

List of Current Planning, Enforcement and Tree Appeals October 2023

Public Inquiries

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Date of Inquiry	Current Position
W/22/1877	Land at Warwickshire Police Headquarters	Outline planning application for 83 dwellings. Non-Determination Appeal	Dan Charles	Statement due: 2 June	31 October 2023 for up to 6 days.	Ongoing

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
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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/21/0834	The Haven, Rising Lane, Baddesley Clinton	2 dwellings Delegated	Dan Charles	Questionnaire: 26/7/22 Statement: 23/8/22	Ongoing
W/21/1852	West Hill, West Hill Road, Cubbington	Detached Garage; Maintenance Store with Walled Courtyard Delegated	George Whitehouse	Questionnaire: 1/3/23 Statement: 22/2/23	Ongoing

W/22/1593	50 Russell Terrace, Leamington	Single storey extension and enclosure of front porch Delegated	Josh Cooper	Questionnaire: 20/3/23 Statement: 10/4/23	
<p>The main issue was the effect of the proposed rear extension upon the living conditions of the occupants of 48 Russell Terrace with regard to outlook as well as daylight and sunlight.</p> <p>It was not disputed by the two parties that the rear extension would partly contravene this line when the 45-degree guideline is taken from the nearest window at No. 48. However, the Inspector noted that the RDG states that individual site circumstances would be taken into account and the guideline should not necessarily be the overriding consideration.</p> <p>The Inspector noted that the bedroom has a glazed patio door that is bound by windows either side as well as above. As a result, this room receives ample daylight and sunlight throughout most of the day. The proposed flank wall of the extension would be approximately 2m tall along the shared boundary and would extend up towards the house with a mono pitched roof. The rear extension would extend to around the same depth as the rear outrigger along the shared boundary and would only be slightly taller than the existing boundary fence. Given the location of the proposed extension the Inspector found that there would be a loss of sunlight to this window, however given the limited height of the extension he felt this would only be for a limited time. As a result, he considered the room would not become gloomy or overshadowed by the proposal. Similarly, he considered that the limited height of the extension and the mono pitched roof would ensure that both daylight and sunlight would reach the kitchen window that faces the proposed extension.</p> <p>The rear extension would be built close to the bedroom window and as a result, the extension would partly enclose the outlook from it. However, he noted that No.48 has a deep garden and as a result the proposed extension would only extend a relatively short distance into the garden. The proposed flank wall along the shared boundary would only be slightly taller than the existing boundary fence and the mono pitched roof would slope away from No.48. Furthermore, the outrigger to the rear of No. 48 is also relatively shallow and he felt that these factors would ensure that the development would not enclose the rear bedroom to the point where it would have an unneighbourly overbearing effect.</p>					

The outlook from the kitchen window is currently the flank wall of the two-storey rear outrigger. The proposal would bring the flank wall of No.50 much closer to this window. However, given the limited height of the extension and because this window is not the only window serving the kitchen, he concluded that the outlook enjoyed from this room would not be significantly diminished.

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
W/22/0548	Land to the West of A46	Installation of Solar Farm Delegated	Mohammed Akram	Questionnaire: 14/6/23 Statement: 12/7/23	Appeal Allowed

It was common ground that the proposal amounts to inappropriate development in the Green Belt. There is a presumption against such development, and permission should not be granted other than in very special circumstances.

The Inspector noted the scheme would have a spatial and visual impact on the openness of the Green Belt; it would be seen from bridges over the M40, from the A46, from the B4463 and from parts of the public footpath network. From these viewpoints it would appear as an encroachment of manmade structures into the countryside. However, he also noted that views of the installation would not be widespread, and even the northernmost part of the site, which would be expected to be more prominent because it is on a slight rise, would not have a wide visual impact. Parts of the site offers the opportunity of additional boundary screening. Moreover, he considered the development would be seen in the context of the major road infrastructure around the junction of the M40, A46, A4298 and B4463, which itself has a significant effect on the openness, rural character and the tranquillity of its surroundings. In this context the additional visual impact of the scheme on the openness of the Green Belt would be relatively limited.

He noted that the landscape on and around the site consists of pleasant countryside of low relief with fields bordered with hedges, mature trees and minor watercourses, but it does not carry any special local or national designation. It is inescapable that there would be a degree of conflict with policies BE1 and NE4 because the solar farm would change the character of the landscape on which it is sited. However, it would be seen in close association with the major road infrastructure, and with its impermanent,

relatively low panels, slender 15m lattice tower, and modest- sized ancillary cabins and other equipment, would have a limited additional impact on the character of the landscape. Its impact would be mitigated through landscaping.

Planning permission was granted by the Council for a solar farm on the adjacent site, and the Inspector noted that should the appeal scheme and the permitted scheme both go ahead, a more extensive area would be covered by solar panels. However, the appeal scheme would not extend further westward into open countryside than the scheme that has already been permitted; rather, both the northern and southern parts of the appeal site would largely be contained between the corresponding parts of scheme W/23/150 and the highway infrastructure. As a result, he felt the appeal scheme would have a relatively small additional impact on the Green Belt and landscape compared with that which has already been permitted. He concluded that the appeal proposal in practical terms would cause limited harm to the openness of the Green Belt, and to landscape character.

The proposed development has the potential to disturb buried archaeological features. However, he considered that a solar farm has a more limited subsurface impact than a permanent building, and the layout is adaptable. In the circumstances, therefore, he felt that permission can be granted, subject to a condition requiring further archaeological investigative work prior to the commencement of development. The final form of the development may need to be tailored to take into account any feature of archaeological interest that should remain in situ and should be submitted to and approved by the local planning authority subsequent to the investigation. The investigation should also inform the final construction management plan.

With regards to very special circumstances, the Inspector noted that the National Planning Policy Framework states that the planning system should support the transition to a low carbon future and support renewable and low carbon energy and associated infrastructure. It adds that when such projects are located in the Green Belt, very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. He noted that the appeal scheme would power the equivalent of about 6,600 local homes annually for 40 years, or the equivalent of one tenth of the dwellings in the district per year and considered this to be a significant environmental benefit.

He considered that the appellants had conducted an extensive, reasonable and proportionate site search, and the assessment report demonstrated the difficulty of finding suitable sites outside the Green Belt or on brownfield land. The site has locational advantages in that it would make use of spare capacity in the 33Kv power line which runs through the site; the site is large enough to be economically viable, is available, is not required for another purpose, is not in a position where residential living conditions would be adversely affected and is not best and most versatile agricultural land.

Given the national targets for a transition towards a low carbon future, the importance attached to the objective by the Council in declaring a climate emergency, the clear support given to renewable energy development in the NPPF, and the support for renewable

energy within Local Plan policy CC2, he considered it evident that the proposal would provide a very significant environmental benefit. The impact on the openness of the Green Belt and the effect on the landscape would be limited, whether this site is considered on its own or in conjunction with the nearby permitted scheme. The environmental benefits would significantly outweigh the harm to the Green Belt and the impact on the landscape. He therefore concluded there were very special circumstances in this case to allow this appeal.

W/22/1332 and 1333/LB	17 Bridge Street, Barford	Single Storey Rear Extension and Other Alterations Delegated	James Moulding	Questionnaire: 8/6/23 Statement: 6/7/23	Ongoing
W/22/1697	Rosedale, Main Street, Eathorpe	One and Two Storey Extensions Delegated	James Moulding	Questionnaire: 5/6/23 Statement: 23/6/23	Ongoing
W/22/1954	Ribbons, Rowington Green, Rowington	1.5 Storey Granny Annexe Delegated	Lucy Shorthouse	Questionnaire: 8/6/23 Statement: 6/7/23	Appeal Dismissed

Consideration was given as to whether the proposal would amount to an ancillary annexe. The proposed development would include a single garage and an open plan living space at ground floor level and two bedrooms to accommodate both sets of parents at first floor level. The Inspector's starting point was that the proposal is for a granny annexe and the appellants have not made an application for a separate dwelling. Although the parents would have their own living and sleeping accommodation and there would be parking for one car, the annexe would share several facilities with the main house, including vehicular access and the garden. It would also be much smaller than the main house and would be near it with easy access between the proposed building and the main house. Further, there would be no kitchen facilities and the appellants confirm that the intention would be that their parents, who require assistance with day to day living, would be dependent on the main house for cooking and laundry. Based on the available

evidence, he was satisfied that the proposed building would be an annexe to the main house and determined the appeal on that basis.

The Council indicated that the proposal should be considered as representing a disproportionate addition over and above the size of the original building as the main house has been extended extensively and when taking account of the previous extensions the proposal would represent an increase in the footprint of approximately 158% of the footprint of the original dwelling. The appellant did not dispute this figure, but rather indicated that the proposal should be considered in the context of paragraph 149 (g) of the Framework as the partial redevelopment of previously developed land.

When taken together with the previous extensions, the size of the property would be increased by a substantial amount which the Inspector found would be a disproportionate addition over and above the size of the original building.

In respect of paragraph 149 (g) of the Framework, he accepted that the appeal site is currently part of the residential garden of the main house which is not within a built-up area. Consequently, the appeal site meets the definition of previously developed land. It therefore follows that the proposal would amount to the partial redevelopment of previously developed land which potentially engages the paragraph 149 (g) exception of the Framework. However, it is necessary to consider whether the proposal would preserve the openness of the Green Belt.

The Inspector noted that openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. While accepting that the proposal has been well designed and would not harm the character and appearance of the area, spatially, the introduction of a building of this size would result in a significant increase in floor space and volume. The footprint of building on the appeal site would also be increased and by occupying space that was previously undeveloped, the proposed development would therefore harmfully reduce the openness of the site.

Visually, although there is an existing front hedge as the proposal would be set forward of the front elevation, the upper storey of the proposed development would have a significant presence in public views from Rowington Green. Overall, he concluded there would be a significantly greater impact on the openness than the existing development which would result in considerable harm to which he gave substantial weight.

During the planning process, the appellant had been granted a Certificate of Lawfulness for an outbuilding (CoL outbuilding) that would allow the bedrooms and living area for the appellant's parents to be contained within the current garage wing of the main house and the existing uses within the main house that would be displaced, including a double garage and the existing home office/studio space, to be accommodated in the outbuilding. The Inspector was satisfied that there was a greater than theoretical

possibility that the CoL outbuilding proposal might take place and therefore it is necessary to consider whether the CoL outbuilding proposal or the proposed annexe would have a greater impact on the openness of the Green Belt.

Although he accepted the CoL outbuilding would have a larger footprint and volume, it would be set back from the front elevation of the main house and would be significantly lower. As outlined above, openness has spatial as well as visual aspects. Notwithstanding that a mature tree would need to be removed, he did not agree with the appellant that the rearward position of the CoL outbuilding would have a greater impact on the openness of the Green Belt or that it would be more visually prominent. As highlighted, the upper storey of the proposed development would have a significant presence in public views from Rowington Green. That would not be the case for the single storey CoL outbuilding which would be sited to the side and set behind the front elevation of the main house. As a result, he considered that the proposed annexe would have a significantly greater impact on openness than the alternative CoL outbuilding and this significantly lessened the weight he gave the fallback position.

In the event that the appellant constructed the CoL outbuilding, he was not persuaded the prospect that they would then look to replace it using the exception under paragraph 149 (d) is anything more than a theoretical possibility. He therefore gave this possibility limited weight.

The appellant made the point that the CoL outbuilding has an inferior design as it is required to meet the limitations of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) and there would be no requirement to use materials that would match the existing property. However, the Inspector considered that to a large extent the architectural design of the CoL outbuilding and the materials to be used are matters for the appellant's discretion. I saw no reason a high quality designed single storey outbuilding using appropriate materials that would meet the requirement of the GPDO could not be constructed at the appeal site and therefore gave the possibility that the appellant would construct a poorly designed building using incompatible materials limited weight.

W/22/0357	Liberty House, Stoneleigh Road, Blackdown	Lawful Development Certificate for Various Works Delegated	Lucy Shorthouse	Questionnaire: 23/6/23 Statement: 21/7/23	Ongoing
W/22/0941	Land South of Banner Hill Farm, Kenilworth	Proposed Energy Storage Facility Delegated	George Whitehouse	Questionnaire: 17/7/23	Ongoing

				Statement: 14/8/23	
W/22/2034	Fernwood Lodge, Fernwood Farm, Rouncil Lane, Beausale	Front Dormer Delegated	James Moulding	Questionnaire: 29/6/23 Statement: 20/7/23	Appeal Dismissed and Costs Claim Partially Allowed
<p>The Council's Officer report stated that the previous extension represented an increase of 37% above the floorspace of the original building. The appeal proposal would further increase this. On that basis, the increase in floorspace created by the appeal proposal would be significantly greater than the figure set out in the Local Plan in respect of a disproportionate extension.</p> <p>The Inspector was mindful that floorspace is not the only factor that can affect whether an extension would be disproportionate, and that the proposal would not increase the footprint of the building. Nevertheless, he also had regard to the volume of the proposed dormer and the projection beyond the roof slope. Based on the evidence before him and his observations on site, he considered that it was clear that the proposal would contribute to a substantial increase in the volume and bulk of built development compared to the original building, and that this would represent a disproportionate increase in the size of the original building.</p> <p>The proposal would increase the bulk of the building and would therefore harm the openness of the Green Belt. However, taken by itself, the dormer is of a limited scale and the harm to openness would be commensurately limited.</p> <p>The proposed dormer would dominate one of the roofslopes of the dwelling. The scale and design of the proposal would detract from the understated rural character of the building and would lead to a dwelling of an inappropriate suburban appearance. Full-width dormers of the design proposed are not representative of this area, and the nearest dwelling contains individual gable dormers of a more suitable design. Within this context, the proposal would lead to a building of an awkward and incongruous appearance, and this harm would be exacerbated due to its prominent location.</p> <p>However, it would be physically possible that both the fallback scheme and the appeal proposal could be implemented. This resulting development would significantly exacerbate the identified harm arising from the appeal proposal in respect of the Green Belt as well as character and appearance, and in effect would negate the consideration of the fallback scheme in support of the appeal.</p>					

The appellant has suggested a condition withdrawing permitted development rights for the building. But this would only come into effect once development of the appeal proposal commences, and the permitted development rights could therefore be exercised prior to the appeal scheme being implemented.

A further condition had been suggested requiring that any dormer window constructed under permitted development rights is demolished prior to the commencement of the appeal proposal. The suggested period for the commencement of the appeal development is 3 years. However, the Planning Practice Guidance states that a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. On that basis, he did not consider that such a condition could be relied upon to ensure that any existing dormer window is removed.

COSTS:

The appellant submitted that the Council has behaved unreasonably by failing to acknowledge a fallback scheme which was referred to in the planning application and which should have been a material consideration.

In response, the Council stated that it did not consider the fallback scheme to be relevant enough to expressly address it in its assessment.

However, as seen in the Appeal Decision, the Inspector expressly considered the fallback scheme of an alternative dormer window. The Inspector noted that although the lawful development certificate was referred to by the Council, this was not within the context of considering this as a fallback scheme. The existence of a valid fallback is an important consideration in assessing this proposal, and the failure of the Council to address this represents unreasonable behaviour. Although planning reports may not be required to contain every single consideration, the existence of a fallback scheme is an important matter, and the Council should have addressed this.

However, the appellant also refers to the preparation and submission of the claim for costs. Had the Council considered the planning application appropriately, then the costs claim would not have been required. The Council's unreasonable behaviour has therefore led to the appellant incurring unnecessary or wasted expense in progressing the claim for costs. Having regard to the provisions of the Guidance, he considered a partial award of costs was therefore justified.

W/22/0367	Clinton House, Old Warwick Road, Rowington	Single Storey Dwelling Committee Decision in Accordance with Officer Recommendation	Millie Flynn	Questionnaire: 30/6/23 Statement: 28/7/23	Ongoing
W/22/0471	Leasowe House, Southam Road, Radford Semele	Erection of 2 Replacement Dwellings Non-Determination Appeal	George Whitehouse	Questionnaire: 4/8/23 Statement: 8/9/23	Ongoing
W/22/1672 and 1673	Hay Wood Grange, Birmingham Road, Wroxall	Removal of Condition restricting Permitted Development Rights Delegated	George Whitehouse	Questionnaire: 25/7/23 Statement: 22/8/23	Ongoing
W/22/1508	Land at Sherbourne Priors, Vicarage Lane, Sherbourne.	2 Dwellings Delegated	Jack Lynch	Questionnaire: 8/9/23 Statement: 6/10/23	Ongoing
W/22/0928	Third Floor Flat, 28 Clarendon Square, Leamington	Change of Use to HMO Committee Decision Contrary to Officer Recommendation	Millie Flynn	Questionnaire: 8/9/23 Statement: 6/10/23	Ongoing

W/22/1638	8 England Crescent, Leamington	Erection of Extensions and creation of New Dwelling Delegated	Millie Flynn	Questionnaire: 12/9/23 Statement: 10/10/23	Ongoing
W/23/0591	140-142 Parade, Leamington	Externally Illuminated Fascia Sign Delegated	Millie Flynn	Questionnaire: 4/9/23 Statement: 22/9/23	Ongoing
W/23/0400	25 Blacklow Road, Warwick	2 Storey Front Extension Delegated	Theo Collum	Questionnaire: 31/8/23 Statement: 21/9/23	Ongoing
W/23/0458	101 Windy Arbour, Kenilworth	Extensions and Detached Garage Delegated	Theo Collum	Questionnaire: 22/8/23 Statement: 12/9/23	Ongoing
New W/22/1745	3 Rai Court, Beauchamp Road, Leamington	Change of Use to HMO Committee Decision Contrary to Officer Recommendation	Millie Flynn	Questionnaire: 4/10/23 Statement: 1/11/23	Ongoing

New W/23/0101	Church Farm, Glasshouse Lane, Lapworth	Single Storey Rear Extension Delegated	Thomas Senior	Questionnaire: 22/9/23 Statement: 13/10/23	Ongoing
New W/23/0597	89 Buckley Road, Lillington	Single Storey Rear and Side Extension including Revised External Facing Materials Delegated	Thomas Senior	Questionnaire: 9/10/23 Statement: 30/10/23	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	TBC	Statement: 22/11/19	Public Inquiry TBC	Ongoing
ACT 102/22	126 Cubbington Road, Lillington, Leamington Spa	Creation of further storey	Phil Hopkinson	Statement: 8 August 2023	Written Reps	Ongoing
ACT 600/18	Nova Stables, Glasshouse Lane, Lapworth	Erection of building in green belt	Will Holloway	Statement: 31 st July 2023	Hearing TBC	Ongoing

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Tree Appeals

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