

**List of Current Planning and Enforcement Appeals
January 2021**

Public Inquiries

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

Informal Hearings

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

Written Representations

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Current Position
W/19/2006	Unit 1, Moss Street, Leamington	Removal of Condition to allow for the Unrestricted Occupancy of 47 bed HMO.	Helena Obremski	Questionnaire: 11/6/20 Statement: 9/7/20	Appeal Dismissed and Costs

		Committee Decision in accordance with Officer Recommendation			Application Refused
<p>When compared to the requirements of the Council's Parking Standards Supplementary Planning Document the Inspector noted that there is a shortfall of 15 spaces for the overall site.</p> <p>The Inspector noted that while the current proposal would reduce the extent of the parking deficit, two of these spaces would not be readily accessible owing to their tandem nature which, particularly for this type of development, is not an appropriate parking arrangement. Even if that was not the case, there would still be a shortfall of 12 parking spaces.</p> <p>One of the key factors why the original development was allowed on appeal was that car ownership amongst students was likely to be lower and that the relative accessibility to services and facilities would mean that there would not be an unacceptable adverse impact on the amenity of local residents as a result of parking stress. The Inspector considered the same principles which applied then equally apply today.</p> <p>At his site visit he observed very high demand for parking spaces in the immediate vicinity of the site and on nearby streets where very few available spaces existed. Whilst my visit was only a snapshot in time, the evidence before me indicates that this situation is typical of the parking characteristics in the area.</p> <p>The Appellant indicated that the tenancy agreements would be able to control that the occupants do not have a vehicle. Whilst this may well assist in controlling the number of vehicles on site, the Inspector considered it would be almost impossible to determine whether the occupants have brought cars into the wider area. As such, he found that this would not be a suitable mechanism to control the number of vehicles which would be generated by the development.</p> <p>The Inspector concluded that condition 15 still performs a useful planning purpose in that it helps to minimise the amount of traffic generated by the proposal to reflect the limited parking available on site and in the surrounding area. The removal of the condition would be likely to result in increased parking stress to the detriment of the living conditions of the occupiers of other residential properties in the area.</p> <p>COSTS</p>					

The Applicant submits that the Council has acted unreasonably as it failed to alert the Applicant for the need for a section 106 agreement during the course of the determination of the application and was only alerted to this when the report to committee was issued.

The Council argued that this was not the sole concern of its officers and an agreement was not requested so that the Applicant did not incur wasted expense. Furthermore, the Applicant failed to clarify how they have been put to unnecessary expense which must be demonstrated in order for an award of costs to be made.

The Inspector considered that the Council could have informed the Applicant over the need for a legal agreement prior to the publication of the committee report. Whilst such action would have been highly desirable, he considered that this was not an unreasonable approach to take, especially given that this was not the only concern of the Council.

The Inspector reasoned that given that he found that the absence of such an agreement did not change the overall planning merits of the case this further endorses the approach of the Council in not seeking such an agreement.

W/19/1973	Wooton Grange Farm House, Warwick Road, Kenilworth	Extensions and Alterations Delegated	Jonathan Gentry	Questionnaire: 23/4/20 Statement: 15/5/20	Ongoing
W/19/2037	Arden Hill, Lapworth Street, Lapworth	New Dwelling Delegated	Dan Charles	Questionnaire: 26/6/20 Statement: 24/7/20	Appeal Dismissed

The Inspector notes that the impact 'test' for the redevelopment of a previously developed site in the Green Belt under Para 145 of the NPPF is based on a comparison between the development as it exists and what is proposed. It does not include a 'fallback' position of an unimplemented planning permission for a replacement building. Consequently, as he observed on site and evidenced from the submitted plans he found that the existing building is substantially reduced in size due to the fire damage, the

proposed building would be materially larger in terms of bulk and mass than that which presently exists on the site and would therefore have a greater impact on openness.

The Inspector noted that Part d) of Policy H1 supports housing in the open countryside, where amongst other things the site is located adjacent to the boundary of an urban area or growth village, meets an unmet housing need and is within reasonable safe walking distance of services (such as school and shop) or is within reasonable safe walking distance of a public transport interchange providing access by public transport to services. However, he considered that in this case and despite the appeal property not being isolated, it had not been clearly shown that the proposal meets all the requirements of Part d).

The Inspector also noted that the appellant put forward the fall-back position of the extant planning permission for a replacement office building at the appeal site. However, the Inspector mindful that the appellant's submissions and supporting marketing advice which confirm that the building is likely to prove difficult to sell or let with restricted B1(a) office use, led him to seriously doubt the likelihood of the fall-back being implemented.

W/19/0860	6 Phillipps Road, Warwick	Change of use to Garden and Erection of Fencing Committee Decision in accordance with Officer Recommendation	Emma Booker	Questionnaire: 22/7/20 Statement: 13/8/20	Ongoing
W/19/1604	17 Pears Close, Kenilworth	First and Ground Floor Extensions Delegated	George Whitehouse	Questionnaire: 19/6/20 Statement: N/A	Ongoing
W/19/1558	Land rear of 14 – 16 Randall Road, Kenilworth	Detached Bungalow Delegated	Helena Obremski	Questionnaire: 26/6/20 Statement: 24/7/20	Ongoing

W/19/1572	Land off Birmingham Road and A46, Warwick	2 Dwellings Delegated	Helena Obremski	Questionnaire: 26/6/20 Statement: 24/7/20	Ongoing
W/19/1949	22 St Mary's Terrace, Leamington	Conversion and Extension of Garage into Dwelling Delegated	Rebecca Compton	Questionnaire: 26/6/20 Statement: 24/7/20	Appeal Dismissed

The Inspector noted that the prevailing character and appearance of the street scene is dominated by two storey Victorian terraces with rear amenity areas. These include regular forms and plot configurations along with attention to fenestration designs and detailing. Collectively, these achieve a degree of uniformity to the street scene and a distinct pattern of development. Thereby making a positive contribution to the character and appearance of the CA.

The Inspector observed that the existing garages are modern additions and not of any notable architectural merit. Nevertheless, they are settled within the street scene and are not uncommon for the area. Therefore, these make a neutral contribution to the significance of the CA.

The Inspector considered that due to its form, layout and design, the proposed dwelling would appear contrived and would not reflect the prevailing character and appearance of the adjacent terraces. The proposed development would therefore reflect poor design and would appear incongruous.

The Inspector noted that the appellant is willing to replace the existing dropped kerb access to the garages with a standard height kerb which would create an additional on-street parking space outside the property and this could be secured by a condition thereby overcoming the parking issue.

The Inspector noted that the proposal would introduce a two-storey building, immediately to the rear of the modest gardens associated with these properties. Furthermore, its rear elevation would predominantly comprise a large expanse of brickwork, with

minimal articulation. As such, the new dwelling would have a particularly dominant and enclosing effect on neighbours and significantly worsen the outlook.

He also considered that the lack of outdoor private amenity space would seriously undermine the overall quality of the proposed dwelling as a living environment.

W/19/1963 and W/19/1964/LB	Rectory Cottage, Church Lane, Lapworth	Demolition of Garage Block and erection of Sun Room Delegated	George Whitehouse	Questionnaire: 19/8/20 Statement: 16/9/20	Ongoing
W/20/0097	10 Wasperton Road, Wasperton	Change of Use of Store Room to Dog Grooming Salon Delegated	Rebecca Compton	Questionnaire: 19/8/20 Statement: 16/9/20	Ongoing
W/19/1197	89 Shrubland Street, Leamington	Change of Use to HMO Appeal against Non- Determination	Rebecca Compton	Questionnaire: 1/9/20 Statement: 29/9/20	Ongoing See also enforcement appeal below
W/20/0247	3-5 Mill Street, Leamington	Subdivision into 2 dwellings; Extensions and other Alterations Appeal against Non- Determination	Emma Booker	Questionnaire: 11/9/20 Statement: 9/10/20	Appeal Dismissed

The Inspector observed that Mill Street is close to the town centre, it is only a short section of road but is part of a network of more extensive roads. The houses in the area are typically close to the roads, with little off-street parking and much of the streets have restricted parking.

The Inspector noted that the proposal would be an additional unit of accommodation. Even allowing for the smaller size of the resulting dwellings, there would be an increase in the need for parking as four spaces would be required rather than three currently. He noted that the proposal cannot provide any spaces and would increase pressure on the current on-street spaces. Whilst the shortfall would only be one space he considered that this would be significant for such a small street. The resulting parking pressure would lead to more congestion, more manoeuvring and movements to try to find spaces in the locality, which would be likely to jeopardise safety. He also noted unauthorised and obstructing parking in Mill Street on his site visit.

W/20/0980	9 Camberwell Terrace, Leamington	Front Lightwells Delegated	Emma Booker	Questionnaire: 25/9/20 Statement: 19/10/20	Ongoing
W/20/0262	Old Barn, Sands Farm, Old Warwick Road, Lapworth	Change of use to Dwelling Delegated	Helena Obremski	Questionnaire: 28/9/20 Statement: 26/10/20	Appeal Dismissed

The Inspector noted that for the purposes of planning policy, the site is located in the open countryside and in view of its particular position, isn't accessible by a range of transport options thereby encouraging reliance on the private car and not suitable for the location of new residential development.

He considered that the scale of the development and additional windows would change the character of the barn to a domestic feature and in doing so add a harmful modern intervention within the setting of a Listed Building.

Finally, the Inspector considered that in only gaining natural light from rooflights, 3 of the proposed bedrooms would not be of suitable quality in terms of residential amenity.

For those reasons the appeal was dismissed.

W/20/0271	The Hay Barn, Packwood Lane	Replacement Garage Delegated	Jonathan Gentry	Questionnaire: 8/9/20 Statement: 30/9/20	Ongoing
W/20/0467	Morrisons, Old Warwick Road, Leamington	Various Signage Delegated	Lucy Hammond	Questionnaire: 28/9/20 Statement: 26/10/20	Appeal Dismissed

The Inspector noted that the proposed vinyls would extend to the full side and rear elevations of the car repair module. These would result in the creation of a broad array of text and graphics. He considered that this would be a stark addition that would have a harmful visual impact on the site in contrast to the existing low-key setting. The adverts would be dominant and expressive and would draw further attention to the structures and their discordant location.. The proposed advertisements would not be sympathetic to their surroundings being poorly sited and designed.

W/20/0201	37 Shakespeare Avenue, Warwick	First floor Side Extension Delegated	Thomas Fojut	Questionnaire: 8/9/20 Statement: 30/9/20	Appeal Allowed
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The Inspector observed that the neighbouring property at No.35, is located immediately to the east of the appeal property, occupies a corner plot and is sited at an angle in relation to the appeal property. It also projects beyond the front elevation of No 37. He acknowledged that the first-floor side extension would not comply with the requirement of the RDG regarding the 1m set in from the side boundary, however, he considered that given its siting in relation to the host dwelling, and the position of No 37 in relation to No 35, the two-storey side extension would not result in a terracing effect. He also noted that the relevant wording in the RDG allows for a degree of flexibility in terms of building to the common boundary.

W/19/1197	89 Shrubland Street, Leamington	Change of Use to 7 Bed HMO Appeal against Non-Determination	Rebecca Compton	Questionnaire: 1/9/20 Statement: 29/9/20	Ongoing
W/20/0801	5 Cubbington Road, Lillington	Front Boundary Wall Delegated	George Whitehouse	Questionnaire: 23/10/20 Statement: 16/11/20	Appeal Dismissed

The Inspector noted that due to front gardens which contain mature vegetation and low boundary walls, the streetscene had an open, spacious and verdant character. Whilst acknowledging examples of other boundary treatments along the road such as railings and gate piers, he considered the mature border planting to be a prominent feature of the area.

The Inspector reasoned that while the height, width, design and materials of the proposal may be similar to other metal railings in the road, nonetheless, the development would create a significant visible structure that would be at odds with the verdant qualities of the surroundings and would contrast starkly with immediate neighbouring boundary treatments.

Irrespective of any presence historically of a hedge at the front of the property, the introduction of the proposed built form would erode the overriding character of the area. The provision of additional landscaping behind the proposed railings would do little to ameliorate the harm. In any event, such landscaping would take time to establish and its retention in the long term could not be guaranteed.

He also made the point that not all boundary treatments in the road make a positive contribution to the character and appearance of the area and cannot be treated as a persuasive precedent for allowing the appeal.

W/20/0170	Eversleigh Nursing Home, 2-4 Clarendon Place, Leamington	Car parking and Landscaping Delegated	Helena Obremski	Questionnaire: 13/10/20 Statement: 10/11/20	Ongoing
W/20/0466	Morrisons, Old Warwick Road, Leamington	Structures to form MOT Pod, Wheel Repair Pod and Car Repair Centre Delegated	Lucy Hammond	Questionnaire: 15/10/20 Statement: 29/11/20	Appeal Dismissed

The Inspector noted that Policy EC1 does not expressly state where such B Class uses would be unacceptable, but it does provide a clear and unambiguous direction as to where new employment opportunities should be targeted. Although, the site is within an area of commercial activity, this is not an existing employment area. Therefore, the proposal would conflict with the expectations of the policy in creating an isolated and disconnected employment use outside of a defined area that would not support existing employment areas.

The Inspector was satisfied that a positive benefit of the proposal would be the reuse of previously developed land. The Framework supports development of such land and the site is well connected to the highway network. However, he thought these benefits would not outweigh the conflict found with the policy. 6 jobs and more consumer choice were given moderate weight only.

The Inspector observed that the area to the rear of the food store is relatively prominent due to the vehicle access arrangements and the generally open nature of the car park. He considered that in its undeveloped form the site would have made a positive contribution to the open character of the area.

The Inspector considered that the modules are in a relatively prominent and isolated position and due to their height and choice of materials, they do not complement the design of the food store and have the appearance of purely functional industrial buildings. They would therefore not integrate well with the surrounding commercial environment. This impact is further emphasised when the roller shutters are down and the business closed, as observed during my visit. Furthermore, the MOT and Repair Centre modules present a utilitarian rear elevation to customers arriving to the store from this entrance. The concluded that the modules are therefore an overt and harmful addition to the car park.

W/20/0834	21 Wordsworth Drive, Kenilworth	Part rendering to Front and Rear Delegated	Thomas Fojut	Questionnaire: 16/10/20 Statement: 9/11/20	Appeal Allowed
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The Inspector observed that the properties in the street are predominantly brick properties, with some examples of render detailing and also noted that the appeal property has been extended and already looks different to other houses in the locality. The Inspector considered that the appeal property was not part of a street scene where a strong degree of design conformity is required, such as a terrace. Within this context, he concluded that the application of render would not harm the appearance of the property or the area around it.

Furthermore, the brickwork used for the existing extension does not closely match that of the original house. Rendering this brickwork and parts of the other elevations would unify the appearance of the property, whilst also retaining a large amount of brickwork. Taking account of this decision it is considered that the Council should take a more pragmatic approach to applications for render and carefully consider the context and judge whether it is part of a streetscene where a strong degree of design conformity is required. Different should not automatically mean harmful.

W/20/0285	Pool Peace Bungalow Five Ways Road, Shrewley	Appeal against the refusal of a Certificate of Lawfulness for the Continued Occupation of a Dwelling without complying with an Agricultural Occupancy Condition.	Andrew Tew	Questionnaire: 26/11/20 Statement: 24/12/20	Ongoing
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		Delegated			
W/20/0331	The White House, Five Ways Road, Shrewley	Replacement Dwelling Delegated	Andrew Tew	Questionnaire: 13/11/20 Statement: 11/12/20	Ongoing
W/20/0420	2 Penns Close	Decking and Steps Delegated	George Whitehouse	Questionnaire: 18/11/20 Statement: 10/12/20	Ongoing
W/20/0622	5 Tilsley Close	Extension to Garage Delegated	George Whitehouse	Questionnaire: 30/10/20 Statement: 23/11/20	Appeal Dismissed

The Inspector noted that the street consists of detached two-storey dwellings with double garages set back behind the rear building line. The properties are arranged around a slight curve in the highway. Consequently, the rear elevation of No 7 partly faces the side boundary of the appeal site. Furthermore, Tilsley Close follows a gradient. As a result, the garden of No 7 is around 1.5-2 metres lower than the garden of the appeal site. Therefore, the rear and side boundary of the neighbouring garden includes a large retaining wall and a close boarded boundary fence above.

During his visit he observed that the rear elevation of No 7 had six windows, five of these appeared to serve habitable rooms. The appellant's existing garage would therefore be a large and dominant feature within the neighbour's outlook from their rear windows.

The proposal and especially its roof, would create an extension of substantial mass adjacent to the boundary. The significant height differential, between the garage and neighbour's windows, would result in a particularly acute relationship. As such, this relationship would result in the proposal having a demonstrable and harmful impact on the outlook of the neighbouring occupiers.

The proposed extension would be to the north of the neighbour's rear elevation. As a result, access to sunlight would be largely unaffected by the proposed scheme.

The appellant refers to the effect of a possible replacement boundary wall being of greater impact than the proposal. However, the Inspector considered that it is not in evidence that such a fall-back position exists. In any event, he did not concur that such an effect would be more harmful.

W/20/0992	6 Tithe Barn Close	Two Storey Rear Extension Delegated	George Whitehouse	Questionnaire: 30/10/20 Statement: 23/11/20	Ongoing
W/20/0940	Glenthorne, Five Ways Road, Shrewley	Appeal against a Certificate of Lawfulness for the use of a Building as a Dwelling. Delegated	Helena Obremski	Questionnaire: 14/12/20 Statement: 4/1/21	Ongoing
W/20/1091	Terets Lodge, Rising Lane, Lapworth	Single Storey Rear Extension Delegated	Jonathan Gentry	Questionnaire: 14/12/20 Statement: 4/1/21	Ongoing

W/20/0716 and 0717/LB	28 Kenilworth Road, Leamington	Two storey Rear Extension to construct 3 Apartments Delegated	Lucy Hammond	Questionnaire: 25/11/20 Statement: 9/12/20	Appeals Dismissed
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The Inspector noted that appeal building, in common with most of the nearby villas, has a long two-storey service wing to the rear. The proposed extension would almost double the depth of the existing rear wing, with an eaves and ridge height matching the existing. There would be no visual differentiation between what is the currently the 'service' wing and what would be the extension, with walls and roof planes 'run through' on the same plane and alignment. Further, the historic end gable would be completely obscured. As such, there would be no degree of subservience at all to the main building, contrary to the advice in the Residential Design Guide SPD. Overall, he considered the extension would be disproportionate in terms of its scale bulk, and massing, and would dilute and confuse the building's historic origins.

The Inspector also raised concerns regarding the somewhat diagrammatic nature of the submitted plans, which lack the full details that would be expected in any scheme affecting a listed building stating that this lack of information concerning the effect of the proposal on historic fabric is a serious shortcoming of the scheme. He noted that most of the proposed new window openings would have a horizontal emphasis, completely at odds with the vertical proportions of those in the existing main building and service wing.

The Inspector noted that the Arboricultural Assessment recommends that a 'pile and beam' foundation methodology is used to safeguard the Wellingtonia tree's roots and ensure that any damage is minimised. However, he found that the Assessment contains no suggestion that any investigations have been carried out such as the digging of trial pits, soil analysis, or the identification of any specific roots which may lie beneath the site of the proposed extension. If such roots were found he had concerns that the development could potentially threaten the tree's future health and longevity. In addition, the Assessment says pressure for tree removal should not increase as a result of the proposed development. However, the Inspector considered that the tree would be very close to the extension, and some limbs would overhang the roof in some places. Indeed, the Assessment says the canopy will need to be reduced by 2m where it overhangs the site to provide clearance for the building, and may need to be crown-lifted in the future. Such measures would seriously compromise the tree's amenity value. He concluded that the proposal would potentially harm the future and life expectancy of the Wellingtonia tree.

<p>Whilst the proposed apartments would provide future occupiers with acceptable living conditions, the Inspector noted that the extension would totally block two windows in the existing rear gable elevation. Consequently, two rooms within the HMO served by those windows would be totally deprived of outlook and natural light.</p>					
W/20/0775	10 Almond Avenue, Leamington	One and Two Storey Extensions Delegated	Thomas Fojut	Questionnaire: 28/10/20 Statement: 19/11/20	Appeal Allowed
<p>The Inspector observed that due to its roof design and substantial projecting front gable, the appeal dwelling is unique in its appearance in relation to the surrounding street scene. He noted that requirement in the Residential Design Guide to set extensions down and back, however, he noted that to require that such a stipulation be met with respect to the proposed two storey side extension would mean that it would not be able to replicate the design aesthetics of the front elevation of the original dwelling and it would not allow for the symmetrical and visually pleasing design that is proposed to what is an individually designed building. Furthermore, as the projecting gable is the dominant visual feature on the dwelling, the design proposed would achieve an adequately subservient appearance.</p>					
New W/20/0483	17 Gaveston Road, Leamington	Appeal against the refusal of a Lawful Development Certificate for the Use of the Property. Delegated	Andrew Tew	Questionnaire: 3/12/20 Statement: 31/12/20	Ongoing
New W/20/1167	Great Pinley Barns, Nunhold Road, Shrewley	Removal of Condition Restricting Permitted Development Rights Delegated	Andrew Tew	Questionnaire: 14/12/20 Statement: 25/1/21	Ongoing

New W/20/1055	Hobournes, Upper Spring Lane, Kenilworth	Two Detached Dwellings Committee Decision contrary to Officer Recommendation	Helena Obremski	Questionnaire: 14/12/20 Statement: 25/1/21	Ongoing
New W/20/1275	River Studio, Old Milverton Lane, Old Milverton	Removal of Condition Restricting Permitted Development Rights Delegated	Helena Obremski	Questionnaire: 21/12/20 Statement: 1/2/21	Ongoing
New W/20/0774	1 Beaurevoir Way, Warwick	Erection of a Dwelling Delegated	Rebecca Compton	Questionnaire: 21/12/20 Statement: 1/2/21	Ongoing

Enforcement Appeals

Reference	Address	Issue	Officer	Key Deadlines	Date of Hearing/Inquiry	Current Position
ACT 450/08	Meadow Cottage, Hill Wootton	Construction of Outbuilding	RR	Statement: 22/11/19	Public inquiry 1 Day	The inquiry has been held in abeyance
ACT 097/17	2 Satchwell Place, Leamington Spa	Construction of Fence	RR	Statement: 23/6/20	Written Representations	Ongoing

Grounds of Appeal

The steps to comply with the notice are excessive
The Notice compliance period is too short.

ACT/565/18	41 Clemens Street, Leamington	Erection of structures/fencing to the front of the premises	RR	Statement Due: 5/11/20	Written Representations	Ongoing
Grounds of Appeal						
<p>That the alleged works haven't taken place. That the alleged works (if they occurred) do not constitute a breach of planning control. That the steps to comply with the notice are excessive.</p>						
ACT/386/19	89 Shrubland Street, Leamington	Change of use to a 7 bed HMO.	RC	Statement Due: 11/09/20	Written Representations	Ongoing
Grounds of Appeal						
<p>Planning permission ought to be granted.</p>						
ACT/354/20	Old Folly Barn, Kites Nest Lane, Beausale, Warwick	Erection of detached car port.	GW	Statement Due: 5/8/20	Written Representations	Ongoing

Tree Appeals

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