

**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 **March 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

<b>1.</b>	<b>Application No/Location</b>	09/00032/OUT – Land East of Hyperion Building, Sudbury Road, Little Maplestead
	<b>Proposal</b>	Construction of B2 industrial unit on existing industrial/commercial site.
	<b>Council Decision</b>	<b>Refused under delegated powers</b> The proposal would have an eaves height of 5m and be located on a prominent part of the site. It is considered that it would be visually intrusive and harmful to the character and appearance of the surrounding area. Furthermore, the size and scale of the proposed unit along with the unjustified speculative nature of development would be contrary to the sequential approach of siting new employment development within existing towns and villages where access to housing and other facilities are provided close together reducing the need to travel and promoting more sustainable patterns of development.
	<b>Appeal Decision and Date</b>	<b>Appeal Dismissed – 2<sup>nd</sup> March 2010</b>
	<b>Main Issue(s)</b>	The effect of the proposal on the character and appearance of the surrounding countryside and whether the proposal would constitute sustainable development.
	<b>Inspector's Conclusion</b>	The proposed building, in such a prominent location, would be clearly visible across open fields from further north on Sudbury Road. From the Inspector's observations, due to its height and prominent position, they considered the proposed development would intensify the visual impact of the existing commercial development by introducing significant built development in an area that policy indicates should be protected for its own sake. They believed it would have an urbanising effect detrimental to the character and appearance of the surrounding countryside area. Local Plan Policy RLP 27 seeks to concentrate employment uses in towns and villages to minimise the length and number of trips by motor vehicle, thus creating a more sustainable pattern of development. The size of the proposed building and speculative nature would be contrary to the objectives of this policy, therefore the proposal would not constitute sustainable development.
<b>2.</b>	<b>Application No/Location</b>	09/00700/FUL – 70 Rana Drive, Braintree
	<b>Proposal</b>	Provision of two new flats
	<b>Council Decision</b>	<b>Refused under delegated powers</b>

		In this case, it is considered that the proposed residential development, by reason of its size and location, would result in a cramped and contrived appearance, which is out of character with the surrounding area. Furthermore, the proposed development, by virtue of its design and external appearance would compromise the form and proportions of the existing adjoining terrace harmful to the character and appearance of the locality.
	<b>Appeal Decision and Date</b>	Appeal Dismissed – 4 <sup>th</sup> March 2010
	<b>Main Issue(s)</b>	The effect of the proposal on the character and appearance of the surrounding residential area
	<b>Inspector's Conclusion</b>	The Inspector considered that the proposed building, due to its form and proportions, would appear as a contrived addition, not in keeping with the characteristic uniform design of the terrace. In addition, she believed the proposed building, due to its size and location, would appear cramped within the site, contrary to the open characteristic of the area.

<b>3.</b>	<b>Application No/Location</b>	09/00101/FUL – 83 Stoneham Street, Coggeshall
	<b>Proposal</b>	Erection of first floor extension
	<b>Council Decision</b>	<b>Refused under delegated powers</b> The proposed extension by reason of its depth and bulk would be unduly overbearing and dominant, causing overshadowing, loss of outlook and unacceptable loss of light harmful to the amenities of the occupiers of the adjoining dwellings at Nos. 85 and 81 Stoneham Street.
	<b>Appeal Decision and Date</b>	<b>Appeal Dismissed</b> – 8 <sup>th</sup> March 2010
	<b>Main Issue(s)</b>	The effect of the proposal on the living conditions of occupiers of Nos. 81 and 85 Stoneham Street with particular reference to sunlight, daylight, and outlook.
	<b>Inspector's Conclusion</b>	Given the height and depth of the proposed extension and its orientation with the adjoining property, the Inspector considered that the proposal would result in an unacceptable loss of sunlight and daylight entering the bedroom window to No. 85. They considered that due to the size of the proposed extension, and its proximity to neighbouring properties the proposal would appear overbearing when viewed from the bedroom windows to both Nos. 85 and 81 Stoneham Street. They considered that the combined impact of the appeal proposal and the existing extension at No. 79 on the outlook from the bedroom window to No. 81 would have an enclosing and claustrophobic effect, which would harm the living conditions of occupiers of No. 81.

<b>4.</b>	<b>Application No/Location</b>	08/02307/FUL – Ashley, Church Road, Wickham St Paul
	<b>Proposal</b>	Demolition of a conservatory, construction of a single storey rear extension and internal alterations
	<b>Council Decision</b>	<b>Refused under delegated powers</b> The proposed extension by reason of its size, siting, bulk and design would result in an unacceptable form of development, out of keeping with the host dwelling, would represent

		overdevelopment of the site and be out of character with the pattern of surrounding residential development to the detriment of the visual amenities of the locality.
	<b>Appeal Decision and Date</b>	<b>Appeal Allowed</b> – 16 <sup>th</sup> March 2010
	<b>Main Issue(s)</b>	The effect of the proposal on the character and appearance of the existing dwelling and the surrounding area.
	<b>Inspector's Conclusion</b>	<p>Given the presence of a flat-roofed garage within the rear garden of the appeal property that extends further back into the garden than the proposal, the Inspector considered that the siting, bulk and form of the extension would be compatible with the existing dwelling.</p> <p>The effect on the character and appearance of the existing dwelling would not, in their view, be materially greater than the approved extension. They noted that there would only be a very limited view of the extension from Church Road between the house, a neighbouring dwelling and the existing garages between the two dwellings. Consequently, they considered that the proposal would not have a material impact on the identity of the street scene.</p> <p>Views of the proposal from the adjacent countryside would be screened by the woodland to the rear of the property. Also, they considered that the proposal would not appear incongruous when viewed from gardens to neighbouring residential properties given the presence of flat roofed garages within the rear gardens to a number of properties in the vicinity. Given the limited height of the extension, the screening effect of existing boundary treatments and garage to the neighbouring dwelling to the north, the Inspector considered that the living conditions of neighbours would not be harmed by this proposal as a consequence of loss of daylight and visual intrusion on outlook.</p>

<b>5.</b>	<b>Application No/Location</b>	09/00220/FUL – Spices, Rotten End, Wethersfield
	<b>Proposal</b>	Use of former granary building for separate residential occupation
	<b>Council Decision</b>	<p><b>Refused by Committee in favour of Officer Recommendation</b></p> <p>It is considered that the proposal to allow the change of use of a building to form a permanent new dwelling in the countryside is contrary to planning policy. Notwithstanding the previous temporary permission for the same use at this site, it is considered that there are no special circumstances to prevent the use of the building being reverted to that which is ancillary to the main building. The site is considered to be an unsustainable location for residential development and the proposal is therefore contrary to the purposes of countryside policy. Also no attempt has been made to secure an employment or community use for the building nor does it form a subordinate part of a business re-use scheme.</p> <p>Furthermore, the creation of a separate residential unit within the former Granary would deny the Grade 2* Spices Farmhouse significant ancillary space, thereby creating pressure for future new development to provide such ancillary space with the potential for such development to detract from the setting of the listed farmhouse and the open character of the countryside.</p>

	<b>Appeal Decision and Date</b>	<b>Appeal Allowed</b> – 16 <sup>th</sup> March 2010
	<b>Main Issue(s)</b>	Whether the use would harm the aims of policies to protect the countryside from unnecessary housing development and prejudice the preservation of the historic and architectural interest of the appeal building and the adjacent Grade II* Spices Farmhouse.
	<b>Inspector's Conclusion</b>	In the Inspector's view, even without evidence of attempts to secure an employment or community use it is clear that the proximity to Spices Farmhouse would make unconnected such uses unlikely to be acceptable. Any use would necessitate access by private car to this remote location. A permanent and separate residential use is in their view an acceptable exception. The appellant does not intend to sell the Granary separately from the Farmhouse and has submitted with the appeal a Unilateral Undertaking that would ensure that. The Unilateral Undertaking is a weighty consideration and in the Inspectors view it would ensure that in future the inter-relationship of the two buildings would be maintained in a way that would help ensure the preservation of their complementary architectural and historic interest.

<b>6.</b>	<b>Application No/Location</b>	09/01287/FUL – 16 Yew Close, Witham
	<b>Proposal</b>	Erection of garden store (retrospective planning application including alterations to existing building)
	<b>Council Decision</b>	<b>Refused by committee against officer recommendation</b> The proposed modifications to the outbuilding would not overcome the harm to amenity resulting from its erection. They would result in the retention of an unacceptable form of development which is out of keeping with the host dwelling by reason of its size, bulk and form, design and materials; and which is out of character with the pattern of the surrounding residential development to the detriment of the visual amenities of the locality.
	<b>Appeal Decision and Date</b>	<b>Appeal Dismissed</b> – 19 <sup>th</sup> March 2010
	<b>Main Issue(s)</b>	The effect of the proposed garden store on the character and appearance of the street scene and surrounding area.
	<b>Inspector's Conclusion</b>	The Inspector considered that the building is an unacceptably prominent and obtrusive feature, due to its highly visible and elevated position at a point where two link footpaths converge. In particular, it would dominate views from the south along the length of Alder Walk, and from the footpath leading from the car park on the west side. They considered the visual and physical relationship of the building to the host dwelling and the street scene generally would appear awkward, contrived, and at odds with the prevailing character of the area.

<b>7.</b>	<b>Application No/Location</b>	09/00428/LBC – Gray's Barn, Gray's Lane, Wethersfield
	<b>Proposal</b>	Revise internal structure to first floor and staircase of approved scheme refs: 08/01507/FUL and 08/01508/LBC
	<b>Council Decision</b>	<b>Refused under delegated powers</b>

		It is considered that the proposed first floor link would detract from the contribution that the roofspace makes to the character and fabric of the Listed Building and it is therefore considered that the proposed internal arrangement fails to respect the historic and architectural interests of the building.
	<b>Appeal Decision and Date</b>	<b>Appeal Allowed</b> – 22 <sup>nd</sup> March 2010
	<b>Main Issue(s)</b>	Whether the first floor bridge link would fail to preserve the historic or architectural interest of the barn, in particular by detracting from the understanding of its form and structure.
	<b>Inspector's Conclusion</b>	The bridge would interrupt the central void but it would be to one side. It would not in the Inspector's view materially impede understanding of the barn as a single space or the appreciation of such original structural elements as can be retained or indeed the approved new roof that has been judged sympathetic to the structure. They are reassured in this conclusion by the photographs of a similar arrangement at another of the appellant's agent's conversion schemes in Bishop's Stortford. Those buildings are not identical to Gray's Barn but they confirm the Inspector's view that the appeal works would successfully preserve the historic and architectural interest of the building.

<b>8.</b>	<b>Application No/Location</b>	09/00096/FUL – Land Rear of 132, 134 & 136 Swan Street, Sible Hedingham
	<b>Proposal</b>	Erection of two residential dwellings
	<b>Council Decision</b>	<b>Refused at committee against officer recommendation</b> The proposed development would be accessed by a narrow single track access route which emerges onto Swan Street at a point close to an existing zebra crossing. The proposals are not considered to provide sufficient certainty about the adequacy of off street parking within the development nor the controls over its use. In these circumstances it is considered that the proposed development would increase the likelihood of hazardous vehicle movements in close proximity to the zebra crossing, further compromising the safe movement of pedestrians and vehicles, to the detriment of highway safety.
	<b>Appeal Decision and Date</b>	<b>Appeal Allowed</b> – 24 <sup>th</sup> March 2010
	<b>Main Issue(s)</b>	The effect of the proposal on highway safety.
	<b>Inspector's Conclusion</b>	Based upon the available evidence, the Inspector considers that the proposal would not result in an intensification of the use of the existing access onto Swan Street. As they have found that the proposal would not result in a significant alteration in the pattern of traffic or intensification in the use of this existing access, they consider that the proposal would not have an adverse effect on highway safety. With regard to the manoeuvring space within the site, they considered that the turning space shown on the submitted drawing should be of a sufficient size to enable vehicles to enter the site and exit in a forward gear. They also considered that the dwellings would have sufficient private amenity space to ensure satisfactory living conditions for future occupiers.

<b>9.</b>	<b>Application No/Location</b>	09/00288/FUL – Wellesley House, 67 Colchester Road, Halstead
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	<b>Proposal</b>	Construction of a vehicular access and parking bay in front garden
	<b>Council Decision</b>	<b>Refused under delegated powers</b> The proposal would lead to the creation of an additional access on a stretch of classified highway where the principal function is that of carrying traffic freely and safely between centres of population. This parking arrangement will not allow vehicles to enter and leave the site in forward gear. The slowing and turning of vehicles associated with the use of the access would lead to conflict and interference with the passage of through vehicles to the detriment of that principle function. It will necessitate cars reversing and manoeuvring over the pavement area which presents a danger to pedestrians as well as introducing a further point of possible traffic conflict to the detrimental of highway safety. It is also considered that the proposed siting, design, and external appearance of the development would result in an unacceptable form of development that would appear unduly conspicuous within the street scene, to the detriment of the established character of the area, the resulting appearance of which would be detrimental to the visual amenities of the locality.
	<b>Appeal Decision and Date</b>	<b>Appeal Allowed</b> – 30 <sup>th</sup> March 2010
	<b>Main Issue(s)</b>	The effect of the proposed development on: (a) highway safety, and (b) the character and appearance of the area
	<b>Inspector's Conclusion</b>	In the Inspector's opinion no impediment to visibility of pedestrians had been identified that would make vehicular manoeuvres unsafe; the proposal would provide the benefits of an off-street parking space in a location where the carriageway is relatively narrow. It was acknowledged that the size of the parking bay meets the Council's minimum standards, and no detailed evidence had been presented to support the contention that, on average, vehicles have increased in size since a similar application in 2002. They considered that the parking bay would be of a sufficient width to enable a car to be parked clear of the highway. They noted that as a result of landscaping and boundary walls to gardens along that side of Colchester Road, the front garden of the appeal property is not prominent within longer distance views along the street in either direction. The Inspector took the view that the proposal would not appear incongruous or result in harm to the existing character and appearance of the area and street scene.

<b>10.</b>	<b>Application No/Location</b>	09/00152/FUL – Rosewood, Mill Road, Great Bardfield
	<b>Proposal</b>	Demolition of existing dwelling and erection of a replacement dwelling and outbuilding
	<b>Council Decision</b>	<b>Refused by committee against Officer recommendation</b> The proposal is considered to represent a significant increase in the size and scale of built form above that of the existing dwelling which is not considered suitable for the size of the plot and would have a greater impact in the landscape to the detriment of the character of the countryside and Special Landscape Area.

		Furthermore, the design is considered to be overly complicated and inappropriate for the site and its rural location.
	<b>Appeal Decision and Date</b>	<b>Appeal Allowed</b> – 30 <sup>th</sup> March 2010
	<b>Main Issue(s)</b>	The acceptability of the size, scale and design of the proposed replacement dwelling in the context of its countryside location within a special landscape area.
	<b>Inspector's Conclusion</b>	<p>It was clear to the Inspector that whilst the proposed dwelling would be larger than the existing in terms of footprint and overall bulk, they considered these increases to be relatively modest, and both commensurate with the existing dwelling and compatible with the size and shape of the plot, they did not consider it would have any significantly greater impact on the countryside or be more obtrusive than the original dwelling.</p> <p>They were satisfied that the degree of articulation and modulation adds interest to the form of the building, and the choice of external materials would be in tune with the typical Essex vernacular style.</p> <p>The opportunities to define a precise residential curtilage where none currently exists, to remove unattractive outbuildings, and to provide to additional landscaping are positive points in favour of the scheme, and have contributed to the Inspector's reasoning.</p> <p>Overall therefore they concluded on the main issue that the size, scale and design of the proposed replacement dwelling will not materially harm the character or appearance of the surrounding countryside, or the special qualities of the special landscape area.</p> <p>The proposed dwelling would be sited further away from Orgers Farm (Grade II listed building) than the existing, and would be separated from it by intervening outbuildings and screening vegetation. Consequently, they were satisfied the proposal would have no materially harmful effect on the listed building, and that its setting would be preserved.</p>