

## Housing appeal decisions for w/c 1 August 2022\*

| Scheme  | Appeal Reference       | Description of Scheme  | Local Planning Authority       | Appeal Decision | Issues Summary   |
|---|------------------------|--|--------------------------------|-----------------|--|
| 20 -24 Mayday Road, Thornton Heath, London CR7 7HL                    | APP/L5240/W/21/3283788 | Development proposed is the demolition of existing buildings and redevelopment of the site to provide 3no. replacement buildings ranging from one to five storeys in height, comprising 60 new dwellings | London Borough of Croydon      | Dismissed       | One of the three building blocks proposed would be positioned only ten metres away from an adjacent building occupied as flats. Proposed obscure glazing in habitable rooms and on dividing screens on this elevation sought to address potential overlooking and privacy concerns, however it was considered that such measures should not be necessary in a successful housing scheme, even in a high density urban location. The proposal located habitable rooms too close to existing properties, with a significant risk of loss of privacy and an outlook unacceptably dominated by the mass of the proposed building, creating an overbearing visual impact. The proposed development would be unacceptable.   |
| 32-60 Middle Street, Southsea, Portsmouth PO5 4BP                     | APP/Z1775/W/21/3271870 | Construction of a building of six to eleven storeys, to provide 163 flats, and three commercial units  | Portsmouth City Council        | Dismissed       | The appellant had appealed against non-determination and the council's position was now that it would have granted permission subject to appropriate assessment and mitigation of the effects of the development on Special Protection Areas (SPAs), a financial contribution towards public open space, an affordable housing viability review and a travel plan. The appellant had submitted a draft unilateral undertaking addressing all these matters except SPA mitigation. The open space contribution was not directly related to the development and fairly and reasonably related in scale and kind and the obligation therefore failed the tests set out in CIL Regulations. The benefits of housing in an accessible location were outweighed by the absence of a suitable mechanism in respect of contributions.  |
| Land to the east of Addington Road, Irthlingborough, Northamptonshire | APP/M2840/W/21/3287516 | Development proposed is 54 dwellings   | North Northamptonshire Council | Allowed         | Proposal on an allocated housing site within a village. The council had refused permission against officer recommendation, objecting to the effect on the setting of the adjacent conservation area, a listed manor house and its converted mews buildings which were identified as a non-designated heritage asset. The proposal would result in limited and less than substantial harm to the significance the listed building or conservation area setting. This level of harm was outweighed by the public benefit of the proposal. An award of costs to the appellant was refused on the basis that the council had included the non-designated heritage asset in the heritage balance that it had undertaken. The inspector agreed the council had misapplied NPPF paragraph 202 and the effect of an application on a non-designated heritage asset is to be considered separately to designated assets in accordance with paragraph 203. However, any overstatement of heritage effects as a consequence had had only a limited bearing in the council's overall weighing of harm. |
| Land to the South of The Ridgeway, Potton SG19 2PS                    | APP/P0240/W/21/3289675 | Development proposed is 97 residential units   | Central Bedfordshire Council   | Allowed         | Proposal on fields allocated in local and neighbourhood plans on the edge of a small town. Policy required the provision of a satisfactory landscaping buffer along the boundary of the site with open countryside to soften the visual and landscape impacts of the development, which the appellant sought to address in a landscape concept plan. While the potential for widespread tree planting across the buffer would have the greatest visual benefit for the appearance of the new housing estate, it would impair the ecology of the acid grassland. Acknowledging the limited availability of open space within the site for ecology given its allocation for a minimum of ninety houses, the appellant's landscape concept plan provided the basis for a solution to these conflicting aims. It was concluded that the proposal would have only minimal inevitable harm on landscape and area character. Biodiversity policies would be satisfied by a combination of on-site measures and off-site contributions to biodiversity offsetting secured through an undertaking.  |

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| Land east of Cookson Way, Catterick  | APP/V2723/W/21/3285179 | Residential development (135 dwellings)   | Richmondshire District Council | Allowed   | Proposal on a greenfield site adjoining the edge of a village. An outline planning application and subsequent reserved matters application for 107 homes on the site had been approved, providing a realistic fallback. The proposal would not be out of character and would not amount to an overdevelopment of the site. Two play areas would be readily accessible on foot from throughout the development and both overlooked with good natural surveillance, on which basis there was no conflict with local policy or NPPF requiring development to create places that are safe, inclusive and accessible, and promote health and well-being.   |
| Land To West of Cartersfield Lane, Stonnall, Walsall WS9 9EF                       | APP/K3415/W/22/3292794 | Demolition of B8 unit to deliver residential development                            | Lichfield District Council     | Allowed   | Proposal on previously developed land in the green belt on a site currently occupied by a vacant B8 warehouse and extensive hardstanding, just outside the settlement boundary of a village. The reintroduction of a storage or distribution use was a realistic prospect and this fallback; residential development could be designed that would have a similar or less harmful effect on spatial openness and if set further back into the site it would be less noticeable from the road than the store and improve visual openness. The proposed change in use and character of the site would not inevitably affect its openness, concluding it would not be an inappropriate development in the green belt. Adverse effects on the integrity of a SAC were adequately mitigated by contributions and conflict with spatial strategy carried little weight as a footpath link secured by condition would allow residents to walk to a range of local services and help maintain the vitality of the rural community. |
| Land to the east of Church Lane & north of Front Street, Churchill                 | APP/D0121/W/22/3292961 | Development proposed is the erection of up to 62 dwellings (30% affordable housing) | North Somerset Council         | Dismissed | Proposal on fields on the edge of a village, attached to the historic core of the village and notably at odds with the character of the conservation area. The spacious rural setting and significance of a grade I listed church located on the edge of the village would be eroded by the development and in views would appear absorbed into the main built-up part of the village. Although the scheme would be visible from within the AONB, it would be softened by landscaping and appear to be part of the village from all vantage points. Some localised visual harm from urbanisation of the rural country lane was identified. The substantial public benefits of the scheme for housing and biodiversity net gain were significantly and demonstrably outweighed by the harm to the conservation area and listed church and to landscape and visual amenity.   |
| Land to the rear of Sovereign Drive and Precosa Road, Botley, Eastleigh, Hampshire | APP/W1715/W/21/3269897 | Residential development comprising 106 no. dwellings                                | Eastleigh Borough Council      | Dismissed | Proposal within a settlement gap on the site of a previous successful appeal not implemented amid viability issues. Since then the local plan had been reviewed and the settlement gap narrowed to the minimum to prevent coalescence of settlements. The proposal would significantly undermine the visual separation of villages and urbanise the character of the countryside in this location, thereby failing important development plan policy tests. The scheme failed to follow the principles of strengthened local and national design guidance and did not achieve a well-designed sense of place. Although the council's housing land supply stood at less than five years and the boost to housing would be a substantial benefit, the proposal did not benefit from the NPPF presumption in favour of sustainable development because of its adverse urbanising effect on the countryside and lack of sympathy to local character, contrary to national policies.   |

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| <p>Land east of Waites Lane at Wakeham's Farm, Pett Level Road, Fairlight Cove, East Sussex</p> | <p>APP/U1430/W/21/3283287</p> | <p>Outline: Development of up to 43 residential units (including 40% affordable)</p> | <p>Rother District Council</p>  | <p>Dismissed</p> | <p>Proposal on an allocated housing site in a village refused contrary to officer recommendation for a range of reasons unrelated to flooding, with neither the Environment Agency nor the lead local flood authority objecting to the proposal. However, noting the concerns of third parties and after establishing that the site allocation had not been justified through a sequential test in relation to ground water flood risk, the inspector addressed flood risk as a main issue. The appellant's flood risk assessment had identified the appeal site as having a naturally high groundwater level and concluded that there was a moderate risk of groundwater flooding over about half of the site. As groundwater flooding is a source of flood risk, the NPPF required a sequential test to consider whether sites at lower risk were reasonably available. The appellant had not carried out a sequential test and although NPPF paragraph 166 states that a sequential test is not needed for development on allocated sites, the inspector held that this only applied if it had been done at the plan-making stage. He found the 2008 strategic flood risk assessment underpinning the site allocation predated NPPF paragraph 161 advice that development plans should take into account all sources of flooding and had not sequentially tested in relation to groundwater. As a result, the development plan policy allocating the site for housing was inconsistent with the NPPF. Flood risk alone was sufficient to outweigh the benefits of housing, and there was also some conflict with spatial strategy and residual harm to the AONB from a more compact and intense form of development.</p> |
| <p>Land at Old Orchard House, Horebeech Lane, Horam, East Sussex TN21 9DZ</p>                   | <p>APP/C1435/W/22/3297371</p> | <p>Development proposed is the erection of up to 38 dwellings</p>                    | <p>Wealden District Council</p> | <p>Allowed</p>   | <p>Proposal in the countryside outside a village, on the same greenfield site where a previous appeal for 58 houses was refused. The new proposal significantly reduced the number of houses to offer a more landscape dominated scheme. Although there would still be some harm to the rural setting of the village and urbanisation of a local green gap, the lower number of dwellings greatly reduced the level of harm and policy conflict. The proposed reduction in quantum of housing would also overcome the decisive harm to neighbour outlook, privacy and light. The benefits outweighed any harm in the context of a substantial and longstanding shortfall in housing land supply and an acute need for affordable housing in the district.</p>   |