

24 May 2018

Report of	Assistant Director – Policy & Corporate	Author	Andrew Tyrrell
Title	Summary of Appeal Decisions: December 2017 – May 2018		
Wards affected	All		

This report summarises 13 of the most recent appeal decisions received between the start of December 2017 and the 10th of May 2018. The full decisions are available on each of the relevant planning applications viewable on our website, or via the Planning Inspectorate site. The report ensures that the Committee remain up to date with appeal reasoning, outcomes, and trends; for future decision making.

Foreword: Appeals Decisions Received

- i. The last report to the Committee was in November 2017. Since then, there have been 14 appeals determined, of which 13 are reported herein. There was only 1 before Christmas, and only 1 in January, however there was a spate around the end of the fiscal year and the start of the new one, that came through in March/April. This report brings everything up to speed for Committee members, except for reporting on the “Bakers Lane” appeal, which was a 17-page decision and the full decision should be read.

1.0 “Appeal 1” Details

Site Address: Virley Cottage, Colchester Road, Wakes Colne CO6 2BY

Outcome: Dismissed

Inspector: Claire Victory BA (Hons) BPI MRTPI

Appeal Ref: APP/A1530/W/17/3178618

Application No: 170842, dated 29 March 2017, was refused by notice dated 23 May 2017.

Proposal: A new house and associated garage.

- 1.1 The main issues in the appeal were:
 - the effect on the character and appearance of the surrounding area; and
 - the effect on the historic environment, including on the setting of the grade II listed Wakes Colne Place and the Chappel Conservation Area.
- 1.2 On the character and appearance of the area, the Inspector felt Virley Cottage was part of a linear group of dwellings where the settlement boundary is tightly drawn to exclude adjacent land where the new property was proposed. As such, the proposal was outside the settlement boundary and was contrary to the spatial policies aiming to protect the countryside and direct development to sustainable locations. The Inspector highlighted policies SD1, ENV1 and ENV2 of the Council's Development plan as key policy considerations.

1.3 In considering the policies, and the merits of the case, it was noted that the appeal site had a wide frontage approximately four times that of the host property, which represents a significant gap between the built form of the village and the nearest property to the east, Wakes Colne Place, an isolated dwelling surrounded by open space. Although the proposed two storey dwelling would be set back further and at a lower ground level than the host property, it would still be visible from the road and the development would therefore result in an “erosion of the gap between the existing properties” that was exacerbated by a proposed detached double garage. Consequently, the Inspector agreed with the Council that it would represent a harmful encroachment of built form towards the more open, rural character of land between the two Village Development Boundaries of Wakes Colne and Chappel.

1.4 Turning to the effect on the historic environment, Wakes Colne Place is a detached, two storey grade II listed property situated to the east of the appeal site, close to Colchester Road. The listing description confirms the property dates from the late 17th century with some early 19th century additions. In accordance with The Planning (Listed Buildings and Conservation Areas) Act 1990 the Inspector had special regard to the desirability of preserving the listing building or its setting. Although the Inspector agreed that the proposed dwelling would come within the setting of the listed building, in their opinion “the principal view of the property is from Colchester Road approaching from the east out of the village, and this view would be largely unaffected by the proposal”. As the Council’s heritage officer had stated that subject to certain details, predominantly relating to materials, the dwelling could have a neutral effect on the setting of the listed building with some minor changes; the Inspector highlighted that these matters could be dealt with satisfactorily by appropriate conditions. Therefore, they felt that the proposal could be made to preserve the setting of the listed building (had the first reason not been a concern).

2.0 “Appeal 2” Details

Site Address: Fingringhoe STW, Ballast Quay Road, High Park Corner, Fingringhoe CO5 7BX

Outcome: Dismissed

Inspector: Simon Warder BSc (Hons) MA DipUD (Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3182517

Application No: 170219, dated 30 January 2017, refused by notice dated 15 March 2017.

Proposal: A 25m communications tower, antennas and apparatus within compound

2.1 The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area, including its effect on nearby trees, and whether any harm caused is outweighed by the need to site the installation in the location proposed having regard to the potential availability of alternative sites.

2.2 The appeal site was within the compound of a sewage treatment works (STW) situated between Ballast Quay Road and Ferry Road. It was close to the southern boundary of the compound, which is marked by a row of mature trees. The ground level falls to the north as the land continues to the River Colne, where Wivenhoe sits on the opposite bank of the river. There is also a Public footpath along the southern boundary of the compound. The STW comprises mainly low level equipment and therefore, whilst extensive in area, it had a limited visual impact in medium or long range views. As such, the broad setting for the proposal is principally rural. The river is the strongest influence on the character of the landscape.

- 2.3 With this context, the Inspector agreed with the Council's Village Appraisal, which describes the vicinity of the appeal site as 'An important area of trees and woodland providing attractive views over Wivenhoe Quay'. The trees adjoining the appeal site are 15-20m tall, so the 25m tower would be visible from Wivenhoe and the public areas along the waterfront. By virtue of the recreational and tourist activity in the area, views from the waterfront are sensitive to change. The top of the tower would break the skyline and be prominent in views from Wivenhoe waterfront, notwithstanding that it would be some 330m away. Given there are six antennae, each more than 1.9m deep, this would add significantly to its visual bulk. As such, the tower would harmfully intrude into the essentially rural and undeveloped character of the landscape. Nor would it be sufficiently closely associated with the quarry or other built development to mitigate this effect.
- 2.4. In addition, whilst the length of footpath affected would be fairly short, the tower, associated plant and compound would be located in close proximity to the footpath and would appear as an imposing presence from this sensitive recreational facility. Although public rights of way are not mentioned specifically in Table PR1 of the CS, the footpath forms part of the green spaces along the Colne River and, therefore, derives protection from Policy PR1. It was also noted that in the absence of a tree report or sufficient information to accurately establish the extent of the excavation required to create the compound, the Inspector could not be assured that the proposal would not adversely affect at least one of the trees on the southern edge of the STW. The loss of such trees would be harmful to the character of the area. Consequently, the siting and appearance of proposal would have a harmful effect on the character and appearance of the area, including, potentially at least, nearby trees. As such, it would conflict with Core Strategy Policies PR1, ENV1, SD2 and UR2, Development Policy DP1 and the NPPF paragraph 43 to the extent that it requires new sites to be sympathetically designed and camouflaged.
- 2.5 The appellant also provided some information on a search of alternative locations for a mast. The appeal site falls outside of the defined area of that search. Moreover, no information was provided on the criteria used within the search, or to support the discounting of a significant number of the identified sites on the ground of absence of land owner interest. On the basis of the information available the Inspector was not persuaded that the alternative site search was "sufficiently robust" to overcome the concerns regarding the effect of the proposal on the character and appearance of the area.

3.0 "Appeal 3" Details

Site Address: 263 Harwich Road, Colchester CO4 3DN

Outcome: Dismissed

Inspector: Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3192237

Application No: 172457, dated 19 September 2017, refused 21 November 2017

Proposal: The demolition of existing dwelling and proposed two new dwellings.

- 3.1 The main issues are the effects of the proposal on:
- the character and appearance of the area; and
 - the living conditions of future and neighbouring occupiers with particular regard to noise and disturbance.

The appeal property is a detached bungalow which forms part of a row of dwellings lining the south side of Harwich Road. Whilst the properties vary in their built form and appearance, their linear layout is consistent, with the buildings sited fairly close to the road and longer gardens to the rear. In the vicinity of the appeal site, these gardens adjoin allotments and an area of public open space next to Porters Brook. A number of the gardens, including the appeal site, contain outbuildings. Nevertheless, there remains a

sense of openness which, together with the planting within and adjoining the gardens, provides a soft edge to the built up area and contributes positively to local distinctiveness.

- 3.2 The appeal proposal would replace the bungalow with a two-storey detached dwelling in approximately the same position, whilst a new bungalow was proposed towards the end of the rear garden. As such, it would be sited in a 'backland' location, a considerable distance behind the existing dwellings. The Inspector found that the land levels would help minimise its impact in views from the road and the rear of the neighbouring dwellings. However, notwithstanding its low level and the planting adjoining the site, the siting of the new bungalow would be at odds with the prevailing pattern of linear development along Harwich Road. It was large compared with the outbuildings in the area and would encroach significantly into the essentially open, soft edge between the buildings fronting Harwich Road and the allotments and public open space. The new bungalow and associated hard-surfacing would, therefore, be detrimental to local distinctiveness.
- 3.3 The Council had also expressed concern regarding the proportions and form of the proposed two storey dwelling. That building would have a fairly narrow front gable and a side projection towards the rear. However, the Inspector did not see this as an issue because the form of buildings in the area varies. Given this variety, they considered that the proposed two storey dwelling would not look out of place in the street scene.
- 3.4 In concluding on the living conditions, the Inspector agreed that this was also a concern. The new access driveway would abut the side wall of the proposed house and two of the car parking spaces would abut the front wall of the proposed bungalow. These walls contain windows serving a kitchen and bedrooms respectively. Two parking spaces and the turning facility would also be hard up against the boundary with the garden of the neighbouring property at No 265. The access and parking arrangements "would significantly increase the spread and amount of vehicular activity in the rear garden of the appeal property compared with the existing garage". This activity would include vehicle movements associated with resident and visitor parking for the two new dwellings, car doors shutting, people movements and voices during the day and night-time, as well as movements by larger vehicles used for deliveries and refuse collection. Given the close proximity of the access, parking and turning facilities to the neighbouring and proposed dwellings, the noise and disturbance arising from these activities would be harmful to the living conditions of the occupiers of those properties. Consequently, the proposal would conflict with our policy DP1 which, among other things, requires proposals to protect residential amenity, particularly with regard to noise and di

4.0 "Appeal 4" Details

Site Address: Land rear of 92-94 Mersea Road, Colchester, Essex CO2 7RH.

Outcome: The appeal is allowed and planning permission is granted

Inspector: D. M. Young BSc (Hons) MA MRTPI MIHE

Appeal Ref: APP/A1530/W/17/3183274

Application No: 170818, dated 27 March 2017, was refused by notice dated 25 May 2017

Proposal: Construction of one pair of semi-detached dwellings.

- 4.1 The main issue is the effect of the development upon the character and appearance of the area. The appeal site comprises a broadly rectangular plot of sloping garden land to the rears of 92 and 94 Mersea Road. The site is some distance from these dwellings and bears a closer visual relationship with Dudley Close. The site was overgrown and had an unkempt appearance which the Inspector felt detracts from the character and appearance of the locality.

- 4.2 Despite our concern that the size of the plot would be smaller than others in the surrounding area, the Inspector found no suggestion that the development would breach local standards in relation to room or garden sizes. The form, orientation, set-back and massing of the development would be consistent with the established character of Dudley Close. The proposed dwellings would be sited on the northern side of Dudley Close between a group of lock-up garages and a pair of recently built semi-detached houses. The street scene is characterised by pairs of semi-detached dwellings with a row of 3-storey townhouses arranged around Bourne Court. Like the proposal, the dwellings tend to address the road and are set back behind parking areas and/or small front gardens. There would be a reasonable degree of separation between the dwellings and their site boundaries and sufficient room to the frontage to accommodate off-street parking as well as some notional landscaping. The Inspector therefore disagreed that the dwellings would appear cramped.
- 4.3 The dwellings themselves would be slightly smaller than No 6 and 8. However, the Inspector felt that was not a reason to reject the development; especially since these dwellings are larger than most in Dudley Close. They did note that the location of the detached garage to the site frontage is unfortunate. Nonetheless, it was “a relatively modest structure that would only partially obscure the ground floor of plot No 2”.
- 4.4 With regard to the Council’s parking standards, they said that the site is located within a built-up residential area close to local shops and services, noting Mersea Road is on a regular bus route and the train station is also within convenient walking distance. This is thus a highly sustainable location where future residents would have genuine transport choice. Based on this, and the 2-bed size of the properties, the Inspector felt that 1 space per property would be adequate. Overall, they concluded that the development would not harm the character and appearance of the area. It would thus accord with Policy UR2 of the “Colchester Local Development Framework: Core Strategy 2008” and Policy DP1 of the “Colchester Local Development Framework: Development Policies 2010”. Amongst other things, these state that all new development should be locally distinctive and of a high quality.
- 4.5 Local residents expressed concerns relating to a loss of privacy, trees and wildlife. However, these issues were considered by the Council at the application stage and we did not agree to include them as reasons for refusal. The Inspector also understood the concerns of local residents, but also felt that there is no evidence to find a different conclusion on these matters.

5.0 “Appeal 5” Details

Site Address: Barn at Lane Farm, Lane Road, Wakes Colne CO6 2BP

Outcome: Dismissed

Inspector: Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3184834

Application No: 163151, refused by notice dated 31 March 2017.

Proposal: The conversion of ancillary domestic barn to new dwelling.

- 5.1 The main issues are the effects of the proposal on:
- the character and appearance of the non-designated heritage asset;
 - the landscape character of the area;
 - bio-diversity; and
 - whether the proposal accords with the development plan strategy for the location of new housing.

Lane Farmhouse is a Grade II listed building. It was common ground that the appeal barn does not fall within the curtilage of the Farmhouse, but that the barn should be regarded as a non-designated heritage asset. The Inspector saw no reason to disagree.

- 5.2 Considering character and appearance of the non-designated heritage asset, although the appeal buildings are separated from the Farmhouse by Lane Road, they sit directly opposite and have a clear visual and historic functional relationship with it. The most recent structure, the main building, was in place by 1897. The heritage significance of the buildings lies in their visual and historic functional association with the listed Farmhouse and their historic and architectural interest as an attractive, largely unaltered, group of rural buildings whose vernacular forms, layout and appearance sit comfortably within a countryside setting. The appeal proposal would re-use all of the buildings to create a single dwelling and the existing spaces would mostly be retained, albeit that the main building would be sub-divided and a first floor inserted.
- 5.3 However, the proposal includes a number of other significant interventions. Both wings in the range would be extended with flat roofed, glazed corridors running along their courtyard elevations. Much of the eastern wing is currently open and the proposed corridor would represent a substantial increase in built form. The corridor would continue with a brick wall in front of the store building and this would add further to the bulk of the extended wing. The brickwork in much of the southern elevation of the main building facing the courtyard would be replaced with full height glazing and three large rooflights inserted in the roof above. These alterations would fundamentally change the appearance of this part of the group from a mix of traditional forms, materials and irregular openings to a far more formal arrangement where modern materials and construction would dominate. In doing so, it would also undermine the relationships between, and understanding of, the historic development of the built forms which enclose the courtyard.
- 5.4 The east elevation of the eastern wing would also be rebuilt, resulting in the loss of well-aged timber framing and weatherboarding. A large glazed opening would be inserted into the southern elevation of the western wing. Together, these alterations would result in the loss of a substantial portion of the traditional timber framing and weatherboarding of the buildings. The survival of this built fabric contributes to the historic significance of the non-designated heritage asset and its replacement with new materials would diminish that significance. A large glazed opening would then dominate the southern elevation of the western wing and would be very prominent in views from the south along Lane Road. It was also proposed to replace the timber doors and spandrel panel in the arched opening in the western gable of the main building closest to the listed Farmhouse. Such an extensive use of glass in visually sensitive parts of the building would detract from both the rural character of the buildings and their relationship with their surroundings. The alterations proposed would be unsympathetic to the historic and architectural interest of the buildings and would be damaging to their relationship with the listed Farmhouse and the countryside setting. As a result, the proposal would be materially harmful to the significance of the non-designated heritage asset. Consequently, the proposal would conflict with Policy ENV1 of the Council's Core Strategy 2008 (CS) and Policy DP14 of its Development Policies 2010 (DP) which require proposals to preserve or enhance heritage assets and any features of historic or architectural interest. Nor would the proposal accord with paragraph 135 of the National Planning Policy Framework (the Framework), which requires a balanced judgement to be made on the effect of a proposal on the significance of a non-designated heritage asset, having regard to the scale of any harm or loss.

5.5 Turning to landscape character, the majority of the area is open, free from built development and enclosed by field boundary hedgerows. The appellant argued that the effect of the proposed garden could be made acceptable by the use of conditions to withdraw permitted development rights for the erection of outbuildings and domestic structures and to require additional planting to reinforce the roadside boundary hedge. However, it would be unreasonable to seek to use a condition to prevent the introduction of the domestic paraphernalia normally associated with residential gardens in the Inspector opinion. Nor would such conditions prevent the cultivation of the land as a domestic garden in a way which would fundamentally change its landscape character. As such, they agreed that the proposal would have a harmful effect on the landscape character of the area and would conflict with CS Policy ENV1 and DP Policy DP1 insofar as they require proposals to respect or enhance the landscape and other assets that contribute positively to the site and surrounding area.

5.6 trying to consider biodiversity, it was noted by the Inspector that the appeal (and application) was not supported by an ecology survey. The proposed works to the buildings and the introduction of new domestic activity and changes to the landscape at the appeal site have the potential to affect protected species. The appellant argued that other legislation offered adequate protection, or that it could be conditioned to do a survey post-permission; however the Inspector did not agree, concurring with the Council that the presence of a protected species is a material consideration when a proposal is being considered which would be likely to result in harm to the species or its habitat. Consequently, in the absence of an ecology survey and assessment, it was not demonstrated that the proposal would conserve or enhance biodiversity in conflict with DP Policy DP21, which requires proposals to be supported by acceptable ecological surveys where appropriate, as well as Framework paragraph 118 which requires planning decisions to aim to conserve or enhance biodiversity.

5.7 Finally, the appeal site occupies a countryside location outside of defined settlement boundaries or any land use allocation. The Council's settlement hierarchy does not support development in locations outside of settlement boundaries. As such, the proposal would not be in accordance with the development plan strategy for the location of new housing such as policies SD1 and ENV1.

6.0 "Appeal 6" Details

Site Address: International House, Moss Road, Stanway CO3 0JL

Outcome: Dismissed

Inspector: Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3184975

Application No: 170259, dated 30 January 2017, refused by notice dated 28 March 2017.

Proposal: Residential development of a former car park to International House, outline application with all matters reserved.

6.1 The main issue The main issues in this case are the effects of the proposal on the living conditions of future occupiers with particular regard to noise, odours, privacy and the provision of external space, the outlook of the recent flat conversion in International House, as well as the character and appearance of the area.

6.2 In considering the living conditions of future occupiers, the prevailing uses in the area are commercial and industrial. No noise assessment was submitted and the Davenport Kitchens unit located to the rear of the appeal site had external plant on its rear elevation that emits a steady noise that "is noticeable and intrusive from Moss Road and likely to be more so when experienced from the appeal site". The Anytime Fitness gym located to the south of the appeal site is also open 24 hours per day, and noise disturbance in the form

of vehicle engines starting and voices could be expected from comings and goings from that car park, particularly late at night. Paragraph 123 of the National Planning Policy Framework advises that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. Herein, the level of noise from the sources described above would be likely to adversely affect the living conditions of future residential occupiers of the appeal site. In the absence of a noise assessment, any indication of the position, orientation or aspect of the proposed building, or any suggested mechanism for securing potential mitigation measures, the Inspector considered that it had not been adequately demonstrated that the proposal would provide satisfactory living conditions for future occupiers with regard to noise. As such, the proposal would conflict with Policy DP1 of the Council's Development Policies 2010 (DP) insofar as the policy requires proposals to protect residential amenity with regard to noise. Nor would it accord with the Framework or the PPG in this regard.

- 6.3 With regard to privacy to future occupiers, and also to the outlook of new residents in International House (which was converted un PD rights by the same applicant last year), the Inspector noted that the southern elevation of International House includes windows at first and second floor levels which face the appeal site at close range. Views from those windows, therefore, have the potential to reduce the privacy of future occupiers of the appeal site. However, there would be scope to position and orientate a building on the site so as to avoid overlooking from International House, notwithstanding that flatted development may be more intensively occupied. Positioning could also allow for the siting, scale and massing of the new building to be arranged in a way that would avoid it having an overbearing presence close to the windows in the southern elevation of International House, even taking into account the potential intensity of the occupation of the building.

7.0 "Appeal 7" Details

Site Address: 12 Kingsland Beach, West Mersea, Essex CO5 8DD

Outcome: Dismissed

Inspector: Graham Chamberlain BA (Hons) MSc MRTPI

Appeal Ref: APP/A1530/W/17/3186591

Application No: 171143, dated 1 May 2017, was refused by notice dated 6 July 2017.

Proposal: The demolition of existing outbuilding and garage and erection of replacement dwelling.

- 7.1 The main issues in this appeal are the effect of the appeal scheme on the character and appearance of the area; and the living conditions of the occupants of 14 Kingsland Beach, with particular reference to privacy. The appeal site is located in a short row of beach front residential properties and amenity buildings accessed from Kingsland Beach, which is a residential cul-de-sac. The heights of the buildings vary with single-storey and two-storeys with the first floors in the roof spaces.
- 7.2 There were some good examples of seaside architecture nearby, although the existing building was held to be "a bulky flat roofed property of negligible architectural merit... awkwardly position (end) on the boundary with 11 Kingsland Beach". Consequently, a scheme for its replacement, which could include the removal of the existing outbuildings, presents an opportunity to improve the character and appearance of the area if the replacement building presents a better relationship with the grouping. The proposal did not achieve this, and the Inspector agreed that "The Council's ambition to see such an outcome is not an unsubstantiated attempt to impose an architectural style". The replacement dwelling was poor, as it would remain sited on the boundary with 11 Kingsland Beach and would be wider, taller and deeper than the existing building. This would exacerbate, rather than remedy, the limitations evident in the design and proportions of the existing building and would afford it a sense of being relatively oversized and cramped. Thus, the proposal would be "a discordant addition when viewed from the beach and this

would harm the character and appearance of the area". Consequently, the proposal would be in conflict with the part of Policy DP1 of the Colchester Borough Council Development Policies 2010 (DP) that seeks to secure developments that respect and enhance the character of the site and its surroundings, which is also consistent with Paragraphs 17 and 58 of the National Planning Policy Framework.

- 7.3 The effect on the living conditions of the occupants of 14 Kingsland Beach were found to be acceptable. The proposed dwelling would include a window within the kitchen that would provide an aspect towards the roof of 14 Kingsland Beach, but you could not directly see into rooms or gardens. As a consequence, the proposal would "not unreasonably reduce the privacy of the occupants of No 14, or their perception of privacy"

8.0 "Appeal 8" Details

Site Address: Land rear of 17 Heath Road, Wivenhoe

Outcome: Dismissed

Inspector: Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3185031

Application No: 170375, dated 2 February 2017, was refused by notice dated 3 April.

Proposal: Demolition of existing garage and replacement with a 2-bedroom detached chalet dwelling.

- 8.1 The main issues are the effects of the proposal on:
- the character and appearance of the area; and
 - highway safety.

The appeal site forms part of the rear garden of No 17 and includes a detached single garage. The two storey, semi-detached dwelling occupies a corner plot at the junction of Heath Road and Broomfield Crescent. As such, whilst the dwelling fronts onto Broomfield Crescent, the rear garden runs along Heath Road, thereby giving the appeal site a frontage onto that road. Properties in the vicinity comprise a mixed of semi-detached two storey dwellings and detached and semi-detached bungalows, some of which have accommodation in the roof space.

- 8.2 It was agreed that the detached chalet built form of the proposal would not be out of keeping with its surroundings; however, the proposal was not in keeping because most properties in the area sit on fairly generous plots with consistently sized front gardens, reasonably long back gardens and driveways to the side. The layout of the area is a relaxed, suburban character which contributes positively to local distinctiveness. Contrary to this character, the appeal proposal would significantly reduce the plot size of No 17 whilst creating a new plot that would be considerably smaller than most others in the area. As such, it would result in an unwelcome tightening of the urban grain which would be cramped and have an unacceptable arrangement of the car parking spaces in front of the building.
- 8.3 The rear garden areas of the new building and that remaining for No 17 would be significantly smaller than those which typify the area. It was therefore difficult to see how the concerns above could be overcome. Consequently, the proposal would have had a harmful effect on the character and appearance of the area in conflict with Policy DP1 of the Council's Development Policies 2010 (DP) and Policy UR2 of the Council's Core Strategy 2008; and would conflict with the advice in the Council's Backland and Infill Development Supplementary Planning Document (SPD).

- 8.4 The proposal indicates that two car parking spaces would be provided in front of the proposed building with access from Heath Road and a further two spaces would be provided in front of No 17 with a new access off of Broomfield Crescent. Although neither arrangement would allow for vehicles to enter and leave the site in forward gear, that applies to the on-plot parking for most of the properties in the area, including the existing garage at the appeal site. ECC Highways had advised that the new access for No 17 would be too close to the junction of Heath Road and Broomfield Crescent and would not provide a reasonable degree of visibility. The Inspector acknowledged that the area experiences high traffic volumes and parking pressure during school drop-off times. Therefore, by virtue of the proximity of the access, the proposal would pose a risk to highway safety. As such, it would conflict with DP Policy DP1 and the Backland and Infill SPD which require that access proposals should not have an adverse impact on road safety.

9.0 “Appeal 9” Details

Site Address: 7 Park Road, Colchester, Essex CO3 3UL

Outcome: Dismissed

Inspector: Graham Chamberlain BA (Hons) MSc MRTPI

Appeal Ref: APP/A1530/W/17/3185692

Application No: 170954, dated 6 April 2017, refused by notice dated 2 June 2017

Proposal: A detached dormer style dwelling to rear of 7 Park Road

- 9.1 The main issues in this appeal were the living conditions for its future occupants, with particular reference to privacy; and the effect of the proposed development on the character and appearance of the area. The appeal site encompasses part of the rear garden of 7 Park Road, which is a large detached dwelling occupying a corner plot. The proposed dwelling would be located behind No 7 and to the side of 9 Park Road, whilst the orientation would result in the rear elevation of the proposed dwelling adjoining the rear garden of 5 Park Road.
- 9.2 The main outside private amenity space at the proposed dwelling would be a reasonably shallow rear garden. Due to the position and orientation of the windows in the rear elevations of Nos 5 and 7 it would be possible for the residents of these properties to casually and regularly see into the rear garden of the proposed dwelling from about 16m away. This would enable the residents of Nos 5 and 7 to clearly observe the activities of the occupants of the proposed dwelling when in their garden and mean that there was no private garden available “and this would significantly harm their living conditions”. Landscaping cannot be relied upon to provide mitigation as it may fail and tall planting could affect the level of light entering the modest garden of the proposed property or the outlook from it. In summarising, the proposal was in conflict with policy UR2 of the Core Strategy, policies DP1, DP12 and DP16 of the Development Policies, and the Backland and Infill Development SPD; which seek to protect residential amenity.
- 9.3 With regard to the effect on the character and appearance of the area, the Inspector noted that plots and property positions were broadly similar, and that even a new development to the south of the appeal site follows the pattern of development in Park Road. Overall, the layout, scale and massing of the proposed dwelling, and the size of the plot within which it would be located, would not appear discordant within the Park Road street scene. The Inspector did not agree that there was harm to the character of the area when he concluded that the appeal scheme would preserve the character.

- 9.4 The decision also contained debate over the 5 year housing land supply. The appellants argued that if this could not be demonstrated then this should allow the development to go ahead. However, the Inspector pointed out that even if that were the case, the NPPF states that this is not the case when there are material harms identified, and in this case he had identified that the new dwelling would not provide adequate privacy and this would significantly harm the living conditions of future residents. Consequently, the adverse impacts of granting permission would still significantly and demonstrably outweigh the benefits of allowing a dwelling.

10.0 “Appeal 10” Details

Site Address: Preto, 59 High Street, Colchester CO1 1DH

Outcome: Dismissed

Inspector: Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

Appeal Ref: APP/A1530/W/17/3182694

Application No: 170386, dated 23 January 2017, refused by notice dated 13 April 2017.

Proposal: Retrospective application to relocate entrance doors flush with fascia.

- 10.1 The main issues are whether the proposal would:
- preserve or enhance the character and appearance of the Conservation Area;
 - Facilitate inclusive access to the premises.

The site is within a Conservation Area with shops and buildings made up from narrow, former burgage plots which line both sides of the High Street. Most buildings are three storeys in height with parapet walled façades onto the road. There is some variation in the age and architectural design of the façades. However this adds to the richness of the street scene.

- 10.2 The shop front had been remodelled without consent, introducing a stepped access to the High Street where there was a sloped one, allowing the internal floorspace to be pushed outwards and increased, in order to get extra seating area into the restaurant. The Council argued that this was unacceptable, and that it was to the detriment of the shopfront and to wheelchair access. However, the Inspector did not agree.
- 10.3 A removable ramp is available to ease access over the step which had been created at the entrance. The Inspector therefore felt that an acceptable means of achieving inclusive access to the premises was available and the proposal does not conflict with Policy DP17 of the Council’s Development Policies 2010 (DP) inasmuch as the policy requires development to incorporate satisfactory and appropriate provision for disabled persons and those with impaired mobility.

11.0 “Appeal 11” Details

Site Address: 13 Friars Close, Wivenhoe CO7 9NW

Outcome: Dismissed

Inspector: J A B Gresty MA MRICS

Appeal Ref: APP/A1530/D/17/3187528

Application No: 171426, dated 8 May 2017, was refused by notice dated 25 August 2017.

Proposal: A front single-storey extension.

- 11.1 The main issues in this case was the effect of the proposed development on the character and appearance of the local area and whether the proposed development would meet local development plan policies with respect to a new independent dwelling. The appeal property is a detached, two-storey house situated on a cul-de-sac which forms part of a residential estate. The cul-de-sac had a planned appearance and is characterised by generally similar style two-storey dwellings set back from the road behind front gardens and driveways. The appeal property is situated on a plot in the corner of the cul-de-sac.

The property does not front directly onto the main body of the cul-de-sac and it had a large front garden.

- 11.2 The proposed development would project about 12 metres from the front elevation of the appeal property, extending to nearly the full depth of the front garden. Because of its design and size, the extension would have the general appearance of a bungalow attached to the front of the appeal property and would be an incongruous feature which would dominate the appearance of the front of the appeal property; resulting in significant harm to the character and appearance of this part of the cul-de-sac. In this respect the development would fail to meet the requirements of Policies DP1 and DP13 of the Colchester Local Development Framework Development Policies (LDFDP) and Policy UR2 of Colchester Local Development Framework Core Strategy (CS).
- 11.3 The proposed front extension would have its own front access doors and would be equipped internally with facilities, including a kitchen, two WCs with showers, a living room and a bedroom. Whilst the application drawings show an internal door which would link the extension's bedroom with the host property's dining room, the size of the extension, its internal layout of the proposed extension and the proposed independent accesses would enable the extension to be occupied independently of the host dwelling. The internal door between the extension's bedroom and the host dwelling's dining room is not a clear indication that the extension would be used as part of the host dwelling. A condition could be imposed which would require the extension not to be occupied as an independent dwelling, but this would not prevent a pattern of use which would be being similar to that of an independent dwelling. This was unacceptable.

12.0 "Appeal 12" Details

Site Address: Land to 28-30 Chapel Road, Stanway, Essex CO3 0PX

Outcome: Dismissed

Inspector: Graham Chamberlain BA (Hons) MSc MRTPI

Appeal Ref: APP/A1530/W/17/3190542

Application No: 172148, dated 16 August 2017, refused 30 October 2017

Proposal: Outline application with all matters reserved for one bungalow style dwelling

- 12.1 The main issues are the effect of the proposal on the character and appearance of the area and the living conditions of the occupants of neighbouring properties, with particular reference to noise and disturbance. The appeal site is in the gardens of Nos 28 and 30 Chapel Road, a pair of semi-detached dwellings. Chapel Road is broadly characterised by frontage residential development orientated to face the street. Save for the presence of a few domestic outbuildings, this pattern of development had resulted in largely open and verdant residential gardens that provide a pleasing setting and back drop to the frontage development. The proposal is for the erection of a single storey dwelling in the rear gardens of Nos 28-30. The Inspector claimed that diminutive scale of the proposed dwelling relative to the two storey frontage development would afford it a subservient appearance, but agreed that this "would not disguise it as a discordant incursion into the rear gardens".
- 12.2 The siting of the bungalow would be a noticeable departure from the frontage pattern of residential development in Chapel Road and would have a "strident and jarring presence". This would be evident from neighbouring properties and in views along the proposed access drive and in-between properties, most notably Nos 26 and 28 Chapel Road. The size of the plot was also much smaller than those around it and therefore the development would appear relatively cramped. This would be in spite of the size of the garden adhering to local standards. The proposal was in conflict with the Backland and Infill Development Supplementary Planning Document 2010 (SPD), which aims at ensuring such

development respects and reflects the character of the area, as well as Policy DP1 of the Council's Development Policies 2010, and paragraphs 17 and 58 of the NPPF.

- 12.3 The Inspector also pointed out that the bungalow would be sited near to a number of trees on the western boundary of the appeal site. The trees are visible from public vantage points and have some amenity value as they contribute to Chapel Road's leafy backdrop. The appellant had not proven that the bungalow can be constructed without adversely affecting them. Furthermore, the likely garden space of the proposed dwelling would be dominated by these trees and this may result in post development pressure to remove them. As such, the "absence of an arboricultural impact assessment is a matter weighing against the proposal".
- 12.4 Turning the issues around the amenity of neighbours, access to the new dwelling would be via a new driveway constructed along the boundary of 32 Chapel Road and positioned very close to the side elevations and gardens of Nos 30 and 32. The latter also had a number of windows that would face the driveway. The Inspector agreed that there would be insufficient space alongside the proposed driveway to provide a buffer. Consequently, the vehicles would pass very close to the side elevations, windows and gardens of No 32, such that the noise and disturbance from such movements would harm the living conditions of the residents of these properties.