

**List of Current Planning and Enforcement Appeals
October 2022**

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/20/2100	22 St Mary's Terrace, Leamington	Lawful Development Certificate for Use of Garages for Commercial Storage Delegated	Rebecca Compton	Questionnaire: 14/10/21 Statement: 11/11/21	Ongoing
W/21/593	Austin Heath Retirement, Village, Gallagher Way, Warwick	Advertisements Delegated	Helena Obremski	Questionnaire: 25/10/21 Statement: 16/11/21	Appeal Dismissed

The Inspector observed that the appeal site is located on one of four corners of a roundabout. Two of the other corners are undeveloped areas of land and the other being open amenity space with tree planting and footpaths. Boundary treatments to both nearby built development and the undeveloped land and amenity space consist of hedgerows and low post and rail/wire fencing with planting. The areas of open undeveloped space combined with grass verges and the boundary treatments creates a pleasant open verdant character. The advertisements face towards the adjacent roundabout and are therefore highly visible from the surrounding footpaths and roads.

The proposal would involve a hoarding measuring some 30 metres in width and 2.4 metres in height with externally illuminated advertisements located in a prominent position. The Inspector considered that whilst hedgerow either side of the advertisement would remain, the scale of the hoarding and materials used would be stark when seen in the context of adjoining and nearby soft landscaping. The proposed advertisement would result in a visually incongruous feature that would stand out from the soft landscaping in the area and would dominate the street scene. This impact would be compounded by its prominent location and large illuminated lettering that would significantly draw the eye, further accentuating its visual prominence and harmful effect on the amenity of the area. As such, the appeal proposal would appear as a prominent and visually intrusive feature and would have a harmful effect on amenity.

W/21/1736	Garage to the rear of 22 St Marys Terrace, Leamington	Certificate of Lawfulness Appeal: Commercial Storage Delegated	Emma Booker	Questionnaire: 30/1/22 Statement: 28/2/22	Ongoing
W/21/0977	Unit 7, The Mill, Mill Lane, Little Shrewley	Alterations to permission for Conversion to Dwelling including increased Eaves and Ridge heights Delegated	Emma Booker	Questionnaire: 28/2/22 Statement: 28/3/22	Appeal Dismissed
<p>The amendments sought comprised an increase in the roof pitch and eaves height, addition of a window at first floor level, and alteration to roof lights. The Inspector concluded that the proposed first floor extension in combination with the existing extension of the original building comprising the single storey garages, would amount to a disproportionate addition over and above the size of the original building and be inappropriate in the Green Belt.</p> <p>The proposal would not increase the footprint of the existing building and the volume of the existing building would be increased through the proposed first floor extension alongside the retained office building. The appeal scheme represents a slightly taller building than the fallback scheme with a ridge height that would be 400mm higher. It would also have a shallower roof pitch as a result of raising the eaves height to match the adjoining office building. In spatial terms, the Inspector considered that the appeal scheme would result in a very small reduction in openness in comparison to the fallback scheme. Moreover, the extent to which this would be perceived from the surrounding area would be limited. As such, taking into account the fallback position, he concluded the proposal would result in a very limited degree of harm to Green Belt openness.</p>					
W/21/1929	23 Leam Terrace, Leamington	Garage with Studio Above Delegated	James Moulding	Questionnaire: 31/3/22 Statement: 21/4/22	Appeal Dismissed

<p>The proposal would form part of a row of other single storey buildings (mainly garages) and boundary walls which extend along the south side of Mill Road. The Inspector noted that these structures are positioned directly adjacent to the edge of a narrow pavement with the much taller buildings facing Leam Terrace noticeable in their background. This gives this part of Mill Road a service road character, where the buildings on this part of Mill Road clearly appear related and subsidiary to the large dominant properties facing Leam Terrace.</p> <p>The proposed building would be much taller than the neighbouring garage building which has a shallow pitched roof and the proposed gable end would be prominent in the street scene. He considered that these features would draw attention to the depth and height of the proposed building. The proposal would be much taller than the majority of the other structures to the rear of the properties which face Leam Terrace on the south side of Mill Road nearby. The proposed dormer would accentuate the prominence and scale of the proposed building which through its height, size and appearance would have the character of a small dwelling. Consequently, I found the proposal would be in conflict with the subsidiary service character and scale of the majority of the structures nearby and would therefore be an incongruous feature of this section of Mill Road.</p> <p>With regard to the effect on the listed building, he accepted the proposal would be subordinate to Nos. 21 & 23 and some distance away such that the listed building would still be visible from Mill Road with the development in place. However, through its height and scale the appeal scheme would draw attention away from the listed building. This proposal would compete with and erode the dominance of Nos 21 & 23 Leam Terrace harming its setting and significance.</p> <p>In reaching these conclusions he acknowledged the building to the rear of No 39 Leam Terrace. Whilst that building may be in the same street frontage, it is some distance away from the appeal site, where the frontage in the immediate vicinity of the appeal site is characterised by low level structures of subsidiary character to the dominant properties facing Leam Terrace. He also noted the scheme at No 2 Mill Road. However, this is on the opposite side of the road, adjacent to a large and tall modern building which faces the road, in my view its context is not comparable to the appeal site.</p>					
W/21/1518	8 Offa Road, Leamington	One and Two Storey Extensions Delegated	Millie Flynn	Questionnaire: 7/3/22 Statement: 28/3/22	Ongoing

W/21/2092	22 St Mary's Terrace, Leamington	Conversion and Extension of Existing Garage to Form Dwelling Delegated	Rebecca Compton	Questionnaire: 31/3/22 Statement: 28/4/22	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	Appeal Dismissed

The Council considered that the proposed oak-framed gazebo would not meet any of the exceptions outlined in paragraph 149, whilst the appellant considered that it should be treated as an extension to the host dwelling. In this regard, the appellant refers to the judgment in *Sevenoaks District Council v SSE and Dawe [1997]* which established that a proposed new outbuilding in the Green Belt can potentially be regarded as an extension to the host dwelling. However, this is a matter of judgement, based on the specific circumstances involved in each case. The proposed gazebo would be located within the existing patio area and in close proximity to the dwelling's rear elevation. Taking into account its location and use, it would constitute a normal domestic adjunct and the Inspector considered that the proposal can be considered as an extension to the host dwelling. In this case, the footprint and height of the proposed gazebo would not result in a structure with a substantial bulk and mass and it would also be open sided. Whilst the roof structure of the gazebo would project above the common boundary with No. 2, the ridge height of 3.2 metres would not be excessive for a domestic outbuilding. As such, he concluded that the proposed gazebo would not result in a disproportionate addition over and above the size of the original dwelling.

With regard to the proposed fencing, the appellant contended that it would not constitute a building and so should not be assessed against national and local Green Belt policies. Whilst the Glossary to the NPPF does not define the term "building", Section 336 of the Town and Country Planning Act 1990 states that "building" includes any structure or erection, and any part of a building, as so defined and therefore it includes fences. The proposed fence does not fall within any of the given list of exceptions outlined in paragraph 149 of the NPPF. It is therefore inappropriate development. The Inspector considered that the proposed fencing 1.8 metres in height and extending some 22 metres along the west boundary of the curtilage would increase the enclosure of the site from the surrounding countryside, when viewed from Stoneleigh Road and from the surrounding area. Due to the combination of its length and height, it would noticeably reduce the openness of the Green Belt and would cause moderate harm to the spatial

and visual openness of the Green Belt.

With regard to the gazebo, the Inspector considered that the introduction of a domestic style structure within the open area of the former yard would be harmful to the dwelling's traditional character and appearance. Whilst the neighbouring property has a pergola within its rear garden, it does not resemble the proposed gazebo as its roof is open, is lower in height and consists of beams of timber attached to the rear elevation of the dwelling. The proposed gazebo would appear as a more imposing structure and would appear as an incongruous addition, out of character with the host dwelling. Furthermore, the introduction of the fencing along the western boundary of the site would have a stark appearance. The enclosure of the open field to the south of the property currently featuring low boundary treatments would be highly visible and the fence's suburban character and appearance would harm the rural character of the site when approaching from the south. It would have a detrimental effect on the rural character and appearance of the locality.

Although the appeal property is not listed nor in a Conservation Area, the Inspector made it clear that that does not obviate the need for any proposed extensions and alterations to be appropriate to its rural appearance and setting, in accordance with the LP policies.

W/21/1689	123 Windy Arbour, Kenilworth	First Floor Side and Single Storey Rear Extension Delegated	George Whitehouse	Questionnaire: 17/3/22 Statement: 7/4/22	Ongoing
W/22/0047	Fernwood Barn, Fernwood Farm, Rouncil Lane, Beausale	Single Storey Annexe Delegated	George Whitehouse	Questionnaire: 13/5/22 Statement: 3/6/22	Ongoing
W/21/2077	2 Lilac Grove, Warwick	Remodelling of Dwelling Delegated	James Moulding	Questionnaire: 17/5/22 Statement: 7/6/22	Ongoing

W/21/0066	Little Fieldgate, 55 Fieldgate Lane, Kenilworth	2 Storey Dwelling to Replace Bungalow Committee Decision in Accordance with Officer Recommendation	Jonathan Gentry	Questionnaire: 26/4/22 Statement: 24/5/22	Ongoing
W/20/1975	6 Lower Ladyes Hills, Kenilworth	Formation of Driveway	Jonathan Gentry	Questionnaire: 10/2/22 Statement: 4/3/22	Ongoing
W/21/1844	13 Hall Close, Stoneleigh	Various Extensions and Alterations Delegated	Thomas Fojut	Questionnaire: 15/3/22 Statement: 5/4/22	Appeal Dismissed

The Inspector noted that the proposal would introduce a considerable amount of built form, including at first floor level. The resultant height of the two-storey side and rear extensions and the volume of roofscape proposed would result in significantly greater visual bulk and mass compared with the existing dwelling. The proposed side extension would appear excessively bulky and would have a considerable height of 8.20 metres, lying just below the existing dwelling's ridge height. He found that due to its scale and volume in relation to the size of the existing dwelling, the proposal would represent a disproportionate addition. The additional height, volume and visual bulk as a result of the proposal would materially impact on openness in a spatial aspect. Furthermore, the development would appear prominently in the streetscene and the considerable increase in built form would have an adverse visual impact on openness. Given this, the spatial and visual impact on openness would result in moderate harm to the Green Belt.

Whilst the appellant states that the additions would be sufficiently subservient and symmetrical, he considered the scale and appearance of the two-storey side and rear extensions would be excessive given the height of the roof and the resultant bulk proposed. Indeed, the ridge height of the side extension would be similar to the ridge height of the host dwelling. It would therefore

not appear as a subservient addition and would unbalance the scale and symmetry of the pair of semi-detached properties that the appeal dwelling forms part of. The proposed side extension would appear as a dominant addition and would feature prominently in the street scene whilst the rear extension would also be visible to occupiers of neighbouring properties from their rear windows and gardens. He found that the proposed extensions would be read as disproportionate and incongruous features.

With regard to amenity, due to the height of the two-storey extension and the orientation of the rear extensions to the west of No 14, they would cast shadow over No 14's patio area and towards the windows, particularly during the late afternoon and evening. The reduction in levels of sunlight would make the rooms gloomier in aspect and the patio area much less pleasant to use, which would be materially harmful to the living conditions currently enjoyed by No 14's occupiers. Furthermore, although the first floor of the two-storey extension would be set back slightly from the common boundary with No 14, it would appear as a bulky and dominant addition which would have an overbearing impact on the neighbouring occupiers. Due to the combination of its height, depth and the expanse of walling at first floor level, it would increase the sense of enclosure when viewed from No 14's rear windows and patio area, causing material harm to the living conditions currently enjoyed by the occupiers.

W/21/155	2 Wordsworth Avenue, Warwick	New Dwelling Delegated	Emma Booker	Questionnaire: 7/6/22 Statement: 5/7/22	Appeal Dismissed
----------	---------------------------------	----------------------------------	----------------	--	-----------------------------

The Inspector noted that corner pairs such as these have larger plot sizes, whilst the "straight line" pairs are closer together, creating a symmetry motif in the locality and considered that adding another property on to the end of the pair would create a terraced visual design, which is not a feature of the area. I found that it would break the symmetry of the corner properties and whilst the new property would be subservient to the existing pair, it would look incongruous and out of character within this relatively traditional street scene in an area characterised and defined by semi-detached properties.

The Inspector noted that that at the time of the appeal submission it may not have been a suitable time of year to carry out a bat survey. However, such circumstances are not unusual and do not amount to exceptional circumstances to justify dealing with the matter by condition.

The calculations indicate that there would be a significant amount of rear amenity space lost for the host property by the subdivision of the area, and he found that the remaining area of private amenity space at the rear of the existing property would not meet the

requirements of the SPD and would cause material harm to the living conditions of the residents of the existing property with such a significant reduction in the level of private amenity space available.

W/21/0033	Bridge End, 2 Coventry Road, Stoneleigh	Single Storey Rear and Side Extension Delegated	George Whitehouse	Questionnaire: 24/5/22 Statement: 14/6/22	Appeal Allowed
-----------	---	---	-------------------	--	-----------------------

The Council contended that this property had been extended already by some 83.6%, and so it deemed the development now proposed to be disproportionate. The Inspector considered that in making that calculation though, it had disregarded parts of the property that had been present on 1 July 1948 but had since been demolished. On the evidence before me it seems to be accepted that the 'building as it existed on 1 July 1948' included now-demolished parts, with the size of those parts being broadly agreed. Therefore, on a plain reading of the Framework, when considering whether subsequent and proposed extensions are cumulatively disproportionate, he saw no reason why the demolished parts should not be taken into account when defining the 'original building'. Indeed, if the intention had been otherwise, it would have been open for Framework paragraph 149(c) to be worded differently. Beyond the wording of paragraph 149(c) and the Glossary definition given above, the Framework does not define what constitutes disproportionate or how it should be measured.

Local Plan Policy H14 states, in its supporting text, that it is not possible to define what is considered to be a disproportionate addition. It goes on to say though that, 'as a guide', in the Green Belt extensions representing an increase of more than 30% to the gross floorspace of the original dwelling are likely to be considered disproportionate. However, he noted that Local Plan Policy H14 is headed 'Extensions to Dwellings in the Open Countryside', and it specifically states that, for the purposes of the policy, the open countryside is defined as areas other than (among other places) Limited Infill Villages. As the appeal property is in the defined extent of the Limited Infill Village of Stoneleigh, a village that is washed over by the Green Belt, it is therefore not in the open countryside and does not fall under the policy's heading. There is also nothing in the text to imply this guide figure of 30% should be applied to areas in the Green Belt other than those defined as open countryside.

He therefore saw no reason to consider that this policy and its terms are directly applicable to the scheme before me. If the demolished parts are taken into account, the proposal would mean that, cumulatively, extensions would increase the size of the building as it existed on 1 July 1948 by some 38% to 40%. The works would be of a scale and design that would be discrete, relating well to the building and not having an unduly dominant, striking, or discordant impact on the wider area. Given the guide figure of

30% for additions to houses in the open countryside, he therefore found such a degree of enlargement would not be disproportionate in this context.

Officer do not agree with this Inspector's logic but will in future make reference to Policy H14 only insofar as it's subtext provides a local definition of what is considered to be a disproportionate addition.

W/21/1572	25 Burns Avenue, Warwick	New dwelling Delegated	George Whitehouse	Questionnaire: 31/5/22 Statement: 28/6/22	Ongoing
W/21/1664	Bluff Edge, Barford Road, Barford	Various Extensions and Alterations Committee Decision in Accordance with Officer Recommendation	George Whitehouse	Questionnaire: 24/5/22 Statement: 14/6/22	Ongoing
W/21/2202	29 Red Lane, Burton Green	Single Storey Extensions and Roof Canopy Delegated	James Moulding	Questionnaire: 21/6/22 Statement: 12/7/22	Ongoing
W/22/0626	4 Church Lane, Stoneleigh	Porch; Screen Walls and Decorative Gates Delegated	James Moulding	Questionnaire: 16/8/22 Statement: 16/9/22	Appeal Dismissed

The Inspector noted that Policy H14 concerns extensions to houses in the open countryside, and its supporting text specifically states that, for the purposes of the policy, the open countryside is defined as areas other than (among other places) Limited Infill

Villages. As the appeal property is in the defined extent of the Limited Infill Village of Stoneleigh, a village that is washed over by the Green Belt, he concluded it is therefore not in the open countryside and does not fall under the policy's heading. There is also nothing in the text to imply this guide figure of 30% should be applied to areas in the Green Belt other than those defined as open countryside.

He accepted that the porch would have a footprint of just 2.7m². however, Framework paragraph 149(c) is worded the way it is, with reference back to the size of the 'original building', because it aims to avoid buildings becoming too large as a consequence of the cumulative effect of a number of extensions, even though those extensions may be, of themselves, relatively small. Therefore, it is quite reasonable to expect there will be a point where even a very small enlargement is deemed to result in disproportionate additions. Moreover, for this reason also he considered it unsuitable to weigh the impact of the works against the existing building for the purpose of this assessment.

New W/21/0834	The Haven, Rising Lane, Baddesley Clinton	Erection of 2 dwellings Delegated	Dan Charles	Questionnaire: 26/7/22 Statement: 23/8/22	Ongoing
New W/21/2185	Offa House, Offchurch	Restoration of Offa House; Demolition of Extensions and 2 New Dwellings Committee Decision in Accordance with Officer Recommendation	Helena Obremski	Questionnaire: 5/10/22 Statement: 2/11/22	Ongoing
New W/21/1552	66 Montrose Avenue, Lillington	1 Detached Dwelling Delegated	Jonathan Gentry	Questionnaire: 18/8/22 Statement: 15/9/22	Ongoing

New W/22/0934/TC	Verge adjacent to MKM Building Supplies, Junction of Juno Drive/ Queensway, Leamington	Telecommunications Monopole and Associated Equipment Delegated	Jonathan Gentry	Questionnaire: 4/10/22 Statement: 1/11/22	Ongoing
New W21/2180	Westham Barn Westham Lane, Barford	Conversion of Barn to Dwelling including Extensions Delegated	Lucy Hammond	Questionnaire: 5/10/22 Statement: 2/11/22	Ongoing
New W/21/0273 and 0274/LB	Hunningham Hill Farm, Fosse Way, Hunningham	18 Panel Solar PV System Delegated	Rebecca Compton	Questionnaire: 25/7/22 Statement: 22/8/22	Ongoing
New W/21/0432	3 Hallfields, Radford Semele	Dormer Bungalow Delegated	Rebecca Compton	Questionnaire: 1/8/22 Statement: 29/8/22	Ongoing

Enforcement Appeals

Reference	Address	Issue	Officer	Key Deadlines	Date of Hearing/Inquiry	Current Position
ACT 450/08	Meadow Cottage, Hill Wootton	Construction of Outbuilding	TBC	Statement: 22/11/19	Public inquiry 20/12/22	Appeal Allowed
<p>The Inspector disagreed with the Council's description of the alleged breach as "The Erection of a Dwelling" but rather considered that all of the facilities required to comprise a dwelling were not present. The Inspector also considered that parts of the building in question were in use for stabling which should also have been included in the description of the breach.</p> <p>The Inspector did not consider that the description of the breach could be amended at the Inquiry without causing injustice to the appellant and therefore allowed the appeal and quashed the Enforcement Notice.</p> <p>Offices are currently taking legal advice following this unexpected decision and considering the next steps in addressing the unauthorised building at the site.</p>						
ACT 18/0600	Nova Equestrian, Glasshouse Lane, Lapworth	Construction of Dwelling		Statement: 12/1/21	Public inquiry: Date to be Confirmed.	Ongoing

Tree Appeals

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