Payments Agency (2006), energy invoice reminder (2009) and fuel invoice (2013). An animal movement record was also submitted in 2013. The smallholders are said to have sold soft fruit free frange eggs and supplied produce to a pub. However, it</p>

	<p>was concluded that there was no evidence whether this was part of a regular ongoing business arrangement or a one off event.</p> <p>Evidence of monthly payments are submitted that are said to be payments for produce grown by the smallholders and sold by the cooperative on their behalf. Notwithstanding this evidence, the Inspector concluded that it cannot be identified whether the site is selling incidental or surplus produce primarily for leisure, hobby or domestic purposes, opposed to on a commercial basis.</p> <p>In addition to this, no business accounts are provided, nor any indication of profit or turnover achieved. Moreover, no invoices or payment records are provided for those specific plots.</p> <p>The Inspector concluded, on a finely balanced case, that all the evidence before them suggests that Plot 2 was not used for agricultural purposes of a trade of business, as part of a separate agricultural units on 20 March 2013. The proposal therefore failed paragraph Q.1.(a)(i) and was dismissed.</p>
Date of appeal decision	03.02.2022

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
21/00358/PDAD	Smallholding Plot 6 Evesham Road Greet	Prior approval for conversion of agricultural building into 1no. smaller dwellinghouse (use class C3) and associated works.	22.02.2022	W	CAS	
21/00376/PDAD	Smallholding Plot 25 Warren Fruit Farm Evesham Road Greet	Prior approval for conversion of agricultural building into 1no. smaller dwellinghouse (use class C3) and associated works.	23.02.2022	W	CAS	
21/00009/FUL	Land At Lawn Road Ashleworth	Erection of 4 detached dwellings and the demolition of Gymnasium building (Class D2) (Revision of permitted application 20/00487/FUL).	24.02.2022	W	JLL	
21/00802/FUL	32 Avon Crescent Brockworth	Erection of three bedroom dwelling.	24.02.2022	W	VIS	
21/00364/PDAD	Smallholding Plot 23 Warren Fruit Farm Evesham Road Greet	Conversion of an agricultural building to one smaller residential dwelling falling within use class c3, with associated works	25.02.2022	W	CAS	
21/00374/PDAD	Smallholding Plot 24 Warren Fruit Farm Evesham Road Greet	Prior approval for conversion of agricultural building into 1no. smaller dwellinghouse (use class C3) and associated works.	25.02.2022	W	CAS	

List of Appeals Received						
Reference	Address	Description	Start Date	Appeal Procedure	Appeal Officer	Statement Due
21/00063/FUL	Evington Manor Tewkesbury Road Coombe Hill	Removal/Variation of Condition 1 (approved plans), Condition 8 (Protected Species Method Statement) and Condition 9 (Demolition of Vine Tree Farm) of the planning application reference. 17/00478/FUL, to allow the original dwellinghouse on the site to be retained for use as a bat roost and ancillary storage in association with Evington Manor.	28.02.2022	W	BOR	
21/00355/PDAD	Plot 20 Warren Fruit Farm Evesham Road Greet	Prior approval for conversion of agricultural building into 1no. smaller dwellinghouse (use class C3) and associated works.	28.02.2022	W	CAS	
21/00353/PDAD	Plot 21 Warren Fruit Farm Evesham Road Greet	Prior approval for conversion of agricultural building into 1no. smaller dwellinghouse (use class C3) and associated works.	01.03.2022	W	CAS	

Process Type

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