

# Planning Appeal Decisions

**Committee:** Eastern Area Planning Committee on 28<sup>th</sup> October 2020

**Officer:** Bob Dray, Team Leader (Development Control)

**Recommendation:** Note contents of this report

1. This reports summaries recent appeal decisions in the table below, and provides feedback on some of the key findings. The appeal decisions and associated documents can be viewed by searching by the application reference number on the Council's Public Access website: <https://publicaccess.westberks.gov.uk/online-applications/>

Application / Appeal	Site	LPA Decision	Appeal Decision	Decision Date
19/02735/HOUSE Appeal: 3246611 Written Reps	<b>Laurel Cottage, Chapel Lane, Hermitage, Thatcham RG18 9RL</b> Alterations and a two storey extension to the rear of Laurel Cottage.	Delegated refusal	Allowed	12/08/20
19/01804/FULD Appeal: 3245453 Written Reps	<b>Walbury Cottage, Upper Green, Inkpen, Hungerford RG17 9QX</b> New 4 bedroom detached dwelling with access road and hard standing area of parking.	Delegated refusal	Dismissed	25/08/20
19/02700/HOUSE Appeal: 3249861 Written Reps	<b>Clifton House, Unnamed Road from Beckfords to Pangbourne Road, Upper Basildon, Reading RG8 8LU</b> Amendments to 4 dormers (retrospective)	EAPC refusal (recommended approval)	Allowed	15/09/20
19/02915/HOUSE Appeal: 3251129 Written Reps	<b>1 and 2 Church Street Mews, Church Street, Theale, Reading RG7 5BF</b> Detached four bay garage to provide parking for 1 and 2 Church Street Mews with first floor annexe.	Delegated refusal	Dismissed	15/09/20
19/01826/HOUSE Appeal: 3251509 Written Reps	<b>133 Halls Road, Tilehurst, Reading RG30 4QD</b> New carport and store over existing parking spaces to the front garden of the existing property'.	Delegated refusal	Allowed	16/09/20
19/02950/HOUSE Appeal: 3251166 Written Reps	<b>1 Weston Farm Cottages, Lambourn Road, Weston, Newbury RG20 8JA</b> 3 bay garage with home office and storage rooms above	Delegated refusal	Dismissed	28/09/20
20/00708/HOUSE Appeal: 3255069 Written Reps	<b>Greenhill Cottage, Hampstead Norreys, West Berkshire RG18 0TE</b> Erection of first floor rear extension, erection of double	Delegated refusal	Dismissed	28/09/20

	storey side extension, and alterations to doors and windows.			
19/02426/LBC2 Appeal: 3245847 Written Reps	<b>Hopgrass Open Barn, Strongrove Hill, Bath Road, Hungerford RG17 0SJ</b> Insertion of two windows to front elevation	Delegated refusal	Dismissed	28/09/20
20/00319/ADV Appeal: 3252407 Written Reps	<b>Newbury Retail Park, Pinchington Lane, Newbury RG14 7HU</b> Freestanding Lidl 'flag style' sign adjoining vehicular access into Newbury Retail Park off Pinchington Lane	Delegated refusal	Allowed	29/09/20
19/03076/OUTD Appeal: 3251987 Written Reps	<b>Garage site adjacent to 1 The Village, Hamstead Marshall, Berkshire RG20 0HN</b> Demolition of existing garages and erection of a two storey detached dwelling with three parking spaces	Delegated refusal	Allowed	01/10/20
20/00609/FUL Appeal: 3253638 Written Reps	<b>Royal Berkshire Shooting School, Tomb Farm, Hook End Lane, Ashampstead, Reading RG8 8SD</b> Erection of a marquee permitted to be erected up to 14 days per annum as per permission 142883	Delegated refusal	Allowed	07/10/20
19/01281/OUTMAJ Appeal: 3252212 Written Reps	<b>Newspaper House and Units Q1-6, Plot Q, Faraday Road, Newbury RG14 2DW</b> Demolition of existing Newspaper House and commercial buildings and redevelopment of the site for 71 flats and office accommodation together with parking and associated works	WAPC resolved to refuse (recommended for refusal)	Dismissed	08/10/20
20/00762/HOUSE Appeal: 3254826 Written Reps	<b>Ogdown House, North Heath, Chieveley, Berkshire RG20 8UG</b> Erection of an outbuilding.	Delegated refusal	Allowed	15/10/20
19/02878/HOUSE Appeal: 3253825 Written Reps	<b>2 Lane End Cottages, Ermin Street, Woodlands St Mary, Berkshire RG17 7BH</b> Demolition of the existing outbuilding and replacement outbuilding.	Delegated refusal	Dismissed	15/10/20

## Housing in the countryside

2. In **Walbury Cottage** the Inspector considered the criteria for infill development in Policy C1. They confirmed their interpretation that the wording of this policy is such that the insertion of the word "and" after each criterion does require that the proposal would need to comply with all the criteria; this is consistent with the Council's interpretation. The Inspector disagreed with the Council's interpretation that the site did not fall within a

“closely knit cluster of dwellings”, referring to the presence of existing residential dwellings to the north and east along the frontage of the road. The Inspector did, however, conclude that the proposal was not “infill” development as “infilling” would imply that the proposal would be located within a site which has development on either side of the plot, and that was not the case in respect of this appeal site. The appeal site is bounded by Walbury Cottage to the east, and the main road to the west. On this side of the main road, there is no additional development towards the south. As such the Inspector did not consider that the appeal site can be considered either infilling, or part of an otherwise built up frontage, due to the lack of existing development towards the south. Whilst the Inspector found the proposal complied with parts of Policy C1, these reasons rendered the proposal contrary to the policy as a whole.



3. The **garage site adjacent to 1 The Village, Hamstead Marshall** was another proposal for infill residential development. In this case the Council agreed that the site was located within a closely knit cluster of 10+ dwellings, but considered that the proposal conflicts with the other criteria of Policy C1. Regard was also given to a historical refusal.
4. Criterion (ii) requires that *“the scale of development consists of infilling a small undeveloped plot commensurate with the scale and character of existing dwellings within an otherwise built up frontage.”* The Inspector commented that this policy criterion does include reference to ‘undeveloped plots’ which the appeal site is not, being that there is an area of hardstanding and garages/outbuildings present. Nonetheless, considering the aim of the policy is to ensure against harm to the existing relationship between a settlement and the open countryside, amongst other things, it was the Inspector’s view that it is not the intention of this policy to prevent all infill development on previously developed plots.
5. In terms of criterion (iii) and whether it would “extend an existing frontage”, the Inspector noted that the site is set within the existing established row of dwellings. It is not to the side of the row, which would then extend it into the countryside if further dwellings were added. The proposed house would have a more noticeable frontage than the existing garages, but they would not regard this as being a case of a development which ‘extends’ the existing street frontage.



### Self build housing

6. In **Walbury Cottage** the Inspector recognised that the appellant is registered on the Self Build Register, and the proposal would be a self-build dwelling. They commented that the provision of a single self-build property would contribute to the needs of the self-building sector, and that this was something which they attached weight to in favour of the proposals. However, this benefit did not outweigh the harm that was identified in respect of the location of the development and conflict with the development plan.

### Flood risk sequential test (Newspaper House – WAPC)

7. The focus of the **Newspaper House** decision was on the flood risk sequential test (ST), which is a requirement of the NPPF and Core Strategy. The aim of the ST is to steer new development to areas with the lowest risk of flooding. If the ST is passed a proposal is also required to pass the Exception Test, which is also necessary for the development to be considered acceptable in this regard. In essence, development should only be permitted in an area of higher flood risk if there are no suitable alternative sites available in an area of lower flood risk. A ST therefore examines the availability of alternative sites within a defined search area.
8. In this case the proposal was for both apartments and office accommodation at a site near the centre of Newbury where there are existing offices. The site is within close proximity to the River Kennet and is, at least in part, within Flood Zone 3 according to the Environment Agency (EA). Although in Flood Zone 3 the area does benefit from flood defences. Flood Zone 3 (FZ3) is an area of high probability flooding. The appellant submitted both a Flood Risk Assessment (FRA) and also 'Sequential Tests' (ST) to support the proposal. The Council disputed the conclusions of the ST, the methods and the search criteria used by the appellant.
9. The appeal decision considers many detailed points, which will be a helpful reference for the future application of the sequential test in West Berkshire. However some key points include:
  - a) **The search area should not be limited to the appeal site.** The Inspector recognised numerous benefits of the proposed scheme, but was not persuaded that this means that the ST search area should not be beyond the appeal site, which despite the benefits is in this high risk flood area.

- b) **The search area should take in other settlements within West Berkshire.** The appellant only considered sites within the Newbury town area of the HELAA. However, the Inspector concluded that the search area should be set significantly wider, taking in the settlements of the District of West Berkshire which is covered by the Council's housing policies. Such policies are permissive for housing in urban areas, rural service centres, and service villages of the District to varying degrees. Furthermore, the Inspector also noted that Newbury is not the only urban area listed under policy ADPP1, which also includes Thatcham, and Eastern Urban Area, although it is possible that there may be sites available which could accommodate a development of the scale proposed in this appeal in one of the more rural settlements in the District. Furthermore, Newbury is considered within policy CS11 as a major town centre and that as a main urban area this will be one of the areas which will be the focus for development. However, this is not primarily a housing policy and also other settlements are mentioned (albeit smaller settlements than Newbury). Policy CS4 allows for higher densities elsewhere in the district.
- c) **Rejected discounting of alternative sites in Flood Zone 2.** On the evidence the Inspector could not conclude that the site was not, at least in part, within Flood Zone 3. As such they determined that any alternative sites in Flood Zone 2 should not be discounted as they are preferable to appeal site for residential development.
- d) **Rejected discounting of sites for minor development.** The Inspector rejected the discounting of all alternative sites that would not support a major housing development on the basis that they would not provide affordable housing.
10. The appellant contended that there are no sequentially preferable sites within Newbury from their analysis, but the Inspector considered there was no evidence before them that clearly sets out that the proposed development could not be accommodated on a sequentially preferable site in a settlement within the District other than within Newbury. In view of the seriousness of the consequences of flooding the Inspector concluded they were not satisfied that the sequential test had been passed. As such the exception test does not need to be considered in these circumstances.
11. In the final planning balance, the Inspector recognised the proposal would bring some significant benefits. However, the site was within Flood Zone 3 (albeit with flood defences) and flooding can result in severe consequences especially for those living in such areas if a flood event occurs, to which there is a notable probability for this site. Therefore, considering all the circumstances, the harm significantly and demonstrably outweighs the benefits of the scheme.

### **Duties to protect designated heritage and landscape areas**

12. There are a number of statutory duties imposed on decision makers which require particular regard to be given to certain designations. Depending on the circumstances of any given case, these duties can set some considerations apart in importance from other planning considerations.
13. **Greenhill Cottage** is a modest two storey detached cottage, of traditional design, located within the Hampstead Norreys Conservation Area. The appeal decision provides a reminder of the statutory duty in Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires the decision maker to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

14. In **1 and 2 Church Street Mews**, a detached four bay garage was dismissed due, in part, to its impact on the adjacent Lambfields Conservation Area. In doing so the Inspector commented that whilst there is no explicit statutory duty in respect of the setting of a conservation area the Framework is clear that the setting of a heritage asset can contribute to its significance. The setting of a heritage asset is not a fixed concept; it is concerned with the way the heritage asset is experienced. Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, such as Conservation Areas, great weight should be given to the asset's conservation.
15. The **Greenhill Cottage** decision also makes reference to the statutory duty in Section 85 of the Countryside and Rights of Way Act 2000. This requires that a decision maker has regard to the purpose of conserving and enhancing the natural beauty of AONB's. Furthermore, Paragraph 172 of the Framework specifies that great weight must be given to conserving and enhancing landscape and scenic beauty of these areas.

### Advertisement consent

16. The decision at **Newbury Retail Park** provides a reminder that the Advertisement Regulations limit control of advertisements to the interests of amenity and public safety. In this instance concern was also raised regarding the need for the proposed sign given the existing adjacent sign serving the retail park. The Inspector could not take into account whether a need was demonstrated.

### Clifton House (EAPC)

17. This application sought retrospective permission for four dormer windows, subject to some proposed minor amendments. EAPC were concerned with the character and appearance of the dormers, and with the impact on neighbouring living conditions, and thus refused the application. In terms of the first issue, the Inspector commented on the variety in form, scale and character of local buildings, but recognised that the appeal property shares a form, scale and vernacular with the neighbouring house. The Inspector said long distance views of the appeal site were limited by surrounding built development, nevertheless, the appeal property is an important part of the rural village environment which is one of the special qualities of the AONB.
18. The Inspector identified that the neighbouring property, which is similar in design, exhibits a dormer windows. They accepted the principle of dormer windows on the property. Overall the Inspector concluded the windows would complement the form, scale and architectural expression of the existing property, and thus would not appear unduly overbearing or incongruous in character. They made the following detailed comments on design:
- They would be set down from the ridge line and would occupy a modest area of the roof space.
  - Their size would respect the size of the windows elsewhere on the property; small in scale to complement their position on the roof and not dwarf the windows at ground and first floor level.
  - The size and design of the glazing would respect the size and design of existing glazing.
  - The cills of dormers 2 and 3 would be directly above the apex of the gable below. Whilst this appears as a slightly awkward and cramped juxtaposition, it does not detract from the overall form, scale and appearance of the appeal dwelling to be considered harmful to its character and appearance.

19. The Inspector also examined the relationship of each dormer to neighbouring properties. They concluded that overlooking from the windows was no more harmful than the overlooking that exists from first floor windows, or could be sufficiently mitigated by obscure glazing.
20. Recognising the ongoing breach of planning with the dormers in their current form, the Inspector reduced the time limit for implementation to 12 months.

### **Other decisions**

21. A number of other householder or minor appeal decisions have also been received and listed in the table above, but which do not raise any issues of general interest. These include:
- Laurel Cottage, 133 Halls Road, 1 Weston Farm Cottages, Ogdow House, 2 Lane End Cottages – site specific consideration of character and appearance, amenity and/or access issues.
  - Hopgrass Open Barn, Royal Berkshire Shooting School – site specific impacts on listed buildings.