

TEWKESBURY BOROUGH COUNCIL

Report to:	Planning Committee
Date of Meeting:	19 April 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	21/00877/FUL
Location	Jasmine Cottage Boddington Lane Boddington
Proposal	Erection of a two storey side and rear extension and single storey rear extension.
Officer recommendation	Refuse
Decision type	Delegated Decision
PINS reference	APP/G1630/D/21/3286209
PINS decision	Appeal Dismissed
Reason	<p>The main issues considered by the Inspector in this appeal were:</p> <p>Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy;</p> <p>The effect of the proposal on the openness of the Green Belt; and</p> <p>Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.</p> <p>The Inspector set out that proposal would increase the internal floor area of the dwelling by approximately 150%, more than double the width and substantially increase the volume of the existing dwelling. The Inspector considered that the proposed rear gable protrusion would also significantly increase the dwelling's mass and scale. As such the Inspector concluded the proposal would result in disproportionate additions over and above the size of the original building. Consequently, the proposal would not qualify as an exemption as set out in paragraph 149 c) of the NPPF. The Inspector therefore found that the proposal would be inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.</p> <p>In terms of openness, the Inspector considered that the proposal would result in both a visual and spatial change which would reduce the openness of the Green Belt in this area. Whilst accepting the harmful effect would be limited and localised, having regard to the NPPF the</p>

	<p>Inspector gave substantial weight to this harm.</p> <p>With regard to whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal, the Inspector found that the very special circumstances that are necessary to justify the development do not exist.</p> <p>Given this, as there were no material considerations that indicate the proposal should be determined other than in accordance with the development plan, the Inspector recommended the appeal should be dismissed.</p>
Date of appeal decision	03.03.2022

Application No	21/00618/FUL
Location	Dippers Cottage Gabb Lane Apperley
Proposal	Installation of a balcony, window and rooflight to main dwellinghouse. Erection of an outbuilding to be used as an office/playroom.
Officer recommendation	
Decision type	
PINS reference	APP/G1630/W/21/3284065
PINS decision	Appeal Allowed planning permitted
Reason	<p>This appeal was made under section 78 of the Town and Country Planning Act 190 against the failure to give notice within the prescribed period of a decision on an application for planning permission.</p> <p>The Council submitted a report as part of the appeal recommending it is allowed.</p> <p>The main issues considered in this appeal were:</p> <p>The effect of the proposal on the character and appearance of the host dwelling and surrounding area, with due regard to the location of the site in a Landscape Protection Zone</p> <p>The effect on the living conditions of the occupants of neighbouring properties</p> <p>Whether the proposed development is suitable having regard to flood risk.</p> <p>The Inspector considered overall, the development would be of an appropriate design and scale that would preserve the character and appearance of the host dwelling and surrounding area, including the designated Landscape Protection Zone.</p> <p>The Inspector was satisfied that the proposals would not</p>

	<p>result in any harm to the living conditions of occupants of any neighbouring properties.</p> <p>The Inspector found the proposals to be a suitable form of development, having regard to flood risk.</p> <p>For the reasons outlined above and having regard to the development plan, and all other material considerations, the Inspector allowed the appeal.</p>
Date of appeal decision	24.02.2022

Application No	19/01025/FUL
Location	Land At Hygrove House Main Road Minsterworth
Proposal	Retrospective application for the installation of a agricultural access track, including the part retention of works and construction of an overspill car park.
Officer recommendation	Split decision
Decision type	Delegated Decision
PINS reference	APP/G1630/W/21/3286505
PINS decision	Appeal Allowed planning permitted
Reason	<p>The main issue considered in this appeal is the effect of the proposed car parking area and the agricultural access track on the character and appearance of the surrounding area.</p> <p>In respect of the proposed car park the Inspector found that it would not be harmful to the character and appearance of the surrounding area.</p> <p>In terms of the agricultural access track, the Inspector concluded that the track has the appearance of being designed for agriculture and would seem reasonably necessary for purposes related to agriculture.</p> <p>The Inspector acknowledged that the proposed track would cut across the field rather than following the hedge line, but in this case, the Inspector considered that following the hedge line would result in a longer track, close to the Public Right of Way, without any significant reduction in visual impact, so would not necessarily be a better option.</p> <p>The Inspector considered that the use of the proposed track by agricultural vehicles is likely to be intermittent and relatively infrequent, resulting in limited visual impact. The Inspector acknowledged that should the track be used regularly and frequently, for example to provide general vehicle access to Hygrove House, the use could potentially have a negative visual impact on the surroundings. However, the Inspector considered the potential impact could be managed by the imposition of a condition restricting the use of the proposed track to agricultural purposes only.</p>

	Given this, the Inspector concluded that the proposed car parking area and agricultural access track would not cause significant harm to the character and appearance of the surrounding area and the appeal was allowed.
Date of appeal decision	04.03.2022

Application No	PP-09609782
Location	The Sheiling Badgeworth Lane Badgeworth
Proposal	Erection of a detached garage with studio over
Officer recommendation	Refuse
Decision type	Delegated Decision
PINS reference	APP/G1630/D/21/3280000
PINS decision	Appeal Dismissed
Reason	<p>The appeal proposal would see the construction of a two storey garage with a studio above. The dwelling has been previously extended by approximately 119%. The Inspector considers that these increases would amount to substantial additions to the property and one which would be disproportionate over and above the size of the original building. For this reason, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would therefore conflict with Policy SD5, and the associated policies of the Framework.</p> <p>In terms of openness, the inspector stated that the introduction of a two storey structure in this location would reduce views of the countryside and therefore reduce the sense of openness.</p> <p>The Inspector concluded that the proposal would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. For the reasons set out above the harm to the Green Belt would not be clearly outweighed by any other considerations and the very special circumstances required to justify a grant of permission have not been demonstrated.</p> <p>Consequently the appeal is dismissed.</p>
Date of appeal decision	11.03.2022

Application No	20/01139/PIP
Location	Manor Farmhouse Gretton Road Gretton
Proposal	Permission in Principle for the erection of 1 No. to 6 No. dwellings on land north of Manor Farmhouse.
Officer recommendation	Refuse
Decision type	Delegated Decision
PINS reference	APP/G1630/W/21/3280423

PINS decision	Appeal Allowed
Reason	<p>The Inspector considered the site to be well related to the existing settlement boundary, however was not convinced that the proposal constitutes infill development and would therefore not accord with policy SD10 of the JCS.</p> <p>The Inspector identified a number of services within the village which are well connected by pavements and walking routes, but residents would be reliant on car journeys to larger centres however NPPF Paragraph 105 advises that this may be the case in rural areas. Paragraph 79 supports development in rural areas, which would support facilities in surrounding settlements.</p> <p>While not being able to give full weight to emerging Policy RES4 the Inspector acknowledged it to be less stringent and more supportive of developments such as the appeal proposal.</p> <p>The Inspector opined that the proposal would be well related to the existing built form of Gretton and would not project significantly into the open countryside. Furthermore, the proposal was unlikely to be harmful to the AONB or its scenic beauty, but this would be subject to the final design of the scheme.</p> <p>Consideration of impacts upon the highway, flooding, infrastructure and Conservation Area would be matters for consideration at the technical matters stage.</p> <p>The inspector concluded that in the absence of a FYHLS Polices SD2 and SD10 are of reduced weight and the provision of between one and 5 dwellings would make a small but positive contribution to housing supply. Furthermore, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.</p>
Date of appeal decision	17.03.2022

Application No	20/01075/FUL
Location	Land To The North Of Shuthonger Garage A38 Pages Lane To Church End Lane Tewkesbury
Proposal	Erection of 1no. self-build dwelling, and provision of associated vehicular access, parking and turning area and landscaping.
Officer recommendation	Refuse
Decision type	Delegated Decision
PINS reference	APP/G1630/W/21/3279563
PINS decision	Appeal Dismissed

Reason	<p>The main issues were whether the appeal site was a suitable location for new housing and the effect on the character and appearance of the area.</p> <p>The Inspector identifies that the site doesn't fall within the defined development boundary but acknowledges that there is some provision where a future plan identifies an additional need for housing in Twyning. However, the current site consisted of no built form nor would it complement the form of the settlement or be well related to existing buildings.</p> <p>It is also noted that the site is some 1 mile from Twyning and 1.6 miles from Tewkesbury and therefore the occupiers would be heavily reliant on the use of the private car.</p> <p>In light of the above, it is not considered a suitable or sustainable location for houses.</p> <p>The site was identified as representing a form of back land development and publicly visible from Church End Lane and adjacent footpath.</p> <p>The proposal was considered to be at odds with the pattern of development given there was no highway frontage and not well related to any existing buildings that would harm the character and appearance of the area.</p> <p>The Inspector identifies the LPA cannot demonstrate a 5YHLS and acknowledges the applicant raising that there is an undersupply of self build plots. However the Inspector attached substantial weight to the principle of development and character and appearance being unacceptable and subsequently dismissed the appeal.</p>
Date of appeal decision	18.03.2022

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

Appendix 1

List of Appeals Received						
Reference	Address	Description	Start Date	Appeal Procedure	Appeal Officer	Statement Due
21/01312/PIP	Land Adjacent Blenheim Way Shurdington	Erection of a single dwelling.	21.03.2022	W	Dawn Lloyd	
21/01011/PIP	Land At Manor Farm Stoke Road Stoke Orchard	Erection of up to 9nos. dwellings	22.03.2022	W	Rehal Tajinder	
21/00666/FUL	18 Two Hedges Road Bishops Cleeve	Installation of a telescopic amateur radio mast on the rear elevation of the property.	28.03.2022	FAS	Sarah Barnes	

Process Type

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