

PLANNING APPEAL DECISIONS

Agenda Item 6

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Background Papers:- None
Financial Implications:- None (Unless Costs Award made)
Equalities Implications:- None
Legal Implications:- None
Options: N/A
Risks: None

EXECUTIVE SUMMARY

This is a regular report on appeal decisions received with specific analysis of each appeal decision.

DECISION

The report is for noting purposes only

PLANNING APPEAL DECISIONS

This is the monthly report on appeals which contains a précis of the outcome of each appeal received during the month of **June 2010** and comment in respect of further action if applicable. The full text of decisions is available on the planning website under each respective planning application.

1.	Application No/Location	09/00311/FUL – Esterdale, Pinkuah Lane, Pentlow
	Proposal	Construction of treble garage with studio over and erection of new front garden wall
	Council Decision	Refused under delegated powers In this case it is considered that the proposed extension, having regard to its size, bulk, form and location would result in an overly large and dominant outbuilding which would be to the detriment of the appearance and character of the dwelling and this attractive rural locality.
	Appeal Decision and Date	Appeal Dismissed – 1 st June 2010
	Main Issue(s)	The effect that the proposed development would have on the character and appearance of the area, taking into account that the appeal site lies within a designated Special Landscape Area.
	Inspector's Conclusion	In the Inspector's view, the treble garage would be an excessively large and prominent building, dominating the front of the appellant's property and appearing as a somewhat incongruous feature in the lane, and there can be no guarantee that the natural screening would be permanently retained. They considered that the proposed walls and gates, rising to a height of 2m at the entrance point, would be a harsh feature in this rural location, notwithstanding that they would be set back from the lane.
2.	Application No/Location	09/01330/FUL – 6 Rose Walk, Ridgewell
	Proposal	Erection of single/two storey side extensions and alterations to existing elevations
	Council Decision	Refused at committee against officer recommendation The proposed extension by reason of its size and bulk would result in an unacceptable form of development out of keeping with the host dwelling and out of character with the pattern of surrounding development. Furthermore, the size and bulk of the rear extension would be detrimental to the amenities of the neighbouring property No.5 Rose Walk. It would have an overbearing impact on the southern boundary and result in overshadowing and loss of outlook to the rear of the property to the detriment of the occupier's amenity.

		In this case it is considered that the size, bulk and complexity of the design will be at odds with the character and appearance of the host dwelling and the surrounding pattern of development. As such the proposal neither preserves nor enhances the character or appearance of the Conservation Area. Furthermore, it is not considered that the imposition of planning conditions could satisfactorily overcome these objections
	Appeal Decision and Date	Appeal part allowed subject to conditions – 4th June 2010
	Main Issue(s)	1. the effect of the proposed development on the character or appearance of the Ridgewell Village Conservation Area 2. the effect of the proposed part single-storey, part first floor, side extension on the northeast side of the house on the living conditions of the occupiers of 5 Rose Walk with particular reference to visual impact, and daylight and sunlight.
	Inspector's Conclusion	The appellant's house pre-dates the other houses and looks rather different from them. Furthermore, it is not particularly distinguished architecturally. In the light of this, the Inspector considered that the proposed alterations to the existing elevations of the main two-storey part of the house would improve the appearance of the house. Were the extension to be permitted, there would be virtually continuous two-storey development on this side of the cul-de-sac – from the southwest end of no. 6 to the northeast end of no. 5. In their view this would look cramped and would not reflect the varied elevational treatment which characterises Rose Walk. Viewed from the rear, the extension with its width and deep rearward projection, reaching almost to the rear boundary, would in their judgement appear excessive in size in relation to the existing dwelling. Furthermore, the design of the extension appears to me to be overcomplicated – they considered this would add to the harm.

3.	Application No/Location	09/00929/FUL – Land at Manfield Lane, Halstead
	Proposal	Erection of a terrace of three houses and a coach house incorporating garages on the ground floor with a residential unit above
	Council Decision	Refused at committee in favour of officer recommendation Colchester Road (A1124) is a radial feeder and any access onto this road must have visibility splays of 2.4 metres by 90 metres in each direction. The sight splay where Manfield Lane meets Colchester Road is substandard with a splay of just 2.4 metres by 10 metres to the west. Notwithstanding the fact that Manfield Lane is an existing road with an existing access onto Colchester Road which is used by vehicles daily, the proposal would add additional evening and weekend trips to and from the site, which currently do not exist. Furthermore, as Manfield Lane is some 180 metres long and has no passing places, if two cars meet one would have to reverse to the end of the lane to allow the other to pass, this could lead to vehicles reversing onto the highway. It is also likely that any vehicle entering Manfield Lane from Colchester Road would have to wait for the vehicles to exit Manfield Lane before entering as there are no passing places.

	<p>The proposal would therefore lead to the intensification of use of a substandard access by reason of width and inadequate sight splays to the detriment of highway safety.</p> <p>Manfield Lane is only 3 metres wide at its widest point and has no segregated footway for pedestrians, this would cause a conflict between vehicles using the lane and pedestrian safety.</p> <p>It is considered that the proposed development, by virtue of the proximity of the proposed terrace of three houses to the residential property immediately to the west of the application site (identified as "Accris" on the Ordnance Survey Map), would have an overbearing and detrimental impact upon the residential amenities of that property and would furthermore give rise to an unacceptable level of mutual overlooking.</p>
Appeal Decision and Date	Appeal Dismissed – 21 st June 2010
Main Issue(s)	<p>1) the effect that the proposed development would have on the setting of nearby listed buildings and on the character or appearance of the Halstead Conservation Area;</p> <p>2) the effect of the proposed development on the living conditions of the occupiers of Accris (Chipping Hill) and 28 Head Street with particular reference to visual impact and privacy;</p> <p>3) whether the proposed development would be prejudicial to the safety or convenience of highway users in Colchester Road or Manfield Lane.</p>
Inspector's Conclusion	<p>The Inspector was satisfied that the proposed terrace would not have an adverse effect on the setting of Chipping Hill House. They were also satisfied that the proposed terrace would be acceptable in relation to the conservation area. In their view, the coach house would be uncomfortably close to the boundary shared with 28 High Street (a listed building) and would adversely affect the setting of that building at the rear, notwithstanding that there is a wall along the boundary. The wall would not wholly conceal the building. Since the coach house would have an adverse effect on the setting of a listed building within the conservation area, they considered that it would also be damaging to the conservation area. The Inspector considered that the close proximity of the coach house to the boundary and the rear garden of no. 28 would make it obtrusive and intrusive, to a degree, for the occupiers of no. 28.</p> <p>The proposed terraced houses would have very short rear gardens, their length varying between about 4.5m and about 5.5m. Accris is separated from this part of the appeal site by a driveway about 5.0m wide. As a consequence the separation distance would vary between about 9.5m and about 10.5m. They considered that the close proximity of the terrace would be obtrusive for the occupiers of Accris, even though it is the front of that property that would be affected, rather than the rear. They also considered that the closeness of opposing first floor windows would detrimentally affect the privacy of the occupiers of Accris. The occupiers of the terraced houses would be affected by the closeness of Accris similarly.</p> <p>In the Inspector's view some weight should be given to the</p>

		<p>appellant's point that in peak periods the proposed development is likely to reduce congestion, particularly in Colchester Road. They saw, during their site visit, why the highways authority has concerns about increased use of the junction of Manfield Lane and Colchester Road. However, there is an alternative way into Manfield Lane at its northeast end, from Morley Road. It seemed highly likely to the Inspector that some of the traffic generated by the proposed development would enter and exit Manfield Lane via Morley Road. Accordingly, even if the volume of additional traffic were to be as anticipated by the highways authority, they did not consider that there would be a commensurate increase in the traffic using the Colchester Road / Manfield Lane junction.</p> <p>Overall, the Inspector has found in the appellant's favour on the third main issue. However, this did not outweigh the harm they have identified on the first two main issues, on account of which the Inspector considered that the appeal should not succeed.</p>
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4.	Application No/Location	09/01594/FUL – 52 West Street, Coggeshall
	Proposal	Creation of driveway and dropped kerb
	Council Decision	Refused under delegated powers The proposal would lead to a loss of definition to the road edge and erosion of the existing boundary treatment and soft landscape setting to the dwelling that currently gives value to the townscape of the village approach. The works would have a damaging impact upon the character and appearance of the Coggeshall Conservation Area and detract from the setting of listed buildings along the southern side of West Street.
	Appeal Decision and Date	Appeal Dismissed – 29 th June 2010
	Main Issue(s)	Whether the proposal would help to preserve or enhance the character, appearance and essential features of the Conservation Area.
	Inspector's Conclusion	The appeal scheme would result in the demolition of much of the existing boundary wall and frontage vegetation, and replace most of the existing lawn and front garden with a surfaced block-paved hardstanding. The Inspector considers that the combined effect of these works would erode the essential characteristics and features of this part of Coggeshall's Conservation Area and adversely affect the appearance of the street scene. Consequently, they considered the proposal would not help to preserve or enhance the character, appearance and essential features of the Conservation Area.

5.	Application No/Location	09/00766/FUL – Marios Pizza, 1 Guithavon Street, Witham
	Proposal	Proposed extension of opening hours - Sunday to Thursday 10am to 11pm, Friday to Saturday 10am to 2am
	Council Decision	Refused under delegated powers It is considered that the extension of opening hours at these premises will result in unacceptable noise from customers emanating from the premises, to the detriment of nearby residential amenity.
	Appeal Decision and Date	Appeal Dismissed – 30 th June 2010

	Main Issue(s)	Whether the extended opening hours would result in an unacceptable level of noise and disturbance from customers using the premises, significantly eroding the living conditions of nearby residents.
	Inspector's Conclusion	The local taxi office operates late at night and early in the morning to cater for people leaving late-night bars, pubs, clubs and restaurants in the town centre. This currently causes some noise and disturbance, along with some anti-social behaviour. By operating the appeal premises during the extended hours requested could make this situation much worse, by creating a focus for late-night activities close to existing residential accommodation, particularly those living in Penhaligon Court. As such, it would cause noise and disturbance during the late evening and early hours of the morning, noticeably eroding the living conditions of neighbouring residents.