

27 July 2017

Report of	Assistant Director – Policy & Corporate	Authors	Andrew Tyrrell & Simon Cairns
Title	Summary of Received Appeal Decisions		
Wards affected	All		

This report is the first of its type, following a request by the Planning Committee, to begin regular reporting of any recently received appeal decisions. The decision(s) will be summarised so that the Committee can remain up to date with appeal outcomes, trends and changes; so they can further understand how Inspectors are presiding over our own decisions.

## 1.0 Appeals Decisions Received

- 1.1 At the time of writing there were only 3 appeal decisions received in the last month within the Borough and neighbouring authorities (selected for relevance). These are detailed below:

### A1.0 “Appeal A” Details

Site Address: 56 Blackberry Road, Stanway CO3 ORZ

Outcome: Dismissed

Inspector: Miss L Fleming MRTPI

Appeal Ref: APP/A1530/W/17/3169298

Application No: 162509 (Refused under delegated powers on 22 November 2016)

Proposal: 2-storey extension to both ends of the existing shopping parade to create new ground floor retail units and first floor self-contained flats.

### A2.0 Background

- A2.1 The original application had received 14 objections from residents, Stanway Parish Council had also objected, as did Essex County Council Highways. Councillor Lesley Scott-Boutell had called-in the application if it were to be approved by officers; however it was not brought to Committee because officers also concluded that it was unacceptable and consequently refused it under delegated powers.

### A3.0 Summary

- A3.1 The key issue for the appeal was the adequate provision of parking for the existing shops, the new shops and the extra residents. The Council contested that there was inadequate parking provision at the site and that the parking layout would be unworkable and unsafe in highway terms.

- A3.2 The applicant claimed there were approximately 30 spaces laid out to the rear and side of the appeal building and six spaces to the front. However, the Inspector noted there were no detailed car parking layout plans showing the current or proposed parking spaces and on the basis of the evidence was “not satisfied that the appeal site could safely accommodate 35 car parking spaces whilst also allowing for a safe circulation space if those spaces were all occupied”. On-street parking nearby was not adequate mitigation as these would also meet the demands of nearby residents. Even if the appellant could adequately control car ownership through parking permits the appeal site is not in a town centre location and it has not been demonstrated that there is a high level of access to local services such as schools, healthcare and leisure. Thus, a reduced parking requirement could not be applied.
- A3.3 Overall, the Inspector agreed with the Council that the number of parking spaces required could not “be safely accommodated within the site whilst also providing adequate circulation space for customers and servicing vehicles. That would result in vehicles waiting to access spaces and manoeuvring in limited space. Furthermore, the narrowing of the space between the building and the side boundaries would reduce driver visibility and would significantly increase the risk of vehicle and pedestrian collisions in the area, thus harming highway safety.
- A3.4 In reaching these conclusions, the Inspector did “acknowledge the benefits of the proposal in terms of providing local services, economic development and new homes. However, these matters do not outweigh the harm... Consequently the proposal is not sustainable development as set out in the National Planning Policy Framework.” The Inspector also identified conflict with Policies DP1 and DP19 of the CBC Development Policies DPD and Policy UR2 of the Core Strategy, which aim to achieve good design and highway safety.

## **B1.0 “Appeal B” Details**

12 July 2017 – Neighbouring authority: Braintree District

Address: Land at West Street Coggeshall – Appeal Ref: App/Z1510/W/16/3160474

Proposal: Hybrid application for mixed uses including public open space, community woodland with Outline application for 8 self-build dwellings & business hub. Full application for 98 dwellings & garages/parking with access from West Street.

## **B2.0 Summary**

- B2.1 This dismissed appeal helpfully illustrated the balancing of competing material considerations; namely the provision of homes in a situation where a five year housing supply cannot be demonstrated. Under the National Planning Policy Framework, authorities must demonstrate a five-year supply or their local plan policies are deemed out of date and the framework’s “presumption in favour of sustainable development” is initiated. In this case, although not subject to a national designation, the landscape was locally significant and the setting of designated heritage assets was adversely affected by the scheme potentially.
- B2.2 Apart from determining the level of the agreed shortfall in housing in the area, the inspector considered the impact of the mixed use scheme on the setting of a nearby grade II listed farmhouse and outbuildings, the setting of the adjoining conservation area and the appearance and character of the area generally.

- B2.3 In reviewing the shortfall, the inspector considered the use of a five per cent buffer and the Sedgefield method were appropriate and this resulted in a total of 3.12 years of housing land supply. This, she acknowledged, was significant but also commented on the fact that it had mainly arisen due to a very recent re-assessment of the objectively assessed need, whereas previously the council had had a good record of meeting need. Nevertheless, paragraph 14 of the NPPF needed to be enacted.
- B2.4 In terms of impact on heritage assets, the inspector found that the scheme would result in less than substantial harm to the setting of both a listed farmhouse and outbuildings and the conservation area by virtue of the erosion of the gap between the buildings and the village, diminishing the agricultural context of the listed buildings and the verdant approach to the village.
- B2.5 The inspector held the landscape affected by the scheme was a valued one by virtue of its quality, scenic contribution, conservation interest and recreational use. Its loss, she held, would harm cross-valley views from the rights of way and towards the listed buildings.
- B2.6 In balancing the benefits against the harm, the inspector concluded the aggregate of the heritage and landscape harms and conflict with the development plan, albeit afforded less weight, outweighed the benefits of the housing and employment proposed. The appeal was consequently dismissed.

### **C1.0 “Appeal C” Details**

Appeal Ref: APP/A1530/D/17 CBC

Application No: 170260 (Refused by committee in line with officer recommendation)

Appeal Decision: The rear extension was dismissed (14 June 2017), a replacement front entrance door was allowed.

Address: 8 Roman Road, Colchester, Essex CO1UR

Proposal: Two storey replacement rear extension & replacement front door.

### **C2.0 Summary**

- C2.1 The proposed development comprised the demolition of an existing rear extension and construction of a two storey rear extension with part single storey element. A replacement entrance door to front did not form part of the reasons for refusal. The property is subject to an Article 4 direction and is within the Colchester No.1 Conservation Area.
- C2.2 The appeal was dismissed and the reasons for refusal were design based, concerning the adverse impact on the character and appearance of the conservation area.
- C2.3 The Committee considered this application in March 2017. The application relates to an early Victorian, semi-detached cottage subject to an article 4 direction in Roman Road. The property backs onto an area of public open space from which the rear elevation can be readily seen and the relationship with the scheduled town wall appreciated. The main planning issue was the impact of the proposal on the character and appearance of the wider conservation area. The inspector commented *“In my opinion, the traditional materials and fenestration proportions make a positive contribution to the character and appearance of the Conservation Area.”* The proposed extension was to be faced in larch timber cladding with relatively large areas of glazing.

C2.4 The inspector concluded *“that the proposed rear extension would appear as an alien feature. This would not preserve the traditional character or appearance of the Conservation Area, but this would be less than substantial harm as set out in the Framework.”* This was seen to be in conflict with relevant local plan policies where they seek a high standard of design, for new development to respect and enhance local character and the requirement to preserve or enhance the character or appearance of a conservation area. The Inspector concluded that the proposal did not therefore represent sustainable development insofar as the harm identified failed to satisfy the requisite environmental role of paragraph 14 of the framework. The appeal was dismissed and a revised scheme has now been submitted that will be reported for committee’s consideration in due course.

C2.5 In terms of the front door, the replacement front door had not been contested and was not part of the reasons for refusal, but in reaching a split decision the Inspector’s conclusions was that:  
*“The proposal includes a replacement front door and fan light of traditional design. From my observations, this would be in keeping with the character and appearance of the existing dwelling and would preserve the character and appearance of the Conservation Area. As this part of the proposal can be undertaken independently from the proposed rear extension, I consider it appropriate to issue a split decision in this respect.”*