

Housing appeal decisions for w/c 27 February 2023*

Scheme	Appeal Reference	Description of Scheme	Local Planning Authority	Appellant	Appeal Decision	Issues Summary
44-46 Market Street, Falmouth TR11 3AJ	APP/D0840/W/22/3292448	Development proposed is mixed use development comprising retail and residential uses	Cornwall Council	Acorn Blue	Allowed	Redevelopment of a vacant retail unit would represent a suitable solution given the council's aspirations for the area. The council's key objectives for the area involved consolidating and enhancing the town centre. The scheme would not harm pedestrian safety or create any severe impacts on the highway network. Construction works associated with the proposed development could have an impact on a special area of conservation (SAC). Resulting effects on the SAC might include the disruption of water flows, disturbance of sea shore habitat and a negative effect on water quality. Furthermore, the SAC was an important recreational and economic resource and it was likely that occupants of the proposed development would visit them. However the appellants had submitted a construction and environmental management plan to mitigate these impacts. This, along with a financial contribution to off-site works, were sufficient to ensure that the integrity of the SAC was not harmed.
Land at Springfield Crescent, High Bentham	APP/C2708/W/22/3295490	Erection of 47no. residential dwellings	Craven District Council	Concert Living Ltd	Dismissed	Proposal on an allocated site in a key service centre village allocated for 82 units. Policy offered flexibility in terms of mix and density to ensure scheme viability. However, the number of units proposed would not be an efficient use of land. The proposed mix would not deliver the number of one and two bed properties recommended under the policy. The affordable element would be clustered and be readily identifiable and contrary to the balanced integration required in SPD. Surface water flooding concern due to underlying clay which a soakaway would not manage and a supplied Flood Risk Assessment lacked analysis regarding discharge to a watercourse; potential to create flood risk elsewhere.
Averys Nursery, Uckfield Road, Ringmer, Lewes BN8 5RU	APP/P1425/W/22/3308331	Construction of new office/light industrial workshops (B1) and 53 dwellings	Lewes District Council	Cross Stone Regeneration Ltd	Allowed	Proposal on a former nursery allocated entirely for business uses in a neighbourhood plan. Evidence demonstrated that without the enabling development provided by the residential component, the business element would not be viable on its own and could not be delivered because of abnormal development costs due to contaminated land. The lack of sustainable travel options and the scale of the proposed housing outside the village settlement boundary put the scheme in conflict with local plan locational policy. However, the NPPF tilted balance was triggered by a substantial shortfall in housing land supply in the district. The benefits of the scheme included the provision of much needed market and affordable housing, high quality employment floorspace contributing to reducing out-commuting and the remediation of contaminated land. These were substantial benefits which would not be delivered without a viable scheme and outweighed any adverse impact arising from conflict with the development plan.

* Showing decisions relating to appeals for over 10 units

90 Fairmead, Cuffley Hill, Goffs Oak EN7 5EX	APP/W1905/W/22/3300254	Development proposed is the erection of 58 dwellings	Broxbourne	Countryside Properties (UK) Limited & Landowner	Allowed	Proposal on land allocated for 26 houses on village-edge former horticultural nursery land, part of a larger site removed from the green belt. The proposed layout and density responded to the site's constraints and opportunities and would provide a suitably designed and very low density scheme that was in keeping with its surroundings. Whilst the council suggested open space should be excluded from density calculations, the inspector held that the overall density yardstick was more relevant because it reflected the overall perception of the scheme on the ground, with the houses and open space being experienced together. The local plan explained that site allocation numbers were intended to be indicative and sought an efficient use of land through a design-led approach. Finding no evidence from the council to justify its concern that a calculation of 0.96 per cent biodiversity net gain was marginal and would not deliver a net gain in practice, the inspector allowed the appeal.
Tamesis 2, The Glanty, Egham TW20 9AW	APP/Q3630/W/22/3294545	Change of use from office (B1(a)) to residential (C3) to provide 73 residential dwellings	Runnymede Borough Council	Royal London Asset Management	Dismissed	The council had refused to grant prior approval for the scheme due to inadequate information in relation to flood risk but had subsequently received notification from the Health and Safety Executive that the appeal site lay within a safety hazard area. Development is not permitted by Class O if the site is, or forms part of, a safety hazard area and so there was no need to consider the impact of the development on flooding risk. There is no provision in the GPDO for attaching additional conditions preventing occupation of the development until the safety hazard area designation had been revoked.
Prospect House, Huyton Church Road, Huyton L36 5SH	APP/V4305/W/22/3305537	Erection of up to 54nr apartments (of C2 or C3 use)	Knowsley MBC	Oakley Asset Management Ltd	Dismissed	Proposal within a conservation area would give rise to an uncharacteristic form of development which would adversely affect the character of a planned Victorian suburb. The loss of some trees at the rear of the site also added to harm. The scheme would have an overbearing impact on the outlook of occupiers in an adjacent property. A further concern related to the lack of on-site parking and servicing such that overall the public benefit of delivering further housing on a previously developed site did not outweigh the totality of the harms.
Land South of Sutton Stop, Longford, Coventry, Warwickshire CV6 6DF	APP/U4610/W/22/3307272	Outline application (with all matters reserved except access) for the erection of up to 262 dwellings	Coventry City Council	Brandon Planning & Development Ltd & Caddick Residential Ltd	Allowed	Proposal on a site allocated in an adopted local plan for housing which was linked to the construction of a marina. During the local plan examination the marina site had been judged suitable for a mixed use scheme including 24 houses and the appeal site considered appropriate for up to 285 dwellings. Therefore, it was clear that the two sites had been considered separately and in addition there had been no intention to bring the housing forward in parallel with the employment area. Thus, the proposal would not prejudice the development of either of the other two sites. There would be no adverse impact on highway safety and the development accorded with the development plan. The Council decided to withdraw its objection on the final day of the inquiry after agreeing that it would not prejudice the development of other sites allocated nearby.

<p>Southbourne Crossroad Car Park, Southbourne Coast Road Bournemouth</p>	<p>APP/V1260/W/22/3302066 & APP/V1260/W/22/3310674</p>	<p>Development proposed is construction of 4 new blocks of apartments</p>	<p>Bournemouth, Christchurch & Poole</p>	<p>Vivir Estates Ltd</p>	<p>Allowed</p>	<p>Two alternative, but similar, schemes on a Council owned public car park site which was in poor condition. A 2017 Cabinet decision to sell the land as surplus and little used contradicted the Council refusal due to pandemic tourism need. It was unlikely that local businesses would suffer and the loss of public parking would not result in unacceptable harm. The site represented an incongruous gap which made a negative contribution to the area character and detracted from the seafront streetscene. The proposals height, scale, massing and density would correlate with that in the vicinity and would not harm area character and appearance. Part costs awarded to the appellant due to the Council's baseless assertions and sudden change in stance regarding development.</p>
<p>Land at Hemlington Lane, Middlesbrough</p>	<p>APP/W0734/W/22/3297347</p>	<p>Erection of 18no bungalows</p>	<p>Middlesbrough Council</p>	<p>Mr Ken Shannon</p>	<p>Dismissed</p>	<p>Proposal on a green wedge woodland site set adjacent to existing housing. The proposal would involve the removal of the majority of the woodland and grassland. A negative nutrient neutrality mitigation strategy was submitted, however the Council considered the UU was insufficient. Mitigation to include off site planting and retention of trees on boundary and within centre of site. No compelling reasons why the proposal and the loss of trees would not be acceptable in terms of character and appearance and design quality. No significant traffic noise disturbance caused by increased traffic. No details provided of how appropriate mitigation would be achieved; an obligation would not be sufficient to remove proposal's negative effect on Special Protection Area (SPA). It was also uncertain that a financial contribution for toucan crossing and associated highway works would be necessary and directly related to the development.</p>