

Housing appeal decisions for w/c 27 March 2023*

Scheme	Appeal Reference	Description of Scheme	Local Planning Authority	Appellant	Appeal Decision	Issues Summary
Grosvenor Court, Hipley Street, Old Woking, Woking	APP/A3655/W/22/3297063 & APP/A3655/W/22/3297063	Two schemes proposed for the erection of a four storey building containing 24 or 25 apartments	Woking Council Borough	Tantalus Homes	Dismissed	Proposal on a site within a group of residential blocks. The design of the 24 flat scheme would appear particularly bulky and out of character due to its architectural detailing. The bulk of the 25 flat scheme would still be problematic, but the design was more sympathetic to the area. The family sized units would lack adequate private outdoor amenity space. The communal open space would be awkwardly located.
Land East of The Common, Barwell	APP/K2420/W/22/3295558	Development proposed is the erection of up to 110 dwellings	Hinckley & Bosworth Borough Council	Harrow Estates	Dismissed	Proposal on the edge of a village. In order to accommodate 110 units this would require sub-dividing the larger plots which would potentially reduce the amount of landscaping which could be provided whilst increasing the density. Therefore the quantum of houses proposed could not be accommodated on the site in a manner which would respect the character and appearance of the area. Up to 110 houses represented a significant benefit in terms of housing land supply and a lack of 5 year housing land supply had been an ongoing issue since 2018. Affordable housing was a further significant benefit. There would also be economic benefits during the construction phase and operational lifetime of the development which would contribute towards economic growth. Biodiversity net gain benefits and provision for self-build plots also weighed in favour of the development. However, the adverse effects significantly and demonstrably outweighed the benefits.
Land South of Redenhall Road, Harleston, Norfolk IP20 9HE	APP/L2630/W/22/3297827	Development proposed is erection of up to 110 dwellings	South Norfolk District Council	Ruby Homes (East Anglia) Ltd	Dismissed	Proposal in a shallow valley on an open agricultural site on the edge of a town which formed part of the setting of the small rural town, and was visible from a number of footpaths. Although the submitted layout was only indicative it was difficult to see how 110 dwellings could be accommodated on the site without urbanising the landscape and harming the setting of the town. Although the matter of access had not been reserved there was little detail of how the proposal would connect with the road. The council could not demonstrate a five year housing land supply, but the significant landscape harm and uncertainty about highway safety outweighed this.
Land at Broadfield Farm, Broadfield Farm, Great Somerford SN15 5EL	APP/Y3940/W/22/3296058	Proposed development of 21 residential dwellings	Wiltshire Council	Gleeson Strategic Land Limited	Allowed	A proposal in the countryside in a field and adjacent to a village. Although the local area had a surplus housing land supply according to the local plan, the strategy should be approached flexibly to accommodate shortfalls from elsewhere. The site was classified as being in the open countryside, even if it was adjacent to a village. As a result of its countryside location, the proposal for predominantly open market housing went against exemption policies that were permissive of housing for local needs. As the village had a number of services available, future occupants would not be entirely reliant on private motor vehicles. By incorporating new landscaping a development of the scale of that proposed would integrate well with the village and have a limited impact on the character and appearance of the area. As the council could not demonstrate a five year housing land supply, the presumption in favour of sustainable development applied. Even though the housing supply situation was improving, limited weight was given to the proposals conflict with the spatial strategy.

* Showing decisions relating to appeals for over 10 units

<p>The Street, Bramley, Hampshire RG26 5BP</p>	<p>APP/H1705/W/22/3302752</p>	<p>Demolition of one dwelling and erection of up to 140 dwellings</p>	<p>Basingstoke & Deane Borough Council</p>	<p>Wates Developments Ltd</p>	<p>Allowed</p>	<p>Proposal outside the settlement boundary of a large village. Heritage matters were a main issue in the appeal given that the site comprised agricultural fields forming part of the setting of a grade I listed church, two listed farmhouses and a village conservation area. The council referred to the principles set out by the Court of Appeal in R(Wyatt) v Farnham Borough Council [2022], that significant weight can be expected to be given to the advice of an expert national agency and that if a decision maker departs from that advice, they must have cogent reasons for doing so, to argue that great weight must be given Historic England’s position that harm to the heritage assets lay in the middle of less than substantial. The appellant cited the High Court judgment, Newcastle-upon-Tyne v SSLUHC [2022] to suggest that such great weight may not hold in the face of expert witness evidence tested at an inquiry, making the case that harm would be much lower on the scale. The harm would be at the lower end of less than substantial, subject to retention of a field shown as open land in the illustrative masterplan, in a slight departure from the views of Historic England. In the heritage balance, the public benefits of the new and affordable homes in a district with a significant shortfall in housing land supply and provision of community facilities outweighed the identified level of heritage harm, and in an overall tilted planning balance the adverse effects on heritage, landscape, spatial strategy and BMV farmland was outweighed by the benefits of the scheme.</p>
<p>35-37 Old London Road, Kingston Upon Thames KT2 6ND</p>	<p>APP/Z5630/W/22/3298545</p>	<p>Change of use of existing retail units from sui generis to Class E. Erection of extensions and alterations to 35-37 Old London Road and the erection of a new three-storey building to the rear to provide 11 (net) residential dwellings (12 in total)</p>	<p>Royal Borough of Kingston upon Thames</p>	<p>BMK Constructions Ltd</p>	<p>Dismissed</p>	<p>The mid-terrace site lay within a local area of special character with significance as a non-designated heritage asset. The site benefitted from a realistic fallback of permission for a similar development which the appellant now proposed to amend with more extensive alterations, arguing the changes unified the street scene. However these changes would undermine the significance of the area of special character and the locally listed buildings. The degree of harm to the non-designated heritage assets and the character and appearance of the area marginally outweighed the benefits of gaining another four dwellings and an efficient and effective use of a previously developed site in an accessible location, in a tilted balance engaged by a significant shortfall in five-year housing supply.</p>
<p>Coldthorn Barn, Coldthorn Lane, Hailsham BN27 3PJ</p>	<p>A. APP/C1435/W/21/3285618 B. APP/C1435/W/21/3274822</p>	<p>A. the subdivision of existing dwelling into 2 no. separate B. residential units and erection of up to 30 no. dwellings the subdivision of existing dwelling into 2 no. separate residential units and erection of up to 30 no. dwellings</p>	<p>Wealden District Council</p>	<p>TA Homes (Land) Limited</p>	<p>Allowed</p>	<p>Redetermined appeal on the site of an old orchard. Previous appeal decisions on the two applications were both quashed by the High Court on the basis of issues and analysis regarding adjoining woodland and whether it should be considered Ancient Woodland. The inspector in the redetermined appeal noted the NPPF defines Ancient Woodland as an area that has been wooded continuously since at least 1600 AD and is an irreplaceable habitat. Reviewing mapping and survey evidence, the inspector concluded that the wood was likely to have existed in 1600 and should be considered to be Ancient Woodland, contrary to the appellant’s submissions. Subject to conditions to secure 15 metre buffer zones of semi-natural habitat between the woodland and proposed housing, and preventing use as garden or forming part of a residential curtilage in accordance with Natural England and Forestry Commission standing advice for making planning decisions (2022), the inspector was content the Ancient Woodland would be suitably safeguarded. On this basis, there was no conflict with policy protecting a particularly important asset to disengage the tilted balance triggered by a significant five-year housing land supply shortfall.</p>

<p>Land North of Barking Needham Road, Market, IP6 8EZ</p>	<p>APP/W3520/W/22/3308189</p>	<p>Development proposed is outline planning application for the erection of up to 279 no. dwellings (both private & affordable)</p>	<p>Mid Suffolk Council</p>	<p>Mr David Willis, Mrs Marlene Perry and Mr Michael Watson</p>	<p>Dismissed</p>	<p>Proposal on the edge of a town on a site located in flood zone 1 with the access within flood zone 3. On this basis it was asserted that a sequential test had been undertaken to ensure that all the houses were sited within the lowest flood risk area. The inspector decided that this claim was not well founded. The access fell within the red line plan submitted as part of the scheme and without which there was no proposed means for vehicles to enter or leave the site. It followed that the access was a necessary part of the development without which the scheme as proposed could not proceed and it was self-evident that the access formed an integral part of the development. Therefore, there was no cogent reason why it should be considered separately from the development which it served. Since no sequential test had been submitted it conflicted with national and local planning policy. The appellant's transport assessment omitted to include a number of development sites in the area. This led to inaccuracies in how the baseline traffic data had been calculated and undermined the confidence in the accuracy of the assessment. On the basis of that information the inspector was unable to conclude that traffic from the proposal could be safely accommodated on the wider highways network. In addition, the scheme would harm the landscape character and would fail to provide acceptable living standards for future residents based on the potential impact of an adjoining football club. The appellant had not demonstrated that the noise of football matches and events at the ground could be adequately mitigated.</p>
<p>Land at Crabtree Farm, Hinckley Road, Barwell</p>	<p>APP/K2420/W/22/3308175</p>	<p>Development proposed is erection of 51 plots</p>	<p>Hinckley & Bosworth Borough Council</p>	<p>Barwell Capitol</p>	<p>Allowed</p>	<p>Proposal in two fields on the edge of a settlement on a site which already benefited from a consent for housing. The site occupied a sustainable location and the planned internal layout and density were acceptable. The main parties agreed that the provision of the receptor site and the delivery of the mitigation scheme relating to biodiversity net gain could be secured by a planning condition. Because considerable work had been undertaken to identify and survey the receptor site, there was some certainty of this being secured and this matter could be dealt with by a condition.</p>
<p>Former Laleham Gap School, Margate CT9 2TP</p>	<p>APP/Z2260/W/21/3283984</p>	<p>Development proposed is the construction of 20 dwellings</p>	<p>Thanet Council</p>	<p>Kent County Council</p>	<p>Dismissed</p>	<p>Proposal on a former school playing field which once formed part of a wider site accommodating a school and its grounds. The school had been relocated to another site and planning permission was granted for its demolition and the site's redevelopment to provide 70 dwellings. That development had since been implemented. The council's playing pitch strategy set out an assessment of the supply and demand of facilities for the whole district. It concluded that there was an existing and forecast shortfall of grass football pitches, specifically for junior games. From that perspective, there was a clear deficit of playing field provision. Sport England advised that the appeal site, by reason of its size, was capable of accommodating two five-a-side football pitches. Sport England concluded that a financial contribution of £50,000 would provide adequate mitigation for the loss of playing fields on this basis. Although the appellant had provided a unilateral undertaking confirming this payment, there was no information as to how or where it would be spent to ensure that the loss of the playing field was mitigated. On this basis the it was given only limited weight.</p>