

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>2 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

---

**CLASSIFICATION:** Open

## **Wards Affected**

Countywide

## **Purpose**

To note the progress in respect of the following appeals.

## **Key Decision**

This is not an executive decision

## **Recommendation**

**That the report be noted.**

## **APPEALS RECEIVED**

### **Application 151264**

- The appeal was received on 24 July 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Miss Karen Harris
- The site is located at Barn at Losito Stud, Harris Lodge, Whitchurch, Ross-on-Wye, Herefordshire, HR9 6EG
- The development proposed is Convert an existing barn to an eco dwelling at Losito Stud for use as ancillary accommodation serving existing dwelling
- The appeal is to be heard by Written Representations

**Case Officer: Mr C Brace on 01432 261947**

### **Application 150491**

- The appeal was received on 28 July 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Planning Conditions
- The appeal is brought by Mrs S Anderson
- The site is located at The Bee House & The Hive, Nashend House, Bosbury, Ledbury, Herefordshire, HR8 1JU
- The development proposed is Removal of condition 3 & 4 of planning permission DCNE2003/2257/F as amended by appeal decision APP/W1850/A/08/2077264
- The appeal is to be heard by Hearing

**Case Officer: Fernando Barber-Martinez on 01432 383674**

**Application 143771**

- The appeal was received on 20 July 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Gladman Developments Ltd
- The site is located at Land at Longworth Lane, Bartestree, Hereford, Herefordshire, HR1 4BA
- Site for development of up to 100 dwellings with associated open space and community orchard with all matters reserved, except for access.
- The appeal is to be heard by Inquiry

**Case Officer: Mr Edward Thomas on 01432 260479**

**Application 143384**

- The appeal was received on 5 August 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Ms C Kent c/o Agent
- The site is located at Cheshire Bungalow, B4348, Peterchurch, Herefordshire
- The development proposed is Site for proposed erection of bungalow in place of 'Cheshire Bungalow'
- The appeal is to be heard by Written Representations

**Case Officer: Mr Matt Tompkins on 01432 261795**

**Application 151287**

- The appeal was received on 5 August 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against the Removal of a Planning Condition
- The appeal is brought by Mrs Deborah Mitchell
- The site is located at The Stables, Kinnersley, Hereford, Herefordshire, HR3 6NY
- Proposed removal of condition 1 of planning permission reference P/143727/F (Mobile home in association with an equine business (retrospective)) - to retain the existing structure as a dwelling with no EOC. The appeal is to be heard by Written Representations

**Case Officer: Mr M Tansley on 01432 261815**

**Application 143343**

- The appeal was received on 7 August 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr John Morgan
- The site is located at Bage Court, Dorstone, Hereford, Herefordshire, HR3 5SU
- Proposed erection of 2 no. broiler rearing unit with associated feed bins, hardstandings and attenuation pond. The appeal is to be heard by Written Representations

**Case Officer: Mr M Tansley on 01432 261815**

**Application 150008**

- The appeal was received on 10 August 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Prior Approval
- The appeal is brought by Mr and Mrs A Lively
- The site is located at Metal Barns at Lane Head Farm, Eaton Bishop, Herefordshire
- The development proposed is Proposed Prior Approval of Proposed Change of Use of Agricultural Building to a Dwellinghouse (Use Class C3), and for Associated Operational Development - change of use of an agricultural building to two dwellinghouses.
- The appeal is to be heard by Written Representations

**Case Officer: Ms Kelly Gibbons on 01432 261781**

**Application 143488**

- The appeal was received on 14 August 2015
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by New Shelf Ltd
- The site is located at Land adjacent Hartleton Farm, Bromash, Ross-on-Wye, Herefordshire, HR9 7SB
- The development proposed is Proposed erection of four dwellings
- The appeal is to be heard by Written Representations

**Case Officer: Mr Roland Close on 01432 261803**

## ***APPEALS DETERMINED***

**Application 142743**

- The appeal was received on 27 March 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr Colin Russell
- The site is located at 1 The Byre, Bridge End Farm, Much Cowarne, Herefordshire, HR7 4JL
- The development proposed was Proposed porch to north elevation; two additional windows to north and west elevations and two Velux rooflights to east elevation
- The main issue for both appeals is whether the proposed porch, windows and rooflights would preserve the special architectural or historic interest of this grade II listed curtilage building and the setting of the adjoining listed buildings.

**Decision:**

- The application was Refused under Delegated Powers on 11 November 2014
- The appeal was Dismissed on 28 July 2015

**Case Officer: Mr Andrew Stock on 01432 383093**

**Application 142744**

- The appeal was received on 27 March 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Listed Building Consent
- The appeal was brought by Mr Colin Russell
- The site is located at 1 The Byre, Bridge End Farm, Much Cowarne, Herefordshire, HR7 4JL

- The development proposed was Proposed porch to north elevation; two additional windows to north and west elevations and two Velux rooflights to east elevation
- The main issue for both appeals is whether the proposed porch, windows and rooflights would preserve the special architectural or historic interest of this grade II listed curtilage building and the setting of the adjoining listed buildings.

**Decision:**

- The application was Refused under Delegated Powers on 11 November 2014
- The appeal was Dismissed on 28 July 2015

**Case Officer: Mr Andrew Stock on 01432 383093**

**Application 143373**

- The appeal was received on 2 March 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Prior Approval
- The appeal was brought by Mr David Adams
- The site is located at Windy Oaks Farm, Birchwood Lane, Storrige, Malvern, Herefordshire, WR13 5EZ
- The development proposed was Proposed change of use from agricultural building to business use B1(c)
- The main issues were:
  - Development under Class R is permitted subject to the conditions set out at R.2 and R.3. Condition R.3(1)(b), where the development exceeds 150m<sup>2</sup>, provides that the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to: transport and highways impacts; noise impacts; contamination risk and flooding risk. In this case the Council has refused prior approval for the change of use of Windy Oaks Farm to a commercial 'flexible use' because it considers that there is insufficient information to address any potential highways and noise impacts on neighbouring residential properties and its surroundings.
  - Furthermore, the provisions of the GPDO2 also require the local planning authority to have regard to the National Planning Policy Framework (the Framework)(so far as it is relevant to the subject matter of the prior approval) as if the application were a planning application. In this regard the Council has refused prior approval because it considers that the appeal site is in an unsustainable location and there is no identified need.
  - It is not disputed that otherwise the proposal complies with the relevant limitations and restrictions set out in the GPDO and so would be permitted development if prior approval were to be granted.
  - Taking into account all that I have seen and read, I consider there are two main issues in this appeal. The first is the effect of the proposal on the living conditions of neighbouring occupiers in terms of noise; and the second if the effect of the proposal on transport and highway safety.

**Decision:**

- The prior approval application was Refused under Delegated Powers (planning permission required) on 8 January 2015
- The appeal was Allowed on 29 July 2015

**Case Officer: Mr Andrew Stock on 01432 383093**

**Application 141828**

- The appeal was received on 6 March 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by SC Hardwick & Sons
- The site is located at Mill Field, Fownhope, Herefordshire
- The development proposed was Proposed residential development of 22 open market family homes and 11 affordable homes.

- The main issues were:
  - The Council has stated that it does not have a five-year housing land supply and, under paragraph 49 of the National Planning Policy Framework (NPPF), that the relevant saved policies for the supply of housing in the Herefordshire Unitary Development Plan 2007 (HUDP), including the settlement boundary (policy H4), are out-of-date. The emerging Herefordshire Local Plan (HLP) has been examined but there are unresolved objections to the published Main Modifications proposed to the plan and the Council's view is in these circumstances the HLP has limited weight. As such, the application is required, under paragraph 49 of the NPPF, to be considered in the context of the presumption in favour of sustainable development, in paragraph 14 of the NPPF.
  - The site lies within the Wye Valley Area of Outstanding Natural Beauty (AONB). Paragraph 14 of the NPPF states that, for decision-taking, this means where the development plan is out-of-date, granting planning permission unless (in the second bullet) specific policies in the NPPF indicate that development should be restricted, with Footnote 9 stating that this relates to protected sites, including AONBs.
  - Therefore the main issues in this case are:
    - a) the location of the proposed development having regard to national policy on development in AONBs; and,
    - b) whether the proposal makes adequate provision for the provision of affordable housing and infrastructure through the submission of the unilateral undertaking.

**Decision:**

- The application was Refused at Planning Committee on 11 February 2015
- The appeal was Dismissed on 30 July 2015

**Case Officer: Mr Edward Thomas on 01432 260479**

**Application 140965**

- The appeal was received on 17 March 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr A Burton
- The site is located at Land off Lower Cross Lane, off High Street, Kington, Hereford, HR5 3AX
- The development proposed was Proposed vehicular access and erection of a garage.
- The main issues are the effect of the proposed development on the character and appearance of the Kington Conservation Area and the effect of the proposed development on the setting of nearby listed buildings.

**Decision:**

- The application was Refused under Delegated Powers on 30 June 2014
- The appeal was Dismissed on 31 July 2015

**Case Officer: Mr Andrew Stock on 01432 383093**

**Application 142461**

- The appeal was received on 2 May 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr John Hopcutt
- The site is located at Land at Holly Barn, Risbury, Leominster, Herefordshire, HR6 0NQ
- The development proposed was Proposed erection of a dwelling and garage/workshop.
- The main issues are whether the proposal represents sustainable development and the effect the proposal has on the character and appearance of the area.

**Decision:**

- The application was Refused under Delegated Powers on 12 December 2014
- The appeal was Dismissed on 31 July 2015

**Case Officer: Mr A Prior on 01432 261932**

**Application 142090**

- The appeal was received on 30 March 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Prior Approval
- The appeal was brought by Mr Paul Colley-Davies
- The site is located at The Barn, Winforton Wood, Winforton, Herefordshire, HR3 6EB
- The development proposed was Change of use from a barn to a permanent dwelling.
- The main issue is whether or not the appeal proposal is permitted development having regard to the provision of Schedule 2, Part 3, and Class Q of the GPDO.

**Decision:**

- The application was Refused under Delegated Powers on 3 September 2014
- The appeal was Dismissed on 10 August 2015

**Case Officer: Mr M Tansley on 01432 261815**

**Application 143568**

- The appeal was received on 7 April 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr Robin Cheeseman
- The site is located at Ganarew Care Home, Ganarew, Nr Monmouth, Herefordshire, NP25 3SS
- The development proposed was Proposed construction of unit to form assisted living accommodation.
- **The main issues were:**
  - a) Principle new built development in the countryside;
  - b) Sustainability of location;
  - c) Impact of design in landscape

**Reasoning:-**

- a) The Inspector effectively placed considerable weight on the historic extant permission;
- b) Again the Inspector effectively placed considerable weight on the historic extant permission and drew specific attention to those elements of the Central Government advice contained within the NPPF that support economic growth and expansion of all types of business and enterprise in rural areas;
- c) With respect the subjective, matter of design the Inspector considered the design to be appropriate and considered that its impact would not be materially greater than the historic extant permission.

With respect concerns relating to drainage raised by local residents the Inspector concluded that this matter could be dealt with by way of a planning condition.

**Decision:**

- The application was Refused under Delegated Powers on 28 January 2015
- The appeal was Allowed on 30 July 2015

**Case Officer: Mr Roland Close on 01432 261803**

#### **Enforcement Notice 143865**

- The appeal was received on 31 December 2014
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr Howard Humphries
- The site is located at Land at Probyns Pitch, Upton Bishop, Ross on Wye, Herefordshire, HR9 7UJ
  
- The breach of planning control alleged in this notice is:  
Without planning permission, the material change of use of land from a use for agriculture, to a mixed use for agriculture and the siting of a mobile home for residential purposes.
- The requirements of the notice are:  
Permanently remove the mobile home as shown in the approximate location marked "A" on the attached plan from the land thereby causing the cessation of its residential use on the land.

#### **Decision:**

- The appeal was Dismissed and the enforcement notice upheld on 12 August 2015

**Case Officer: Mrs Charlotte Atkins on 01432 260536**

#### **Application 141859**

- The appeal was received on 7 May 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Hereford Islamic Society
- The site is located at 36 Holme Lacy Road, Hereford, Herefordshire, HR2 6BY
- The development proposed was Proposed change of use of ground floor retail unit to day centre (D1)
- The main issues were:  
I consider there are two main issues in this case. Firstly, the adequacy of the parking arrangements and the effect on highway safety, and secondly; the effect on the living conditions of nearby residents with regards to noise and other disturbance likely to be generated by the proposal.

#### **Decision:**

- The application was Refused under Delegated Powers on 2 October 2014
- The appeal was Dismissed on 13 August 2015

**Case Officer: Ms Kelly Gibbons on 01432 261781**

#### **Application 142710**

- The appeal was received on 11 May 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr & Mrs Emmett
- The site is located at Land adjacent to Nellies Oak, Dinedor, Hereford, HR2 6LG
- The development proposed was Proposed four bedroom detached house and three bedroom detached bungalow
  
- The main issues were:  
The Council's 3rd reason for refusal concerns the junction of the access with the B4399 which has restricted visibility. However, taking into account the lawful business use of part of the site, the Council has since indicated that it does not wish to defend this reason for refusal.

I therefore consider the main issues in this case are: 1) The effect of the proposal on the character and appearance of the surrounding countryside; 2) The effect of the proposal on the setting, and therefore the significance, of a nearby listed building (Dinedor Court); 3) the effect of the proposal on the site's ecology; and 4) Whether the proposed development should be considered sustainable in the overall planning balance.

**Decision:**

- The application was Refused/Approved under Delegated Powers (at Planning Committee (against Officer Recommendation)) on 11 November 2014
- The appeal was Dismissed on 18 August 2015

**Case Officer: Mrs Charlotte Atkins on 01432 260536**

## ***APPEALS WITHDRAWN***

### **Application 150772**

- The appeal was received on 8 July 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission (Householder)
- The appeal was brought by Mrs Sharon Gray
- The site is located at The Cottage, Bosbury, Ledbury, Herefordshire, HR8 1QW
- The development proposed was Proposed upgrade and link extension to dwelling

**Appeal is Withdrawn:**

- The application was Refused on 11 May 2015
- The appeal was Withdrawn on 10 August 2015

**Case Officer: Fernando Barber-Martinez on 01432 383674**

If members wish to see the full text of decision letters copies can be provided.