

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 **January 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	09/00944/FUL - 14 Priory Farm Road, Hatfield Peverel
	Proposal	Extensions and alterations to the existing detached dwelling
	Council Decision	Refused under delegated powers The proposed extensions by reason of their siting, size, bulk and design would appear unduly prominent in the street scene, and out of character with residential development in the locality.
	Appeal Decision and Date	Appeal Allowed subject to conditions – 14th Jan 2010
	Main Issue(s)	The effect the appeal proposal would have on the street scene
	Inspector's Conclusion	The Inspector was satisfied that dormers of the type proposed for the centre and southernmost part of the roof would be an acceptable part of the street scene; and that the proposed northernmost dormer and extension beneath would not have an unacceptable effect in that context. As to the porch, in the Inspectors view its proposed form complements the proposed gables more satisfactorily than would retention of the existing porch.
2.	Application No/Location	09/00128/FUL – 1 Gasworks Cottages, Station Road, Earls Colne
	Proposal	Change of use of land from garden to car parking - Renewal of temporary planning permission 05/02542/FUL but to now allow permanent use
	Council Decision	Application granted through delegated powers
	Appeal Decision and Date	Appeal Allowed and Varied – 21st Jan 2010
	Main Issue(s)	<ul style="list-style-type: none"> • Whether the proposed development would preserve or enhance the character or appearance of the Conservation Area and, if so, • Whether any considerations associated with the appeal proposal outweigh the presumption against such development established for Employment Policy Areas and, if so, • Whether the grant of planning permission without the disputed condition would give rise to harm sufficient to outweigh the presumption against temporary planning permission in circumstances other than where the applicant proposes temporary development, or where a trial run is needed in order to assess the effect of the development on the area

	Inspector's Conclusion	Neighbouring sites in the Conservation Area are used for vehicle storage, for parking or as vehicle depots. The proposed use is consistent with those and is of a similar appearance. There is an undisputed need for commuter car parking in the area which the appeal proposal would in part satisfy. This use is an important element in the Inspectors consideration and could be secured by condition. The need for commuter parking, and the status of the land, outweigh the need for B1, B2 or B8 use of the land. They were not persuaded that to increase permanently the commuter parking provision near the station by a small proportion would cause harm sufficient to outweigh the presumption against repeatedly granting only temporary planning permission in circumstances such as this. I conclude that it would not, and that the planning permission for the proposed use should therefore not be temporary.
	Additional Info	An award of partial costs was sought by the appellant against the Council, however the Inspector dismissed this application.

3.	Application No/Location	09/00862/FUL – 64 Braintree Road, Witham
	Proposal	Demolition of the existing bungalow and the erection of ten two-bedroom houses
	Council Decision	Refused under delegated powers In this case it is considered that the proposed development will comprise a configuration of 10 dwellings built, effectively, 'back-to-back'. The layout, together with the lack of sufficient useable and private amenity space to serve each dwelling would fail to secure a satisfactory level of amenity for prospective occupants.
	Appeal Decision and Date	Appeal Dismissed – 22 nd Jan 2010
	Main Issue(s)	The proposed provision of private amenity space
	Inspector's Conclusion	There is no evidence that the proposed development would enable good access to any type of amenity or recreational space. The Inspector therefore concluded that the proposals before them would not make suitable provision for communal or private outdoor space and that a satisfactory degree of design quality would not be achieved.

4.	Application No/Location	09/00312/FUL - 49 Stubbs Lane, Braintree
	Proposal	Change of use of vacant ground floor hairdressers unit to hot food take-away
	Council Decision	Refused under delegated powers It is considered that the proposed change of use of the application site to an A5 Takeaway would adversely harm this residential area, giving rise to a loss of amenity by virtue of increased traffic generated, insufficient parking provision and general noise and disturbance.
	Appeal Decision and Date	Appeal Dismissed – 28 th Jan 2010
	Main Issue(s)	The effect of the scheme on the residential character of the area and the living conditions of local residents, due to noise, odour, disturbance, traffic and demand for parking.

	<p>Inspector's Conclusion</p>	<p>The area to the rear and side of the property is an area where odour could become trapped and noise would be particularly noticeable by the occupiers of the adjacent dwellings. Irrespective of whether a flue was attached to the flank or rear elevation it would be sited close to the side or the rear windows of the flat at the Appeal premises and the adjacent dwellings. No details are given relating to its precise size, siting, appearance, height, effectiveness and likely noise generation. As a result of these factors and having regard to the proposed hours of operation the Inspector considered that it is highly likely that the proposal, as submitted, would result in noise, general disturbance and odour. This would materially and unacceptably harm the living conditions of the occupiers of the flat at No.49, the adjacent dwellings and the residential character of the immediate area.</p> <p>No details are given on where chilled food and refuse would be stored. If stored outside the building, access to them during the late evening and early morning could lead to disturbance as well as problems of odour, for the occupiers of the adjacent dwellings. In view of the serious harm these activities could result in, it would be inappropriate to deal with them by condition, also starting up of engines, shutting of car doors and general activity generated by customers entering and leaving the takeaway late into the evening would give rise to noise and disturbance for local residents. In particular it would harm the living conditions of the occupiers of 51 & 53 Stubbs Lane and the flat above the proposed takeaway.</p> <p>She concluded that the proposal would materially and unacceptably harm the residential character of the area and the living conditions of local residents due to noise, general disturbance and odour and would unacceptably detract from the residential character of the area.</p>
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