

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

Public Inquiries - None
Informal Hearings - None
Written Representations

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Current Position
W//18/00 11	Gospel Oak Farm, Rising Lane, Lapworth	Change of Use of Outbuilding to Dwelling Delegated	Lucy Hammond	Questionnaire: 11/10/18 Statement: 8/11/18 Comments: 22/11/18	Appeal Dismissed

The Inspector noted that the appeal site is located outside of Lapworth's village envelope as defined by Policy H1 of the Local Plan and therefore is located within the open countryside. Notwithstanding the nearby presence of other buildings, the site is isolated in the sense that it is beyond the defined development limits of the village in an area that is not well connected to local services and facilities and where no other similar development is expected.

Very limited external alterations are proposed as part of the proposal, although he noted that these would include rendering the rear elevation which is currently finished in modern blockwork that is somewhat unsympathetic to the building's other external facing materials. Furthermore, from his inspection of the outbuilding, which is presently used to a limited extent for domestic storage purposes, whilst well-maintained in general terms, outward indications were apparent that it is not frequently visited or used to its full potential. For example, its front elevation showed some signs of weathering and surrounding hard surfaced areas showed signs of infrequent use, i.e. moss and leaf litter covered much of their extent. The Inspector considered that the conversion of the outbuilding to a dwelling would likely bring with it associated activity and heightened expectations in terms of the building and surrounding land's on-going maintenance. Whilst only to a minor extent, the proposal would be expected to enhance the building's immediate setting, which would satisfy the exception to isolated dwellings.

With respect to outlook however, other than skyward outlook via rooflights, it would only be provided via the glazed frontage (to serve the intended living/kitchen area) and via patio doors to the intended main bedroom. The proposal involves the provision of a habitable second bedroom that would be wholly reliant on only a single small rooflight for outlook. He considered that such an arrangement would not provide for an appropriate standard of outlook from the second bedroom for future occupiers.

In terms of the availability of private garden space, he noted that external areas within the appeal site currently make up part of the wider residential curtilage of Gospel Oak Farm. The external areas within the appeal site would provide ample opportunities for parking but, from the evidence before him, he was not assured that a satisfactory external area would be provided for the private enjoyment of future occupiers of the proposed dwelling.

From the evidence before the Inspector, no investigation into the potential for bat roosts to be present at roof level has been carried out. The Council's Ecological Services has stated that there are a number of bat records close to the site and that there is suitable habitat for foraging bats in the surrounding area. They have suggested that an Initial Bat Survey is carried out by a qualified bat ecologist prior to planning permission being issued. From the evidence before him, he had little basis to dispute the possible presence of bats. He noted that Circular 06/2005 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

The Council referred to its guidance note in relation to the provision of waste and recycling storage and collection and to a relevant maximum waste and recycling movement distance of 15m contained within. Notwithstanding the aims of the Council's guidance note, he felt it would not be uncommon, particularly in rural areas such as this, for residential dwellings to be sited in excess of 15m from a waste collection point. The site-specific circumstances in this case lend themselves to relatively straightforward waste and recycling movements, whereby bins/containers would be wheeled/carried over level ground and between locations that provide appropriate storage opportunities. This is even when factoring in the approximate 85m distance involved.

W/18/098 6	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/18/060 7	Sunnyside, Old Warwick Road, Lapworth	2 Dwellings Delegated	Helena Obremski	Questionnaire: 26/11/18 Statement: 24/12/18 Comments: 7/1/19	Appeal Dismissed

The Inspector noted that the appeal site is located outside of any designated village boundary and therefore is in open countryside. It is remotely located with respect to nearby villages, the nearest of which, Hockley Heath, is located approximately half a mile away.

Policy H1 of the Local Plan sets out a settlement hierarchy for the location of new housing. In the open countryside in locations remote from the boundaries of urban areas or growth villages, housing development is supported in only a limited number of set out circumstances. The proposal is not for rural affordable housing, not for a rural worker, not related to a heritage asset, would not re-use existing buildings and, from the evidence before me, its design is not intended to be of very exceptional quality or innovative nature. It is therefore in conflict with Policy H1.

Hockley Heath, which contains facilities and services able to serve the day-to-day needs of future occupiers, is located along Old Warwick Road from the appeal site. It is not however positioned within comfortable walking distance. Only limited extents of pavement and street lighting are in place and there are no cycle

lanes. The village of Lapworth, which also contains a range of facilities and services including a railway station, is located further away from the appeal site when compared to Hockley Heath along a route that is subject to very similar constraints. Furthermore, during inspection, the Inspector noted no evidence of regular public bus services stopping close to the appeal site.

The revised Framework sets out that the development of isolated homes in the countryside should be avoided. The appellant is of the view that the proposal would not provide for isolated homes due to its proximity to other development. It should be noted that whether the site is defined as isolated or not has no bearing on whether or not the scheme conflicts with Policy H1. In any event, he acknowledged that the proposal would not be isolated in physical terms due to the presence of neighbouring built form. The site is however isolated in the sense that it is beyond the defined development limits of nearby villages in an area that is not well connected to local facilities and services and where no other similar development is expected by the development plan.

W/18/068 3	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/18/107 1	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/18/155 0	West Hill, Westhill Road, Cubbington	Detached Garage and Walled Courtyard Committee Decision in accordance with Officer Recommendation	Emma Booker	Questionnaire: 25/12/18 Statement: 16/1/19 Comments:	Appeal Allowed and Application for Costs Refused.

The appellant put forward that the proposal would add a structure of 115sqm floor area, which would constitute an addition of 9% to the total above ground floor area of the original dwelling. Having regard to the information before the Inspector, he considered that in quantitative terms, it is below the 30% guide set out in Policy H14 of the LP. The appellant considered that the proposal should be considered as an extension or alteration to the dwelling and therefore may fall under exception (c) of paragraph 145 of the Framework.

The Inspector noted that the proposed development would be separated from the original dwelling by virtue of being located beyond the existing forecourt to the dwelling. The proposed development would be within the curtilage of the existing dwelling and is relatively close to

the existing dwelling. The proposal would, in terms of its dimensions and scale, be subservient to the size of the main dwelling. The garage accommodation would also be incidental to the enjoyment of the dwelling. On this basis he considered the proposal was an extension. The Council consider this is fundamentally flawed and are seeking legal advice on a potential challenge to this decision.

The Inspector considered that as there is already a LDC for the garage, it is more than a theoretical possibility that the development referenced under the LDC as well as the current appeal could be built. Even if it were considered that the appellant is unlikely to need both garages, the appellant could build a large outbuilding to the rear of the dwelling under existing Permitted Development rights, which would have a significant impact on the openness of the Green Belt. Furthermore, there is no physical reason why the garage subject to the LDC and the garage which is subject to the appeal could not both be built as they would be built at different locations within the residential garden of the property. However, the appellant has offered to remove their Class E Permitted Development (PD) rights, which would prevent them from constructing outbuildings in the rear garden through PD. In the context of this development I consider there to be the exceptional circumstances that would justify such a planning condition. The Council note that the removal of PD rights only triggers once the development subject of this application has been implemented. There is nothing to stop the LDC being implemented first. The Council consider that the Inspector has overlooked this and are also considering a legal challenge on this basis.

An application for costs was also made. The applicant contended that the Council did not consider whether the possibility of a detached garage would fall under exception c) of paragraph 145 of the National Planning Policy Framework (Framework) and that they therefore failed to assess whether the proposal represented a disproportionate addition. The appellant also considered that the Council failed to give appropriate weight to the applicant's fall-back position in their assessment.

The Inspector noted that domestic outbuildings are not listed as an exception in the Framework paragraph 145 and are not specifically allowed for in the Local Plan. It is for the judgement for the decision-maker in each case, as to matter of fact and degree whether development is not inappropriate, and also whether there is a fall-back position. Whilst he noted that he has come to a different view than that of the Council, he was satisfied that the Council has not been unreasonable in its determination of the application on the basis of the relevant information available.

W/18/167 6	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/18/175 4	27 Ledbrook Road, Cubbington	Single Storey Extensions Delegated	Emma Booker	Questionnaire: 9/1/19 Statement: 31/1/19 Comments:	Appeal Allowed

Amongst other matters, the RDG states that side extensions should be no more than 2/3 of the width of the original property. In this regard, the Inspector considered that it is not clear from the evidence before me as to what the original property is/was. However, taking the existing property to be the original, he considered that the width of the new extension would not conflict with these guidelines.

He went onto say that even if he were to accept the Council's case that the width of the extension conflicted with the above guidance, he found that its design with a lower ridge line than the existing dwelling and its set back from the front elevation would ensure that it would appear subservient to the host property and would not unbalance the pair of semi-detached properties to an unacceptable degree. Moreover, it would not be unduly prominent in the street scene, as a result of its design and existing landscaping within the garden of no 27.

He acknowledged that the proposal would reduce the openness at the junction of Boddington Close and Ledbrook Road. However, he observed that no 29 Ledbrook Road has a similar side extension to the proposal before him. In this regard, the new extension would reflect the character of the streetscape and would create a degree of uniformity at the junction, which is not the case at present.

W/18/129 2	1 Nursery Lane, Leamington	New Dwelling Delegated	Helena Obremski	Questionnaire: 4/1/19 Statement: 22/1/19 Comments: 5/2/19	Ongoing
W/18/123 1	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/17/140 8	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	Ongoing
W/18/136 7	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/18/035 6	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	Ongoing
W/18/167 1	Land at Little End, Hunningham	Agricultural Building Delegated	Dan Charles	Questionnaire: 13/2/19 Statement: 13/3/19 Comments: 27/3/19	Ongoing
W/18/177 9	170 Emscott 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/17/241 4	Huntley Lodge, 47 Northumberland Road, Leamington	2 Dwellings and 6 Apartments Delegated	Helena Obremski	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Ongoing
W/18/104 9	1 Tancred Close, Leamington	Change of Use to Gymnasium Delegated	Helena Obremski	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Ongoing

W/18/182 1	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	Ongoing
W/17/238 7	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/18/225 8	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/18/016 3 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/18/212 0	50 Clarendon Avenue	Extensions and Alterations Delegated	Liz Galloway	Questionnaire: 5/3/19 Statement: 27/3/19 Comments: -	Ongoing
New W/17/214 5 and 2146/LB; W/19/063 2 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	

New W/18/190 7	8 Cassandra Grove, Warwick Gates	Single Storey Front Extension Delegated	Emma Booker	Questionnaire: 10/4/19 Statement: 2/5/19 Comments:-	
New W/18/205 9	Wain House, Hawkes Meadow, Hunningham	Detached Garage Delegated	George Whitehouse	Questionnaire: 27/3/19 Statement: 18/4/19 Comments:-	
New W/18/205 7	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:-	

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 - None