

LIST OF APPEAL DECISIONS FROM 17.10.17 to 19.12.17

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/01768/FULL	Conversion of existing detached barn to dwelling	Land and Buildings at NGR 284259 102707 Broxford House Upton Hellions Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Allow with Conditions

Summary of Inspectors Comments

The appeal was taken forward on the basis that the application scheme failed the tests established by policy DM11 in that the barn does not positively contribute to the rural character of the area, which is the initial test of Policy DM11. Furthermore the application scheme includes significant rebuilding, alteration and extension which is not allowable.

The inspector found in favour of the application on the basis of support from paragraph 55 of the NPPF, and policy DM11 in part in that the building is of substantial and permanent construction. Although the plans shown an extended building in terms of its height, scale and massing the Inspector concluded the scope of the alterations would be compliant with DM11. On this basis the Inspector was minded to grant planning permission.

16/01811/MOUT	Outline for the erection of up to 259 dwellings, with public open space, landscaping and associated infrastructure	Land at NGR 303184 110348 Silver Street Willand Devon	Refuse permission	Delegated Decision	Refuse permission	Informal Hearing	Appeal Dismissed
---------------	--	--	-------------------	--------------------	-------------------	------------------	------------------

Summary of Inspectors Comments

Please see full appeal decision attached to application 17/00652/MOUT (item 2 on this agenda)

16/01075/FULL	Erection of a dwelling	Land and Buildings at NGR 292707 102129	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
---------------	------------------------	---	-------------------	--------------------	-------------------	-------------------------	------------------

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
		(Rear of The Old Bakery) Jericho Street Thorverton Devon					

Summary of Inspectors Comments

Two main issues were whether the proposals would: preserve the settings of various grade II listed buildings, including 3 Silver Street and preserve or enhance the character or appearance of the Thorverton Conservation Area (TCA) and; compromise highway safety interests along Jericho Street.

The Inspector found that the appeal site contributes to the significance of several listed buildings and provides a pleasing sense of green space that adds to the special qualities of the Thorverton Conservation Area. The private large gardens of properties as well as open green spaces are important to the settings of many listed buildings and contribute to individual areas of Thorverton and the village as a whole. The Conservation Area was described as a sizeable area that includes buildings from different periods and of various sizes and styles. The significance of this designated heritage asset is derived primarily from the special architectural qualities of the numerous listed buildings and the special historic interest that includes the development and growth of the settlement, including the leat, stone pedestrian bridge and ford.

The Inspector concluded that the proposed dwelling, of modest size would be finished to reflect the traditional materials found within the Conservation Area. The contemporary design would also reflect some of the distinctive qualities of the built environment. However, this new building would occupy a sizeable part of the site and would markedly erode its green, open qualities. The height and mass of the proposed dwelling would also interrupt views of the rear roof slope of 3 Silver Street. This new house would intrude into the setting of this listed building and diminish an appreciation of its special architectural and historic qualities. To a lesser extent, it would also erode an understanding of the historic interest of the listed buildings to the south west in Jericho Street. In addition, the loss of green space would detract from the character of the TCA. The proposed development would conflict with the provisions of DMP policy DM2(c).

It was concluded that the proposal would result in less than substantial harm to the significance of the above noted designated heritage assets. This harm would be at the lower end of the less than substantial category. This does not amount to a less than substantial planning objection. In considering the impact of a proposed development on the significance of such assets great weight should be given to an asset's conservation. The harm needed to be weighed against the public benefits of the proposal. It was concluded that the proposal would fail to preserve the settings of various grade II listed buildings, including 3 Silver Street, and would fail to preserve or enhance the character or appearance of the TCA.

Highways

Highway safety was noted as an important material consideration when assessing development proposals. Given the restricted visibility at the site entrance the Council's caution regarding an increased use of the access was understandable. On balance, the proposal would be unlikely to pose a significant risk to highway safety interests.

Planning balance

The public benefits of the proposals are insufficient to outweigh the less than substantial harm to the significance of designated heritage assets. The proposal is therefore contrary to DMP policy DM27. The proposal conflicts with the provisions of the development plan and fails to satisfy the environmental dimension to sustainable development. Appeal dismissed. No costs awarded.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/00334/CLU	Certificate of lawfulness for the existing use of structures as a single residential dwelling for a period in excess of 10 years	The Bungalow Cheriton Fitzpaine Crediton Devon EX17 4HF	Refuse Certificate of Lawful Use	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

The appeal relates to a structure composed of a caravan and a portacabin set a short distance apart but linked at the sides by concrete blockwork and roofed over. The CLU was sought for the use of the caravan, portacabin and connecting structure as a single dwelling. The central issue is whether the dwelling is a mobile structure involving a use of land (though it may be a permanent residential use), or whether operational development has occurred such that the structure now constitutes a building used as a dwelling. The inspector concluded that the primary elements (caravan and portacabin) were originally designed to be transportable and remain so in the sense that temporary supporting works may be required to enable this to be achieved. The existence of a 6 feet wide connecting structure between them does not lead to a conclusion that the whole structure represents a building. On the balance of probability it has not been demonstrated that the caravan and portacabin have ceased to be used as a temporary structure for full time residential occupancy and become a dwelling house.

16/00140/UDRU	Appeal against	Longwood Farm Burlescombe Tiverton Devon EX16 7JT				Enf Written Reps	Appeal Allowed
---------------	----------------	---	--	--	--	------------------	----------------

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
----------------	-------------	----------	------------------------	------------------------	----------	-------------	--------------------

Summary of Inspectors Comments

Enforcement Notice issued on 13 June 2017 against the unauthorised material change of use of the land from agriculture to a mixed use of agriculture and use for the siting of structures for human habitation.

The Notice required the appellant to cease the use of the land for human habitation and residential purposes, permanently remove from the land all buildings and chattels used in association with the occupation of the land and to restore the land to its former condition and use as agricultural land. The period for compliance was 6 months.

Ground C appeal - that no breach of planning control has occurred as the use of the caravan falls within the scope of permitted development in connection with the construction of the barn.

The Inspector acknowledges that at the time the Enforcement Notice was issued the Council was satisfied that work on the barn had ceased such that a material change of use of the land had occurred which did not benefit from permitted development rights, however, goes on to note that "in the case of ground (C), an appellant can, if necessary, rely upon matters occurring since the date of issue of the notice to show that the development....does not amount to a breach of planning control".

The Inspector found that, at the time of his visit, work had recently taken place which he considered demonstrated that work appeared to be continuing to construct the foundations of the agricultural barn. Furthermore, he was satisfied that the timber structure was reasonably required in connection with the development. Although "not apparent [to him] at the site visit", the Inspector accepted the appellant's assertion that the timber building is a caravan as defined in the Caravan Sites and Control of Development Act 1960 and is such, considered the building to fit the requirements of providing temporary living accommodation for the duration of the operations connected with the agricultural barn.

Despite the lack of progress evidenced on site, the Inspector concluded that work appeared to be continuing and that the provision of the timber structures sited on the land fall within the scope of permitted development, "subject to their removal and the land reinstated to its former condition when those operations have been carried out"

As such, the Inspector allowed the appeal on ground (c) and quashed the enforcement notice.