

Housing appeal decisions for w/c 5 September 2022*

Scheme	Appeal Reference	Description of Scheme	Local Planning Authority	Appellant	Appeal Decision	Issues Summary
16 Kent Street, Birmingham B5 6RD	APP/P4605/W/20/3264336	Redevelopment to provide 116 apartments	Birmingham Council	Prosperity Developments on behalf of Trustees of The Gooch Estate	Dismissed	Corrected case issued to replace that dated 25 March 2022. Proposal close to a longstanding nightclub with two external balconies which accommodated patrons when open. The appellant proposed a high level of sound proofing with windows closed and mechanical ventilation. However, the base beat which was associated with many dance rhythms would penetrate into the apartments and cause sleep disturbance. Occupiers of the apartments would probably not be unduly disturbed when they were awake; however, when trying to sleep the base beat would be likely to interrupt or impair sleep. A further concern related to the potential impact on the nightclub and complaints subsequently made by occupiers of the flats. The club served the LGBTQ+ community in particular and had operated for many years and played a key role in the entertainment and activities of the city's gay village. While it was not possible to conclude that a statutory noise nuisance would arise, it was possible that limitations would be placed on the operation of the nightclub.
Land at Oak Close, Castle Gresley, Swadlincote, Derbyshire	APP/F1040/W/21/3287625	Development proposed is 100% affordable 70 unit residential scheme	South Derbyshire District Council	Matt Rice (EMH Homes)	Allowed	Proposal on agricultural land allocated for 55 houses. The council had objected to the increase in density of development but the site area had been increased to provide drainage basins and would provide a larger area of green space to offset the additional built form. Although the density of the site overall would be greater than surrounding developments, this would be offset by generous rear gardens, open space, woodland, meadow and play areas. Overall, there would be no harm to the character and appearance of the area due to an overdevelopment of the site. Developer contributions proposed by the appellant fell substantially below those requested by the council and would result in under-delivery of infrastructure to support the development. However, evidence of the council's under-delivery on affordable housing targets and deteriorating affordability and a viability assessment indicating that provision of the full financial contributions requested would render the development unviable meant that the very substantial benefit of affordable housing justified permitting the scheme contrary to the development plan.
2, 3 & 4, Leicester Road, Poole BH13 6BY	APP/V1260/W/21/3280912	Development proposed is for the demolition of existing dwellings and erection of a 35 unit residential development	Bournemouth, Christchurch & Poole Council	Nylo Homes Ltd	Dismissed	Proposal following demolition of 3 houses in a well wooded site of low density housing with gaps between of 15m would result in smaller gaps and a dominant, greater overall bulk and mass as to visually change and erode the conservation area. Highway safety impacts considered as found likelihood of queuing at junctions subject to congestion pressures and would lead to increased road user danger. Conservation area harm and highway safety outweighed housing delivery shortfall despite adequate supply.

Land between Chelford Road and Whirley Road, Macclesfield, Cheshire	APP/R0660/W/21/3282191	Development proposed is the erection of 23 No. dwellings	Cheshire East Council	Mr Matthew Shipman (Bellway Homes Manchester)	Allowed	Proposal on a site falling within the boundary of a housing allocation for the development of 'around' 150 dwellings; the proposal would raise this to 188 dwellings. Council concern regarding overdevelopment was not whether proposal cramped but rather was relation to greenhouse gas emissions due to peat extraction. The peat to be extracted which would be removed from the site would likely be placed with a waste processing facility and its extraction at the site would not occur to facilitate economic gain. Given that this was a housing application, and not a proposal for mineral extraction, there would be no conflict with policy; the loss would be mitigated by condition with minor effect on air pollution. The proposal would not amount to overdevelopment of the site and the proposed affordable and social and economic benefits outweighed the harm.
Shire Hill Hospital, Bute Street, Glossop SK13 7QP	APP/H1033/W/21/3286543	Redevelopment of the Shire Hill Hospital site for residential development	High Peak Borough Council	NHS Property Services Limited	Allowed	Proposal on redundant hospital site, a non-designated heritage asset, on the edge of a market town. While the proposal would retain the original workhouse, a key building at the front of the site, the rest of the buildings would be demolished. The council objected to the loss of local heritage significance contributing to area character, citing conflict with local plan policy seeking to conserve heritage assets. In doing so, it had provided evidence that it was viable to convert another prominent building on the site. Whilst it would be viable to convert rather than demolish the infirmary, local policy was not entirely consistent with the NPPF approach to heritage because it did not distinguish between designated and non-designated heritage assets. Therefore, policy requirements to demonstrate that the proposal was the optimum viable use for the site involving the least change to historic fabric exceeded NPPF thresholds for NDHAs. Having so found, no weight was given to the lesser harm arising from the hypothetical alternative scheme in the decision. With a modest shortfall in five-year housing supply, the tilted balance was triggered. Moderate weight was attributed to the harm to NDHA but it was outweighed by the benefit of housing on brownfield land in a sustainable location.
67 St Peters Street, St Albans	APP/B1930/W/20/3263521	Redevelopment of the existing building to provide 24 one and two bedroom flats	St Albans City Council	Mr M Quinn (Aldenham Residential Property Development)	Dismissed	Redevelopment of existing large C20th building within the town's conservation area and setting of a listed church. Framework promotes the reuse of brownfield sites located in accessible areas, notably where it provides regeneration opportunities. Such developments can also assist in reducing pressure to build on greenfield land. However this has to be balanced against other considerations, including the protection of the historic environment. The development would become a permanent feature which would cause harm to the conservation area and it had not been demonstrated that the appeal scheme represented the only option to create additional commercial and residential accommodation.
Land at Brookhouse Road, Sandbach CW11 1HZ	APP/R0660/W/21/3282602	Full planning application for the relevant demolition of an existing dwelling in a Conservation Area and erection of Class E(a), E(b), E(c), sui generis units and 14 residential units	Cheshire East Council	Mr C R Muller (of Muller Property Group)	Dismissed	Demolition of an existing dwelling in a conservation area and the erection of Class E(a), E(b), E(c), sui generis units and 14 residential units would fail to preserve the special historic interest setting of listed buildings and the character or appearance of the conservation area.

<p>550 to 550A Purley Way, Croydon CR0 4RF</p>	<p>APP/L5240/W/22/3296606</p>	<p>Redevelopment of the site to provide 116 new residential units, including affordable housing</p>	<p>London Borough of Croydon</p>	<p>Mr Simmons of Stonegate Homes</p>	<p>Dismissed</p>	<p>Proposal on the site of two retail warehouses. The scheme proposed two tower blocks, one rising to twelve storeys, in an area identified for regeneration in an emerging local plan and masterplan anticipating development of up to twelve storeys at focal points and up to eight storeys at gateways. Due to timescales and outstanding objections, these were given limited weight. The site was at best a gateway where building heights should be lower than proposed. Assessing the proposal against existing adopted tall building policy requiring an exceptional design quality, and the proposal would result in an uncomfortable transition from the much lower residential and commercial buildings nearby where considerable future redevelopment in accordance with the emerging masterplan was far from certain. In the current townscape context, the scheme would not amount to a good design. The scheme's failure to attain the high bar of exemplary design required by adopted policy outweighed its benefit in providing much-needed housing and affordable housing. As a consequence, the scheme also failed the exception test of national flood risk policy.</p>
<p>Field Adjacent to Woolacombe Road, Bere Alston PL20 7HH</p>	<p>APP/Q1153/W/21/3283705</p>	<p>Development proposed is for 31no. new dwellings</p>	<p>West Devon Borough Council</p>	<p>Mr Steve Billings of Burrington Estates Ltd</p>	<p>Dismissed</p>	<p>Proposal on land allocated for housing in the local plan. In the absence of evidence that council's preferred access point is not feasible without an unacceptable urbanising effect on Area of Outstanding Natural Beauty or conflict with route of a public footpath, the proposal is contrary to policy setting out the requirements of the allocation. Benefits of housing could still be achieved by a policy compliant scheme.</p>