

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

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
W/18/0554	Waverley Riding School, Coventry Road, Cubbington	16 Dwellings <b>Committee Decision contrary to Officer Recommendation</b>	Lucy Hammond	Questionnaire: 21/5/19 Statement: 18/6/19 Comments: -		TBC
W/18/1180	Faerie Tale Farm, Rouncil Lane, Kenilworth	Retention of Residential timber Cabin <b>Committee Decision in accordance with Officer Recommendation</b>	Dan Charles	Questionnaire: 17/5/19 Statement: 5/6/19 Comments: 3/7/19	23 July 2019	- -Decision Awaited.

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 <b>Committee Decision in accordance with Officer Recommendation</b>	Rebecca Compton	Questionnaire: 23/10/18 Statement: 14/11/18 Comments:	Ongoing
W/18/1676	Glenshee, 93 Chessetts Wood Road, Lapworth	Hip to Gable Roof Extension and Dormer Extensions <b>Delegated</b>	Emma Booker	Questionnaire: 11/1/19 Statement: 4/2/19 Comments:	<b>Appeal Dismissed</b>
<p>The Inspector noted that the proposed extension would not result in an increase in the footprint of the building but would increase the height and mass of the property. The proposal would result in a 270% increase in gross floor area from the original 1950s dwelling house. Accordingly, based on the evidence before him, comparing the original dwelling to the extended building and include the proposed alterations, cumulatively these additions would be disproportionate, and he found the scale of the proposed property would be beyond that considered allowable under Policy H14.</p> <p>The appellants claim that as a fall-back position, demolition of the existing dwelling and a new build could result in a significantly larger property than the appeal proposes, however, the Inspector found no evidence to suggest that this would happen. Moreover, both local and national policies seek to restrict replacement dwellings within the Green Belt, which are materially larger than those that they are intended to replace.</p> <p>The Inspector had regard to the appellants' suggestion that matter of bats could be adequately addressed by a planning condition. However, the Inspector considered that such an approach would be clearly contrary to the advice to establish the extent to which protected species might be affected before planning permission is granted, as set out within Circular 06/2005.</p>					
W/18/1779	170 Emscote Road, Warwick	Alterations and Extension to Form Flat <b>Delegated</b>	Helena Obremski	Questionnaire: 27/2/19 Statement:	<b>Appeal Allowed</b>

				27/3/19 Comments: 10/4/19	
<p>The Inspector noted the Council's concern that the proposal does not reflect the more modest extensions that are common within the terrace and agreed that where roofs are highly visible and uniform this would be a more appropriate design response. However, he considered that in this particular case, the roof does not conform to the height and appearance of others in the terrace and the proposal would therefore not be visually intrusive.</p> <p>The Council was concerned that the only view from the living room would be from a rooflight and that the outlook from it would be unacceptably poor. However, the appellant pointed out that in that case the rooflights did not open below 1.7 metres and the bottom half of the roof light was obscurely glazed. This would have severely restricted views. Such restrictions do not apply in this case where the occupiers would be able to look out from the rooflight, and when opened look down towards the opposite side of the street. Moreover, the flat would be open plan with a window serving the bedroom which would allow views to the rear. The Inspector considered that in this case the bedroom window and rooflight would provide adequate outlook from the flat such that the living conditions of occupants would not be harmed.</p>					
W/18/2258	Roundhill Farm, Rouncil Lane, Kenilworth	Removal of Condition relating to Occupancy <b>Delegated</b>	Helena Obremski	Questionnaire: 20/3/19 Statement: 17/4/19 Comments: 1/5/19	Ongoing
W/18/1733	Sowe View, Coventry Road, Stoneleigh	2 bedroomed bungalow <b>Committee Decision in accordance with Officer Recommendation</b>	Angela Brockett	Questionnaire: 8/5/19 Statement: 5/6/19 Comments: 19/6/19	Ongoing
W/18/2212	Unit 1 Moss Street, Leamington	Removal of Condition to Allow unrestricted Occupancy of 47 bed HMO <b>Delegated</b>	Angela Brockett	Questionnaire: 22/5/19 Statement: 19/6/19 Comments: 3/7/19	<b>Appeal Dismissed and Costs award Refused.</b>
From the Inspector's observations made on his site visit and from the evidence before him, he found that the surrounding area already suffers					

from a degree of parking stress. He noted that on street parking demands associated with the commercial and industrial units within Althorpe Street were high, with vehicles being parked on both sides of the street close to the appeal site.

It was put to the Inspector that the condition is over restrictive and would discourage support of key local services which would be harmful to growth. In this regard, it is maintained that the condition is not reasonable as local employers, such as Jaguar Land Rover, would provide incentives such as a dedicated bus service, which would reduce car usage associated with the proposal. Furthermore, the submissions indicate that, in the event that the condition was removed, prospective tenants would be required to enter an agreement not to bring cars with them to the site or the local area and that therefore there would be no additional impact on local parking.

However, the Inspector considered that it cannot be guaranteed that prospective tenants of the proposed development would be employed by any such private company or public organisation which would provide dedicated transport services. Nor could it be guaranteed, in the event such dedicated transport services were currently available, that circumstances may change in the future and that such services may become unavailable.

Furthermore, whilst the Inspector acknowledged the submissions made in support of this appeal with regards to control of parking through tenancy agreements and that parking at the appeal site could be adequately controlled by terms contained within tenancy agreements, he felt it would not be possible to adequately assess whether occupants had brought cars with them to the wider local area without constant checks being made on the local road network.

In the Inspector's view, the proposal would be likely to increase the pressure on parking spaces within the surrounding area, with the proportion of car ownership amongst private residents who were not students being likely to be higher than that of students and that this would be consistent with the conclusions of the Inspector in the previous appeal decision.

#### Costs:

In relation to whether the Council prevented or delayed development that should clearly be permitted, the Inspector found that the removal of the disputed condition would result in harm contrary to the provisions of the development plan. Consequently, he considered that the Council acted reasonably in this respect.

He did not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. He found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.

W/18/2199	135 Warwick Road, Kenilworth	Amendments to Residential Planning Permission including in respect of access	Lucy Hammond	Questionnaire: 1/5/19 Statement:	Ongoing
-----------	---------------------------------	---	-----------------	--	---------

		arrangements. <b>Committee Decision contrary to Officer Recommendation</b>		29/5/19 Comments: 12/6/19	
W/18/2275	Rivendell, Stoneleigh Road, Bubbenhall	Extensions <b>Delegated</b>	George Whitehouse	Questionnaire: 13/5/19 Statement: 4/6/19 Comments: -	<b>Appeal Dismissed</b>
<p>This application related to a dwelling within the Green Belt, outside of the village of Bubbenhall. The Inspector noted that the Council considered the proposals to amount to a 59% increase in floor area compared to the original dwelling, while the appellant calculated this as 50%. Either way, the Inspector judged that the proposals would amount to a substantial increase over and above the 30% limit set in Policy H14. Therefore, whilst noting that the extensions might be seen as a visual improvement, the Inspector concluded that the proposals constituted inappropriate development in the Green Belt.</p> <p>In reaching this conclusion, the Inspector did not accept the appellant's argument that this conflict with Green Belt policy was outweighed by the degree of screening of the property from public vantage points. Neither did they attach any weight to the fact that the resulting dwelling would be smaller than other nearby dwellings (proportionality in Green Belt terms relates solely to the original size of the building being extended).</p> <p>The Inspector concluded that no very special circumstances existed to outweigh the conflict with Green Belt. Particular reference was made to the sustainability benefits cited by the appellant, which were not considered to amount to very special circumstances.</p> <p>The Inspector also did not accept the arguments put forward by the appellant relating to the fallback position of extensions that could be erected under permitted development rights. This was principally due to the fact that these permitted development extensions were not comparable to the appeal proposals in terms of size.</p> <p>The Inspector also judged that the absence of ecological surveys in relation to bats and badgers was a further reason for dismissing the appeal.</p>					
W/19/0239	24 Rounds Hill, Kenilworth	Extensions <b>Delegated</b>	George Whitehouse	Questionnaire: 13/5/19 Statement: 4/6/19 Comments: -	<b>Appeal Dismissed and Allowed in Part</b>
The proposed front first floor extension would introduce a small first floor addition which would not be matched by either of the adjoining					

properties. However, the Inspector considered that as the proposal does not extend any further forward than the existing porch and the roof of the extension would be subservient to the main roof, it would not significantly alter the character of the original house or be harmful to the street scene.

The Inspector agreed with the Council that the breach of the 45-degree relating to the rear extension would result in harm to light and outlook. He issued a split decision, which is something the LPA is unable to do.

W/18/1141	R/O 177 -179 Chassetts Wood Road, Lapworth	Dwelling <b>Committee Decision in accordance with Officer Recommendation</b>	Helena Obremski	Questionnaire: 8/5/19 Statement: 5/6/19 Comments: 19/6/19	<b>Appeal Dismissed</b>
-----------	--	---	-----------------	--	-------------------------

This appeal related to a proposal for a new dwelling on Chassetts Wood Road, within a limited infill village in the Green Belt. The main issue related to whether or not the proposal constituted limited infilling in accordance with Local Plan Policy H11. On this point the Inspector concluded that, given the large open gap between the site and the built up frontage to the north, the proposed development would not constitute infilling. Therefore the proposals were inappropriate development within the Green Belt. The Inspector also judged that the proposals would detract from the open and rural character of the area and would potentially result in the loss of trees and hedges that make a positive contribution to the area.

With regard to very special circumstances, the Inspector did not accept that the recent permissions granted for infill dwellings elsewhere in the village were comparable, since these were for genuine infill plots in accordance with Policy H11. Neither did the Inspector attach any weight to the appellant's argument that existing dwellings in the area had been extended and altered. As a result, the conclusion was that there were no very special circumstances to outweigh the conflict with Green Belt policy.

W/18/1520	Holly Tree Cottage, Tapster Lane, Lapworth	Application for a Lawful Development Certificate for the Stationing of a Mobile Home <b>Delegated</b>	Angela Brockett	Questionnaire: 4/6/19 Statement: 2/7/19 Comments: 23/7/19	<b>Appeal Dismissed</b>
-----------	--	--	-----------------	--	-------------------------

The Inspector agreed that the basic expectation for annexe accommodation is that in order to constitute permitted development it must be ancillary or incidental to the enjoyment of the main residential dwelling of the site. He noted that in this case there is no dispute that the mobile home would be self-contained and it would be capable of covering a normal residential use by the provision of primary living accommodation in the form of a living room, a kitchen, two bedrooms and a shower room. Therefore, on its face the face, it contradicts the

guidance in the GPDO relating to Class E requirements. However, it is agreed by the parties and is a matter of law, that the fact that a unit is self-contained is not sufficient in itself to say that it is not ancillary. In the case of 'Uttlesford DC v Secretary of State 1992' it was held that a self-contained annexe can still be ancillary to the main house. Each case must be assessed on its merits and it is a matter of fact and degree as to whether or not an annexe (in this case the mobile home) has a functional relationship to the main house.

The Inspector referred to the facts that access, utility bills, services, the postal address and indeed the curtilage of the main house would all be shared and found that these are all factors which are symptomatic of an ancillary use. But, in addition to these factors, in the 'Uttlesford' case it was also held that it was necessary to consider how the annexe was to be used when assessing the separation between the main house and the annexe. In that case the occupant of the annexe was living alone and needed specific care at that time. There was no question about the level of dependency of the occupant of the annexe on the occupants of the main house and this tipped the balance in reaching a conclusion that its use was indeed truly ancillary. The Inspector, however, considered that in the current appeal case, whilst acknowledging and sympathising with the fact that the appellant's mother is suffering from the degenerative spinal disease, there is no submitted medical evidence that she is currently in need of full-time care. The appellant's father is still working and there is no evidence that he is suffering from any major health issues. The Inspector considered that at present, and in the absence of the appellant's mother requiring full-time medical care, the couple would be capable of generally looking after each other and living separate lives functionally from the appellant and his family.

In the Uttlesford case, the occupant of the annex was totally reliant on the occupants of the main house at the time of the LDC application and the evidence clearly showed this to be the case. That was why, on balance, the use of the annex was considered to be ancillary and/or incidental to the enjoyment of the dwelling house. There was a clear functional, ancillary and immediate need demonstrated for the care of the person occupying the annex in that case. Whereas in this instance, the Inspector did not consider that the evidence is sufficiently precise or unambiguous to indicate that there is an immediate need for the appellant's mother to be fully cared for by the appellant in the mobile home. It has not been fully demonstrated why the appellant's parents would not be fully capable of cooking and looking after themselves and thereby using the mobile home as a separate dwelling. Thus, the functional link that was obvious in the Uttlesford case has not been fully demonstrated in this instance.

W/18/1630	The Cedars, Stoneleigh Road, Bubbenhall	Erection of Dwelling House <b>Committee Decision in accordance with Officer Recommendation</b>	Angela Brockett	Questionnaire: 10/6/19 Statement: 8/7/19 Comments: 22/7/19	Ongoing
W/19/0091	21 Northumberland Road, Leamington	Erection of Railings and Gates <b>Delegated</b>	Emma Booker	Questionnaire: 17/6/19 Statement: 9/7/19	Ongoing

				Comments: -	
W/18/1276	2 Satchwell Place, Leamington	Retention of Fence <b>Committee Decision in accordance with Officer Recommendation</b>	Helena Obremski	Questionnaire: 18/6/19 Statement: 10/7/19 Comments: -	<b>Appeal Dismissed</b>
<p>The Inspector noted that the terrace is set back from the path by substantial front gardens. Metal railings form the front boundary of the gardens along the terrace. Behind the railings and along the sides of the garden at No 2 Satchwell Place a timber fence with concrete posts has been erected.</p> <p>He considered that the listed building at Satchwell Place is a Regency terrace, the setting of which is primarily characterised by the openness afforded by the front gardens and the low, open boundary treatments. This openness provides a pleasant contrast to the narrow alleyway on to which it fronts.</p> <p>Although the solid timber fence erected around the front and sides of the front garden is behind the existing railings and partially screened to the front by planting, he felt that it does not respect the open character of the terrace and adjoining gardens. Furthermore, he noted that the posts are a vivid light grey colour and, as the fence is taller than the railings, it is visually intrusive. In comparison to the lightweight design of the railings, he concludes that the timber fence looks cumbersome and jarring and its modern appearance does not respect the historic character of the heritage assets.</p> <p>Although the appeal site is fairly enclosed and is not immediately visible in the wider area, its location in the LSCA means it still has an impact on the historic interest of the area, albeit that impact is focussed. Likewise, although the alley past the site may not be regularly used, this does not mitigate the harm caused to the historic environment.</p> <p>He acknowledged that the appellant has offered to provide landscaping around the fencing to reduce the visual impact of the proposal. However, he considered that landscaping could take a considerable time to mature and even then, it would be unlikely to hide or soften the fence acceptably and therefore mitigate the harm that I have identified.</p> <p>He noted that there is some anecdotal evidence submitted, by the appellant and other supporters, that there is a high level of crime and anti-social behaviour around the appeal site but that the new fence has helped reduce these instances. However, there is no substantive evidence of this so I could only give it little weight. In any case, it was not a public benefit as required by the NPPF.</p>					
W/18/2324	Valley Farm, Valley Lane, Lapworth	Conversion of Barn to Dwelling <b>Delegated</b>	Helena Obremski	Questionnaire: 18/6/19 Statement: 16/7/19	Ongoing

				Comments: 30/7/19	
W/18/2287	Lapworth Farm, Spring Lane, Lapworth	Removal of a planning Condition tying the Occupancy of a Dwelling to Valley Farm <b>Appeal against Non-Determination.</b>	TBC	Questionnaire: 10/6/19 Statement: 8/7/19 Comments: 22/7/19	Ongoing
W/19/0281	Eversleigh House, 2-4 Clarendon Place, Leamington	Car parking and Landscaping <b>Delegated</b>	TBC	Questionnaire: 10/6/19 Statement: 8/7/19 Comments: 22/7/19	Ongoing
<b>New</b> W/18/1652	Land adjacent to Long Close, Glasshouse Lane, Lapworth	1 x New dwelling <b>Delegated</b>	Dan Charles	Questionnaire: 24/6/19 Statement: 22/7/19 Comments: 5/8/19	Ongoing
<b>New</b> W/19/0209	Asda Supermarket, Chesterton Drive, Leamington.	Replacement External Pod <b>Delegated</b>	Helena Obremski	Questionnaire: 2/8/19 Statement: 30/8/19 Comments: -	Ongoing
<b>New</b> W/19/0104 and W/19/0105/LB	1 Clarendon Place, Leamington	Single Storey Extension and Alterations <b>Committee Decision in accordance with Officer Recommendation</b>	Rebecca Compton	Questionnaire: 30/7/19 Statement: 27/8/19 Comments: 10/9/19	Ongoing
<b>New</b> W/18/2440	Bramley Cottage, Mill Lane, Little Shrewley	Single Storey Extension <b>Delegated</b>	Emma Booker	Questionnaire: 19/7/19 Statement: 12/8/19 Comments: -	Ongoing

<b>New</b> W/18/1331	Land off Arras Boulevard, Hampton Magna	Residential development of 130 units <b>Committee Decision contrary to Officer Recommendation</b>	Lucy Hammond	Questionnaire: 2/7/19 Statement: 30/7/19 Comments: 13/8/19	Ongoing
<b>New</b> W/18/2119	1 Huddisdon Close	Erection of Fence <b>Delegated</b>	Rebecca Compton	Questionnaire: 23/7/19 Statement: 14/8/19 Comments: -	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	<b>29 May</b> over 3 days	<b>Appeal allowed</b>

This appeal related to the unauthorised intensification of use of a development of 4 large flats. As approved, the development comprised HMOs with a total of 14 bedrooms, but the development had been amended internally to provide 27 bedrooms. The main issue related to Local Plan Policy H6 and whether the development contributes to a harmful over-concentration of HMOs / student accommodation in the locality.

It was common ground between the appellant and the Council that the development contravened the 10% limit in Policy H6. So the key consideration in the appeal was whether the exception relating to a main thoroughfare was met. The exception requires the site to be on a main thoroughfare *and* "in a mixed use area where the proposal would not lead to an increase in activity along nearby residential streets". The Council had accepted that the site was on a main thoroughfare, but considered that this was not a mixed use area and that there would be an increase in activity along nearby residential streets (this part of Tachbrook Road is exclusively residential, including 3 non-HMO dwellings).

In considering whether this was a mixed use area, the Inspector included the area around Wise Street and Wise Terrace to the rear of the site, due to the fact that there was a secondary pedestrian access and vehicular access to the site from that area. Given the purposes of the policy (to protect non-HMO dwellings), the Inspector also considered that HMOs in the locality should not be treated as dwellings when considering whether this was a mixed use area. Therefore, given the existing predominance of HMOs in the locality, as well as other commercial uses in Wise Street / Wise Terrace, he judged that this was a mixed use area.

Turning to the last part of the exception (the increase in activity along nearby residential streets), the Inspector noted that the site was close to the town centre and that there were very few non-HMO dwellings on this stretch of Tachbrook Road. He also noted that Tachbrook Road was the main thoroughfare where Policy H6 indicates HMOs are acceptable. Weight was also attached to the fact that there was no evidence of late night disturbance or anti-social behaviour since the use first began in 2016. Finally, the appellant had proposed a management regime which included supervision by the management team permanently based at Station House opposite the site. Taking all of this into account, the Inspector concluded that it was unlikely that during quiet times of the night occupiers of the property would pass through residential areas such that there would be a significant increase in activity along nearby residential streets.

As a result, the Inspector judged that the exception to Policy H6 was met.

ACT 026/17	Fleur De Lys, Lowsonford	Erection of a pergola- attached to listed building. Planning granted but lb consent refused for applications to retain. Alternative scheme submitted approved but have failed to implement	RL	Start date 21/05/19 Statements 02/07/19 Final comments 23/07/19		<b>Enforcement Notice Withdrawn</b>
------------	-----------------------------	---	----	--	--	---

Notice withdrawn following the identification of a technical error. This notice will be re-served and further appeal expected						
ACT 450/08	Meadow Cottage, Hill Wootton	Construction of Outbuilding	RL	Start date 04/06/19 Statements 16/07/19 Final comments 06/08/19	Public inquiry over 2 days	Ongoing  No confirmed date has been given for this inquiry but is expected mid Jan/Feb 2020

### Tree Appeals

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