

Housing appeal decisions for w/c 23 January 2023\*

Scheme	Appeal Reference	Description of Scheme	Local Planning Authority		Appellant	Appeal Decision	Issues Summary
Land to the rear of The Walled Gardens, Five Ash Down TN22 3AG	APP/C1435/W/21/3289619	Development of site for up to 33 dwellings	Wealden Council	District	Rookwood Trinity Ltd	Dismissed	Proposal in a field to the rear of the extended walled garden of a listed house. The proposal would seriously undermine the listed building setting. An established row of mature conifer trees provided screening but would have an overbearing impact on occupier outlook and block light. However if felled, this would result in direct views between the proposal and the listed house such as to cause significant harm. The proposed density would also have an urbanising impact on the setting of the listed building, seriously eroding the historic interrelationship between the listed building and the walled garden.
Land West of Andover Road, Highclere	APP/H1705/W/21/3287471	Outline planning application for the erection of 26 dwellings	Basingstoke & Deane Borough Council		JPP Land Limited	Dismissed	The site lay adjacent to a village which predominantly comprised residential development, lying within the AONB, and therefore a mix of open market and affordable housing would not, in itself, necessarily amount to a major development. Nonetheless, the proposal would constitute a significant extension on the edge of a very modest-sized village which would also have a significant impact on the character and appearance of the area and would therefore constitute major development. There was no sufficient and unequivocal need for the provision of additional market housing on the appeal site, nor was there clear evidence that the need for housing could not be met other than by building within the AONB. The proposed landscaping scheme would provide some mitigation but overall it would fail to conserve the natural beauty of the area. The exceptional circumstances required to justify major development had not been demonstrated.
Avonmouth House, 6 Avonmouth Street, London SE1 6NX	APP/A5840/W/22/3303205	Development proposed is demolition of existing building and structures and erection of a part 2, part 7, part 14, part 16 storey plus basement mixed-use development	London Borough of Southwark		Tribe Avonmouth House Limited	Allowed	Proposal for a mixed-use scheme in buildings ranging from 2 to 16 storeys, for student flats as well as employment, community and education use. The site contained a warehouse building and ancillary service yard presently used as a conference venue. There were a number of tall buildings surrounding the site with other tall building schemes approved or the subject of planning applications nearby. The benefits, including the provision of 233 student units, employment creation, and provision of development in a highly accessible location to a high level of sustainable design, had very significant weight when taken together. While the proposed development did not represent exemplary design, it was well articulated with different planes having differing prominence depending on the angle of view. The proposed development would be suitable for its location and would be positive and appropriate. It would not have a harmful effect on the character and appearance of the area, and would not be harmful in respect of any identified specific views.
177 High Road, Chigwell IG7 6NX	APP/J1535/W/22/3294576	Development proposed is mixed-use development to provide 35 residential dwellings (Use Class C3) and 512 sqm of commercial floorspace (Use Class E)	Epping Forest District Council		White Square Investments Limited	Allowed	The appeal site was currently in use as a car showroom, MOT centre with vehicle servicing and storage. The proposal would complete the urban block at a scale which reflected precedent and would be an appropriate design. A shortfall in parking spaces was justified on this accessible site; any overspill could be accommodated. Contributions by planning obligation acceptable with monitoring contribution.

\* Showing decisions relating to appeals for over 10 units

Mulliner Flanders Chiswick, W4 1NN House, Road, London	APP/F5540/W/22/3294272	Development proposed is change of use from office (Use Class E(g)(i)) (previously Use Class B1(a)) to form 50no. residential units comprising 37no. studios, 11no 1 bedroom units and 2no. 2 bedroom units (Use Class C3)	London Borough of Hounslow	Maizelands Ltd and Arringford Ltd	Allowed	Proposal for prior approval under Class O of the GPDO. The council's objections were limited to whether the scheme met the condition requiring adequate daylight and sunlight. The council argued that as most of the kitchens would not have windows, they would not receive sufficient daylight. However, the condition on Class O only requires that habitable rooms have sufficient daylight and that this did not apply to kitchens used solely for cooking. All the rooms would meet the former 2011 BRE standards, although against the new 2022 BRE standards nine habitable rooms across eight dwellings would fail to meet the criteria. The guidance is intended to be used flexibly, particularly where it might inhibit the efficient use of a site. Given the urban location of the proposal, and the fact that the scheme met the 2011 guidelines while only falling just short of the 2022 guidelines, the living conditions for occupiers of the scheme would be adequate.
1 Whempstead Road, Benington SG2 7BX	APP/J1915/W/22/3303408 APP/J1915/W/22/3303413 APP/J1915/W/21/3288702	The development proposed is demolition and removal of all poultry houses and other buildings and the erection in their place of 12no detached dwelling houses (8no market houses and 4no affordable houses)	East Hertfordshire District Council	Mr P Newman and Ms C Pepperell	Dismissed	Proposal located within 'Rural Area Beyond the Green Belt', outside but walkable to a village. Limited frequency of bus service resulted in car reliance in order to access day to day facilities and services elsewhere, such that the proposals would not be an appropriate location for housing. No loss of employment as agricultural activity ceased 8 years ago and buildings vacant for over 12. Payments towards infrastructure by UU considered, The proposal would result in no harm to area character and appearance or to highway safety. Tilted balance engaged due to housing supply shortfall, however scheme dismissed due to the poor sustainability of the site.
Land off Brook Lane, Twigworth	APP/G1630/W/22/3295270	Development proposed is for residential development (up to 160 dwellings)	Tewkesbury Borough Council	Robert Hitchins Limited	Allowed	Proposal on the edge of a village. In response to the appeal, the council had resolved that, had it been in a position to determine the proposal, the application would have been refused on three grounds, relating to failure to provide financial contributions in mitigation of the proposal on local infrastructure, failure to provide adequate education facilities, and failure to provide a mixed and balanced community to meet the needs of the local area. However, further discussions took place and several legal agreements were signed to address the council's concerns. Consequently, there were no contested issues between the main parties. Objections maintained by several neighbours and interested parties were considered, which related to highways, flooding and drainage, the nature of the application, impact on local infrastructure, accessibility and ecology. None of these were deemed to cause unacceptable harm or were considered capable of being mitigated satisfactorily by planning condition or the executed planning obligations. A full award of costs in favour of the appellant was made after concluding that the council had behaved unreasonably in deferring the application and delaying a decision on the proposal without good reason.
Former MKM House, Warwick Road, Stretford, Manchester M16 0QQ	APP/Q4245/W/21/3287401	Development proposed is the redevelopment of the site for residential development (Use Class C3) thirteen-storey building of 88 flats	Trafford MBC	Jumani Holdings Limited	Dismissed	A planning permission granted in 2016 for a twelve-storey building of 89 flats had been implemented and remained extant. The appeal scheme proposed a taller building with a larger footprint and considerably reduced parking provision. A tall building was acceptable on the site, subject to achieving design excellence in accordance with local plan design policy and an emerging area action plan requiring all development in the town's civic quarter to be architecturally innovative and raise design standards. These policies were consistent with national policy and design guidance and set a very high benchmark for design quality. The building would fail to achieve the required design standard and would harm the character and appearance of the area. The provision of only six off-street parking spaces in a location with highly restricted on-street parking would harm living conditions for existing residents and lead to highway congestion. In a tilted balance engaged by a lack of five-year housing land supply, the moderate benefits did not outweigh the substantial harm identified.

<p>Land West of St Andrews View, Thursby</p>	<p>APP/G0908/W/22/3305389</p>	<p>Resubmission of application FUL/2021/0299 for the building of 67 residential dwellings</p>	<p>Allerdale Council Borough</p>	<p>Story Homes</p>	<p>Allowed</p>	<p>Proposal on allocated housing land on the edge of a village. The council considered that proposed road noise mitigation measures would be harmful to residential amenity in that they would require most or all of the habitable room windows in more than half the properties to be kept closed. The use of acoustic glazing and trickle ventilation was not uncommon and would achieve noise levels below World Health Organisation guideline levels. The council further stated that shadow flicker from a wind turbine some 300 metres away would contribute to what it considered to be a poor residential environment. In the absence of formal guidance or standard methodology in England relating to shadow flicker exposure, it was appropriate to adopt guidance in Northern Ireland that applies quantitative limits of 30 hours per year or 30 mins per day. The appellant's modelling of shadow flicker on the proposed dwellings showed that under typical conditions this level of exposure would not occur and future occupiers would have suitable living conditions.</p>
<p>Land East of Coalpit Lane, Stoke St Michael, Somerset BA3 5JT</p>	<p>APP/Q3305/W/21/3286463</p>	<p>Development proposed is for the residential development of up to 47 no. dwellings</p>	<p>Mendip District Council</p>	<p>Stoke St Michael LVA LLP</p>	<p>Allowed</p>	<p>The council's spatial strategy did not support residential development in the countryside but this harm was outweighed by the absence of an adequate supply of housing. The impact on the character and appearance of the area was judged to be harmful although this was mitigated by the fact that the site had a good level of enclosure. The development would not be prominent in the wider landscape and such visual impacts would be largely localised. The proposal would be seen as an extension of the village rather than an isolated development. Housing was therefore not an incongruous feature in the area. In terms of the impact on the setting of a listed building, more recent housing formed part of its setting and the addition of the proposed development would not significantly undermine this further. The benefits of boosting housing supply and delivering affordable housing outweighed this harm.</p>