

Housing appeal decisions for w/c 12 September 2022*

Scheme	Appeal Reference	Description of Scheme	Local Planning Authority	Appellant	Appeal Decision	Issues Summary
16-18a Horsemarket, Kettering NN16 0DQ	APP/M2840/W/21/3288068	Development proposed is a mixed-use development consisting of 28 no. flats	North Northamptonshire Council	Mr K Odunaiya	Dismissed	A previous appeal decision had concluded that while the development proposal was acceptable, the accompanying unilateral undertaking was not. Following submission of the current appeal, the Council had approved an identical scheme. The submitted UU, to secure land for highways improvements, satisfied NPPF tests and CIL regulations in terms of need and mechanism. However, while many of the failings identified by the previous inspector had been resolved, by not including a trigger for transfer of the identified land to the Council, it was still fatally flawed and therefore the proposal did not comply with development policy requiring timely delivery of infrastructure to meet the needs of the development.
Safe Regeneration Ltd, Waverley Street, Bootle L20 4AP	APP/M4320/W/21/3281083	Development of mixed tenure housing including 41 No. 2 and 3 bedroom, two and three storey townhouses and a four-storey apartment block consisting of 66 No. 1 and 2 bedroomed self-contained apartments	Sefton MBC	123 Accommodation C.I.C.	Dismissed	Proposal for a community-led regeneration scheme in a deprived area of a town. There were benefits in meeting housing needs and job creation, with potential to act as a catalyst for wider regeneration, but the council took issue with provision of outdoor amenity space, parking and considered the proposal an over-development. The scheme fell significantly below SPD standards as a result of built development proposed. The scheme's benefits were being achieved at the expense of the overall quality of the design through an over-development of the site and which would result in inadequate living conditions.
1 Addington Road, Sanderstead, Croydon CR2 8RE	APP/L5240/W/22/3297231	Development proposed is the demolition of existing building and the construction of 30 retirement living apartments (C3)	London Borough of Croydon	Addington Road (1) LLP	Allowed	The council's criticisms of the height, bulk and aspects of the architecture of the scheme fitting too much on the site lacked evidential support; schemes in areas without townscape designations should only be refused where they would cause harm. There would be some policy conflict in respect of balcony sizes but overall the development would provide a good standard of living conditions future residents. On the issue of housing mix and a policy requirement for 70 per cent three-bedroom or larger family sized homes in major housing developments, the scheme would meet an identified need for older persons housing and release larger homes back into the market, having a positive effect on housing choice. The scheme accorded with the development plan overall.
82 Jeffery Street, Gillingham, Kent ME7 1DB	APP/A2280/W/22/3291633	Development proposed is demolition of existing building and construction of a pair of two-bedroomed bungalows and one 2.5 storey block of flats, comprising three x 2-bedroomed flats and nine x 1-bedroom flats	Medway Council	Legstone Builders Ltd	Allowed	Redevelopment of a timber merchants workshop and yard on the edge of a town centre. Permission for a very similar development had expired, the notable difference being the addition of dormers to facilitate provision of two additional flats at roof level. Two of these dormers would face the shared amenity space to the rear of a terrace of houses converted into flats. It was concluded that the dormer windows would not cause harm to the privacy of neighbouring occupiers. On the matter of mitigation of recreational pressure on a marshland SPA identified through appropriate assessment, a legal agreement included funding towards a joint council access management and monitoring strategy aimed at addressing disturbance issues to wintering birds. This and other infrastructure funding obligations met the three tests of the CIL Regulations.

Land at and to the rear of 271 Cliffe Lane, Gomersal, Cleckheaton BD19 4SB	APP/Z4718/W/22/3290253	Outline application for the demolition of one dwelling and erection of 98 dwellings	Kirklees Council	Metropolitan	Mr Richard Morton (KCS Development Ltd)	Dismissed	The council had resolved to grant permission subject to a planning obligation to secure affordable housing and contributions towards various facilities and services but despite several deadline extensions, without a signed legal agreement the council decided to refuse permission. The appellant did not dispute the requirement for the obligation or the level of contributions sought and had made efforts to arrange and expediate execution and completion of the obligation, including obtaining an electronic signature from an overseas signatory which the council had refused to accept, but had faced delays beyond their control including the pandemic and mortgage company procedures. The inspector found that the planning obligation was essential to permit the development to proceed but as it was not a complex and strategically important scheme, PPG did not sanction use of a negatively worded condition limiting the development that could take place until a planning obligation has been entered into. In the absence of a completed planning obligation to make the proposal policy compliant, the inspector had no option but to dismiss the appeal.
Land at Gomer Street, Willenhall WV13 2NR	APP/V4630/W/22/3292577	Development proposed is for 15 x 1 Bed Apartments and 3 x 2 bed apartments	Walsall MBC		Mr Simon North	Dismissed	Redevelopment of an industrial building and yard in a safeguarded industrial area. The appellant's noise assessment concluded that there would be a significant adverse effect on health and quality of life for occupiers and proposed mitigation in the form of double glazing and a mechanical ventilation system to reduce the need to open windows and acoustic fencing. Residents would not be prevented from open windows and it was likely that noise would enter the four-storey building at levels above the acoustic fencing, also restricting use of balconies. Potential odours would limit enjoyment of private garden areas and communal outdoor amenity spaces. The noise and odour disturbance was insufficiently mitigated and would have an adverse impact on the living conditions of the future occupiers, leading to unacceptable constraints on adjacent industry.
Land off Ewbank Corner, Church Street, Langford, Bedfordshire	APP/P0240/W/21/3273963	Development proposed is residential development of up to 35 dwelling houses	Central Council	Bedfordshire	Warden Developments Limited	Dismissed	Proposal beyond the envelope of a large village. The loss of openness and erosion of the site's undeveloped qualities would reduce an important separation between the built edge of the village and the adjacent riverside environment and undermine how the village blended naturally into the countryside. The site could not accommodate the amount of development proposed without harming this distinction, even at a lower density than a comparable housing development permitted nearby. Neither this precedent nor the benefit of a boost to housing meant that the proposal could be approved contrary to development plan policy.
Land to the rear of Crossways, Reading Road, Shiplake, Oxfordshire	APP/Q3115/W/22/3297007	Erection of 11 dwellings	South District Council	Oxfordshire	Westbourne Homes Ltd	Allowed	Proposal located on fringes of village would be infilling within the village taking account of permitted new housing under construction on surrounding land. The benefits of market and affordable housing in an accessible location outweighed an inappropriate housing mix lacking smaller units and limited adverse visual impact from development of greenfield site, in light of tilted balance in favour engaged by a small five-years housing land supply shortfall.

<p>Former Bogans Carpet Unit, New Bird Street, Liverpool L1 0DN</p>	<p>APP/Z4310/W/22/3293838</p>	<p>Erect a 4 to 9 storey block creating 236 co-living apartments (Sui Generis)</p>	<p>Liverpool City Council</p>	<p>Crosslane Co-Living SPV1 Limited, Wates Group Limited and Ascot Property Limited</p>	<p>Dismissed</p>	<p>Redevelopment of a vacant industrial unit with a high-rise building. The inspector observed that co-living was a relatively new concept involving purpose-built private studio flats with an emphasis on extensive shared communal facilities and social integration, aimed at young professionals. Although the inspector did not challenge the common ground that co-living accommodation does not constitute a Class C3 dwellinghouse use and is a sui generis use, it was nonetheless held that a number of housing policies were relevant. Measured against these policies, there would be a shortfall against nationally described living space standards, even when taking into account communal spaces after finding some of these were not freely available or required pre-booking, with an associated risk that occupiers could end up being spending long periods in substandard apartments. The inspector was not swayed by co-living appeal cases elsewhere in the country referred to by the appellant, in which it had been held the NDSS did not apply. The scheme would contribute further to an imbalance in housing mix, acknowledging that the co-living model may not easily lend itself to a range of housing types, but finding no explanation for why it was not possible to incorporate some two-bed units. Overall, despite the regeneration benefits of the scheme and finding no harm to the setting of a grade I listed cathedral, the appeal was dismissed.</p>
<p>Land to the west of Barton Road, Davyhulme, Urmston, Trafford, Greater Manchester</p>	<p>APP/Q4245/W/22/3293093</p>	<p>Erection of 71 dwellings including a mix of houses and apartments</p>	<p>Trafford MBC</p>	<p>Mr John Matthews, (Eccleston Homes Ltd and Cornell Group)</p>	<p>Dismissed</p>	<p>Redevelopment of a scrapyard in an inner urban area. The proposal would create a suburban character that did not relate well to the close-knit urban grain of the site's immediate context. There were further concerns with the scheme layout, with affordable housing on the site frontage being segregated from the rest of the development, and from the centrally located open space. The scheme did not relate well to its wider surroundings and lacked inclusion and integration, contrary to local and national policy and design guidance. Despite the benefits of the proposal in the context of a five-years housing shortfall, these were outweighed by the adverse effects of poor design.</p>