

**List of Current Planning and Enforcement Appeals
May 2019**

Public Inquiries

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

Informal Hearings

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Date of Hearing/ Inquiry	Current Position
New W/18/0554	Waverley Riding School, Coventry Road, Cubbington	16 Dwellings Committee Decision contrary to Officer Recommendation	Lucy Hammond	Questionnaire: 21/5/19 Statement: 18/6/19 Comments: -		TBC
New W/18/1180	Faerie Tale Farm, Rouncil Lane, Kenilworth	Retention of Residential timber Cabin Committee Decision in accordance with Officer Recommendation	Dan Charles	Questionnaire: 17/5/19 Statement: 5/6/19 Comments: 3/7/19		TBC

Written Representations

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Current Position
W/18/0986	Ivy Cottage, Barracks Lane, Beausale	One and two Storey Extensions Committee Decision in accordance with Officer Recommendation	Rebecca Compton	Questionnaire: 23/10/18 Statement: 14/11/18 Comments:	Ongoing
W/18/0683	Lime Garage, Myton Road, Warwick	Change of use from car Showroom to Estate Agents and Sales Hub Delegated	TBC	Questionnaire: 4/1/19 Statement: 22/1/19 Comments: 5/2/19	Ongoing
W/18/1071	121 – 123 Warwick Road, Kenilworth	Revised proposals adding additional bedrooms and making other changes to existing planning permission for change of use to student accommodation. Committee Decision contrary to Officer Recommendation	TBC	Questionnaire: 16/1/19 Statement: 13/2/19 Comments: 27/2/19	Ongoing
W/18/1676	Glenshee, 93 Chessetts Wood Road, Lapworth	Hip to Gable Roof Extension and Dormer Extensions Delegated	Emma Booker	Questionnaire: 11/1/19 Statement: 4/2/19 Comments:	Ongoing
W/18/1292	1 Nursery Lane, Leamington	New Dwelling Delegated	Helena Obremski	Questionnaire: 4/1/19 Statement: 22/1/19 Comments: 5/2/19	Ongoing

W/18/1231	Calmonfre, Haseley Knob	First Floor Side extension Committee Decision in accordance with Officer Recommendation	Liz Galloway	Questionnaire: 15/1/19 Statement: 6/2/19 Comments:	Ongoing
W/17/1408	41 – 43 Clemens Street, Leamington	4 no. 1 bed flats Delegated	Helena Obremski	Questionnaire: 14/12/18 Statement: 11/1/19 Comments: 25/1/19	Appeal Dismissed
<p>The Inspector noted that the separation distance between the west elevation of the proposed flats and the existing residential accommodation at Nos 41 – 43 Clemens Street is 17.5m which is significantly less than the 27 metre distance recommended in the SPD. Whilst recognising that that this is a dense urban setting which could justify some flexibility in applying guidance separation distances and that reinforcing established built character is also a consideration, he also recognised that the distances between the existing Tower Street and Clemens Street properties are only marginally greater. However, even taking these factors into account, he considered that the proposed spatial relationship would be less than ideal and would create opportunities for overlooking into the habitable rooms of the proposed flats.</p> <p>He also considered that the existing first floor windows in the social club building on the southern boundary would be uncomfortably close to habitable room windows in the proposed flats.</p> <p>Furthermore, he noted that the east elevation of the proposed block would be very close to an open car park, just 850mm at its widest point. This means that users of the car park would have the potential to look directly into the bedroom windows of flats 1 and 2 at very close quarters. He also observed that there is a lane from Clemens Street, which runs alongside the social club, and connects to the car park. This appears to be used as a pedestrian route and such activity increases the potential for people passing to gain views into the flats.</p> <p>The outlook to the east of the block would be over the existing car park adjacent. He felt that this would be a rather austere outlook, being a view of a tarmacked surface with security fencing on its boundaries, relieved by some limited vegetation. Due to the very short distance between the proposed building and the car park, there is no practical scope for improving this outlook by landscaping proposals. It also means that, after dark, the headlights of vehicles using the car park would shine into the ground floor bedroom windows.</p> <p>The Inspector concluded that the proposal would fail to provide adequate living conditions for future residents.</p>					

W/18/1367	Dial House Farm, Ashow Road, Ashow	Removal of Agricultural Occupancy Condition Delegated	Angela Brockett	Questionnaire: 13/2/19 Statement: 13/3/19 Comments: 27/3/19	Ongoing
W/18/0356	Moorfields Rugby Club, Kenilworth Road, Blackdown	Use of part of Car Park as Hand Car Wash Committee Decision in accordance with Officer Recommendation	Dan Charles	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Appeal Dismissed
<p>The Inspector considered that as overflow parking, currently the area would be used infrequently. By introducing a car wash facility, it would have cars upon it more frequently, as well as paraphernalia associated with the operations of the car washing business. This would reduce the openness of the Green Belt from the current situation even if the paraphernalia were to be removed to an existing container on site during non-business hours. It is appreciated that cars would move around the site and the intensity would change but, compared with the current situation, the proposal would reduce openness in the area.</p> <p>The proposition being made by the appellant is that the proposal would support the running of the rugby club. While the Inspector accepted that the rugby club is an enterprise in a rural area, he did not agree with the appellant's proposition. His reading of the criterion in Policy EC1 is that to comply with it, the proposal would need to be for part of the growth and expansion of that rural business. Here the proposal is for a separate commercial enterprise, albeit that it would provide ground rent to the rugby club. It would not form part of the rugby club enterprise and this is acknowledged by the arrangement that it would cease when the area would otherwise be required, as at present, for overflow parking. To that extent the uses would be functionally incompatible.</p> <p>In terms of impact on character, the Inspector considered that the parking of cars while they were being washed and waiting to be washed would intrude into this open aspect and detract from the character and appearance of the area. While it is appreciated that this happens when the area is being used as overflow parking, but with the proposal this would occur more frequently and would increase the harm and encroachment into the countryside.</p>					
W/18/1671	Land at Little End, Hunningham	Agricultural Building Delegated	Dan Charles	Questionnaire: 13/2/19	Appeal Dismissed

				Statement: 13/3/19 Comments: 27/3/19	
<p>Records suggest that badgers are present within the hedgerow on the boundary to the appeal site. While the Inspector had no evidence of these records, he also had no evidence of the contrary and the appellant did not challenge the Council's assertion but suggested that the matter could be dealt with by planning condition. The Inspector therefore considered that in the absence of any substantive evidence to suggest otherwise, it is likely that badgers are present within the hedgerow to be removed. In removing a section of hedgerow, a badger sett could be disrupted which in turn would be harmful to the protected species.</p> <p>Paragraph 99 of Circular 06/2005 states that "it is essential that the presence or otherwise of a protected species, and the extent to which they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision." Although not protected by European legislation, badgers are a protected species. The Inspector therefore considered that it would not be appropriate to rely on a planning condition to assess the impact of the development on this species.</p>					
W/18/1779	170 Emscote Road, Warwick	Alterations and Extension to Form Flat Delegated	Helena Obremski	Questionnaire: 27/2/19 Statement: 27/3/19 Comments: 10/4/19	Ongoing
W/17/2414	Huntley Lodge, 47 Northumberland Road, Leamington	Demolition of existing building and erection of 2 Dwellings and 6 Apartments Delegated	Helena Obremski	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Appeal Dismissed and Costs Claim Allowed in Part
<p>The Inspector considered that overall the building is a reasonable example of a building of its type and age, but its significance is limited due to later unsympathetic additions. However, the proposal would result in the total loss of the non-designated heritage asset and this must weigh against the proposal.</p>					

The question of whether the existing building represents a positive building in the Conservation Area depends on how the building is considered. If the whole of the historic Huntley Lodge, together with the alterations and extensions to the south are considered together then the overall composition detracts from the character and appearance and thus the significance of the RLSCA. However, if it is just the historic Huntley Lodge, then this acts as a positive building because it was the first building to be erected on this road and due to its presence in the street scene. Given that, by definition, a building includes part of a building, the correct approach would be to conclude this consideration should relate only to the more historic building, and therefore it should be considered as a positive building in the RLSCA.

For both the individual proposed properties the windows in all three storeys facing Northumberland Road would be of the same height. With the gable on Plot 1 and the dormers on both dwellings the Inspector considered this would emphasise the height and bulk of the roof space and thus of the buildings and make them appear overly large and higher than those which can be predominantly found in the area. These larger dormers also have the visual effect of closing the spaces between the buildings. This would make the gaps between buildings appear smaller and, thus, would detract from the sense of space between buildings.

He also found that there would be insufficient parking on site for the development and this would lead to parking on the public highway. At the time of his site visit in the middle of the morning during a working week there was little parking in this section of Northumberland Road. He considered that this additional parking would add to street clutter and add to the harm to the character and appearance of the RLSCA and thus detract from its significance.

Overall, the Inspector concluded that the public benefits do not outweigh the harm from the loss of the non-designated heritage asset and to the significance of the RLSCA.

Given the importance of ensuring a high standard of amenity for future users set out in the Framework, he also found that there would be insufficient on-site amenity space for the occupiers of the flats. There is no contribution secured to any off-site area to mitigate this deficiency.

With respect to the costs decision, the Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

In setting out its Statement of Case, the Council brought to the attention of the Inspector new guidance which the Council had adopted since the time the decision was issued, namely a new Parking Standards SPD and a new Residential Design Guide SPD which includes amenity space standards. The case officer indicated that this would result in additional reasons for refusal relating to parking and amenity space. Raising additional reasons for refusal at a late appeal stage is considered to constitute unreasonable behaviour. In this case, the Planning Inspectorate criticised the Council for not raising these matters as soon as the appeal had been lodged. However, unusually PINS took 6 months to issue a start date, which is in fact what was the actual cause for the delay.

The Inspector awarded costs to the appellant limited to those costs incurred in respect of responding to the issues of parking, amenity space, and whether the proposal represented substantial harm to the Royal Leamington Spa Conservation Area.					
W/18/1049	1 Tancred Close, Leamington	Change of Use to Gymnasium Delegated	Helena Obremski	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Appeal Allowed
<p>The first criterion in Policy EC3 is that it is demonstrated that there is an adequate supply of allocated employment sites in the district having regard to quantity and quality. The appellant maintains that as this site is not located in an allocated employment site that the proposal complies with this criterion. However, the Inspector reasoned that it is the case that this criterion should be read within the context of the opening section of the policy. This makes it clear that the policy applies to both existing and committed employment land and makes no differentiation as to whether the site is allocated for employment use or not.</p> <p>The Inspector noted that the building has been marketed since June 2014 and there have been 96 enquiries and a number of viewings, including some subsequent to the planning permission being granted. He also noted at the site visit that marketing boards were on display which indicates a continuation of marketing.</p> <p>The Inspector was provided with details of the marketing exercise, and it was stated by the appellant to have been "at an appropriate rental level". The only evidence of this was from a letter from a property consultant which states the rental sought equates to £8.60 per sq.ft The letter continues "this is appropriate for the building where modern warehouse/ industrial rents for circa 10,000 sq.ft. would be approximately £6-7 per sq.ft. and offices would be far north of this figure". This was based on the marketing figure set out in the particulars dated June 2016. A second set of marketing particulars dated December 2017 gave a lower proposed rental amount which shows that the owner has been flexible over the rental sought and has also offered the premises for freehold sale.</p> <p>The Inspector concluded that given the lack of any other evidence that the rental sought within the local market for this type of building is not appropriate, the building in its current use would not be not viable supported by the length of time that the marketing exercise has taken place.</p>					

W/18/1821	Flat 2, 99 Upper Holly Walk, Leamington	Erection of Balcony Delegated	Rebecca Compton	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Appeal Allowed
<p>At the time of the Inspector's site visit two sections of trellis fencing had been installed on both side edges of the balcony to the depth of the balcony and to approximately 1.8 m in height. The proposal is to remove these sections of fencing and replace the side edges with obscure glazed panels. These would be 2 m high and extend the width of the balcony and for 400 mm beyond.</p> <p>The Inspector considered that although there would have been some potential for overlooking to the gardens on either side of the appeal property from the previous configuration with only a window in the rear elevation, the balcony will have increased this.</p> <p>However, he considered that the provision of obscure glazed screens, subject to the screens being of sufficient opacity, would prevent direct overlooking to the sides. By extending some 400 mm beyond the width of the balcony the angles would be such that any overlooking would be avoided to the gardens of the properties to the east and to all but a very small portion of the yard to 47 Campion Terrace. This would ensure that there would be no harmful overlooking leading to an unacceptable loss of privacy.</p> <p>The Council was also concerned about the perception of overlooking through the presence of the balcony. However, the Inspector was satisfied that there would be sufficient separation to ensure that this did not occur to a level whereby permission should be refused.</p> <p>The rear elevation of the appeal property can be seen from the western side of Campion Terrace through a gap between Nos 47 and 45. Whilst the Council considered the proposal would result in harm to the Conservation Area, the Inspector considered that this view is oblique and only likely to be appreciated on a transitory basis by a viewer travelling along the street.</p>					
W/17/2387	Land South of Lloyd Close, Hampton Magna	Outline Application for up to 147 Dwellings Delegated	Lucy Hammond	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Ongoing

W/18/2258	Roundhill Farm, Rouncil Lane, Kenilworth	Removal of Condition relating to Occupancy Delegated	Helena Obremski	Questionnaire: 20/3/19 Statement: 17/4/19 Comments: 1/5/19	Ongoing
W/18/0163 and 0164/LB;	60-62 Regent Street, Leamington	Alterations and Change of Use of Upper Floors to Residential Use Delegated	George Whitehouse	Questionnaire: 14/3/19 Statement: 11/4/19 Comments: 25/4/19	Ongoing
W/18/2120	50 Clarendon Avenue	Extensions and Alterations Delegated	Liz Galloway	Questionnaire: 5/3/19 Statement: 27/3/19 Comments: -	Ongoing
W/17/2145 and 2146/LB; W/19/0632 and 0633/LB	Abbey Farm, Ashow Road, Ashow	Conversion and Extensions of Outbuildings to Create New Dwellings Committee Decision both in accordance with and contrary to Officer Recommendation	Dan Charles	Questionnaire: 20/3/19 Statement: 17/4/19 Comments: 1/5/19	Ongoing
W/18/1907	8 Cassandra Grove, Warwick Gates	Single Storey Front Extension Delegated	Emma Booker	Questionnaire: 10/4/19 Statement: 2/5/19 Comments: -	Ongoing
W/18/2059	Wain House, Hawkes Meadow, Hunningham	Detached Garage Delegated	George Whitehouse	Questionnaire: 27/3/19	Appeal Allowed and Costs Claim

			e	Statement: 18/4/19 Comments:-	Refused
<p>The Inspector considered that when seen from within the site and just beyond its main entrance, the proposal would stand apart from the existing dwelling, which would remain clearly legible as a former barn. With ample space around the new outbuilding on all sides and a largely open front elevation, the proposal would retain the strong sense of openness within the site. As the proposal would not unduly disrupt established planting within the landscaped garden, the verdant setting of the existing dwelling would be retained.</p> <p>Consequently, he was unable to share the Council's concern that the proposal would introduce or amplify a domestic feel to the existing building. Rather, it would appear as a typical ancillary outbuilding next to a vehicle entrance of a sensitively converted barn in the countryside. From what I saw, this arrangement would not be an uncharacteristic feature of the local landscape.</p> <p>With respect to the costs application, the stated that his assessment of the effect of the proposal on the area's character and appearance differs from the Council's approach, mainly because he has made different judgments rather than because of any significant inadequacies in the content of the Council's case.. That he has come to a different conclusion, and allowed the appeal, does not mean that the Council failed to substantiate its position.</p>					
W/18/2057	Avon Cottage, 10 Church Road, Ashow	Greenhouse Committee Decision in accordance with Officer Recommendation	Liz Galloway	Questionnaire: 25/3/19 Statement: 16/4/19 Comments:-	Appeal Dismissed
<p>The proposal is for the replacement of one greenhouse for another. Drawing no. 003/a shows that the existing greenhouse has a footprint of 4.32sqm, and that its replacement would have a footprint at least five times larger. It would be much longer and wider, and would have with a maximum height of 3.14m. The appellant refers to various outbuildings that existed on the site, and has provided photographs as evidence. However, the historic presence of those structures does not justify the proposed greenhouse which, by any measure, would be very significantly larger than the one it would replace. Consequently, the scheme would be inappropriate development in the Green Belt as set out in the Framework.</p> <p>However, the Inspector disagreed with the Council in terms of harm to the Conservation Area and considered that on this very large plot, a greenhouse of this size would not appear out of place. Having regard to the varied style and size of buildings in Ashow, the quality of this building, and the site's landscaped setting, the scheme would preserve the character and appearance of the CA.</p>					

New W/18/1733	Sowe View, Coventry Road, Stoneleigh	2 bedroomed bungalow Committee Decision in accordance with Officer Recommendation	Angela Brockett	Questionnaire: 8/5/19 Statement: 5/6/19 Comments: 19/6/19	Ongoing
New W/18/2212	Unit 1 Moss Street, Leamington	Removal of Condition to Allow unrestricted Occupancy of 47 bed HMO Delegated	Angela Brockett	Questionnaire: 22/5/19 Statement: 19/6/19 Comments: 3/7/19	Ongoing
New W/18/2199	135 Warwick Road, Kenilworth	Amendments to Residential Planning Permission including in respect of access arrangements. Committee Decision contrary to Officer Recommendation	Lucy Hammond	Questionnaire: 1/5/19 Statement: 29/5/19 Comments: 12/6/19	Ongoing
New W/18/1398	2 Adelaide Road, Leamington	Extensions Delegated	Rebecca Compton	Questionnaire: 30/4/19 Statement: 22/5/19 Comments: -	Ongoing
New W/18/2275	Rivendell, Stoneleigh Road, Bubbenhall	Extensions Delegated	George Whitehouse	Questionnaire: 13/5/19 Statement: 4/6/19 Comments: -	Ongoing
New W/18/2419	Three Jays, Hampton Road, Hampton on the Hill	Front Extension Delegated	George Whitehouse	Questionnaire: 30/4/19 Statement: 22/5/19 Comments: -	Ongoing
New	24 Rounds Hill,	Extensions	George	Questionnaire: 13/5/19	Ongoing

W/19/0239	Kenilworth	Delegated	Whitehouse	Statement: 4/6/19 Comments: -	
New W/18/1141	R/O 177 -179 Chessetts Wood Road, Lapworth	Dwelling Committee Decision in accordance with Officer Recommendation	Helena Obremski	Questionnaire: 8/5/19 Statement: 5/6/19 Comments: 19/6/19	Ongoing

Enforcement Appeals

Reference	Address	Issue	Officer	Key Deadlines	Date of Hearing/Inquiry	Current Position
ACT 474/16	4A Wise Terrace, Leamington Spa	Use of Flats as HMOs	Rob Young	Statement: 7/12/18 Final Comments: 28/12/18 Evidence: 11/2/19	29 May over 3 days	Ongoing

Tree Appeals

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Date of Hearing/Inquiry	Current Position
ACT/026/17	Fleur De Lys,	Erection of a pergola-	RL	Start date 21/05/19		Written reps

	Lowsonford	attached to listed building. Planning granted but lb consent refused for applications to retain. Alternative scheme submitted approved but have failed to implement		Statements 02/07/19 Final comments 23/07/19		ongoing