

<b>Report of</b>	Assistant Director – Policy & Corporate	<b>Author</b>	Andrew Tyrrell
<b>Title</b>	Summary of Recent Appeal Decisions		
<b>Wards affected</b>	All		

**This report summarises recent appeal decisions received between 27 July and 21 August 2017. 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.**

## 1.0 Appeals Decisions Received

1.1 The last report to the Committee was dated 27 July 2017. Since then, excluding the Tollgate Village appeal, there have been 6 appeal decisions received at 4 different sites (there were linked appeals on two of the cases, see “Appeal(s) B” and “Appeal(s) C” below). The Tollgate decisions will be analysed in more detail in a separate report to follow in a forthcoming Committee. The appeals covered in this report are:

- A) New 2-Storey Dwelling at 1 Shelley Road
- B) Detached House, Stables and Office, Various additions to house, Removing Restrictive Condition at Fordham House Farm, Mount Bures
- C) Change of Use from Farm Buildings to Create 3 Residential Units at Crepping Hall Farm, Wakes Colne
- D) New Garage at Cavendish House, Dedham

### A1. “Appeal A” Details

**Site Address:** 1 Shelley Road, Colchester

**Outcome:** Dismissed

**Inspector:** David Reed BSc DipTP MRTPI

**Appeal Ref:** APP/A1530/W/17/3172999

**Application No:** 162449 (Refused on 7 December 2016)

**Proposal:** The erection of a 2-storey, 2 bedroom, dwelling

A1.1 The original application was handled by Benjy Firth and was refused under delegated powers. The development proposed was considered to be unacceptable backland development, in the rear of a host dwelling, which was out of character with the consistent linear pattern of development nearby. The proposed layout was also considered poor, with unworkable parking, a contrived and cramped arrangement, with no real useable amenity area. The Inspector, dealing with the appeal through written representations, agreed that the main issues to be considered were the impact on the character of the area, and the future living conditions of the occupiers of the proposal.

- A1.2 On the character of the area, the Inspector concluded that both Shelley Road and Shakespeare Road were characterised by chalet bungalows in reasonably sized plots, and whilst the design of the property was similar to local homes, the subdivision of the existing plot into 2, would be out of character due to its small size; and consequently unacceptable. The Inspector also noted the lack of space for soft landscaping to the front, and that if 2 cars parked in the spaces provided they would either obstruct the front door or overhang the footpath. That would also be out of character with the local area. For those reasons the proposal “would cause significant harm”.
- A1.3 On the conditions of the future occupants, both the new garden and the donor property’s gardens would meet minimum spaces standards in Policy DP16, they did not however meet the requirements of the Council’s Backland and Infill Development SPD, which requires that any backland development has gardens that reflect the size and shape of those around it. The new gardens would be smaller, narrower, and of a different shape. The garden to the new dwelling would also be directly overlooked by the host dwellings windows, resulting in a lack of private sitting out area. This lack of privacy was contrary to Policy DP16.

**B1. “Appeal(s) B” Details**

**Site Address:** Fordham House Farm, Mount Bures

**Outcome:** Allowed, with the exception of the repositioned garage.

**Inspector:** Paul Selby BEng (Hons) MSc MRTPI

**Appeal Ref:** APP/A1530/W/16/3163332 and APP/A1530/W/16/3163327

**Application No:** 161569 and 161570 (Refused on 7 September 2016)

**Proposals:** (1) New detached house and farm office without complying with a condition that the house only be occupied by persons working at the related stud farm.

(2) The addition of a conservatory, dormer windows, new boundary walls, pillars and gates, and repositioned garage, and the construction of new stables.

- B1.1 The case officer for both applications was Jane Seeley, although the joint informal hearing for the appeals was overseen by Ishita Sheth. The issues of concern when, refused under delegated powers, were that the application sought to vary conditions on a house that was only originally granted permission (in the countryside) to support a small stud farm business (back in 2012). It remained necessary to demonstrate that the equestrian enterprise fully satisfied the financial and functional needs tests required by Policy H6. The submitted reports had been prepared by a company that the Council was unable to trace in order to understand their expertise and credentials and validate the robustness of the supporting argument. There were questions over the scale and consequent viability of the new enterprise, labour requirements, income, related traffic movements and other impacts upon this rural locality. The lack of clarity in the application did not allow for adequate assessment of the proposal. The proposed physical development including the stables, could then not be considered because it was not known if they were justified as development in the countryside
- B1.2 On the occupancy restriction, the Inspector noted the issues about the justification for the livery business, which is different to the current stud farm; however he considered that the application was only to vary the occupancy restriction and therefore this consideration fell outside of the appeal and application. He considered that it was not a question of whether or not the change of use was justified, but simply that it would be acceptable for a person working at either the current stud farm or any future livery and racehorse recuperation business to be acceptable (whether that use was or not). In essence, as the condition was designed to ensure that the occupiers also worked at the equestrian use, whether it was a stud farm or livery made little difference and therefore the conditions could be amended to allow for adequate control over the house occupancy being related to both current and

potential future uses. He did not accept that the related change of use would need to be justified first, before varying the condition, as that was outside of what had been applied for and would need a different application.

- B1.3 On the physical works, the Inspector noted the argument that the works made the property bigger than the minimum space needed for a rural workers dwelling. However, he concluded that the original house, at 4 bedrooms, was already bigger than the sizes usually allowed in the countryside for rural workers. As such, the impact of the small additions now being proposed were not substantial. The reason for removing permitted development at the time of the original permission was said to be to protect visual amenity but the dormers, conservatory and wall proposed had no visual impact outside the site. If the real reasons for removing permitted development rights was to limit an already large house from further extension then that should have been stated at the time, and the Inspector would now only consider the reason given for the original condition.
- B1.4 On the garage being repositioned, the Inspector stated in the course of the hearing that the new garage appeared to be of a different design and materials, and that there were inconsistencies in the plans. He therefore dismissed this part of the appeal to exclude it from the permission granted for the dormers and conservatory.

**C1. “Appeal(s) C” Details**

**Site Address:** Crepping Hall Farm, Wakes Colne

**Outcome:** Dismissed (both)

**Inspector:** Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI

**Appeal Refs:** APP/A1530/W/17/3169803 and APP/A1530/W/17/3169805

**Application No:** 162579 and 162580 (Refused on 13 December 2016)

**Proposal:** Change of use and conversion of “redundant” farm buildings to form 3 new dwellings.

- C1.1 Bruce O'Brien oversaw the applications which sought Full Permission and Listed Building Consent, which were refused under delegated powers. The appeals were dealt with via written representations. The site, Crepping Hall Farm, includes a listed building and associated buildings. A livery business is operated from the site, including stable buildings, an exercise area and yard. The proposal involved 3 separate buildings around the yard, some of which were included specifically in the listing, whilst others have protection from being “curtilage listed”.
- C1.2 The Listed Buildings and Conservation Areas Act requires special regard to be given to heritage assets. The buildings in question read as a unified collection of buildings, and had good visual aesthetic. Although they function separate to Crepping Hall itself, they contribute to its setting by close proximity and past relationship. Although there is a mix of residential, commercial and equestrian activities, they remain closely linked.
- C1.3 While the internal works to subdivide the buildings into rooms would not affect their interest, the external changes would begin to domesticate them. Amenity areas and parking would further change their nature and would cause some harm. This harm was deemed to be less than substantial, however that then needs to be balanced against public benefit because the extra protection to heritage assets requires justification for any harm caused as set out in paragraph 134 of the NPPF.

- C1.4 Securing the long term future of the buildings would be of public benefit, and the costs that would be borne for annual maintenance did not seem unreasonable for such a property. Whilst the appellants argued that only residential use would be viable, Officers argued that there were other uses that could sustain the buildings in a more suitable manner. The Inspector agreed that the expansion of the current livery use would be the least intrusive use. Although the appellants argued that the current grazing land allowed in 2002 could not sustain more horses, there was more land available and they had not applied for permission to extend their current grazing area; so they could not rule this out as a possibility. The Inspector also highlighted that the conversion costs for an office use would be no more residential use, but would not bring the associated domestication. A light industrial use may also be achievable with less internal alteration, although this would depend on the specific use entailed. The equestrian business already used large vehicles so the roads were capable of accommodating them subject to controls over movements. In conclusion it had not been demonstrated that a residential use was the best option.
- C1.5 On the isolation of the new homes, in terms of sustainability, the Inspector highlighted the rural location, with no lighting or pavements, or speed restrictions for vehicles. This context, and the distances to nearby settlements for day to day needs, would not encourage sustainable methods of travel. Therefore, the homes would be isolated new dwellings in the countryside remote from shops and services. This would only be justified if there were special circumstances, which could include the public benefit of sustaining the listed buildings; however that was not the case herein due to the issues covered above.

**D1. “Appeal D” Details**

**Site Address:** Cavendish House, Coggeshall Road, Dedham

**Outcome:** Dismissed

**Inspector:** Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI

**Appeal Ref:** APP/A1530/W/17/ 3173387

**Application No:** 162902 (Refused on 19 January 2017)

**Proposal:** Attached Garage.

- D1.1 Ishita Sheth, case officer for the application and written representations appeal, refused this application under delegated powers. The main issues of concern, and considered by the Inspector, were the effect of the garage on the host property, and the surrounding area. The property is fairly new, and lies immediately abutting a gap in the settlement boundaries in Dedham. Planning permission has previously been granted at appeal to extend the domestic garden beyond the settlement boundary and into this area of countryside. However, a previous proposal for a larger/wider garage had been dismissed at appeal.
- D1.2 The Inspector stated that although the area was domestic in appearance, permitted development rights for enclosures and structures had been removed, limiting the physical objects in the “countryside part” of the site and retaining open views across the rural land. Although the garage now proposed was narrower than the previously refused garage (to the point it was questioned if a car would fit inside it), the garage would still “intrude on the openness of the grounds”. The dwelling itself was considered to be overly wide, and the addition of a garage made it appear even wider. Including, they found the garage to be out of character and harmful to the area, contrary to several quoted policies.