List of Current Planning and Enforcement Appeals
December 2021

Public Inquiries

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Date of Inquiry	Current Position

Informal Hearings

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Date of Hearing	Current Position

Written Representations

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Current Position
W/19/1573/LB	Church Farmhouse, Woodway, Budbrooke	First Floor Extension **Delegated**	George Whitehouse	Questionnaire: 13/3/21 Statement:	**Appeal Dismissed and Costs**

				27/4/21	**application Refused**

The Inspector dismissed the earlier appeal on the basis that the angled roof would be lost, along with the first-floor ventilation holes in the end elevation. It was concluded that the proposal would result in the loss of features which contribute to the character of the building and the group and in turn to the significance of Church Farmhouse. The current Inspector considered there were no reasons to disagree with this conclusion. Since the harm was found to be less than substantial the Framework paragraph 202 states that this should be weighed against the public benefits of the proposal.

The appellants provided additional information with the appeal application and the householder appeal, including an appraisal from an agricultural consultant regarding their calf rearing, sheep, arable and hay/haylage enterprises. This information seeks to demonstrate the needs of the appellants' son as a full-time agricultural worker to reside on site, and specifically to enable him to meet his family's accommodation needs by extending the barn. The Inspector noted that alternatives would be to provide for these needs by either by building a new dwelling on the farm or moving away from the farm.

The Inspector acknowledged that at present the accommodation within the barn is restricted and does not fully meet the appellants' son's family needs. Given the small size of the barn it would be difficult to provide the necessary accommodation elsewhere within it. Having reviewed the submitted agricultural information he considered that there might be sufficient evidence to demonstrate that the farm worker is an essential agricultural worker required to be permanently resident on the farm to ensure the welfare of the livestock. Also, it is likely that the construction of a new dwelling for the essential worker would have a greater adverse impact on the significance and setting of Church Farmhouse than the proposed extension to the appeal barn. In this sense there could be modest economic benefits associated with enabling the appellants' son to continue to reside within the extended barn. He works with environmental organisations and conducts research into methods of cultivation, which could also be considered as modest environmental benefits.

However, these public benefits are to a large extent based upon the occupation of the barn by an agricultural worker. At present the occupation of the barn is unrestricted. The Inspector considered that whilst it may well be reasonable and necessary to impose a planning condition to restrict the occupation of the barn to agricultural workers, such a condition would go beyond the scope of the listed building consent regime. However, without an appropriate mechanism for securing the agricultural occupation of the barn, there is no certainty that the other public benefits put forward could be achieved. Consequently, he found the public benefits which I was able to consider with this appeal would be insufficient to outweigh the less than substantial harm to the heritage asset.

COSTS:

The main thrust of this costs application relates to the alleged failure of the LPA to substantiate its reasons for refusal; that it made generalised or vague assertions unsupported by any objective analysis, and that it did not provide reasonably requested information which would or could have reduced the expense of an appeal. That the appeal proposal would amount to less than substantial harm to the significance of the listed building was not in dispute. The appeal turned largely on whether this harm would be outweighed by public benefits. In particular it was claimed that the proposed works would support the continued agricultural operation of the farm. The Inspector noted that detailed agricultural appraisals were provided by both parties. It is clear that there are strong views on both sides and that there were protracted discussions about this matter. The Inspector considered that the fact that the parties disagree about the elements of assessment does not in itself undermine the nature of the evidence provided by the LPA and her view was that by providing the officer report and agricultural assessment, the LPA did substantiate its position sufficiently at the appeal stage and therefore the LPA did not act unreasonably in coming to its decision on the merits of the proposal.

W/20/1428	Land to the North of Bakers Lane, Knowle	Replacement dwelling **Delegated**	Andrew Tew	Questionnaire: 19/8/21 Statement: 16/9/21	Ongoing
W/20/1898	The Bungalow, School Lane, Hunningham	Incorporation of adjacent allotment land into domestic curtilage **Delegated**	Andrew Tew	Questionnaire: 19/8/21 Statement: 16/9/21	**Appeal Allowed**

The Inspector considered the proposal to be assessed under paragraph 150.e) relating to material changes of the use of land in the Green Belt and therefore necessary to assess the effect of the proposal on Green Belt openness and its purposes. Openness is an essential characteristic of the Green Belt and has spatial as well as visual aspects. The Inspector noted the site occupies a small plot of land alongside the bungalow, which itself occupies a relatively small plot. The appeal site is open along its boundary with the bungalow, there being no clear distinction between the existing bungalow garden and the adjoining appeal site. The appeal site appears well contained, with clearly defined boundaries. Consequently, he considered it would not conflict with the Green Belt aim of safeguarding the countryside from encroachment. Similarly, in the particular circumstances of this case, the proposed change of

use to domestic garden would not conflict with the fundamental aim of Green Belt policy of preventing urban sprawl by keeping land permanently open. He accepted that, subsequent to allowing the appeal, the visual characteristics of the site could be altered by the presence of play equipment, washing lines, garden sheds or other residential paraphernalia. However, because the site is very well screened by its mature and densely planted boundary hedges and there being no indication that this would change, given the prevailing character of the village with a predominance of planted boundaries for aesthetic and privacy reasons, he felt by reason of the scale, context and surroundings particular to this scheme that mean its change of use would not harm openness or the Green Belt purposes here. As such, his assessment was context specific and he did not foresee any potential for this decision to set an unwarranted precedent or to lead to a potential reduction in Green Belt quality over time.					
W/20/1947	Firs Cottage, Firs Lane, Haseley	Stabling and Hay Store **Committee Decision in accordance with Officer Recommendation**	Andrew Tew	Questionnaire: 13/9/21 Statement: 11/10/21	**Appeal Dismissed**
Paragraph 149 of the Framework makes it clear that new buildings are inappropriate in the Green Belt. However, an exception is made in the case of the provision of appropriate facilities for outdoor sport and outdoor recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. There is no dispute between the main parties that the use of the building to accommodate horses would fall within the scope of buildings associated with outdoor sport and recreation. The Inspector considered that the size of the building was significant for the intended purpose of accommodating two horses on the land. The building incorporates relatively large stall areas and an ancillary storage element which would exceed the stabling component in all dimensions and by some degree. The use of a modest store for feed, bedding and tack is commonplace on most modern stable buildings. However, according to the appellant there is an additional need for the storage of associated equipment to maintain the paddock, move and store discarded bedding and to transport the animals. The appellant describes the scale of the building as the minimum practical size. However, despite the dispute between the main parties in relation to the subsequent overall scale of the building which led the Council to refuse the application, the Inspector considered that there remains little to qualify or quantify the necessity for the large scale of the storage area associated with the limited number of stables. Furthermore, it is unclear if there is a requirement for storage within the significant roof spaces which would make up the majority of the bulk of the building. In the absence of such information, he found the combined structure would be considerable on account of the overall footprint and high roof. It would be disproportionate to the extent of the recreational or sporting use proposed on a site of limited area. notwithstanding that the building's scale has been reduced from an original proposal which included 3 smaller					

stalls, he found that by reason of its overall size, the scale of the building would unduly affect the spatial openness of the Green Belt.					
W/20/2161	Land fronting Red Lane, Burton Green	Dwelling and Garage **Delegated**	Andrew Tew	Questionnaire: 13/9/21 Statement: 11/10/21	**Appeal Allowed**
There is no dispute between the main parties that the site lies outside but adjacent to the boundary of an allocated Growth Village. However, the appellant asserted that the location of a site beyond a defined settlement boundary is not in itself determinative in assessing whether it lies within a village or not. Following the principles set out in case law (Julian) the matter is one of planning judgement having regard to the facts on the ground. The Inspector considered that on the ground, despite the positive green interlude of the adjacent woodland, there is no clear or strong edge to the settlement to distinguish between development on Red Lane as distinct from the settlement area. He stated that whilst the Council describe the development on Red Lane beyond the settlement boundary to be sporadic, in his view it consists of a substantially uninterrupted line of predominantly large residential plots with few breaks in continuity. Accounting for the consented village hall, which would infill a gap between the caravan site and houses east of the junction, the plot would lie within a largely built-up frontage. He considered there is little to distinguish between the ribbons of development along the corresponding road frontages to identify them as separate areas or as parts of different settlements. For all intents and purposes, the local development appears as a single linear rural settlement extending along consecutive road frontages. Therefore, he concluded that whilst the site lies beyond the defined village boundary, it presents as part of the characteristic distribution of built development in the locality and appears to form part of the settlement. Furthermore, the loss as an isolated area of scrub, which is distinct from developed plots or open agricultural fields about the settlement, would not harm the integrity of the village. Accordingly, the proposal would appear as a modest infill on a plot commensurate with others in the row. As a single unit of a scale comparable to other houses nearby, I found the development would be of a limited nature in the context of local development. For these reasons, I concluded that the development would comprise 'limited infilling within a village' for the purposes of Paragraph 149 e) of the Framework and would not constitute an inappropriate form of development in the Green Belt or have an undue effect on its openness. The Council have sought a legal view on whether to challenge this decision on the basis that it does not give enough weight to the Local Plan policy.					

W/21/0725	Highway Verge, Primrose Hill, Woodloes Park	Prior Notification for 15m Phase 8 Monopole **Delegated**	Andrew Tew	Questionnaire: 13/9/21 Statement: 11/10/21	**Appeal Dismissed**

This appeal follows a decision by the Council not to grant prior approval for the siting or appearance of a development that would otherwise be permitted under Schedule 2, Part 16, Class A of the GPDO. The principle of the development is therefore established and the scope of this appeal is limited to matters of siting and appearance. The Inspector considered that although the width of the road corridor would moderate the perception of scale of the mast, the height and girth would make the pole a prominent feature in the streetscene. Whilst the proposal utilises an industry standard design, the scale and functional appearance of the headset would appear incongruous in the context of the green road corridor and amongst the finer detailing and scaling of the surrounding residential area. He accepted that some assimilation could be achieved by the use of a colour finish to the equipment and given the bending alignment of the road and existing backdrop of trees to the west, the effect in views from the east could be partly mitigated by this approach. Nevertheless, he found that the scale and appearance of the mast would cause a moderate level of harm to the character and appearance of the locality. The proposed siting would be directly opposite the rear outlook of 25 Eborall Close, a 2-storey dwelling to the north which is set higher than the appeal site. The mast would lie a short distance from the rear garden boundary of that property and its neighbours. The easternmost tree would provide some screening value to No25 when in leaf. At other times he felt the effect would be substantially more limited such that the mast, and particularly the headset, would dominate the outlook from the rear windows and garden area of that dwelling to cause harm to the living condition of the occupiers of that property. The neighbouring property at 26 Eborall Close would benefit from the overlapping canopies of the other 2 trees. These would provide reasonable levels of screening and filtered views for the majority of the hight of the mast except for the upper section. Accordingly, any effect would be less pronounced. However, the trees would have little screening value to the rear outlook and back garden area of 22 Eborall Close, which is set perpendicular to No25. Although offset, clear views of the mast would exist at a relatively short distance. The height and scale of the mast would draw focus and dominate outward views due to the close proximity. This would cause harm to the living conditions of its occupiers through poor outlook. Moreover, he was mindful that the trees are not under the control of the appellant and therefore there is no guarantee of their long-term presence to secure any screening effect. He concluded the proposal was harmful to visual amenity and living conditions.

W/20/1392	27 Upper Cape, Warwick	15 x Residential Apartments **Delegated**	Helena Obremski	Questionnaire: 31/8/21 Statement: 26/9/21	**Appeal Dismissed**

The Maxi haulage depot and an associated vehicular entrance adjoin the site. The appellant and the Council agree the site is noisy due to road traffic and haulage depot activities. As such, there is a risk the occupiers of the proposal would be exposed to excessive noise levels. The development would incorporate measures aimed to reduce the effect of noise on occupiers. These would include heavy ceilings to provide enhanced sound insulation, acoustic fencing on parts of the site boundary as well as double-glazed and non-opening windows on the elevations that face the Maxi site. Nonetheless, at the hearing the appellant's representatives acknowledged that at times and when windows were open, residents would be exposed to noise in excess of recommended internal noise level guidance.

A proposed mechanical ventilation system would provide an alternative to opening windows for air circulation. However, the Inspector was unconvinced the ventilation system would fully remove the need or desire to open windows, particularly for the purposes of heat and odour dispersal. At the hearing, the appellant's acoustic consultant indicated that the ventilation system was required as a comfort and there would be no need for it to operate all the time. Nonetheless, its incorporation as part of the scheme suggests the system would need to be relied upon by residents to a reasonable degree if appropriate noise levels internally are to be maintained. The Inspector was satisfied that this reliance would not be excessively onerous. However, the trade-off between opening windows and acceptable noise levels means the proposal would not reach the high standard of amenity for users as advocated under paragraph 130 of the NPPF. The appellant suggests that in most periods a reasonable acoustic comfort would be achieved having regard to the development's urban location. However, the planning policy aim to ensure a high standard of living accommodation applies to all schemes including those in urban areas. Moreover, he considered that there was no convincing evidence that demonstrates the proposal would be subject to noise levels that are typical of an urban area. Given the proximity of the site to the haulage depot and road junction, it is reasonable to expect the scheme would be subject to higher noise levels compared to residences further along Upper Cape. The appellant argued that residents of the development would be subject to a quieter internal environment compared to occupants of the existing dwelling. However, the Inspector was clear this factor failed to address the identified shortcomings of the proposal and it does not fully override the harm as the scheme would lead to an additional 14 units.

The Framework seeks to ensure new development can be integrated effectively with existing businesses so that there is no need for unreasonable restrictions Guidance to be placed on them once established. The Planning Practice states that an applicant should

clearly identify the effects of existing businesses that may cause a nuisance. Regard should be given to permissible operations even if they are not occurring at the time of the application. The appellant contends that the depot would not generate noise levels to cause a conflict of uses, particularly in light of the design aspects of the proposal that would mitigate noise effects. However, there was limited evidence to show that additional activities that are permitted at the Maxi site had been considered in the design of the development and noise mitigation. The notable omission was that there were no planning restrictions that affect the depot site. As such, a significant change in the nature and level of haulage operations would be lawful. Without any evidence to the contrary, the Inspector considered it reasonable to assume that parts of the depot adjacent to the appeal site could be used for additional lorry parking, vehicle washing or repair, external storage and movement of items or other potentially noisy activities. The appellant's evidence took no account of such permissible changes in operations and so it fails to show the haulage depot activities would avoid a noise nuisance to occupants of the proposal.					
W/20/1895	Terets Lodge, Rising Lane, 'Lapworth	Replacement Garage **Delegated**	Jonathan Gentry	Questionnaire: 9/8/21 Statement: 31/8/21	Ongoing
W/20/1332	52 High Street, Leamington	48 Sheet Digital Advertisement **Delegated**	Rebecca Compton	Questionnaire: 9/8/21 Statement: 31/8/21	Ongoing
W/20/1764	8 Eastfield Road, Leamington	Change of use to 3 bed dwelling **Delegated**	Andrew Tew	Questionnaire: 12/10/21 Statement: 9/11/21	Ongoing
W/20/1888	The Lyons Farmhouse, Rowington Green	Erection of 2 dwellings (Outline) **Delegated**	Andrew Tew	Questionnaire: 23/9/21 Statement:	Ongoing

				21/10/21	
W/20/2008	Three Jays, Hampton Road, Hampton on the Hill	Single Storey Front Extension **Delegated**	George Whitehouse	Questionnaire: 27/9/21 Statement: 19/10/21	Ongoing
W/20/1934	10 Vicarage Road, Stoneleigh	Garden Room/Home Office **Delegated**	Jonathan Gentry	Questionnaire: 4/10/21 Statement: 26/10/21	Ongoing
W/20/2100	22 St Mary's Terrace, Leamington	Lawful Development Certificate for Use of Garages for Commercial Storage **Delegated**	Rebecca Compton	Questionnaire: 14/10/21 Statement: 11/11/21	Ongoing
W/21/0813	Grove Park House, Hampton on the Hill	Prior Approval for the Enlargement of Dwelling House **Delegated**	Thomas Fojut	Questionnaire: 14/10/21 Statement: 5/11/21	Ongoing
W/21/0279	3 Strachey Avenue, Leamington	2 Storey Front Extension **Delegated**	Thomas Fojut	Questionnaire: 11/10/21 Statement: 2/11/21	Ongoing

W/20/2116	Pear Tree Cottage, 5 Vicarage Road, Stoneleigh	Outbuilding **Delegated**	Emma Booker	Questionnaire: 8/11/21 Statement: 30/11/21	Ongoing
W/21/593	Austin Heath Retirement, Village, Gallagher Way, Warwick	Advertisements **Delegated**	Helena Obremski	Questionnaire: 25/10/21 Statement: 16/11/21	Ongoing
W/21/0543	3 Elizabeth Road, Leamington	Detached Garage **Delegated**	Jack Lynch	Questionnaire: 26/10/21 Statement: 16/11/21	Ongoing
W/21/0813	Grove Park House, Grove Park, Hampton On The Hill	Prior approval for an Additional Storey to a Dwelling House **Delegated**	Thomas Fojut	Questionnaire: 14/10/21 Statement: 5/11/21	Ongoing
New W/21/1153	Highway Verge at Lillington Avenue, Leamington.	Prior approval for 15 metre Monopole and Associated Equipment **Delegated**	Andrew Tew	Questionnaire: 30/11/21 Statement: 28/12/21	Ongoing
New W/21/0822	48 Prices Drive, Leamington.	Garage conversion; extensions and alterations. **Delegated**	George Whitehouse	Questionnaire: 8/12/21 Statement:	Ongoing

				30/12/21	
New W/21/0872	53 Blackthorn Road, Kenilworth	First Floor Extension **Delegated**	Jonathan Gentry	Questionnaire: 10/12/21 Statement: 3/1/21	Ongoing

Enforcement Appeals

Reference	Address	Issue	Officer	Key Deadlines	Date of Hearing/Inquiry	Current Position
ACT 450/08	Meadow Cottage, Hill Wootton	Construction of Outbuilding	RR	Statement: 22/11/19	Public inquiry 1 Day	The inquiry has been held in abeyance

New ACT 18/0600	Nova Equestrian, Glasshouse Lane, Lapworth	Construction of Dwelling	TBC	Statement: 12/1/21	Public inquiry No of days TBC	Ongoing

Tree Appeals

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Date of Hearing/Inquiry	Current Position