

# ANNUAL LIST OF APPEAL DECISIONS FROM 1 April 2016 to 31 March 2017

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/00654/FULL	Erection of a 50kW wind turbine with a maximum blade tip height of 34.2m and hub height of 24.6m, and associated infrastructure (Revised scheme)	Land at NGR 272259 114205 (Philham Farm) Chawleigh Devon	Refuse permission	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed

## Summary of Inspectors Comments

This case is unusual and significant in that it represents the first wind turbine appeal decision made in the Mid Devon District in the light of the Written Ministerial Statement (WMS) made by the Secretary of State on 18 June 2015 to be applied to all proposed wind energy developments so that local people have the final say on wind farm application'. This proposal involves the erection of a 50kW Endurance wind turbine on an organic dairy farm near Chawleigh. The hub height of the wind turbine would be 24.6m above ground level, and the blades 9.6m long. The height of the structure to the tip of the blades, in an upright position, would be 34.2m. The application presented a revised scheme following an earlier refusal by the Local Planning Authority for a similar scheme. The revised scheme sought to slightly re-position the proposed site from that previously submitted; it also proposed more limited infrastructure works, and also provided additional supporting information relating to potential landscape and noise and heritage asset impact impacts. The scheme was refused by the Local Planning Authority in December 2013 on the grounds of the considered detrimental landscape and visual impacts and its considered harm to the setting of heritage assets in the area. The Appeal was initially dealt with by a Government Planning Inspector who was also required to take into account the WMS of June 2015 and transitional arrangements to be applied. In his own decision the Inspector concluded that the proposal would not cause significant harm to the setting or significance of identified heritage assets or to the living conditions of local residents through visual impact or noise. Whilst it was recognised that the proposal would have a harmful impact on the landscape, such harm was adjudged, by the Inspector, to be not so significant as to outweigh the benefits to be brought through the generation of renewable energy or in assisting the economic performance of the rural enterprise. In his own specific consideration of the WMS, the Planning Inspector opined, given (in his view) the impacts of the scheme are, or could be, made acceptable (as required by the NPPF) that 'must mean that the planning impacts identified by local communities have been addressed' and on that basis, 'the WMS did not justify a decision that would run contrary to the development plan and the Framework'. The Inspector accordingly recommended that the appeal be allowed subject to conditions.

However, on 7 October 2015, in exercise of his powers under s79 and para. 3 of Schedule 6 of the Town and Country Planning Act 1990, the Secretary of State (SoS) directed that he would determine the appeal. In his statement the SoS has noted and accepted much of the Inspector's own conclusions regarding potential landscape, heritage and other impacts. However, with specific regard to consideration of the WMS, and the considerations to be made relating to local community concerns, the SoS concludes that the planning impacts as identified by affected local communities have not been addressed in the circumstances of the case. Accordingly, he considers that the transitional arrangements within the WMS have not been satisfied and he gives substantial weight to this conflict. Given this, the SoS does not agree with the Inspector's overall recommendation that the appeal should be allowed: Decision: Appeal dismissed by SoS.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
14/01650/CLU	Certificate of Lawfulness for the existing use of land for residential purposes and the siting of 1 caravan	The Caravan Woodclose Burlescombe Tiverton Devon EX16 7JU	Grant Certificate of Lawful Use	Delegated Decision	Grant permission	Public Inquiry	Appeal Dismissed

### Summary of Inspectors Comments

The appeal was in respect of refusal of a certificate of lawfulness for residential use of land associated with a mobile home. A certificate of lawfulness was granted for the mobile home but this did not include the entire site, which was a former horticultural nursery with glasshouses still apparent on the site. The main issue in determination of this appeal was the extent of the planning unit and its established use, and whether the appellant was entitled to site the mobile home anywhere on the site and use the site wholly for residential purposes. The Inspector sets out a number of arguments and case law in this respect and concludes that the entire site is one planning unit in mixed use for agriculture and the stationing of a caravan/mobile home. The Inspector concluded that Mid Devon was correct to refuse the application on the basis that the entire site was not in residential use.

15/00108/MOUT	Outline application for up to 60 dwellings with access onto Uffculme Road, with all other matters reserved	Land at NGR 305658 112080 (West of The Harvesters) Uffculme Road Uffculme Devon	Refuse permission	Delegated Decision	Refuse permission	Public Inquiry	Allow with Conditions
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### Summary of Inspectors Comments

The main issue in determination of this application was whether, having regard to the development plan, the NPPF, the housing land supply of the Council, and the scale/location of the development, the appeal scheme would constitute a sustainable form of development. The scheme was for 60 dwellings at Uffculme, outside of settlement limits, where it was being argued by the developer that due to under delivery of housing, Mid Devon does not have the required 5 year housing land supply and that permission should be granted. The Inspector concluded that Mid Devon does not currently have a deliverable 5 year housing land supply. He also concluded that there has been a persistent under delivery of housing (although he acknowledged that this reflects the economic position nationally), and therefore a buffer of 20% should be applied. He concluded that the supply of housing policies in the Core Strategy are inconsistent National Planning Policy Framework as they were adopted before the framework and based on outdated figures and methods of calculated. These policies are therefore not up to date and should be given limited weight. In terms of the sustainability of the development itself, the Inspector concluded that the development would deliver social benefits through market and affordable dwellings, promote economic activity, and no environmental harm was identified. The Inspector considered the development to be sustainable and that planning permission should be granted.

15/00617/FULL	Erection of a dwelling	Land and Buildings at NGR 295769 122231(R/O 14 Brook	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
		Street) Brook Street Bampton Devon					

## Summary of Inspectors Comments

Proposed erection of single detached 'underground' dwelling.

The main issues are:-

- 1 The effect of the proposal on the living conditions of the occupiers of nearby properties, having particular regard to loss of privacy;
- 2 The effect of the proposed development on the character and appearance of the conservation area and on the setting of nearby listed buildings;
- 3 Whether sufficient information has been provided regarding drainage and flood risk matters; and
- 4 Whether the proposal would provide an adequate amount of car parking provision.

The proposed part underground dwelling is to be located to the rear of 12C Brook Street, the council consider the roof terrace to be 1.5m above existing ground level. This is not contested. Due to its elevated location this would create a considerable overlooking opportunity of neighbouring gardens. In addition the proposal is in close proximity to Webbers Court with clear views into the front windows, therefore a significant loss of privacy.

A condition was suggested by the applicant that the terrace could only be used for maintenance. The issue with this is that this cannot be monitored. The inspector agreed, and would fail the test for a condition.

Therefore the proposal would give rise to unacceptable loss of privacy for the occupiers of surrounding properties.

Refusal was also on insufficient information in order to assess the impact on heritage assets.

However the inspector considers sufficient information was submitted with the application along with further information supplied at the appeal.

Both sides made reference to a previous appeal for a dwelling on the site. although different the inspector at the time considered the new dwelling would neither preserve nor enhance the character of the BCA.

However the mainly subterranean design of the building would have little if any, inter-visibility between the proposed and the Grade I church. Therefore the proposed would preserve the setting.

The solar panels, glass balustrade would introduce a visually prominent design and have a negative impact on the appearance of this part of the BCA, and represent a significant incursion. There are no public benefits to outweigh this harm with the proposal being in conflict with policy.

The inspector concluded that as the council had no substantive information regarding drainage that the proposal would comply with policy in terms of flooding.

Although not complying with DM8 1.7 parking spaces due to the central location, the fact that DCC highways did not object, and no parking survey had been undertaken by the council for the area. The Inspector concluded the proposal would provide an appropriate level of parking.

Planning Balance and Conclusion

In terms of benefit the proposal increases the supply of housing, along with innovative design incorporating some substantial features. However in terms of negative aspects, the proposal would unacceptably affect the living conditions of the occupiers of neighbouring properties in terms of loss of privacy, and it would give rise to less than substantial harm to the significance of designated heritage assets.

in the context of paragraph 49 of the Framework, it is concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01397/FULL	Erection of 2 storey extension	15 Churchlands Bow Crediton Devon EX17 6JF	Refuse permission	Delegated Decision	Refuse permission	Householder Appeal	Allow with Conditions

### Summary of Inspectors Comments

The proposal is for a two storey side extension to a residential property. The property is one half of a pair of semi-detached properties.

The main issues were: a) the effect of the proposed extension on the character and appearance of the area; and b) the effect of the proposed extension on the living conditions of adjoining residential properties having regard to outlook and privacy.

The reasons the appeal was allowed is summarised below:

Character and appearance: although both pairs of semi-detached dwellings are of similar form and appearance, they do not possess a particularly strong sense of symmetry due to the differences in design, plot size and their slightly staggered siting. The estate contains a mix of development. The proposed extension would have a similar form and design to the host dwelling and would be set back slightly from the front and rear of the property with slightly lower roof line and a result the proposal would appear subservient. By extending the host dwelling almost up to the boundary with No 13 the proposal would erode the existing gap in the street scene between the 2 pairs of semi-detached dwellings. The mix of development on the estate would not cause unacceptable harm to the character and appearance of the area.

Living conditions: Due to the slightly staggered siting of the host dwelling, the new extension would project slightly beyond the line of No 13's rear elevation, as a result notwithstanding its proximity the size and bulk of the proposal would not create an undue sense of enclosure or be unduly oppressive or overbearing when viewed from the rear windows of No 13 or its garden. The existing window in the first floor side elevation of No 13 faces the side wall of the host dwelling and appears to be obscure glazed. Therefore it already has a limited outlook. The first floor window in the side elevation of the proposal would also be obscure glazed.

15/01108/MFUL	Installation of a ground-mounted photovoltaic solar farm to generate up to 6MW of power (site area 11ha) with associated infrastructure including inverter cabins, sub station buildings, access tracks, fencing and CCTV (Revised scheme)	Land at NGR 307922 118303 (Wiseburrow Farm) Burlescombe Devon	Grant permission subject to conditions.	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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### Summary of Inspectors Comments

The main issue was whether the benefits of the scheme, including the production of electricity from a renewable source, outweighed any harmful effects, having particular regard to the impacts upon the character and appearance of the area, the settings of designated heritage assets, and the outlook of neighbouring residents. The Inspector concluded that the development would have moderate adverse landscape and visual impacts, particularly when viewed from public rights of way in the area from which the development would be seen by high sensitivity receptors (walkers) enjoying the Mid Devon countryside. The Inspector concluded there would be no harmful cumulative impact with other solar schemes in the area and the development would not detract from the special landscape qualities of the AONB. In terms of impact on residential amenity, the Inspector concluded that the adverse effects on the outlook of neighbouring residents, particularly those at Whipcott Heights, should be given moderate weight in the overall planning balance. The Inspector also considered the impact of the development on heritage assets, in particular on the setting of the Grade I listed Holcombe Court. Whilst he commented that the proposed development would not intrude into or disrupt any important views of Holcombe Court, the development would be visible from part of the grounds and the roof the tower and would be glimpsed from the long gallery. He concluded that the development would result in less than substantial harm to the significance of this listed building. In weighing the planning balance, the Inspector found that the benefits of the scheme would not outweigh the totality of the harm identified and would fail to satisfy the environmental dimension to sustainable development.

15/01522/TPO	Application to dismantle 2 mature Silver Birch trees to ground level protected by Tree Preservation Order 02/00009/TPO	23A Higher Town Sampford Peverell Tiverton Devon EX16 7BR	Refuse consent	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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### Summary of Inspectors Comments

The inspector considered two main points

- 1 The effect on the Conservation Area and locality
- 2 If the reasons for removal are justifiable.

Higher Town is a narrow road which runs through Sampford Peverill of mixed dwellings and lightly treed. The property occupies a 90 degree bend, with a stone built wall. With the appeal trees on the right side of the gateway, behind the stone wall.

The trees provide the area with an attractive, sylvan character. The proposal would remove two large, attractive, healthy specimens and would result in the loss of an important landscape feature. As such the felling would cause harm to the character and appearance of the area.

The reason for removal is the damage being caused by the tree to the wall. There is no doubt that the trees are causing damage to the wall. The wall is capable of repaired without causing harm to the trees and allowing sufficient space for trunk growth. Therefore there is insufficient reason to remove the trees.

Conclusion on the 2 main issues are that the trees make a positive contribution, and are not ill suited to the location. Therefore the appeal is dismissed.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/00703/PNCOU	Prior notification for change of use of an agricultural building to a dwelling under Class Q	Eastmere Farm Lapford Credton Devon EX17 6QU	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed

### Summary of Inspectors Comments

The appeal relates to the change of use of an agricultural building to a dwelling under Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2016. The main issue was whether the proposal meets the criteria of the GPDO, particularly in terms of the building operations set out at Q.1(j). The building has a timber frame made from a mixture of rough sawn and planed components, covered externally with profiled metal sheeting. The floor is concreted in some areas with some areas of earth flooring. The structural surveys submitted found that additional structural strengthening was required to facilitate the residential conversion and was therefore contrary to the advice set out in paragraph 105 of the PPG which confirms that no new structural elements are required. Due to the slope of the floor restricting the available headroom, a degree of alteration and levelling to the internal floor level would be required. The inspector found that the excavation would be to an extent that was not within the building operations permitted by the legislation. The inspector concluded that the works to facilitate the change of use go beyond those permitted by the GPDO and therefore the appeal was dismissed. An application for costs was also dismissed by the inspector.

15/01434/FULL	Change of use of land from agriculture to outdoor riding arena for private use (Revised Scheme)	Land at NGR 310743 113848 Blackwater Road Culmstock Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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### Summary of Inspectors Comments

The site is located in Flood Zone 2 and 3. The Inspector found that the proposed arena and associated engineering operations were not exempt from the sequential test as the proposal was not purely for a change of use of land. It was concluded that the proposed development would increase flood risk and that there was a reasonably available site in Flood Zone 1. The Council were correct not to apply the exemption test, only where it can be demonstrated there are no reasonably available alternative sites with a lower flood risk, can proposals be assessed in accordance with the exemption tests in paragraph 102 of the Framework. The proposed development was found to be contrary to Policies COR11, DM2 and DM23.

12/00122/NUDRU	Appeal against Enforcement Notice	Autumn Cottage 46A Brook Street Bampton Tiverton Devon EX16 9LY				Enf Written Reps	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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### Summary of Inspectors Comments

The Inspector's decision has been received with regard to the appeal against an enforcement notice at Autumn Cottage in Bampton; ref 12/00122/NUDRU. The notice was served in relation to an unauthorised building which was partly erected within the River Bathern floodplain and Bampton Conservation area. The notice was for the removal of the building from the land.

The appeal was made under grounds (A) and (F) and failed on both grounds. The Inspector's comments were that under ground (A); that planning permission should be granted, the building should not be granted planning permission due to its size and location, specifically because of the impact on the Conservation Area more so than any flood risk. Under ground (F); that the requirements of the notice are excessive, no specific lesser steps were suggested and where a building is unauthorised, as in this instance, removal of the building from the land is not an excessive requirement.

The Inspector's decision is to dismiss the appeal and uphold the enforcement notice. This decision was issued on 14th September 2016 meaning the appellant now has six months from this date to remove the building from the land.

15/01622/FULL	Erection of an agricultural worker's dwelling and an agricultural livestock building	Land at NGR 316711 110152 (Ten Oaks Farm) Clayhidon Devon	Allowed on appeal	Committee Decision	Allowed on appeal	Informal Hearing	Allow with Conditions
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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### Summary of Inspectors Comments

The main issues in this case are whether having regard to national and local planning policies which seek to avoid new isolated homes in the countryside, whether there is an essential need for a rural worker to live permanently at or near their place of work in the countryside; and the effect of the proposal on the landscape character of the area and Blackdown Hills Area of Outstanding Natural Beauty (AONB)

Essential need The holding extends to 5.1 Hectares 5 portal framed building housing 50 calves etc, with older calves in the fields. COR18 was found to be consistent with NPPF para 55.

Enterprise involves buying calves at a few days old and then rearing them by bucket before weaning. The new agricultural building would allow the appellant to extend his enterprise and increase the capacity of the unit allowing yearly throughput of up to 400 calves. The new building would also provide additional storage space.

The Parish Council questions whether the existing and proposed extended enterprise requires a full time worker. The inspector stated there was no reason to reach a different conclusion to my colleague in respect of this matter. There is a specific need for a worker to be permanently on site. This is not disputed by the Council which considered that an increase in stock numbers would necessitate more of an onsite presence than a smaller number of stock.

It was agreed that there are no available dwellings suitable or within close proximity to the site. Although questions were raised at both the application and appeal stage as to the level of profit made, and whether this could support the new development on the site, there is nothing within the development plan or national planning policy which requires a stated amount of profit to be made to demonstrate that the enterprise is viable.

The proposed dwelling is of a modest scale and the new agricultural building is reasonably necessary to support the expansion of the farming activity on the farm.

Concluded that there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.

Found that the buildings would not be unduly prominent in the wider landscape.

Concern has been raised that the proposal may establish a precedent for similar development in the area. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.

Local residents have expressed concern about the lack of a mains water supply serving the site, and expressed concerns about animal welfare in this regard. The appellant has indicated that he harvests rain water. This system has been successful in providing water to both the mobile home and for use by the farming enterprise.

The Council has not objected to the water supply serving the site, and in the absence of evidence to demonstrate otherwise, I have no reason to reach a contrary view to the Council in this respect.

In accordance with the Council's Supplementary Planning Document 'The Provision and Funding of Open Space Through Development', It is confirmed there is a need to pay for this requirement.

All Conditions have been accepted that were put forward including the removal of the agricultural barn if no-longer required.

15/01688/FULL	Erection of dwelling	Land Rear of 65 Tidcombe Lane Tiverton	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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Devon  
EX16 4EQ

### Summary of Inspectors Comments

The main issues were the effect of the proposed development on:

- (i) the character and appearance of the area;
- (ii) the living conditions of adjoining occupiers with regard, in particular, to loss of outlook and privacy; and
- (iii) highway safety.

On each of the main issues the appeal was dismissed. The Inspector considered the proposal would appear as a conspicuous and discordant feature which would not relate to its surroundings and would be harmful to the character and appearance of the area. It would have an adverse effect on the living conditions of the neighbouring occupiers with regard to loss of outlook and upon highway safety. The proposed development would displace parking. Any increase in demand for on street parking on Tidcombe Lane would exacerbate the impaired visibility for vehicles exiting Tidcombe Close and would introduce additional risk to all road users.

15/01632/FULL	Erection of a dwelling	Jersey Cottage Sampford Peverell Tiverton Devon EX16 7EH	Refuse permission	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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### Summary of Inspectors Comments

The main issue is whether the proposal would be an acceptable and sustainable form of development, having regard to its location in relation to local and national policies that seek to limit new development in the countryside.

The site is located to the east of the village of Sampford Peverell close to Tiverton Parkway railway station and adjacent to the A361 main road.

The area is predominantly rural in character with open fields and hedgerows in-between the development, and scattered trees along field boundaries.

Paragraph 55 of the National Planning Policy Framework (the Framework) seeks to promote sustainable development in rural areas through locating housing where it will enhance or maintain the vitality of rural communities.

However, there is little evidence to demonstrate that the addition of a single new home would boost materially the vitality of the community, particularly as the future occupants may equally be likely to travel to nearby towns.

The proposed development would be clearly outside and some distance from the edge of the village. Services in Sampford Peverell are limited.

The site is not within a village location and there is very limited residential development in the vicinity. Consequently, I find that the proposed dwelling would be isolated in terms of the Framework. There is no evidence to demonstrate why the proposed dwelling needs to be located in the countryside and how it would contribute to an identified local housing need.

In conclusion, the proposed dwelling would be outside the settlement and would be in the countryside for development plan purposes. No special circumstances have been demonstrated to justify the countryside location. Consequently the proposal would not accord with Policy COR18 of the Mid Devon Local Development Framework: Core Strategy (adopted 2007) which seeks to restrict development outside of settlements unless it is for agriculture and other appropriate rural uses. The policy is consistent with the Framework in this respect.

15/01778/PNCOU	Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Lower Burston Farm Burston Lane Bow Crediton Devon EX17 6LB	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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### Summary of Inspectors Comments

This notification was the change of use of the building to residential under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. The main issue is whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwellinghouse. The appeal building and nearby barn are linked by a covered field shelter some 5m wide, which the notification proposed to remove with the exposed elevation of the barn to be enclosed in block work. Despite the applicants case that the small size of the farm and the viability issues currently suggest that it is unlikely that the neighbouring building would be used for accommodating livestock in the future, the inspector considered that whilst the building was still there it could be used for such purposes at any time in the future. The inspector supported the concerns that the occupiers would experience an unsatisfactory living environment through noise and disturbance from both livestock and the activities involved. The inspector did not consider that it would be appropriate, or supported by the legislation of Planning Practise Guidance, to impose an agricultural occupancy condition or occupancy by family members only. The inspector concluded that the location and siting of the building makes it undesirable to change use to a dwelling house by virtue of the risk of unsatisfactory living conditions arising from the closeness of the appeal building to the adjacent barn and therefore fails to comply with the conditions set out in Q.2(e).

15/01232/PNCOU	Prior notification for the change of use of an agricultural building to dwelling under Class Q	Building at NGR 307382 112173 (Oakford House) Uffculme Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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### Summary of Inspectors Comments

Although the building was found to be structurally sound and the works proposed were reasonably necessary to convert the building, it was found that on the balance of probabilities, the site was not used solely for an agricultural use as part of an established agricultural unit on the relevant date. Photographic evidence of the physical condition of the building and the equestrian use of the site weighed against the sworn statements provided.

15/00989/OUT	Outline for the erection of 8 dwellings	Land and Buildings at NGR 277638 93018 (East Of Hill View) Cheriton Bishop Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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### Summary of Inspectors Comments

The planning application was refused by officers under delegated authority for 3 reasons summarised as follows: whether, with due regard to the development plan and national policy, there is a proven need for affordable housing which justifies the proposal in this location; the effect of the proposal on the character and appearance of the area; and whether sufficient information has been provided in respect of car parking and drainage.

The inspector agreed with the Local Planning Authorities decision on all matters, with confirmation that the applicant had not made any provisions to ensure that the affordable housing is made available as such in perpetuity.

15/01194/MFUL	Erection of a solar farm 4.9MW, landscaping and associated infrastructure, access and underground cables	Land at NGR 285528 98874 (Duncombe) Newton St Cyres Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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### Summary of Inspectors Comments

The planning application was refused by officers under delegated authority for 2 reasons summarised as follows. The second of the two reasons for refusal related to the absence of adequate archaeological information. This has subsequently been provided and confirmation has been given that a scheme of archaeological investigation could be a condition of any grant of planning permission. Therefore, the Inspector was left to determine if the proposal would be acceptable in terms of the impact on the character and appearance of the landscape and whether the benefits of the scheme would outweigh any identified adverse impacts.

The Inspector agreed with the Local Planning Authorities decision, and concluded that the proposed solar farm would introduce a large-scale discordant change into the landscape with closely experienced impacts on users of public rights of way who would be particularly sensitive to the effects of the development; and adverse impacts would remain after mitigation. The aggregation of the harm to the character and appearance of the landscape would not be outweighed by the acknowledged benefits of the project; and the proposal would conflict with the development plan and also with the Framework when read as a whole.

16/00345/PNFG	Prior Notification for the erection of a storage barn	Land at NGR 271756 92461 (Tennantspiece Cottage) Hittisleigh Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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### Summary of Inspectors Comments

The appeal related to a prior notification under the Town and Country Planning (General Permitted Development)(England) Order 2015- part 6, class E Forestry Development. The site for the proposed building is a small paddock adjacent to the appellants house which is closely mown and has the appearance of domestic usage. The inspector concluded that the land where the building is proposed is clearly not part of the separate forestry holding and therefore the proposal does not fall within the provisions of Schedule 2 Part 6 Class E of the GPDO. The appeal is dismissed.

15/01850/CLU	Certificate of Lawfulness for existing use of building as residential dwelling and associated use of land as residential garden for a period in excess of 10 years	The Orchard Cheriton Bishop Exeter EX6 6HP	Refuse Certificate of Lawful Use	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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### Summary of Inspectors Comments

The site has an interesting planning history as far back as 2001, and in 2010 a Certificate of Lawfulness was issued for the siting of a caravan for full time residential occupancy was granted by this Authority.

This current appeal was regards an application for a Certificate of Lawfulness for the existing use of the unit as a residential dwelling and associated use of land as residential garden for a period in excess of 10 years.

The key issue is whether the unit is a mobile home or a structure within the definition of a dwellinghouse and the appellant had argued that the various works undertaken at the site and the pattern of use of it enables it to be qualify as a dwellinghouse.

Officers under delegated authority refused to issue a certificate, and the Inspector agreed that on balance that the unit is not a dwellinghouse but a mobile home with the site being occupied in line with the certificate issued in 2010.

15/01104/OUT	Outline for the erection of a dwelling	Land at NGR 310114 115966 (Whitton Cottage) Nicholashayne Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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### Summary of Inspectors Comments

The main issue is whether the proposal would provide a suitable site for housing, having regard to the proximity of services. The appeal site comprises part of the garden of Whitton Cottage and currently contains a stable block and a static caravan. The site lies adjacent to a rural road and is largely enclosed by established trees and hedges. Whitton Cottage is one of a cluster of dwellings in Nicholashayne, which is predominantly rural in character. The site is outside of any settlement as defined in the adopted Mid Devon Local Development Framework: Core Strategy 2026 (2007) and is in the countryside for development plan purposes. Paragraph 55 of the Framework states that new isolated homes in the countryside should be avoided unless there are special circumstances. The development would be used in part as an office. However, it is not essential for the business to be located in the countryside as it could be operated from other premises in a defined settlement. Consequently, the proposal cannot be considered as essential accommodation for rural workers. There are limited facilities in the nearby village of Culmstock. However, there is little evidence to demonstrate that the addition of a single new home would boost materially the vitality of Culmstock. To conclude on this matter, the proposed dwelling would be outside of any identified settlement and no special circumstances have been demonstrated to justify the countryside location. Furthermore, due to the site's location, future occupants would need to travel to access basic goods and services and it is highly likely that there would be a dependence on the private car. Therefore, the development would not accord with Policies COR1, COR12 and COR18 of the Core Strategy which seek to locate development in the most accessible locations and control development in rural areas.

16/00115/TPO	Application to reduce crown by 1.5 metres and remove two branches of 1 Oak tree protected by Tree Preservation Order 97/00008/TPO	6 Blenheim Court Willand Cullompton Devon EX15 2TE	Application Part Granted/Part Refused	Delegated Decision	Application Part Granted/Part Refused	Written Representations	Appeal Allowed
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### Summary of Inspectors Comments

The appeal is allowed for the crown reduction of the tree by 1 metre  
The tree is a fine, mature specimen with large canopy, and makes a significant contribution to public amenity. There is a need to improve the shape as no work has been undertaken for nearly 10 years. The application is to crown reduce the tree by 1-1.5m but the refusal notice referred to the proposal as being to reduce the crown by 1.5m. regardless of this it is considered that the wounds resulting from a crown reduction of around 1.0m would not be large and keep the tree looking aesthetically pleasing. Consent is therefore granted for the lower end of the application 1.0m crown reduction.

16/00406/OUT	Outline for the erection of up to 5 dwellings and associated access	Land at NGR 303818 111567 Muxbeare Lane Willand Devon	Refuse permission	Delegated Decision	Refuse permission	Informal Hearing	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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### Summary of Inspectors Comments

The main issues were whether or not the loss of employment land was justified and the effect of the proposal on the character and appearance of the area. The Inspector noted that policy DM21 broadly accords with the NPPF's objective of securing economic growth. The Inspector stated that the first criteria of DM21 was met, in that, taking into account the Employment Land Review, there was a sufficient range of suitable and alternative sites in the area. However, the Inspector stated that the second and third criteria of DM21 had not been met, in that the required marketing exercise had not been undertaken and the appellant had not carried out a sequential viability test as required by the policy. The Inspector concluded that she was not satisfied that it had been demonstrated that there was no reasonable prospect of the site coming forward for employment uses, conflicting with the development plan in this regard and weighing against the proposal.

The Inspector noted the Council's lack of a 5 year housing land supply and the site's location in relation to jobs, services and facilities, and the financial contributions towards public open space, education and air quality improvements, and weighed these in favour of the proposal. She also weighed in favour of the proposal the social advantages of the provision of self-build plots.

The Inspector stated that the removal of a length of mature landscaping across the front of the site and the introduction of a suburban form of development into the rural area, at odds with sporadic development along Muxbeare Lane, would not reinforce local distinctiveness or provide a positive impact on the local environment. The proposal would be harmful to the character and appearance of the area and conflict with policies COR2, DM2 and DM14 and the environmental role of sustainability. This would weigh against the proposal.

The Inspector concluded that although there would be economic, social and environmental benefits associated with the proposal, significant harm would be caused to the character and appearance of the area which would significantly and demonstrably outweigh the benefits of the scheme.

16/00061/PNCOU	Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Land at NGR 306742 119851 (Wardmoor) Holcombe Rogus Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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### Summary of Inspectors Comments

The wording of the original condition placed a restriction on alternative uses of the building, despite not expressly restricting the use of permitted development rights. The Inspector stated that the original permission was justified on the basis of the agricultural need and the compliance with the policies of the development plan, it was clearly the Council's intention to retain the building for agricultural uses as an appropriate form of development in the countryside, and not for other uses. The Inspector held that the proposal conflicts with Article 3(4) of the GPDO due to the condition imposed on the original permission, therefore the proposal would not accord with the requirements under Class Q.

16/00064/NUCU	Appeal against	Green Acres Coldridge Crediton Devon				Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
		EX17 6BW					

### Summary of Inspectors Comments

Enforcement Notice issued on 21 April 2016 against the material change of use of the land from use for agriculture to a mixed use for agriculture and use for the siting of a caravan for human habitation.

The Enforcement Notice required the appellant to cease use of the land for human habitation, remove any caravans from the land and remove the lorry container from the 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 a barn.

The Inspector acknowledges that the appellant is undertaking the works to the barn himself, but found that progress has been very slow in the almost 2.5 years since the prior approval for the barn was granted. The Inspector states that "the rate of progress is far too slow to justify the use of a caravan for residential purposes on site". The Inspector considers the primary reason for the appellant stationing the caravan on the land is to provide his main residence. In addition, the appellant admits that his daughter also resides at the caravan on occasions. The Inspector considers the primary use of the caravan as a main residence does not fall within the scope of permitted development and would require planning consent.

For this reason, the appeal fails on Ground C.

Ground G - time for compliance.

The Inspector does not accept the appellants argument that he cannot acquire alternative accommodation. The Inspector considers that the appellant has a preference for living on site rather than an inability to live elsewhere. The Inspector considers a 6 month period an acceptable time frame for a single person to find alternative accommodation and remove the caravan and lorry container from site.

For the reasons above, the appeal is dismissed and the Enforcement Notice upheld.

15/00158/NUDRU	Appeal against	Land at 97524 124069 (Fourwinds) Morebath Devon EX16 9AU				Written Representations	Allowed in Part
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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### Summary of Inspectors Comments

After this appeal was submitted by the appellant's agent to the Planning Inspectorate, two planning applications were submitted to the Council for the retention of the smaller barn, and the relocation of the other. The Council requested that this appeal be put on hold while the applications were considered; both were subsequently approved. The appeal was on two grounds; firstly that the steps required were excessive as it necessitated the removal of both buildings. The Inspector has varied the notice to reflect the circumstances following the approval of the planning applications so that only the larger, more prominent building has to be removed. The second relates to the period of compliance being too short; the Inspector considers that the 3 month compliance period given by the Council is reasonable, and therefore the appeal fails on this ground.

16/00586/HOUSE	Erection of first floor extension	16 Duke Street Cullompton Devon EX15 1DW	Refuse permission	Delegated Decision	Refuse permission	Householder Appeal	Appeal Dismissed
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### Summary of Inspectors Comments

The Inspector found that the extension would be visible from rear gardens along the terrace of houses that the appeal property forms part of and also from public vantage points on Duke Street, where the side profile of the terrace forms part of the street scene. The proposed extension would have a flat roof sitting just below eaves height and would have a stark, box like appearance at odds with the traditional appearance of the appeal property and would detract significantly from the character of the terrace, causing unacceptable harm. The Inspector found that the proposal would not cause unacceptable harm to the living conditions of neighbouring properties and gardens and that there would remain a good standard of amenity for all users. Nevertheless, the harm caused to the character of the terrace outweighed this and the appeal was dismissed.

15/00075/NBRE	Appeal against the failure to comply with Condition no 1 of a planning permission Ref 10/00160/FULL granted on 20 May 2011.	Wiltown Mobile Home Clayhidon Cullompton Devon EX15 3TR				Written Representations	Appeal Allowed
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### Summary of Inspectors Comments

On appeal in 2011 planning permission with a personal condition had been granted to the appellants husband (partner at the time) to reside on the site. The appellants husband subsequently passed away and the planning permission was no longer valid. The Planning Inspector considered that the development is contrary to both national and local policy, however, it was concluded that the harm arising from the mobile home is limited and had the appellant's husband not passed away then the earlier permission would be still be extant and the mobile home could have remained on site for a considerable time. In reaching this conclusion the Inspector had regard to the evidence given by the appellant as part of the 2011 appeal hearing and the references in that appeal decision to both the appellant and her husband. The Inspector also concluded that there would not be any precedent set by this decision, due to the fact-sensitive nature of this case.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01692/FULL	Sub-division of 1 dwelling into 2 dwellings, installation of 1 dormer window, and formation of additional vehicular access	Muxbeare Muxbeare Lane Willand Cullompton EX15 2RF	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

### Summary of Inspectors Comments

The main issues in this case are:

- o whether the proposed sub-division represents sustainable development in the context of its location and accessibility to services and facilities, and
- o the effects of the proposed sub-division on highway safety along Muxbeare Lane.

Muxbeare is a large detached bungalow situated in countryside just outside of the built-up area of Willand. It is accessed from Muxbeare Lane, a narrow winding road leading from the B3181 into the countryside beyond. The proposal would involve the sub-division of the existing 4-bedroom, chalet-style bungalow into two 3-bedroom, semi-detached bungalows. There would be little alteration to the existing structure of the dwelling, although a new dormer extension would be added to the first floor room at its north-eastern end, and a new parking area would be created to serve the second dwelling created. The proposal would not represent sustainable development and it would conflict with national policy as set out in the NPPF. It would also conflict with Policies COR 1 and COR 9 of the Council's Core Strategy (CS), which relate to sustainable development and, in particular, to the accessibility of development and reducing the need to travel by car. Finally, it would conflict with Policies DM 1 and DM 2 of the Council's Local Plan Part 3 - Development Management Policies (Local Plan). The existing vehicular access to the site is located at its western end close to a sharp bend in the road. The proposed sub-division of the dwelling would result in a new access being created further to the east, with a new parking and turning area to the front of the new dwelling. Little information is given on the submitted plans regarding the proposed parking area. It would appear unlikely that an adequate visibility splay could be provided from the new vehicular access in an easterly direction, owing to the existence of large hedgerows on the boundaries of neighbouring properties

16/00790/PNCOU	Prior notification for the change of use of agricultural building to 3 dwellings under Class Q	Stud Thorne Farm Stoodleigh Tiverton Devon EX16 9QG	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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### Summary of Inspectors Comments

Appeal dismissed on the basis that the location and siting of the building makes it otherwise undesirable and impractical for the building to change use. The change of use was considered to result in unacceptable living conditions for future occupiers due to the resultant noise and disturbance from the vehicle movements and activities of the large commercial racing enterprise operating from the site. Although holiday accommodation has been approved on site the Inspector considered that the issues of noise and disturbance would not be comparable to the situation for open market dwellings where noise would be ongoing and permanent issues for the occupants. The Inspector considered that the buildings had been in solely agricultural use and were structurally capable of conversion. No costs were awarded.

Outline for the erection of a	Green Acres Farm	Refuse permission	Delegated Decision	Refuse	Written	Appeal
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/00190/OUT	dwelling	Coldridge Crediton Devon EX17 6BW			permission	Representations	Dismissed

### Summary of Inspectors Comments

The main refusal issue for consideration was whether the siting of a house in the open countryside accords with the approach of the development plan and national policy to new housing in the countryside and if not, whether there are any good reasons to depart from that approach.

The site currently accommodates a mobile home and a container which are unauthorised and are to be removed under the terms of an effective Enforcement Notice (which has also been subject to an appeal process). The appellant had suggested that a dwelling on the site would be more attractive than the mobile home and container currently in place. However the Inspector concluded that as the result of the requirement of the Enforcement Notice the mobile home and the container will be removed in the relatively near future. Furthermore he concluded that a dwelling on the site would bring a permanent residential presence that would appear sporadic, notwithstanding the row of existing dwellings opposite, and harmful to the character and appearance of the area.

16/01074/FULL	Retention of an agricultural farm office	Thorne Farm Stoodleigh Tiverton Devon EX16 9QG	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Allowed
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### Summary of Inspectors Comments

Appeal allowed, subject to a condition that no part shall be used as domestic of residential accommodation at any time. The Inspector considered that the facilities to be provided, including a kitchen, shower room and separate meeting room are reasonably necessary to meet the current and future needs of the holding. The Inspector stated that the proposal would provide a modern and up to date facility that promoted development and diversification of the agricultural enterprise, contributing to a prosperous rural economy; the Inspector considered this to be a significant benefit in line with the aims of the NPPF. The Inspector considered there was limited evidence to demonstrate the development was carried out intentionally without planning permission and attributed little weight to this.

16/00797/HOUSE	Erection of two-storey extension	21 South View Close Willand Cullompton Devon EX15 2QP	Refuse permission	Delegated Decision	Refuse permission	Householder Appeal	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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**Summary of Inspectors Comments**

The main issue was the effect of the proposal on the living conditions of the occupiers of 22 South View Close with respect to light and outlook. The proposed 2 storey extension would extend across most of the width of the rear elevation and 3.6m into the garden. The extension would be in close proximity to ground floor patio doors and first floor window. The extension wall would loom over the neighbouring dwelling impacting on users of the garden, dining room and bedroom, increasing the sense of enclosure and affecting the outlook, bringing a sense of being hemmed in. The extension would affect sunlight entering the garden and patio door and cause some loss of ambient daylight at ground and first floor levels. The proposal would cause unacceptable harm to the living conditions of the neighbouring residents contrary to policies DM2 and DM13 of the LP3 DMP and para 64 of the NPPF.

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