

**List of Current Planning and Enforcement Appeals
April 2023**

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/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	Appeal Dismissed

Section 171B (3) of the Act advises that in the case of a breach of planning control consisting of the material change of use of land and/or buildings, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. It is therefore necessary for the appellant to demonstrate, on the balance of probability, that the material change of use of the buildings took place on or before the 26 November 2010 with the use continuing for at least 10 years after.

The appellant's original application form indicated that permission had been granted for two garages in 1989 and that they had been in use for storage since their construction and since 1 November 1990. The application was accompanied by a letter from the builder who originally owned the land and constructed the garages. He states that the houses were let privately and that he retained the garages which he used for the storage of building materials, sand and restoration furniture, etc. This was the only information originally submitted with the application. However, the previous owner followed this up with an email dated 27 January 2021 whereby he confirmed that he constructed the garages in about 1990 and used them for approximately 30 years thereafter to store surplus building materials.

Although there is no evidence from the Council or indeed other parties that would cast doubt on the correspondence provided to support the application, the declaration from the previous owner and email correspondence was not sworn in the presence of a solicitor. Furthermore, there is a lack of detail and/ or information to support the appellant's claim. The Inspector did not consider that the information is sufficiently precise to demonstrate, on the balance of probability, that the garages have been used continually as stores for a 10-year period commencing on or before 26 November 2010.

He therefore concluded that the Council's decision to refuse a certificate of lawful use or development was well-founded and that the appeal should fail.

W/21/1736	Garage to the rear of 22 St Marys Terrace, Leamington	Certificate of Lawfulness Appeal: Commercial Storage Delegated	Emma Booker	Questionnaire: 30/1/22 Statement: 28/2/22	Appeal Allowed
<p>The application the subject of Appeal B was supported by additional information which the appellant had been requested to supply. He provided a sworn affidavit from the previous owner/builder which stated that he completed the construction of the garages in June 1990 and that they have been used in connection with his building and furniture restoration enterprises, namely the storage of building materials, storage of furniture for restoration, storage of funeral caskets and the drying of sand, with an uninterrupted use for the duration of their existence. He states the buildings have never been used to park or store vehicles but used in connection with his work as a residential builder. In addition, the previous owner has provided some copies of invoices for building materials and completion certificates in relation to works he has undertaken, and undated photographs have been provided of the interior of the garage which show building materials stored, including furniture, tiling tools, windows and doors, Acro props, railings and insulation. Copies of tenancy agreements for the neighbouring residential properties have also been provided to demonstrate that the rental of those properties does not include the garages/stores, and separate title deeds for the stores/garages and those neighbouring properties. An affidavit (sworn) has also been provided by the appellant stating that since his purchase of the buildings in 2019 he has continued to use them to store building materials.</p> <p>The Inspector acknowledged that the invoices and completion certificates do not provide any evidence that the buildings were utilised as a store. However, the previous owner has sought to provide additional detail setting out how he utilised the buildings, including stating that that use was uninterrupted for the 30 years he occupied them. Furthermore, that additional information is in the form of an Affidavit sworn in the presence of a solicitor. The tenancy agreements and title deeds also support his statement and from my observations on my site visit I see no reason to believe that the photographs provided do not show the interior of the buildings in question. However, I appreciate that the photographs do not provide evidence of continuity of use.</p> <p>It is established case law that an appellant's evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict the appellant's version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.</p> <p>The Inspector considered that the previous owner's affidavit is precise and unambiguous. It sets out clearly when he built the garages and what they have been utilised for since they were completed. In the absence of any evidence to contradict the details set out in the affidavit, then that evidence should be taken at face value.</p>					

W/21/1518	8 Offa Road, Leamington	One and Two Storey Extensions Delegated	Millie Flynn	Questionnaire: 7/3/22 Statement: 28/3/22	Ongoing
W/20/1975	6 Lower Ladyes Hills, Kenilworth	Formation of Driveway Committee Decision in Accordance with Officer Recommendation	Jonathan Gentry	Questionnaire: 10/2/22 Statement: 4/3/22	Ongoing
W/21/1622	1 The Chantries, Chantry Heath Lane, Stoneleigh	Gazebo and Fencing Delegated	George Whitehouse	Questionnaire: 29/4/22 Statement: 23/5/22	Ongoing
W/21/1572	25 Burns Avenue, Warwick	New dwelling Delegated	George Whitehouse	Questionnaire: 31/5/22 Statement: 28/6/22	Appeal Dismissed

The Inspector notes that the appeal site is located on a residential street characterised by semi-detached, hip-roofed, two-storey dwellings that are consistently set back from the road behind small front gardens/driveways. Whilst there is some limited variation in finishing materials and architectural details, the dwellings on Burns Avenue are generally evenly spaced, and of a uniform design, layout, scale and form. As a result of this consistency, dwellings on Burns Avenue appear as a cohesive grouping, with a notable rhythm, massing and pattern of development that provides a sense of place and distinctive character to the area.

He considered the built form of the dwelling, as a detached property, would not reflect the cohesive pattern of development of semi-detached dwellings within which it would be predominantly viewed. Furthermore, the dwelling would have a lower ridge height, and

would have a relatively narrow frontage and plot width, in comparison to the other dwellings on Burns Avenue. The dwelling would, therefore, relate poorly to the regular pattern of development in its vicinity, appearing as an incongruously small and cramped addition in the street scene. He found it would fail to respond to the local character or reflect the identity of the surroundings.

He acknowledged that the double garage and outhouse currently on site are of no particular architectural merit and that the existing outbuilding at no 27 already establishes some variation in the street scene adjacent to the appeal site. But, those existing structures are, however, clearly subservient to their host dwellings and sit comfortably within their plots without disrupting the prevailing rhythm and massing of built form.

He saw that examples of later additions to the wider planned estates but found they are very much in the minority and do not define the character of the area. They do not, therefore, represent justification for the erosion of the established character of the area that would result from the current proposals.

He also had regard to the four examples of recently approved plans for large new developments drawn to my attention by the appellant. Those examples, where the space between each dwelling/plot forms part of a master-planned estate, represent a wholly different context to the current proposal and are not therefore directly comparable.

He also considered the personal circumstances put forward by the appellants, however, the courts have generally taken the view that planning is concerned with land use in the public interest. Although personal circumstances can sometimes justify a personal or temporary permission, that would not be appropriate here where a permanent structure is intended.

W/21/0834	The Haven, Rising Lane, Baddesley Clinton	2 dwellings Delegated	Dan Charles	Questionnaire: 26/7/22 Statement: 23/8/22	Ongoing
W/21/0273 and 0274/LB	Hunningham Hill Farm, Fosse Way, Hunningham	18 Panel Solar PV System Delegated	Rebecca Compton	Questionnaire: 25/7/22 Statement: 22/8/22	Appeals Dismissed

The array of solar panels has been fitted to the rear roof slope of a barn that is more remote from the farmhouse and other associated buildings, but nevertheless constitutes a curtilage listed building, being clearly located within the original farmstead and located on the principal access to the site approaching the farmhouse. It has now been converted and is no longer in agricultural use, but its former functional relationship with the principal listed building remains apparent. It is a traditional red brick barn with a slate roof and rectangular plan form.

The solar panels cover much of the roof slope and are overtly modern in their appearance, due to their design and materials, including their shiny reflective surface. This is notwithstanding their black colour. Their appearance is in stark contrast with the traditional slate covered roof of the barn. The incongruity of the panels is compounded in this case by the crude fixings used, meaning that the panels sit somewhat proud of the roof slope on brackets that remain visible in large part above the slates. As is often the case with old buildings, the roof slope is not entirely flat, and as a result the panels do not all follow the same plane, appearing clumsily placed. The wiring and equipment fixed to the outer faces of the building further detract from its otherwise traditional character and materials.

The Inspector considered the harm arising to the curtilage listed barn would be less than substantial in the terms of the National Planning Policy Framework but is nevertheless of considerable importance and weight. The panels are designed to generate sustainable electricity and would allow the appellant to reduce their carbon footprint and contribute to efforts against climate change. This is a notable public benefit but is not sufficient to outweigh the harm that he identified to the listed building.

The listed farmhouse stands some distance from the barn but is clearly associated with it, representing the former focus of the farm and the property in which the farmer would have lived. The barns and outbuildings, including the barn to which the solar panels have been attached, contribute significantly to the setting of the farmhouse, highlighting its agricultural origins.

The solar panels would only be seen in the context of the farmhouse in glimpsed views from the road, fields and access tracks but where this occurs, would appear as a modern anomaly. They detract from the traditional design and materials of the farmstead and so harm the listed farmhouse.

W/20/1251	Land on the South Side of Birmingham Road, Budbroke	Erection of 75 Bed Care Home Delegated	Dan Charles	Questionnaire: 21/11/22 Statement: 29/11/22	Ongoing
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W/21/2251	Land at the Paddocks, Honiley Road, Beausale	5 Dwellings Delegated	Helena Obremski	Questionnaire: 9/11/22 Statement: 7/12/22	Appeal Dismissed
<p>The site is in open countryside and the proposal would not satisfy any of the circumstances under which housing is accepted in such a location (Policy H1, criterion e). It would therefore conflict with LP Policy H1 as a whole. The appellant tried to make a case for a fallback position under prior approval. However, the Inspector had regard to the Court of Appeal judgment in Mansell v Tonbridge and Malling BC & Others [2017] EWCA Civ 1314 and the two-stage approach in Gambone v SSCLG. It is not the case that prior approval must be in place for an alternative development to comprise a valid fallback position. Nonetheless, in the circumstances of this case and without substantive evidence to the contrary, there are considerable uncertainties over delivery of the fallback scheme. Therefore, I consider that there is not a greater than theoretical possibility that such a scheme would take place. Consequently, the fallback scheme carries very little weight.</p> <p>Paragraph 149. g) of the Framework provides an exception to inappropriate development where proposals involve the partial or complete redevelopment of previously developed land and would not have a greater impact on the openness of the Green Belt than the existing development. Annex 2 to the Framework defines previously developed land. The definition excludes land that is or was last occupied by agricultural or forestry buildings.</p> <p>The appeal site is described as containing a mix of agricultural buildings and equestrian buildings. Existing unit 5 comprises single storey stables and would be replaced by semi-detached bungalows (proposed plots 1 and 2). Those stables would comprise previously developed land, being in equestrian use. However, a proportion of the proposed bungalows and their gardens would</p> <p>The Inspector noted that each proposed plot involves some use of land currently occupied by buildings said to have been in agricultural use. As such, each plot requires some development on land that is excluded from the definition of previously developed land. Consequently, he could not conclude that the appeal scheme falls within the exception to inappropriate development under paragraph 149. g) of the Framework.</p> <p>The Inspector noted that each of the proposed houses would be noticeably taller than the buildings that they would replace. Therefore, buildings at the front, rear and side of the site would have greater visual prominence. Furthermore, the existing menage is generally without defining features and therefore has an open character. It is currently bound by a post and rail fence that results</p>					

in a sense of openness across that land. However, the proposal would incorporate that land into the gardens for plots 4 and 5. A boundary hedge is shown around the perimeter of those gardens which would have an enclosing effect on that space. It would also be subdivided to distinguish between the gardens of those two plots. Therefore, there would be a considerable spatial and visual reduction in the openness of that land.

The maintenance of a substantial area of land to domestic standard and the likely presence of associated residential paraphernalia, would visually diminish the sense of openness of those areas around the periphery of the site by a considerable degree. Therefore, despite a reduction in footprint and volume of built form, he found that the proposal overall would result in a modest reduction in openness of the Green Belt in spatial and visual terms.

Further, each of the proposed buildings seen in isolation would not appear out of place. However, he found that in combination with each other the cluster of substantial houses would appear suburban and out of place in this low density, countryside location.

W/21/0153	Land adjacent to 1 Castle Hill, Kenilworth	Single Storey Dwelling Delegated	Jonathan Gentry	Questionnaire: 3/11/22 Statement: 1/12/22	Ongoing
W/21/0835	Finwood Hill Farm, Mill Lane, Rowington	Conversion of Rural Building into Dwelling Delegated	Jonathan Gentry	Questionnaire: 3/11/22 Statement: 1/12/22	Appeal Allowed

The site sits outside of, and well distanced from, any defined settlement boundary and thus is in the open countryside as defined in local planning policy terms. The Inspector witnessed the building to be vacant in part. It otherwise performed a non-intensive storage function, with an eclectic range of differing paraphernalia and some domestic items being observable. In-part owing to the non-intensive manner in which I observed the building being used, and acknowledging its agricultural origins, he was satisfied that the building can be rightfully considered redundant or disused for the purposes of assessment against Policy H1.

Whilst the proposal would inevitably have a domesticating influence in an open countryside location, he considered this influence would be confined in extent and degree. Moreover, a slight enhancement to the building's immediate setting could be realistically anticipated.

The site is not closely related to the various facilities and services that are contained within the closest settlements. It is indeed likely that future occupiers would be reliant upon private modes of transportation to serve their day-to-day needs. However, Policy H1 reflects the Council's strategy for delivering new housing in the sense that it incorporates sufficient flexibility to support the provision of new homes where they will enhance or maintain the vitality of rural communities and meet identified needs. Indeed, the proposal would make a valid contribution in these senses and meets relevant Local Plan criteria to be considered acceptable.

The kitchen/breakfast room of the proposed dwelling would, in terms of openings, be served only by rooflights. However, as is apparent from the submitted plans and the appellants' submissions, a low-height internal wall would act as the only divide between the kitchen and an adjacent living/dining room. This adjacent room is intended to be served by a set of large patio doors glazed to full height. Particularly in view of the sensitivities (in a heritage sense) attached to the introduction of additional apertures to the building's elevations and roofscape, this represents a satisfactory internal arrangement to ensure that adequate external views would be obtainable.

The proposed conversion involves limited external alterations. Indeed, for the most part, existing apertures would be utilised for the purposes of providing window and door openings and limited existing fabric would be lost. Moreover, the building, as converted, would retain a simplistic and uncomplicated aesthetic, and would not weaken the listed farmhouse's legibility as the principal structure of an historic farmstead complex.

W/22/0894	70 Warwick Road, Kenilworth	Digital Matrix Display Panel Delegated	Jonathan Gentry	Questionnaire: 28/10/22 Statement: 18/11/22	Appeal Dismissed
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The appeal site is the flank wall of a two-storey building located on the B4103 Warwick Road, Kenilworth. The Inspector noted that Warwick Road is a typical high street comprising of a varied building types with predominantly retail and commercial uses at ground floor with residential or office use above. The variation of building types along the road reflects the historic evolution of the high

street. An attractive streetscene is created by a combination of the historic architecture of some of the buildings, the regular yet assorted arrangement of buildings, the modest proportions of all of the buildings and the narrowness of the road itself.

The listed building adjacent, opposite the appeal site across the junction, makes a particularly positive contribution to the character and appearance of the area by virtue of its historic modest proportions and architectural detailing.

Although the building on the appeal site does present a two-storey bare brick flank wall to the high street, it is proportionate to the building and the high street as a whole and is thus not overbearing or unduly prominent in the street scene. The appeal proposal seeks to introduce a large digital display onto the flank wall, taking up more than half the width of the flank at first floor height. As such, the advertisement would be disproportionate to the more modest proportions and architectural detailing of the host building and surrounding buildings. The siting of the advertisement would be prominent and in stark contrast to the modest proportions and traditional shopfront advertisements of the surroundings. The prominent siting of the large, modern advertisement juxtaposed with the adjacent listed public house would adversely affect the setting of the listed building, leading to less than substantial harm to the heritage asset.

W/22/0298 and W/22/0299/LB	2 Kingswood Cottages, Old Warwick Road, Lapworth	Ground Floor and First Floor Extensions Delegated	Lucy Shorthouse	Questionnaire: 2/11/22 Statement: 30/11/22	Appeals Dismissed
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The Inspector noted that the listed building is of likely early 17th-century origin and consists of a row of houses. The row contains a timber-framed cross-gable at the point at which the appeal property is located. This cross-gable exhibits a distinctive Queen-post roof truss to both the front and rear. The listed building's significance and special interest is drawn, in part, from its age, traditional materials, historic fabric and architectural features. This significance and special interest is further underpinned by the building's modest vernacular form, which remains appreciable despite various modern additions having occurred to the rear. These include a flat-roofed extension to the appeal property at ground floor.

The Inspector considered that although the proposed first floor rear extension would have a pitched roof, a rear-facing gable-end, and be stepped down when compared to the height of the main ridge, it would represent a considerably sized and unsympathetic addition in a particularly sensitive location. Moreover, various elements of timber framing and a considerable portion of the visible Queen-post roof truss would be concealed by virtue of the scheme. Whilst reference has been made to such elements becoming features internally, this approach is not commensurate with maintaining timber-framed elements in exposed external locations.

Furthermore, any possible potential to utilise glazing strips is not reflected in the plans before me and, to my mind, would be unlikely to fully safeguard the authenticity of the listed building's rear facing cross-gable end.

The proposed single-storey rear extension would be of limited scale and incorporate a pitched roof broadly reflective of both the main roof and the roof form of the intended first-floor addition. Nevertheless, when considered in combination with the existing single-storey rear extension to be retained, cumulative ground floor enlargements of considerable depth would ensue at odds with the linear plan form of the listed building as originally built. This applies irrespective of the extent of the residential curtilage serving the appeal property. Moreover, when read and experienced in conjunction with the intended first-floor extension, genuinely subservient additions are not proposed. Instead, the planned extensions would detract from the listed building's ability to be appreciated and understood as a modest yet featureful vernacular building.

He accepted that the proposed extensions would occupy a relatively discreet location to the rear of the listed building. Nevertheless, architecturally significant elements are in place to the rear and listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building or any extension to it can be attained. Indeed, even if the impact of the proposal may not be obvious from the public realm, a lack of visibility does not equate to a lack of harm.

With regard to the Canal Conservation Area, he considered that there would inevitably be some residual harmful effect upon the character of the CA when taken as a whole, which would not be preserved or enhanced.

W/22/0182	Dunn Pitts Farm, Hollis Lane, Kenilworth	Agricultural Building Delegated	Rob Young	Questionnaire: 18/10/22 Statement: 15/11/22	Appeal Allowed
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The building is in countryside, and it is intended to store tools and equipment used in association with an agricultural smallholding. This would allow the appellant to plant and grow produce, as well as having other ecological and environmental benefits. Although the Council said that there is no current evidence of agricultural use, the Inspector considered that the appellant had provided substantive details of the intended crops and their location in nearby fields, together with the anticipated harvest/coppice dates and estimated yield. The building has a mezzanine floor, windows and timber facing materials. However, the Inspector considered that the position of the mezzanine does not prevent use of the building for storage as intended. There are few windows, which are small in size and located only on the two end elevations of the building. A timber material is not unusual for countryside buildings. As a result, these features do not mean or imply, as suggested by the Council, that the building cannot or would not be used for agriculture

as intended. The Council stated that, when they visited, the items within the building were largely tools and gardening equipment. However, the Inspector noted the building would also be used to store a compact tractor, fencing, composts, and other equipment, together with the occasional storage of hay. He saw no reason to doubt that these items and their use, and that of the building as a whole, would be part of an agricultural undertaking. I had no firm evidence to indicate that the building would not be used for agriculture, and any alternative use, were it to occur, would be a matter for the Council to investigate if necessary.

The Council described the building as being domestic in appearance and with a roof that is bulky. But the Inspector found that the windows are small and are located only on its discrete end elevations, with the other longer elevations being blank. As such, the domestic elements of the building are limited. Furthermore, the form of the building including its relatively large, dark coloured roof, and its timber elevations and construction, give it a clearly rural appearance.

W/22/0329	Leamington Spa Railway Station	48 Sheet Advertisement Billboard Delegated	Jonathan Gentry	Questionnaire: 23/12/22 Statement: 13/1/23	Appeal Allowed
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Due to the number of existing advertisements the Inspector considered that the site does not contribute positively to the CA. The Inspector noted that the 48-sheet LED display as proposed would reduce the number of advertisements displayed in the location facing the A425 and would be of a comparable size to the existing advertisements. As a consequence, he considered that it would not be an incongruous or overly dominant feature in a street scene where a variety of 48-sheet displays are commonplace. Further, the proposed LED display would be viewed against the backdrop of commercial development and would reduce the overall clutter of advertisement through the removal of existing advertisements. The reduction in clutter would have a positive impact on the CA.

W/21/1260	Land fronting Wasperton Lane, Wasperton	5 Dwellings Delegated	Dan Charles	Questionnaire: 1/2/23 Statement: 1/3/23	Appeal Dismissed
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The Inspector noted that the hedgerow on the site frontage is an attractive natural feature that emphasises the rural nature of the village. From first floor windows of properties on the opposite side of the road there are views over the hedgerow and across the field to the belt of trees. These are also seen from the road through the hedgerow. Such vistas are recognised as being important

in the Council's leaflet on the CA. As such, he agreed that the site as it stands contributes positively towards the traditional countryside village character of the CA.

It was noted that the scheme would result in a more developed and domestic appearance to the site and this change would undermine the rural nature of the plot. Also, the dwellings would noticeably obstruct views from the road and the properties opposite towards the trees on the southern field boundary. Moreover, the formation of the 5 accesses would erode the positive contribution the hedgerow makes to the natural qualities of the locality by breaking it into small, separate parts. He was unconvinced from the submissions that new planting would fully offset the harm caused by the fragmentation of the hedgerow. In these respects, the development would undermine the rural village feel of the site and its surroundings.

The appellant suggests that, notwithstanding the boundaries as defined in the LP, the site clearly forms part of the village and the proposal would represent infill development. However, the Inspector considered that the site is seen as land beyond the built-up extent of the village due to the lack of buildings on the plot, its significant size and the uninterrupted length of roadside hedgerow which forms a clear boundary between the field and the road.

The appellant states that the development would provide self-build housing. The Planning Practice Guidance explains that such projects cover a wide spectrum. However, the Inspector said that he must be satisfied the initial homeowners have had primary input into the final design and layout of the proposal for it to represent self-build housing and no evidence was provided to indicate who would initially occupy the proposed dwellings or what input they have had into the housing designs before me. As such, there was doubt whether it is appropriate to class the proposed development as self-build housing.

In any event, I am advised that LP policy H15 only encourages self-build housing on appropriate sites in suitable, sustainable locations, such as within infill villages. As the site lies outside the defined village boundaries, LP policy H15 fails to offer support for housing development on the field, even if it is accepted that the scheme could be legitimately classed as self-build housing.

It is likely that future occupants would need to travel to other settlements to gain access to facilities such as schools, shops, places of employment and medical services. Bus stops with access to bus services to and from other towns and villages lie on the A429 close to its junction with Wasperton Lane. These would be within a reasonable walking distance from the proposed dwellings, but Wasperton Lane is unlit and has no pavements. Therefore, the nature of the link to the bus stops would discourage people from using the bus services to get to and from the development, particularly when it is dark. Barford is a larger settlement with a broader range of facilities to the north. However, it would be beyond a reasonable walking distance from the development and the A429 linking Wasperton to Barford is not conducive to cycling as it is busy with fast moving traffic. Given the paucity of facilities in

Wasperton and the separation from Barford and other settlements, residents of the proposed houses would not have easy and convenient access to services and would be heavily reliant on car travel.

The Inspector was referred to another appeal decision in which an Inspector allowed a dwelling. With that proposal it was found that there would be a technical breach of development plan policy that resisted housing outside settlements. However, the Inspector concluded that this would cause no harm as the site visually appeared as part of a village and the dwelling would be near to a primary school, public house and bus stops. However, with the current appeal, the Inspector noted the site appears to be outside the built extent of the village and the development would not be well-located in relation to most facilities needed for day-to-day living. Therefore, this previous decision does not set a precedent that he was bound to follow.

W/21/0374 and W/21/375/LB	64-66 Market Place, Warwick	Conversion of Offices into 2 Apartments Delegated	George Whitehouse	Questionnaire: 20/2/23 Statement: 20/3/23	Ongoing
W/21/2042 and W/21/2043/LB W/22/1407 and W/22/1408/LB	The Glebe Hotel, Church Street, Barford	Redevelopment and Conversion to 4 Dwellings and 4 Apartments Delegated	Jasmine Singh	Questionnaire: 30/1/23 Statement: 27/2/23	Ongoing
W/21/2184	The Barn, Camp Hill Farm, Kites Nest Lane	Shed and Greenhouse Delegated	James Moulding	Questionnaire: 2/3/23 Statement: 27/2/23	Appeal Dismissed

The Inspector noted paragraph 149 of the Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate development, subject to exceptions, none of which apply to the proposed development. He therefore concluded that the proposed development is therefore inappropriate development in the Green Belt. Spatially, he considered the

proposed shed and greenhouse would increase the volume of structures in a previously undeveloped area within the Green Belt and would therefore reduce its openness. The proposed shed would be close to the road and would be visible from it during the winter months. Notwithstanding the existing boundary vegetation, and its proposed black finish, it would visually reduce the openness of the green belt. He considered the matters in favour of the development attracted only limited weight, and the harm to the Green Belt is not clearly outweighed by the other considerations. The very special circumstances required to justify a grant of planning permission therefore did not exist.

W/21/1852	West Hill, West Hill Road, Cubbington	Detached Garage; Maintenance Store with Walled Courtyard Delegated	Jonathan Gentry	Questionnaire: 1/3/23 Statement: 22/2/23	Ongoing
W/22/1578 and W/22/1965	23 Freemans Close, Leamington	Single Storey Rear Extension and Enclosure of Front Porch Delegated	Josh Cooper	Questionnaire: 9/2/23 and 28/2/23 Statement: 23/3/23 and 21/3/23	Ongoing
W/22/0988	Old Folly Barn, Kites Nest Lane, Beausale	Oak Framed Structure and Solar Panels Delegated	Lucy Shorthouse	Questionnaire: 3/3/23 Statement: 24/3/23	Appeal Dismissed

Although the proposed building is not attached to the dwelling, the appellants claimed support from the 149(c) exception. In doing so they cited the recent judgement Warwick DC v SSLUHC & others (2022) High Court. In that judgement Justice Eyre found that 149(c) is not to be interpreted as being confined to physically attached structures, but that an extension for the purposes of that provision can include structures which are physically detached from the building of which they are an extension. Whether or not any particular physically detached structure is an extension remains a matter of planning judgement.

The Inspector noted that the proposed structure would be distinctly separate from the dwelling, and some distance from it. It would be sited in a location more closely associated with the gravel parking and turning area, with which it would be at the same level, and higher than the ground floor of the dwelling.

The plans show the solar panels would cover only a small part of the roof structure. He noted that domestic battery systems can be relatively small, and it would be surprising if a structure of the size proposed was required to contain them. From the information before him, there was not sufficient justification for a structure of the size and design proposed solely on the basis of the solar panels and backup battery. The proposed structure is similar to, and is sited in a similar location to, the previous carport structure, and it appears likely that the structure would serve a dual purpose; one which was related to the dwelling itself, but nevertheless separate from it.

Overall, for these reasons, he concluded that the proposed structure would not be an extension of the building (i.e., the dwelling) for the purposes of paragraph 149 of the Framework, and the exemption does not apply.

Spatially, the structure would introduce development into an open and undeveloped area. It would be a relatively bulky structure, similar in size to a double garage, and with a ridged roof of a notable height. Spatially, the proposed development would therefore reduce the openness of the Green Belt. The presence of the proposed structure in a previously undeveloped location would therefore visually reduce the openness of the Green Belt.

He found the case for a structure of the size and design proposed unconvincing. He was not persuaded by the appellant's suggestion that any other configuration of solar panels and battery packs would require greater and distinct separation from the property to facilitate the same benefit. He therefore attached only very limited weight to these matters in favour of the development.

W/22/1524	192 Cromwell Lane, Burton Green	Rear Dormer and Alterations to Previously Approved 1 and 2 Storey Extensions Committee Decision in Accordance with Officer Recommendation	Lucy Shorthouse	Questionnaire: 15/2/23 Statement: 8/3/23	Appeal Allowed
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The Inspector noted that the General Permitted Development Order allows for additions etc to the roof of a dwelling house. As submitted, he acknowledged that the proposal would not be consistent with the restrictions within Class B, however, as a fallback position, which has been raised by the appellant, it is fully possible that something with not dissimilar impact to the character of the

host dwelling could be constructed as a dormer structure which would be beyond the control of the Council. Given the planning history, and works on-site to date, he had no doubt that the intention of the appellant is to renovate and extend the property (including conversion of the roof space) and that if this appeal failed, a dormer would likely be constructed or adjusted to comply with the limitations of the GDPO to maximise available space. Such a dormer would, realistically, in his view have similar implications to the character of the host dwelling as the dormer which is proposed in the plans before him. He attributed significant weight to this alternative within the consideration of this proposal. He considered that a dormer, constructed to meet the provisions of the GDPO, would look more awkward as an unattached structure to the rear gable extension compared the joined-up proposal that is before me within the submitted plans despite its non-compliance with the RDG. The RDG is, ultimately, guidance and it falls to consider actual impact of non-compliance. Without the gable extension a dormer of large scale would likely dominate the rear elevation as a top-heavy proposal on the roof but, in this case, I find impact to character of the host dwelling and area to be limited when combined with the rear gable extension. He found that the large two storey rear extension balances the bulk out (and partly screens the proposal) compared to, for example, if a large top-heavy dormer was proposed alone without the gable extension on this site which would look more jarring.

W/22/1418	1 Roxburgh Croft, Cublington	Single Storey Rear Extension Delegated	Matthew Godfrey	Questionnaire: 15/2/23 Statement: 8/3/23	Appeal Allowed
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The Inspector took the view that the 45-degree line is, whilst important, still guidance and should be applied as guidance taking into account the actual impact of a proposal based upon its own merits. The appellant made reference to an alternative pd scheme and the Inspector considered this intent, or real prospect, is relevant in so far as that in the event this appeal failed, there is a plausible fallback position which would likely be implemented. This is a material consideration. Such a proposal would result in the same breach of the 45-degree line as the appeal proposal. This, in theory, could result in a greater impact than the proposal with regard to the 45-degree line. The additional two metres, to take the extension to the garage as within this proposal, would not result in additional impact which would warrant refusal compared to that which could be constructed under permitted development. The permitted development fallback would have largely the same impact as the appeal proposal. The Council have, overall, provided limited assessment to the impacts of the proposal beyond the stated infringement on the 45-degree line from number 86. A breach of the 45-degree line does not always necessarily result in impacts upon neighbouring amenity which warrant refusal. Given the height of the proposal, and site factors he did not find the proposal would create an un-neighbourly or overbearing effect. Whilst there would be a breach of the 45-degree line, the height means that there would not be unacceptable loss of light there would be no loss of outlook for number 86 taking into account that there is currently and interwoven timber fence on the boundary between

the appeal site and the neighbouring property. The proposal would, of course, exceed this existing fence height which it would replace but he did not find this would impact upon outlook to an extent that would warrant refusal given general views down the garden from number 86 as well as views across the appeal site being partly towards the existing garage building at the side of the garden in any case.

W/21/1518	8 Offa Road, Leamington	One and two Storey Rear Extension Delegated	Millie Flynn	Questionnaire: 7/3/23 Statement: 28/3/23	Ongoing
New W/21/2283	Land off Charingworth Drive, Hatton Park, Hatton	Redevelopment for 7 Dwellings Delegated	George Whitehouse	Questionnaire: 25/4/23 Statement: 23/5/23	Ongoing
New W/22/0608	12 Sabin Drive, Weston Under Wetherley	Two Storey Side Extension Delegated	George Whitehouse	Questionnaire: 29/3/23 Statement: 19/4/23	Ongoing
New W/22/0869	209 Old Warwick Road, Lapworth	Various extensions, raising of roof and new access Delegated	Josh Cooper	Questionnaire: 24/3/23 Statement: 14/4/23	Ongoing
New W/22/1593	50 Russell Terrace, Leamington	Single storey extension and enclosure of front porch Delegated	Josh Cooper	Questionnaire: 20/3/23 Statement:	Ongoing

				10/4/23	
New W/22/1308 and W/22/1309/LB	8 Clarendon Crescent, Leamington	Various Improvements to Building Fabric Delegated	Lucy Shorthouse	Questionnaire: 30/3/23 Statement: 27/4/23	Ongoing
New W/21/0711	The Granary, Church Road, Baginton	Single Storey Dwelling Delegated	Michael Rowson	Questionnaire: 7/3/23 Statement: 4/4/23	Ongoing
New W/22/1574	Leasowe House, Southam Road, Radford Semele	Lawful Development Certificate for Garden Land Delegated	Michael Rowson	Questionnaire: 20/3/23 Statement: 17/4/23	Ongoing

Enforcement Appeals

Reference	Address	Issue	Officer	Key Deadlines	Date of Hearing/Inquiry	Current Position
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ACT 450/08	Meadow Cottage, Hill Wootton	Construction of Outbuilding	TBC	Statement: 22/11/19	Public Inquiry TBC	Ongoing
ACT 185/18	Thomas James Hotel, 45-47 Bath Street, Leamington	UPVC Windows in Listed Building	Phil Hopkinso n	Statement: 29 November 2022	N/A	Ongoing
ACT 0818/20	Oak Trees, The Cumsey, Pinley Green	Second Floor Extension and raising of Roof	Steven Hewitt	Statement: 4/11/22	N/A	Enforcement Notice Upheld with Extended Compliance Period.
<p>The Inspector agreed with the Council that the extension comprises inappropriate development in the Green Belt and is harmful to the character and appearance of the area. The Inspector considered that there were no very special circumstances sufficient to outweigh the harm to the Green Belt or other considerations that outweighed the harm to character and appearance.</p> <p>The Enforcement Notice was upheld with the period for compliance extended from 12 months to 18 months.</p>						

Tree Appeals

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