

Housing appeal decisions for w/c 3 April 2023*

Scheme	Appeal Reference	Description of Scheme	Local Planning Authority	Appellant	Appeal Decision	Secretary of State Decision	Issues Summary
6 -6a Luton Avenue, Broadstairs CT10 2DH	APP/Z2260/W/21/3287749	Erection of a 3-storey building containing up to 10 units	Thanet Council District	Maybank Homes	Dismissed		Site currently used as a care home. The proposal would be bulkier than the present buildings and out of place in the context of the prevailing pattern of development. Whilst the appearance was a reserved matter, alternative elevational treatments and internal layouts would not be capable of overcoming objections because of the amount of development proposed. The scheme would have an inappropriate scale and layout such as to unacceptably harm area character and appearance.
Town Meadow, Bridestowe, Okehampton, Devon EX20 4EG	APP/Q1153/W/22/3293078	Development proposed is the provision of up to 24 dwellings	West Devon Borough Council	Leander Developments	Dismissed		Proposal on the edge of a village. The layout would not appear cramped, but would unduly exacerbate the impact of accommodating motor vehicles at the expense of creating a positive sense of place which would not amount to good design. While a large concentration of bungalows on the site would be inappropriate, there was evidently a need and demand for this type of housing within the village. There was no reason why an alternative scheme, which was designed to a higher standard, could not successfully incorporate some single-storey dwellings as part of the development and, in so doing, help to meet the housing objectives of the local and neighbourhood plans. A flood risk and drainage assessment dating from 2018 was not up to date and he required additional information given that part of the site lay within flood zone 3. The impact on the setting of heritage assets also needed to be addressed.
8-10 Station Road, Shirehampton, Bristol BS11 9TT	APP/Z0116/W/22/3305852	Redevelopment of the site to include 18no. houses and 3no. apartments	Bristol City Council	Shirehampton Land	Dismissed		Redevelopment of horticultural site within a conservation area. The site was not previously developed land that benefited from vacant building credit and reduced affordable housing contributions. The proposal would harm the area's character and appearance due to the amount of development proposed and its cramped layout, and harm the conservation area and the setting of a non-designated heritage asset. It would also result in the loss of a tree and have an adverse effect on green infrastructure. Measures proposed in a s106 agreement on biodiversity net gain were found to be deficient. Moreover, the proposal would not provide satisfactory living conditions for future occupants, with particular regard to outlook, privacy and daylight. The scheme's benefits and the council's housing shortfall would not outweigh the identified harm.

* Showing decisions relating to appeals for over 10 units

96-98 King Street, London W6 0QW	APP/H5390/W/22/3290703	Erection of a part three, part- four storey building to provide commercial space (Class E) at ground floor level with 16no. self-contained flats at ground, first, second, and third floor levels	London Borough of Hammersmith & Fulham	Thackeray Estates Hammersmith 4 Ltd	Allowed	Demolition of existing commercial building and erection of new building to provide commercial space at ground floor level with self-contained flats with associated rooftop plant. A requirement for an affordable housing provision was not viable, so there was no justification for a financial contribution towards off-site affordable housing provision. The proposal would not have an unacceptable effect on future development opportunities at adjacent sites. Future occupiers would be likely to experience acceptable living conditions with particular reference to outlook, odours and noise and disturbance and the proposal would protect the privacy of neighbouring occupiers.
Land West of Yapton Lane, Walberton	APP/C3810/W/22/3309365	Construction of up to 48 dwellings (30% affordable homes)	Arun District Council	LandQuest UK (Southern) Ltd	Allowed	Proposal on top grade agricultural land in a settlement gap between villages. It was common ground that the council had only 2.4 years' supply of housing land. A draft annual monitoring Report published in January 2023 concluded that supply had dropped to 2.36 years, equating to a shortfall of over 6,000 homes over the next five years and the housing delivery test for the district had also been below 70 per cent since the local plan was adopted in 2018. This provided evidence of a significant and persistent housing crisis in the district and the tilted balance fell in favour of the development. This part of the settlement gap was of lesser importance in defining the separation between the two settlements than other land and the development would not significantly erode the physical or visual separation. In addition, landscape and visual harm would be limited and localised. The level of harm from conflict with development plan policy carried less weight than the benefit of market housing and 30 per cent affordable housing.
Conquest House, 32-34 Collington Avenue, Bexhill-on-Sea TN39 3LW	APP/U1430/W/22/3296218	Development proposed is change of use from offices (Class B1(a)) to 78 no. dwellinghouses (Class C3)	Rother Council District	Paramount Land and Development	Dismissed	Prior approval for office to residential conversion. The council's refusal related to the provision of adequate natural light in all habitable rooms of the dwellinghouses. The inspector found there would be deficiencies in natural light to a number of habitable rooms. This was on account of the orientation, sizes and positions of their windows in relation to the sizes, layouts and useable areas of those rooms, which would appear very dull without the use of electric lighting much of the time.
Land to the south of Marsworth Road and the west of Vicarage Way, Pitstone, Buckinghamshire, LU7 9TE	APP/J0405/W/22/3292202	Development proposed is construction of 21no. dwellings (8 flats and 13 houses)	Buckinghamshire Council	Mr Wesley McCarthy	Allowed	A 2005 Masterplan designated the site for community facilities and commercial development. Whilst most of the housing and the business park in had been recently completed, the appeal site remained undeveloped. Policy was explicit in resisting residential development but caveated with reference to viability. 15 month marketing acceptable as not 'employment'. The location and design would be in accord with residential requirements and the proposed use acceptable. A 3 space parking shortfall was accepted by the Highway Authority due to sustainability of site. Infrastructure contributions acceptable including Affordable, Special Area of Conservation mitigation and a total monitoring fee. An additional 21 units in an area of over supply would not undermine the Council's settlement strategy.

Land at Blean Common, Kent	APP/J2210/W/16/3156397	Development proposed is the erection of up to 85 residential dwellings (including 30% affordable housing)	Canterbury Council	City	Gladman Developments Limited	Allowed		Proposal in an area where the local plan did not delineate settlement boundaries with a line on a map. It was, nonetheless, evident that the appeal site lay adjacent to the settlement and not within it. Accordingly, the site should be treated as being in the 'open countryside'. Although the base date agreed between the council and the appellant was 1 April 2022 and that at that time the local plan was not yet five years old, paragraph 74 of the NPPF confirmed that where a local plan at the time of determination were more than five years old, the standard method for calculating housing land supply should be adopted and not the local housing need within the development plan. When set against need calculated using the standard method this equated to an oversupply of only 21 homes. However, the inspector's assessment of the wider evidence indicated that supply would in practice be significantly less than the need figure and therefore the tilted balance applied.
103-111 High Street, Croydon CR0 1QG	APP/L5240/W/22/329/6317	Erection of 121 residential units	London Borough of Croydon		Leos North London Ltd	Dismissed	Dismissed	Secretary of State recovered decision. Demolition of existing office buildings and the erection of a 29-storey building to provide 121 residential units and flexible commercial floorspace within Class E at ground, mezzanine, first and second floors. The Building Research Establishment (BRE) guidelines were the main source of guidance on the issue of daylight and had long been considered as 'best practice' within the development industry. In this case they had been used by both the appellant and the council, with a two-stage approach agreed as appropriate. The BRE guidelines suggested that 27 per cent vertical sky component was an ideal target, but the inspector noted that this was a 'one-size fits all' target that could be applied across suburban and highly urban areas alike. The appeal site lay in a town centre site amongst other tall buildings, and the 27per cent should not be viewed as a target which could be applied to the scheme. The scheme would give rise to significant harmful impacts on daylight entering a number of residential units adjoining the site which would substantially harm their living conditions. In relation to the impact on heritage assets these were generally judged to be acceptable with the exception of the impact on a nearby conservation area. The scheme would terminate a key view out of the conservation area and while this view was already punctuated by tall buildings, the slender form and height of the proposal would draw the eye and detract from the historic and architectural importance of the area. This harm would, however, be outweighed by the public benefits. Overall, the scheme would not comply with the development plan and the harms would significantly and demonstrably outweigh the benefits.

Land Adjacent to Turnden, Hartley Road, Cranbrook	APP/M2270/V/21/3273015	Planning permission for the construction of 165 new dwellings	Tunbridge Wells Borough Council	Berkeley Homes	Allowed	Dismissed	<p>Secretary of State called-in decision. Proposal in an Area of Outstanding Natural Beauty. Weighing in favour of the development was the need for housing as the borough could not currently show a five-year housing land supply. The Secretary of State agreed that the proposed development would be very likely to comfortably exceed 10 per cent biodiversity net gain which would be required by the Environment Act 2021. Proposed reinstatement of hedgerows along historic boundaries and of a shaw in the southern fields would be beneficial to the time-depth character of the AONB. Furthermore, proposed recreational land would also be beneficial in heritage terms as it would reinstate a historic feature in the local landscape. New woodland planting and management of existing woodland would be to the benefit of the environment and landscape. Proposed highway works might also result in improving highway safety. In addition, additional footpaths and substantial new publicly accessible amenity space would enhance recreational opportunities. Weighing against the proposal was the harm to the landscape and the scenic beauty of the AONB which attracted great weight. Whilst the Secretary of State agreed with the inspector that the proposed development would deliver landscape enhancements, he did not find that the proposal was of a high standard which had evolved through thoughtful regard to its context. Overall, he did not find that the scheme was sensitively designed having regard to its setting. He found that the design of the proposal did not reflect the expectations of the a housing design guide, being of a generic suburban nature which did not reproduce the constituent elements of local settlements. He also considered that the layout of the scheme did not respond to its AONB setting. Rather than being a benefit of the scheme, as suggested by the inspector, the Secretary of State considered that the design of the scheme was a neutral factor in the context of the Framework and the planning balance. There was further harm by way of harm to air quality which was afforded very limited weight and harm to the plan-making process through prematurity which was also afforded very limited weight.</p>
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