

**List of Current Planning, Enforcement and Tree Appeals
March 2024**

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	Various Dates in January	Awaiting Decision

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/20/1975	6 Lower Ladies 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	Appeal Allowed and Costs Application Refused

The Inspector agreed with the LPA that the proposal would be inappropriate development in the Green Belt and would cause harm to openness.

The Inspector noted that an LDC had been granted for a proposed larger outbuilding on an undeveloped part of the garden and given that it provides similar accommodation to the proposal, found it likely that it would be built if the appeal were dismissed. By virtue of its increased bulk and massing and its siting in relation to the appeal property, this alternative would have a greater impact on the openness of the Green Belt. He gave significant weight to this.

The appellant submitted a UU which would revoke householder PD rights under Schedule 2, Part 1, Class E of the GPDO while enabling proposal to be implemented. The Council stated that there is no justification to restrict PD rights, pointing out that the GPDO does not discriminate between Green Belt and non-Green Belt land in terms of PD rights. However, the Inspector took the view that, in this case, it would prevent the fallback development occurring, while allowing this less harmful proposal to proceed, so, there would be a clear justification for doing so. The removal of PD rights would not prejudice the Council in determining any future planning applications for other development that would normally be PD. The Inspector allowed the appeal subject to the UU removing PD rights for outbuildings.

COSTS:

The Inspector considered that the Council put forward a reasoned and evidenced approach as to why they considered it was not appropriate to restrict householder permitted development rights and why the restrictions in the UU would not amount to very special circumstances. He also noted that the previous appeal decision did not explicitly reference the acceptability of a UU as a mechanism to restrict permitted development rights. Thus, the Council did not fail to consider the comments of a previous Inspector and did not act unreasonably.

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/22/0357	Liberty House, Stoneleigh Road, Blackdown	Lawful Development Certificate for Various Works Delegated	Lucy Shorthouse	Questionnaire: 23/6/23 Statement: 21/7/23	Ongoing
W/22/0471	Leasowe House, Southam Road, Radford Semele	Erection of 2 Replacement Dwellings Non-Determination Appeal	George Whitehouse	Questionnaire: 4/8/23 Statement:	Ongoing

				8/9/23	
W/22/0198	Highlands Farm, Long Itchington Road, Offchurch	Erection of Dwelling Delegated	Kie Farrell	Questionnaire: 20/10/23 Statement: 17/11/23	Ongoing
W/22/1728	Claywood, Clattyland Lane, Beausale	Erection of Replacement Dwelling Committee Decision in accordance with Officer Recommendation	Kie Farrell	Questionnaire: 1/11/23 Statement: 29/11/23	Appeal Dismissed

The Inspector noted the figures provided by the appellant to demonstrate that the replacement building was not materially larger than the existing dwelling and outbuilding and considered that these were widely varying conclusions depending on whether the outbuilding should be included or not. Referring to case law (Tandridge 2015) where the Judge agreed with the Inspector that there was no reason in principle why the objectives of Green Belt policy could not be applied to more than one building when considering the relationship between those buildings by reference to Green Belt and openness. Indeed, the concept can be broadly applied to Framework exception 154g) when dealing with the "...partial or complete redevelopment of previously developed land..." where there may be a number of buildings that could be redeveloped or replaced. The judgment in Seven Oaks and DAWE and which pre-dates the first publication of the Framework, found in that instance that a detached garage could be considered part of the 'dwelling' and that whether something was a 'domestic adjunct' is a matter of fact and degree.

The Inspector was satisfied that the existing outbuilding is a domestic adjunct and forms part of a group of buildings with the existing dormer bungalow that can be considered together for the purposes of calculating the size of the building to be replaced under Framework and this would not be at odds with the fundamental aims of Green Belt policy.

The Inspector noted that the term "materially larger" is not defined in the Framework or Local Plan Policy DS18 and is a

comparative exercise and the courts have found the exercise is primarily an objective one by reference to size, such as consideration of floor area, volume and dimensions. However, floor area and volume are not the only elements of size. In Tandridge the Judge found that considering actual physical factors such as bulk, massing, scale and form could be used to indicate relative size for the purposes of determining whether a replacement building was 'materially larger' than the building(s) it would replace.

The Inspector noted that the existing dormer bungalow and outbuilding are both low lying structures, particularly the outbuilding with its shallow dual pitched roof. However, the proposed two-storey dwelling element of the replacement building would be much taller than either of the existing buildings. The two-storey dwelling element would also have a much steeper roof pitch than either building. Thus it would extend upwards more than either of the existing buildings and tower above the site and new bungalow annexe. The two-storey element would also be a double-height pitched roof bay above the entrance that would project out 90-degrees from the elevation. This would increase the bulk and massing of the building and change the simple rectangular floor plan when compared to the two existing buildings. There would be a similar double-height feature on the end elevation enclosing a recessed first floor balcony, again increasing the scale of the proposal. A lightwell and excavated area around it to the rear of the two-storey element would provide light to the basement. This, together with the basement itself, would increase the floor area of the replacement building.

Combining these factors, the two-storey element of the replacement building in particular would have far greater scale, bulk and massing than the buildings it would replace. Despite the above-ground floor area being smaller and the volume a little bigger, the replacement building with its increased bulk, scale and massing would be 'materially larger' than the buildings it would replace and would therefore be inappropriate development and harmful to openness.

W/23/0068	17 High Street, Cublington	Subdivision of Flat to Create 2 Flats Delegated	Millie Flynn	Questionnaire: 17/10/23 Statement: 14/11/23	Ongoing
W/23/0445	Garage, 22 St Marys Terrace, Leamington	Conversion of B8 storage building to 1 Dwelling Delegated	Millie Flynn	Questionnaire: 31/10/23 Statement: 28/11/23	Appeal Dismissed

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The Inspector considered that the proposal would result in a noticeably taller, vertical brick wall right at the rear garden boundary of No 20 St Mary's Terrace. The degree of setback of that wall from habitable room windows at No 20, said to be 11m, would therefore be limited. Consequently, from those rooms, and even with the proposed design which slopes down somewhat towards the rear of the appeal building, the proposed built form would appear oppressive. The appeal scheme would extend to two storeys along its frontage on Waterloo Street and consequently, from the garden of No 20, the proposal would appear as a substantial L-shaped building, largely enclosing the garden on two sides. This would result in a noticeable reduction in views through to Waterloo Street. Moreover, given the limitations on space within the garden at No 20, the proposed built form right up to the garden boundary would unacceptably curtail their current sense of space.

The proposal would remove the ability of the occupants of Nos 22 and 24 to enjoy time in their private gardens. They would also lose the ability to use the space for day-to-day tasks such as the drying of clothes. In an area where such terraced houses typically have access to even a relatively small area of private outside space, this would unacceptably harm their living conditions. He also stated that the presence of some other houses in the vicinity with garden sizes smaller than that recommended in the Council's Residential Design Guidance SPD (May 2018) (SPD) does not justify allowing a proposal that would result in the occupants of two houses being without private garden space.

The existing site contains two single storey buildings. He considered that whilst relatively modern in design, their low rise, brick built design is unobtrusive in the street scene and allows views from Waterloo Street to the rear elevations of terraced housing on St Mary's Terrace. Moreover, given their limited scale and the mix of commercial and residential uses within the Conservation Area, he saw no reason to conclude that the commercial use of the appeal buildings is harmful to the significance of the Conservation Area. Consequently, the existing appeal buildings have a neutral effect on the Conservation Area.

The proposed dwelling would match the height and general form of the neighbouring house at 2 Waterloo Street. However, the Inspector noted that whilst its frontage would be of a similar width to No 2, it would be a detached dwelling, at odds with the characteristic terraced housing here. Its uncharacteristic design would be emphasised by the angled elevation to the right of its front façade, with windows at ground and first floor level on that return. Furthermore, the proposed use of the gardens for Nos 22 and 24 as a side garden for occupants of the appeal scheme would be contrary to the prevailing pattern of terraces with rear gardens. Consequently, the proposal would result in the loss of this characteristic feature at a prominent location on Waterloo Street. Therefore, the proposal would not preserve or enhance the character or appearance of the Conservation Area and there are no public benefits to outweigh this.

W/22/1739	26 Wathen Road, Warwick	Erection of dwelling Appeal against non-determination	Jack Lynch	Questionnaire: 15/12/23 Statement: 12/1/24	Appeal Dismissed
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The site is in Flood Zones 2 and 3 and the main issue was whether the proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding. The appellant's Flood Risk Assessment (FRA) confirmed a design flood level on site of 51.16m AOD. However, the Inspector noted that the FRA is not supported by a detailed topographical survey to confirm ground levels across the whole site. The NPPF advises at paragraph 165 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Paragraph 168 of the Framework and the PPG aim to steer development to areas with the lowest probability of flooding through a sequential test. To ensure safe development, the Environment Agency recommend Finished Floor Levels (FFLs) of the proposed dwelling should be set no lower than 600mm above the design flood level with flood proofing techniques where appropriate. EA standing advice and Local Plan Policy FW1(e) of the Local Plan require development in areas of flood risk to have finished floor levels 600mm above the predicted floor level. However, the FRA only proposed FFLs 300mm below the recommended level. In addition, the Inspector considered that it was not possible to confirm what depths or velocity of flooding is likely to be during a design flood event along Wathen Road. The development would be sited around 95m from land within flood Zone 1 and therefore it was unclear whether the proposed development would have safe, dry pedestrian access above the design flood event. As such, the Inspector concluded that it had not been demonstrated that future occupants of the proposed dwelling would have safe access and an emergency escape route to dry land.

The PPG makes clear that even where a flood risk assessment shows the development can be made safe throughout the lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. The submitted FRA did not assess any other suitable sites in lower flood risk areas outside the appellant's ownership locally or within the wider area. Consequently, there was insufficient evidence to demonstrate that the sequential test has been satisfied. The proposal failed to demonstrate that there are no other sequentially preferable alternative sites for the proposed development. Therefore, the proposal would not comply with local or national planning policy which seeks to steer new development away from areas at the highest risk of flooding.

The Inspector noted that the Lead Local Flood Authority did not raise an objection to the proposal but as highlighted by the PPG, it

is the responsibility of the local planning authority in the first instance to be satisfied that the Sequential Test is appropriately applied.

W/23/0768	Land at, Squab Hall Farm, Harbury Lane, Bishops Tachbrook	Change of use of agricultural land to dog walking field and associated boundary fencing and Gates Delegated	Jack Lynch	Questionnaire: 9/1/24 Statement: 23/1/24	Appeal Allowed
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The main issue was whether the appeal site and proposal would be in a suitable location, having regard to the requirements of local and national policy. The appeal site is located beyond the settlement limits of both Leamington and the village Bishops Tachbrook and being surrounded by fields it is clearly in the countryside. However, the Inspector noted that housing on the edge of Leamington is about 350 metres away to the west, a short distance beyond this he saw a large traffic light controlled junction leading to more housing. Therefore, while the site is in the countryside it is relatively close to the suburbs of Leamington and hence is not in a remote or isolated location.

In promoting sustainable patterns of development, the Framework seeks to focus development on locations which are, or can be made, sustainable through limiting the need to travel and offering choices of transport modes.

He noted that there are no pavements, wide grass verges or streetlights along Harbury Road. Because of this and some vehicles he saw traveling at speed, and it would not be conducive for pedestrians or cyclists to use with their dogs to get to the site. He saw no bus stops and was not aware of any public transport that passes the site. Consequently, he concluded that users of the proposed dog walking facility would most likely be reliant on the private car to get to and from the site.

The provision of a large field to enable dogs to run safely off the lead requires a large open area. There would likely be limited availability of such land in an urban area. Hence to use a field on a farm would most likely have to involve a countryside location. It is not uncommon for dog walkers in urban areas to drive their dogs to more rural and countryside locations in order to walk them in more open areas in less restrictive locations.

The site is relatively close to the edge of Leamington Spa and there are a considerable number of dwellings in the general vicinity, and more being built, such that dog walkers would not be travelling significant distances to access the appeal site. Whilst Harbury

Lane is not conducive for walking along, there is footpath access to Oakley Wood Road which has a pavement that links to the village of Bishops Tachbrook and to the new housing developments on the edge of Leamington by the traffic lights with Harbury Lane. Hence there will be a greater population within reasonable walking distance of the appeal site, even if there are no public transport links. In any event, using public transport with a dog(s) would not always be practical. Furthermore, professional dog walkers, who may have a number of dogs to walk at any one time, would most likely use their own vehicles for safety, rather than using the bus. There may also be some opportunities for linked trips if family/friends are visiting the various nearby recreational facilities described above.

Although the proposal is likely to be car dependant, it would nonetheless operate at a low intensity. The proposed facility would give dog walkers a safe and secure environment in which to walk and exercise their dogs off the lead, particularly for dogs with behavioural issues and with some members of the public being anxious of dogs being exercised in public spaces. The appellant's evidence shows there is a demand for such dog-walking facilities. The proposal would accord with one of the Framework's aims of promoting healthy lifestyles though the provision of safe and accessible green infrastructure as well as improve public access to the countryside.

Drawing all the above points together he was satisfied, given the nature of the proposed use, that the appeal site would be a suitable location for a secure dog walking field.

W/23/0852	15 South Terrace, Whitnash	Lawful Development Certificate for an existing roof terrace and balustrade. Delegated	Jack Lynch	Questionnaire: 1/1/24 Statement: 22/1/24	Ongoing
W/23/1019	15 South Terrace, Whitnash,	Erection of balustrade around existing flat roof rear projection (Retrospective) Delegated	Jack Lynch	Questionnaire: 1/1/24 Statement: 22/1/24	Ongoing
W/21/1492	10 Meadow Close, Lillington	Lawful Development Certificate to confirm that planning permission	James Moulding	Questionnaire: 6/12/23	Ongoing

		W/80/0019 was implemented. Delegated		Statement: 3/1/24	
W/22/0956 and W/22/0957/LB	Church Farmhouse, Woodway Lane, Budbrooke	Erection of first floor extension to residential barn Delegated	James Moulding	Questionnaire: 4/1/24 Statement: 18/1/24	Ongoing
W/23/0530	13 Hall Close, Stoneleigh	Various Extensions and Timber Cladding Delegated	Lucy Shorthouse	Questionnaire: 13/11/23 Statement: 4/12/23	Appeal Dismissed and Costs Application Refused.

The Inspector concluded that the proposal would result in a disproportionate addition which would be inappropriate development and result in moderate harm to openness.

With regards to design, whilst the proposed first floor addition would be subservient to the appeal property and the external materials would be sympathetic to its appearance and the surrounding area, the Inspector considered that the convoluted building design formed of multiple additions of disjointed heights together with the angular ground floor projection would increase the bulkiness of the proposal such that it would overly dominate the appeal property and would also disrupt the balance displayed at the rear of semi-detached dwellings. The visual complexity of the proposal would be at odds with the general consistency and simplicity of the built form. As such, it would read as an incongruous and obtrusive form of development.

COSTS against the Council:

The Inspector found that that the Council's reasoning clearly sets out clear and unambiguous reasons to refuse planning permission. Consequently, the evidence did not persuade him that the Council prevented or delayed development which should clearly have been permitted. He stated that it was clear from the report and supporting emails that the Council had regard to similar developments within the locality. However, unlike the appeal scheme, these were not found to be disproportionate. Therefore, it is not the case that the Council failed to recognise these developments or determine proposals in a consistent

manner. In any event, in such circumstances, there is a degree of planning judgement based on the specifics of the case. Therefore, whilst the 30% threshold may have been exceeded historically, this does not justify the appeal proposal or suggest to me that the Council's decision to refuse planning permission was inconsistent.

COSTS against the appellant:

The Inspector acknowledged that the proposed increase in gross internal floor space is more than double the size parameter indicated as being acceptable in Local Plan Policy H14. However, the overall form and design of the appeal proposal is notably different to that previously proposed, as is the scale and massing and the Inspector considered it was not unreasonable for the appellant to consider that the weight afforded to the Green Belt harm could differ. As such, he did not consider that the appellant acted unreasonably in bringing the appeal.

W/19/1133	Land at Ward Hill, Warwick Road, Norton Lindsey	Erection of two replacement poultry houses and the erection of a farm manager's dwelling. Committee Decision in accordance with Officer Recommendation	Dan Charles	Questionnaire: 16/10/23 Statement: 13/11/23	Ongoing
W/23/0643	34 Leyfields Crescent, Warwick	Erection of Fence Delegated	James Moulding	Questionnaire: 11/1/24 Statement: 1/2/24	Appeal Dismissed

The main issue was the effect of the proposed fence on the character and appearance of the appeal property in the context of the street scene in Leyfields Crescent. The Inspector noted that the proposed 1.83m fence would surround the greater part of the presently open street frontage to the side of No 34 Leyfields Crescent, extending from the back of the footway and returning towards the front of the dwelling to leave open only the driveway and a smaller area of front forecourt. He considered that this

would be an exception, markedly out of keeping with the otherwise open and spacious street frontage, which is a feature of the rest of the Crescent. As a result, the proposed fence would be seen as a harsh visual intrusion, detracting unacceptably from the character and appearance of both the host property and the surrounding street scene. Accordingly, the proposed fence would be in conflict with the requirements of Local Plan Policy BE1.

W/23/1163	27 Lamintone Drive, Leamington	First Floor Side Extension and Dormer Window Delegated	James Moulding	Questionnaire: 12/1/24 Statement: 2/2/24	Appeal Allowed
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The Inspector noted that the Council previously granted approval for a comparable extension to No 27 Lamintone Drive and this created a fallback situation necessitating comparison between the approved and currently proposed schemes with the essential difference between them being that, in the former, the front elevation of the first floor side extension is set back 450mm from the front of the main construction whereas, in the appeal scheme, the front and roof of the extension are flush with the front elevation and roof of the main house. The Council's sole objection to the present design was that the proposed side extension is not set back by at least 450mm in accordance with design guidance adopted by the Council to cause house extensions to appear duly subservient to their host buildings.

The Inspector noted that the roof ridge of the extension would still be significantly below that of the main roof and, although aligned with the principal elevation, the front wall of the extension would be well set back from the front of the garage. Overall, he was satisfied that the extension now proposed would appear appropriately subservient to the main dwelling, including when viewed from the side, despite the alignment of the front roof slope with the main roof. Accordingly, notwithstanding the strict non-adherence to design guidance, he concluded that, in this particular case, the development would not conflict with the aims of Policy BE1 and the NPPF to foster good design

W/23/1409	63 Kempton Drive, Warwick	Single storey rear extension Delegated	Theo Collum	Questionnaire: 12/1/24 Statement: 2/2/24	Ongoing
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W/23/0342/LB	Oaks Farm, Farm Road, Kenilworth	Installation of replacement Windows Delegated	Jane Caterall	Questionnaire: 13/2/24 Statement: 12/3/24	Ongoing
W/23/0076	9 Leicester Street, Leamington	Creation of Apartment in Basement Delegated	Kie Farrell	Questionnaire: 7/2/24 Statement: 6/3/24	Ongoing
New W/23/0776	8 Lean Terrace, Leamington	Erection of Dwelling Delegated	Millie Flynn	Questionnaire: 12/3/24 Statement: 9/4/24	Ongoing
New W/22/1729	15-17 Clemens Street, Leamington	Change of use from retail storage to 3 residential flats, first floor rear extension, second floor extension and alterations to shop fronts. Delegated	Rebecca Compton	Questionnaire: 28/2/24 Statement: 28/3/24	Ongoing
New W/23/0189	3 Lower Villiers Street, Leamington	Certificate of Lawfulness for Rendering of Property Delegated	Thomas Senior	Questionnaire: 19/3/24 Statement: 16/4/24	Ongoing
New W/23/0754	3 Lower Villiers Street, Leamington	Single Storey Side extension and Rear Dormer	Thomas Senior	Questionnaire: 19/3/24	Ongoing

		Delegated		Statement: 16/4/24	
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Enforcement Appeals

Reference	Address	Issue	Officer	Key Deadlines	Date of Hearing/Inquiry	Current Position
ACT 450/08	Meadow Cottage, Hill Wootton	Construction of Outbuilding	Will Holloway	Statement: 22/11/19	Public Inquiry 7/5/24	Ongoing
ACT 102/22	126 Cubbington Road, Lillington, Leamington Spa	Creation of further storey	Phil Hopkinso n	Statement: Awaiting decision	Written Reps	Ongoing

ACT 600/18	Nova Stables, Glasshouse Lane, Lapworth	Erection of building in green belt	Will Holloway	Statement: 31 st July 2023 and awaiting date for Public Hearing	Hearing TBC	Ongoing
ACT 103/23	Land at Uplands Farm, Lapworth	Residential use of caravan	Will Holloway	Awaiting Planning Inspector decision	TBD	Ongoing
ACT 506/20	Hatton Arms, Hatton	Erection of covered enclosure to rear	Stephen Hewitt	Awaiting Planning Inspector Decision	TBD	Ongoing

Tree Appeals

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