

APPEAL PROGRESS REPORT

PURPOSE OF THE REPORT

The purpose of this report is to inform Members of appeals lodged and determined in the period 1st February 2018 to 31st March 2018.

RECOMMENDATION

That the report is noted.

INTRODUCTION

Members are requested to note the appeal decisions of either the Secretary of State or the relevant Inspector that has been appointed to determine appeals within the defined period.

In line with the parameters above the report sets out the main issues of the appeals and summarises the decisions. Where claims for costs are made and/or awarded, either for or against the Council, the decisions have been included within the report.

BACKGROUND INFORMATION

When a planning application is refused, the applicant has the right to appeal within six months of the date of decision for non-householder appeals. For householder applications the time limit to appeal is 12 weeks. Appeals can also be lodged against conditions imposed on a planning approval and against the non-determination of an application that has passed the statutory time period for determination.

Where the Council has taken enforcement action, the applicant can lodge an appeal in relation to the served Enforcement Notice. An appeal cannot be lodged though in relation to a breach of condition notice. This is on the basis that if the individual did not agree with the condition then they could have appealed against the condition at the time it was originally imposed.

Appeals are determined by Inspectors appointed by the Secretary of State and administered independently by the Planning Inspectorate.

MONITORING

Monitoring of all appeal decisions is undertaken to ensure that the Council's decisions are thoroughly defended and that appropriate and defensible decisions are being made under delegated powers and by Planning Committee. The lack of any monitoring could encourage actions that are contrary to the Council's decision,

possibly resulting in poor quality development and also costs being sought against the Council.

FINANCIAL & LEGAL CONSIDERATIONS

An appeal may be determined after a Public Inquiry, a Hearing or most commonly written representations. It is possible for cost applications to be made either by the appellants against the Council or vice versa if it is considered that either party has acted in an unreasonable way.

It is possible for decisions, made by Inspectors on appeal to be challenged through the courts. However, this is only if it is considered that an Inspector has erred in law, for instance by not considering a relevant issue or not following the correct procedure.

A decision cannot be challenged just because a party does not agree with it. A successful challenge would result in an Inspector having to make the decision again following the correct procedure. This may ultimately lead to the same decision being made.

It is possible for Inspectors to make a 'split' decision, where one part of an appeal is allowed but another part is dismissed.

SUMMARY OF APPEALS IN PERIOD OF 1 FEBRUARY TO 31 MARCH 2018

No. APPEALS PENDING	10
No. APPEAL DECISIONS RECEIVED	1
No. ENFORCEMENT APPEALS LODGED	0
No. ENFORCEMENT APPEAL DECISIONS RECEIVED	1
No. OFFICER DECISIONS ALLOWED	6
No. MEMBER DECISIONS ALLOWED	0

Site Address:	Land at the junction of Kenilworth Road & Fletchamstead Highway
Reference Number:	ENF/2017/00038
Description:	Without planning permission the erection on the Land of metal fencing to the southeastern facing boundary (fronting Kenilworth Road) and southwestern facing boundary (fronting Fletchamstead Highway)
Decision Level:	Delegated
Decision:	Enforcement notice issued on: 11/09/2017
Appeal Decision:	<i>Dismissed and enforcement notice upheld on 02/02/2018</i>

Summary of Decision

The appeal under ground f is limited to the specific question as to whether any lesser steps would achieve the aim of remedying the breach of planning control. The appellant put forward a case as to why the design and visual impact of the fence was appropriate but in the absence of an appeal on ground a the Inspector confirms he is unable to grant planning permission for the fence or consider its

merits and his decision is limited as to whether lesser steps would remedy the breach of planning control.

The Inspector notes that no lesser measures have been suggested by the appellant but he considers whether it would be appropriate to reduce the height of the fence to 1m to comply with the terms of the GPDO. He considers that it is not readily apparent that the fence panels could be altered or cut to size and in the absence of any indication as to whether permitted development rights have been removed in this instance.

In view of this the Inspector concludes that 'I am not satisfied that there is an obvious alternative to the removal of the fence that would remedy the breach of planning control. Taking that into account, in addition to the lack of any suggested alternative from the appellant, the appeal on ground f must fail. Accordingly, I shall dismiss the appeal and uphold the notice.'

Site Address:	75-77 Albany Road
Reference Number:	FUL/2016/2506
Description:	Change of use to A1 retail (retrospective application)
Decision Level:	Delegated
Decision:	Refusal on 30/11/2016
Appeal Decision:	<i>Allowed on 02/02/2018</i>

Site Address:	75-77 Albany Road
Reference Number:	ENF/2017/00013
Description:	Without planning permission the use of the Land for retail sales (use Class A1)
Decision Level:	Delegated
Decision:	Issued on 29/03/2017
Appeal Decision:	<i>Allowed and enforcement notice quashed on 02/02/2018</i>

Summary of Decisions

The appeal decision relates to two appeals; one against the Council's decision to issue and enforcement notice (Appeal A) and one against a refusal to grant planning permission (Appeal B). The Inspector considered the issues in relation to both appeals to be the same and considered them together. The main issue is: whether planning permission should be granted for retail development in the out of centre location in question, having regard to the likely effect on the vitality and viability of designated retail centres and the availability, or otherwise, of sequentially preferable sites.

The reason for refusal was based on the view that insufficient information had been provided to demonstrate that no sequentially preferable sites were available. The Inspector notes that there is no dispute that the site is in an out of centre location and that the appellant submitted a sequential assessment with the appeal based, correctly, on the particular requirements of the use in question which is a carpet store with specific needs with regard to matters such as delivery space, parking and circulation space within the store.

The council accepted the scope of the assessment and the Inspector found no reason to reach a different conclusion and on the basis of this information he accepted that there were no sequentially preferable sites and that the development would accord with Para. 24 of the NPPF. A suggested condition, limiting the range of goods sold to carpets, floor coverings, furniture and ancillary soft furnishings was considered appropriate to all parties and the Inspector concluded that subject to such a condition and given the modest size of the store, the use would not result in any significant impact on the vitality or viability of any existing retail centre.

The enforcement notice was quashed and the appeal allowed with a condition which restricts the retail use to the sale of carpets, floor coverings, furniture and an ancillary element of soft furnishings such as cushions, curtains and blinds.

Site Address:	27 Camden Street
Reference Number:	FUL/2017/0745
Description:	Retention of storage buildings, fencing and hard surfacing
Decision Level:	Delegated
Decision:	Refusal on 24/03/2017
Appeal Decision:	<i>Dismissed on 12/02/2018</i>

Summary of Decision

The Inspector notes that the buildings are required in connection with the lawful use of the site for storage purposes and a separate appeal in relation to the lawful use of the site for 'general storage of vehicles and materials and ancillary repair of stored vehicles' was considered concurrently. In this context he considers that the scope of the appeal relates to not only visual effects of the development but also their function and on this basis the main issues are the effect of the proposals on the living conditions of neighbouring residents and on the character and appearance of the surrounding area.

The appeal site is an irregular shaped piece of land located between residential properties on Camden Street and Burlington Road, with access via a track which passes between No.29 and No.31. The Inspector notes that the use would co-exist cheek by jowl with the surrounding residential properties and there is little information about the level of activity envisaged. Given the proximity to neighbouring properties he considers that the any vehicle repairs undertaken within the open would have the potential to cause noise and disturbance and impact on the character of the area and has the potential to cause significant harm to the living conditions of neighbouring residents. Furthermore, he considers the storage use itself could also have significant impacts resulting from the associated comings and goings and little information has been provided in terms of how storage within the buildings would operate. In terms of the use of the hardstanding and buildings, the Inspector concludes that they would be likely to cause harm to the living conditions of neighbouring residents and would be contrary to the aims of Policies EM5, E13 and OS6 of the CDP 2001.

Looking at the design and appearance of the buildings the Inspector notes that the fencing is of an industrial style comprising profiled metal sheeting which is out of context with the character and domestic sale of boundary treatment normally found

in a residential area and would provide an unsightly outlook for adjacent residents. He considers the building and portacabin to have a utilitarian appearance but of as they are of a scale comparable with garden sheds and similar structures, is satisfied that they would not cause harm to the character or appearance of the area.

The Inspector concludes that 'whilst I have found that the fencing has caused harm to the character and appearance of the area, I am satisfied that the buildings and hard surfacing have a broadly neutral impact in terms of their visual appearance. However, those elements have been erected/ constructed to facilitate a use of the site for the purpose of storage and outdoor vehicle repairs. Those uses are not lawful and would be likely to cause harm to the living conditions of neighbouring residents.'

Site Address:	27 Camden Street
Reference Number:	LDCP/2017/0763
Description:	Lawful development certificate for use of the land for general storage of vehicles and materials and ancillary repair of stored vehicles
Decision Level:	Delegated
Decision:	Refusal on 17/05/2017
Appeal Decision:	<i>Dismissed on 12/02/2018</i>

Summary of Decision

The appeal relates to an application for a certificate of lawful use for the proposed use of the site for storage and the proposed use is different to the way in which the site was being used at the time the application was made.

The crux of the appellant's argument is that the proposed use would amount to a storage use falling within Use Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and that the existing lawful use of the site would also fall within that Use Class, such that no material change of use would occur.

The Inspector notes that the site had been used previously from 1973 up until the late 1990's for vehicular storage and ancillary repairs but was did not consider the information sufficient to determine precisely how the site operated during that period. The land was then acquired by the Council in 1997 and it would appear that the previous use ceased. Air photos from 2001 suggest the site was largely covered in vegetation with the site being cleared in 2013.

In view of the above the Inspector considers there is insufficient information to enable a full understanding of precisely how the site was used prior to the purchase of the land by the Council in 1997. After that point there is little substantive evidence that the site was used for any specific purpose and any former use may well have been abandoned such that the land effectively had a nil use and therefore he cannot conclude that on the balance of probabilities that the site had a lawful existing use for storage purposes as suggested by the appellant.

Site Address:	14 The Riddings
Reference Number:	OUT/2017/1562
Description:	Outline application for a residential dwelling with allocated parking spaces (means of access submitted)
Decision Level:	Delegated
Decision:	Refusal on 08/06/2017
Appeal Decision:	<i>Dismissed on 16/02/2018</i>

Summary of Decision

The main issue is the effect of the proposal on the character and appearance of the area.

The site is located within Canley Gardens which is characterised by low density development on fairly large plots with a wide variety in the design of house reflecting its historic background as an area of 'plot –land development'. The site is mostly behind No.14a with the access running between No.'s 14 and 14a and although the appellant advises that there was a large commercial building in this location the Inspector could see no remaining evidence of this on site and gives little weight to this.

The Inspector notes that despite the diversity in house design, almost all address the road and have a visible presence in the street scene. In contrast, the two storey nature of No.s 14 and 14a combined with garage, gates and large tree would substantially obscure the proposal so it would be unlikely to have any positive presence in the street scene. In view of this he considers it would represent a form of development which would be incongruous with the predominant character of the area. Furthermore, he considers the plot size to be smaller than most other and as such it is likely that any dwelling on the site would appear cramped and contrived.

The Inspector concludes that the development would harm the character and appearance of the area and would fail to accord with Policies DE1 and H3 as although the site is in an established residential location, suitable in respect of its accessibility to goods and services, this would not outweigh the harm that would be caused to the character and appearance of the area.

Site Address:	12 Wren Street
Reference Number:	FUL/2017/0443
Description:	Change of use from a dwellinghouse (C3 Use) to 6 independent bedsits (Retrospective)
Decision Level:	Delegated
Decision:	Refusal on 24/04/2017
Appeal Decision:	<i>Dismissed on 16/02/2018</i>

Summary of Decision

The main issues are the effect of the proposal on highway safety and the effect on the living conditions of the occupiers of neighbouring properties with regard to noise and disturbance.

Looking first at highway safety, the Inspector notes that the site is a mid-terraced property in an area characterised by long terraces of small dwellings creating a

high density residential character. There are no parking restrictions on Wren Street or along much of the other nearby roads. At the time of his visit the Inspector noted that there was very little space available for on-street parking on Wren Street or nearby roads and considers that it is likely that there would be even less room available in the evening when residents are likely to be at home.

The Inspector considers the demand for parking from 6 independent bed sits is likely to be greater than the previous use of the building as a single dwelling with 4 double bedrooms and that this view is supported by the Council's parking standards. This greater demand for parking in the context of the lack of available capacity leads him to conclude that the development may lead to parking in places that could obstruct the highway or obscure visibility for pedestrians and road users which would inhibit the free flow of traffic and adversely affect highway safety and consequently the proposal fails to accord with Policies H3 and DE1 and the parking standards.

Looking at living conditions the Inspector notes that the comings and goings of the occupiers of 6 bedsits is likely to be greater than those associated with a single family dwellinghouse but sees no substantive evidence to suggest that this increase is necessarily disturbing to neighbouring occupiers and the development would therefore accord with Policy H10.

The Inspector concludes that 'though the development does not adversely affect the living conditions of neighbouring occupiers, this does not outweigh the harmful effect on highway safety resulting from increased pressure for on-street car parking.'

Site Address:	83 Kirby Road
Reference Number:	FUL/2017/0212
Description:	Erection of first floor rear extension and new external staircase to create two one bedroom flats (Use Class C3) and minor elevational alterations to existing flats
Decision Level:	Delegated
Decision:	Refusal on 16/01/2017
Appeal Decision:	<i>Dismissed on 16/02/2018</i>

Summary of Decision

The main issues are: the effect of the proposal on the character and appearance of the area; the effect on the living conditions of the occupiers of neighbouring properties in respect of their outlook; and whether the proposal would provide satisfactory living conditions for its future occupiers.

Looking firstly at character and appearance, No.83 is site on the corner of Kirby Road and Hearsall Lane and the proposed extension would reflect the width and depth of the existing garage below. Due to the forward position of the garage and its elevation above the road, the Inspector considers the extension would result in the building having a significantly greater degree of prominence such that it would appear incongruously dominant and would represent a large mass of built form, filling the gap between the groups of buildings on Hearsall Lane and Kirby Road

which would detract from the character and appearance of the area and fail to accord with Policy DE1.

Looking at the living conditions of neighbouring occupiers, the Inspector notes that the adjacent property 125 Hearsall Lane has a pair of patio doors with a first floor window above on its rear elevation plus windows in the side and rear of the outrigger and considers that the height and bulk of the extension would exacerbate the poor outlook from these. The extension would abut the rear garden at No.125 and the Inspector considers it would appear overbearing due to its height and massing and in combination with the development in Kirby Road, result in an oppressive sense of enclosure. The Inspector also considers the extension would considerably reduce the outlook from the front windows of No.81 Kirby Road as it would be positioned directly in front of ground and first floor windows at the front of this house and consequently the living conditions of the occupiers of these properties would be unacceptably harmed, contrary to Policies H3 and H5.

In looking at the living conditions of future occupiers, the Inspector considered that although there was no usable amenity space this is not uncommon for small flats and although the proposal would conflict with Policy H3, he felt that future occupiers would have access to good quality amenity space and not suffer from unacceptable living conditions. However, he concluded that this would not outweigh the harm that would be caused to the character and appearance of the area or the failure to respect the living conditions of neighbouring residents.

Site Address:	The Painted Lady Longfellow Road
Reference Number:	TEL/2017/0713
Description:	Application for prior notification of proposed development by telecommunications code system operators
Decision Level:	Delegated
Decision:	Refusal on 10/05/2017
Appeal Decision:	<i>Allowed on 23/02/2018</i>

Summary of Decision

The main issue is the effect of the appearance of the proposal on the street scene and whether any harm caused is outweighed by the need to site the installation in the location proposed.

The proposed pole and cabinets would be located on the pavement at the junction of Longfellow Road and Morris Avenue where there is a wide pavement around the corner and a Public House to the rear and small parade of shops opposite. Otherwise the area is generally residential with housing extending along both roads and the development would be visible from both of these.

The Inspector notes that there is a range of street furniture at the junction and some trees with lamp columns on Morris Avenue approx. 6m in height and those along Longfellow Road approx. 8m in height and that the proposed pole would be significantly higher than all these items. He considers that the shape and colour of the pole would be functional and simplistic and comparable to the lamp columns

nearby and although it would contrast with its surroundings due to its height, the harm to the appearance of the street scene would not be greater than moderate.

The Inspector takes into account the need to balance against this harm, the need to boost the capacity of the networks in this area including superfast 4G and is satisfied that alternative more suitable sites are unlikely to be reasonably available locally. He gives significant weight to the fact that the equipment would be shared by tow operators and concludes that the benefits of a high quality communications network facilitated by the proposed development on this site, outweigh the moderate harm the installation would cause to the appearance of the area.

Site Address:	37 Heath Crescent
Reference Number:	FUL/2017/1685
Description:	Change of use of ground floor from retail (Use Class A1) to hot food takeaway (Use Class A5)
Decision Level:	Delegated
Decision:	Refusal on 22/08/2017
Appeal Decision:	<i>Dismissed on 01/03/2018</i>

Summary of Decision

The main issues are: the effect of the proposal on the character and appearance of the area; the effect on the living conditions of the occupiers of neighbouring properties with respect to noise, disturbance, odour and outlook; and the effect on the vitality and the city's retail centres.

Looking at character and appearance, the Inspector notes that the site is located in a terrace of five commercial units with flats above. The closest houses on Mercer Crescent are set back significantly from the road giving a characteristic openness at the junction. The proposal includes a substantial extraction flue to the rear of the building which the Inspector considers would be visually prominent from a number of positions on Heath Crescent and Mercer Avenue due to the openness of the road junction. On this matter he concludes that the flue would contrast with the residential nature of the vicinity and detract from the character and appearance of the area in conflict with Policy DE1.

In looking at living conditions the Inspector noted that the flue would be close to the neighbouring property at 1 Mercer Avenue and would be affixed to the wall of the flat above the appeal site. He notes the absence of any accurate assessment of this equipment and on this matter cannot conclude that the extraction plant, when operating, would not be unacceptably disturbing to nearby residents. The Inspector also notes that the proposed use would be open until 22:30 hours and there would be comings and goings taking place late into the evening and such noise would be particularly disturbing to those residents above the site at a time of day when they could reasonably expect a quiet environment. He also notes that there are no detailed plans of the flue or filtration equipment and in view of this cannot conclude that odour from the proposed use would be appropriately controlled and in view of all of these issues considers the development fails to accord with Policy R6.

In looking at vitality, the Inspector notes that the site is within a terrace of units which are not within a defined centre but also that the definition of a main town

centre use does not include hot food takeaways. As such he does not consider that a sequential test needs to be undertaken for this proposal and sees no reason why the proposal should be directed away from this site as the continuation of a town centre use in this location would not be likely to have any substantial effect on the vitality of the city's retail centres and would not conflict with Policy R4.

The Inspector concludes that although the development would have no impact on the vitality of the city's retail centres, this does not outweigh the harm that it would cause to the character and appearance of the area or potentially the harmful effect on the living conditions of neighbouring residents. As such the development would not improve environmental conditions in the area and so would not constitute sustainable development would conflict with Policy DS3.

Site Address:	4 Ten Shilling Drive
Reference Number:	HH/2017/2390
Description:	Raise brickwork to existing garage with new pitched roof over including two pitched roof dormers to form gym
Decision Level:	Delegated
Decision:	Refusal on 17/11/2017
Appeal Decision:	<i>Dismissed on 06/03/2018</i>

Summary of Decision

The main issues are the effect of the proposal on; the character and appearance of its surroundings; and on the living conditions of neighbouring residents with particular reference to visual impact.

The appeal site lies within a residential estate with all nearby properties being detached with separate detached brick built garages. On the appeal site the garage is set away from the house next to 6 Ten Shilling Drive. The proposals involve an enlarged building within the creation of a first floor and insertion of dormers. The Inspector notes that the proposals will result in a significant increase in bulk and mass when compared to the existing but considers the building is relatively well screened in the public realm and in terms of its design would sit acceptably in its visual context and in this regard concludes that the proposal would not harm the character and appearance of the host property and its surroundings.

In looking at living conditions, the Inspector considers that the property most impacted is 7 Farthing Walk which has its rear elevation and a set of patio windows facing the garage. He notes the separation distances involved, but considers the resultant structure formed from the substantial enlargement of the garage built virtually on the common boundary would be visually dominating and intrusive when viewed internally from No.7 and concludes that the proposal would represent an unacceptable and inappropriate un-neighbourly development harming the living conditions of 7 Farthing Walk's residents by reason of adverse visual impact.

Site Address:	Aylesford Intermediate Care Centre Aylesford Street
Reference Number:	FUL/2017/0952
Description:	Demolition of former care centre and erection of 189 beds student accommodation
Decision Level:	Delegated
Decision:	Refusal on 12/07/2017
Appeal Decision:	<i>Allowed on 12/03/2018</i>
Costs Decision :	<i>Award of costs refused 12/03/2018</i>

Summary of Decision

The main issues are the effect of the proposal on the living conditions of the occupiers of Jacquard house in respect of their outlook, and whether the development facilitates safe pedestrian routes for future occupiers.

The proposed building would be four storeys high, which is the same as Jacquard House to the north. The Inspector notes that land at Jacquard House is around 1m higher than the application site and in looking at the separation distances accepts that the minimum separation distance of 12m recommended in the Council's SPG relates to two storey development and does not agree that it is reasonable to require a greater distance for taller buildings. However, he does not consider that the 17 meter gap provided by the development would be insufficient such that the building would appear intrusive from the nearest dwellings in Jacquard House. He takes into account the fact that as the facing elevation of the development would not be excessively wide, a relatively open view from No's 1 and 2 would be achievable and on this matter concludes that 'though the outlook from Jacquard House would undoubtedly be affected, I do not consider that it would be harmed such that the living conditions of the occupiers of these houses would be unacceptable and the proposal would accord with Policy H10.

The site is located one mile from the Coventry University campus. The Inspector notes the crime figures in the area and accept that not all crimes may have been reported but considers that not all of these crimes would have taken place on the street and that some may relate to offences inside buildings with incidents being reported throughout the day and not significant concentration at night when students may be returning home. He accepts that students may be unaware of the area before they move into the development but considers that the rate of crime is comparable to other parts of the city centre and does not consider the development would fail to facilitate a safe pedestrian environment for its future occupiers and would accord with Policy AC4.

The Inspector considers the proposal would accord with Policy AC3 and does not consider the proposals would adversely affect highway safety as there are plenty of opportunities for on-street parking. He considers that cycling routes are not unappealing and therefore the proposals accord with Policy AC4.

The building would be considerably larger than any other nearby structure but the Inspector considers it would represent a considerable improvement on the existing development on site which appears tired. He considers that the any overshadowing or overlooking to properties on Adderley Street would be limited

and not unacceptably harmful and any potential overlooking of the neighbouring playground would be minimal.

The appeal is allowed with conditions relating to: time limit for development; compliance with approved drawings; submission of sample materials; submission details of finished levels; provision of cycle storage; provision of car parking; submission of student management plan; submission of a construction management plan; submission of a landscape and ecological management plan; provision of landscaping; tree protection; contaminated land assessment; and submission of drainage details.

Award of Costs

The Councils first reason for refusal relates to the safety of the local area. In this regard The Inspector considers that based on the advice from West Midlands Police and the concerns of other parties, the Council did not act unreasonably in refusing the application having regard to the evidence provided to them, the development plan and national policy. With regard to the reason for refusal on the separation distance to Jacquard House, the Inspector did not consider it unreasonable to apply a separation distance greater than that indicated in the SPG given the four storey nature of the proposal. Overall the Inspector finds that 'unreasonable behaviour resulting in unnecessary or wasted expense on behalf of the applicant, as described in the PPG has not been demonstrated.... and the award of costs is refused.'

Site Address:	41 Oddicombe Croft
Reference Number:	HH/2017/1477
Description:	Two storey side extension for additional living space
Decision Level:	Delegated
Decision:	Refusal on 04/08/2018
Appeal Decision:	<i>Dismissed on 16/03/2018</i>

Summary of Decision

The main issues are: the effect on the character and appearance of the area; and the effect on the living conditions of the occupants of the neighbouring property, No.39, with specific regard to outlook.

The Inspector notes the appeal site is a two storey semi-detached property in a linear row. Properties are uniform in appearance, properties are separated by garages and parking to the side which create an open and spacious character which he considers contributes to the wider open and spacious character of the area.

He acknowledges that the width of the proposal seeks to create a usable space but considers extending up to the boundary would create a terracing effect as a consequence of the smaller gap between the properties. The extension would also be built forward of the front building line which he considers would create an incongruous addition, harmful to the openness of the area. Whilst he notes there are similar extensions in Oddicombe Croft and in the neighbouring road, he does not consider them typical of the wider street scene and concludes on this matter

that the proposal would harm the character and appearance of the area, conflicting with Policy H5 and DE1.

With regard to living conditions, the Inspector notes the presence of a loft space window in the side of No.39 and considers that the proposal would appear prominent and visually intrusive when viewed from the side of No.39, given its height and close proximity to the boundary and on this matter concludes that the proposal would harm the living conditions of the occupiers of the neighbouring property in terms of outlook.

Site Address:	11 Stoneleigh Road
Reference Number:	HH/2017/0018
Description:	Erection of two sets of gates and railings
Decision Level:	Delegated
Decision:	Refusal on 23/08/2017
Appeal Decision:	<i>Dismissed on 16/03/2018</i>

Summary of Decision

The main issue is whether the proposal would preserve or enhance the character or appearance of the Kenilworth Road Conservation Area.

The appeal site is located along a straight section of Stoneleigh Road which is mainly unpaved with deep grass verges. The area is characterised by large detached properties set back from the highway. The Inspector notes that there are other examples of boundary treatment along the road such as railing, gates and gate piers, but considers that the mature border planting to be the prominent feature. He notes that the Council has placed an Article 4 direction on the dwellings along Stoneleigh Road removing permitted development rights relating to erection of walls and fences within 5 metres of the highway.

The Inspector considers the development would create a significant visible structure that would be at odds with the verdant quality of the surroundings and would be an intrusive addition that would detract from other features of the area. He does not consider that retention of the wide highway verge and provision of additional planting behind the railings would ameliorate the harm and consequently it would fail to preserve the character or appearance of the Conservation Area, causing harm to its significance as a heritage asset.

The Inspector notes the appellants need to improve security but considers other less intrusive options are available and gives this consideration little weight that would not outweigh the harm identified above. He concludes that the proposal 'would fail to preserve the character or appearance of the Kenilworth Road Conservation Area and would cause less than substantial harm to its significance as a heritage asset. There would be no public benefits to outweigh this harm.'

Site Address:	89 Poppleton Close
Reference Number:	FUL/2017/1701
Description:	Change of use from C3 residential to 7 bed HMO for 7 occupiers (sui generis) (retrospective)
Decision Level:	Delegated
Decision:	Refusal on 04/09/2017
Appeal Decision:	<i>Allowed on 22/03/2018</i>

Site Address:	84 Poppleton Close
Reference Number:	FUL/2017/1831
Description:	Change of use from C3 residential to a 7 bed HMO for 7 occupiers (sui generis) (retrospective)
Decision Level:	Delegated
Decision:	Refusal on 12/09/2017
Appeal Decision:	<i>Allowed on 22/03/2018</i>

Site Address:	83 Poppleton Close
Reference Number:	FUL/2017/1823
Description:	Change of use from C3 residential to a 7 bed HMO for 7 occupiers (sui generis) (retrospective)
Decision Level:	Delegated
Decision:	Refusal on 12/09/2017
Appeal Decision:	<i>Allowed on 22/03/2018</i>

Summary of Decisions

The Inspector confirms that as well as this appeal he is considering two other retrospective appeals for the use of the properties at 83 and 84 Poppleton Close. The same issues are considered for all three appeals.

The main issues are the effect of the development on: the safety and convenience of highway users; and the living conditions of nearby residents, with particular regard to noise and disturbance.

The property was originally built as a six bed dwelling but has been converted to a HMO. The Council contends that there is inadequate parking for such a use but the Inspector notes that parking standards are maximum and although the site is beyond the city centre, it is easily accessible on foot and not in a location where the occupants need be reliant on a car. He notes that current occupiers are students and sees no reason why the HMO would not continue to appeal to students. The appellant states that none of the occupiers keep a car at the property and as there are signs prohibiting roadside parking along much of Poppleton Close and the parking survey submitted identifies that some roadside parking is typically available and in the light of this the inspector sees little substantive evidence that the use of the property has any significant impact on the safety and convenience of highway users and is therefore satisfied that on this issue the development does not conflict with Policies AC3 and H11.

The Council maintains that the development is an over-intensive use of the property, but the Inspector considered to be HMO to be well maintained and not

reason to believe it is not well managed. He considers it has a reasonably sized rear garden and appropriately proportioned bedrooms and communal living space with no evidence of complaints in terms of noise and disturbance. Although the Inspector recognises that HMO's may generate different activity patterns to family accommodation, he is not persuaded that the impact on neighbouring residents as a result of the property's use as a 7 person HMO would be notably different from its use as a six bedroom dwelling and is satisfied that the use has not had a significant impact on nearby occupiers' living conditions.

The Inspector concludes that the use of the property as a Sui Generis HMO has not resulted in significant harm to the convenience and safety of highway users, or material harm to nearby occupiers' living conditions and therefore allows the appeal with a condition which restricts occupancy to no more than 7 residents at any time.

Site Address:	15A Ainsbury Road
Reference Number:	HH/2017/2480
Description:	Two storey rear extension with dormer windows to sides and single storey side extension
Decision Level:	Delegated
Decision:	Refusal on 05/12/2017
Appeal Decision:	<i>Dismissed on 23/03/2018</i>

Summary of Decision

The main issues are the effect of the proposal on: the character and appearance of the local area; and living conditions of neighbouring properties.

15A Ainsbury Road is a gable fronted detached chalet bungalow located in an area that contains a variety of houses and bungalows. The Inspector agrees with the appellants that the existing building is of little merit but considers that the side dormer structures would create a somewhat ungainly, bulky mainly flat roofed building with the northern dormer creating a very large box stepping in from the ground floor and the southern dormer creating an overly long section of two storey height wall. The Inspector considers the appearance and style of the house would be transformed but not in an attractive or innovative way and that the extensions would be clearly visible within the street scene and would not fit in with the neighbourhoods character, despite the local architectural diversity. On this matter he concludes that the proposal would unacceptably harm the character and appearance of the local area and conflict with Policy DE1.

In looking at living conditions, the Inspector notes that the bungalow at No.15 has 3 ground floor openings on the side facing the appeal site, one of which is clear glazed. He considers the proposal would bring a long section of 2 storey height development close enough to this window to be visually dominant and intrusive on its outlook and would reduce the amount of daylight reaching these rooms. The proposed first floor extension includes a bedroom window facing No.15 which the Inspector considers would allow overlooking of the clear glazed window at close range, causing a loss of privacy. He considers the relationship to the rear of the neighbouring properties to be acceptable. On this matter the Inspector concludes that the proposal would unacceptably harm living conditions at 15 Ainsbury Road

due to impacts on outlook, daylight and privacy and would conflict with the aims of the SPG and NPPF.

Site Address:	71 Loudon Avenue
Reference Number:	HH/2017/2739
Description:	Erection of two storey rear extension and single storey side extension
Decision Level:	Delegated
Decision:	Refusal on 21/12/2017
Appeal Decision:	<i>Allowed on 23/03/2018</i>

Summary of Decision

The main issue is the effect of the proposal on the character and appearance of the local area.

No.71 is an end of terrace two-storey house on a wide corner plot. The proposal would add a part 2 storey/ part 1 storey extension across the back of the house, wrapping around to the side with a single storey extension. The proposal would sit about 1m from the side boundary and in front of the building line on Leofric Street and the Inspector notes that this conflicts with the SPG. However, he considers that the area where the side extension is proposed is enclosed by a high boundary fence and the extension has been designed to be low in height so the side wall would be partially hidden behind the fence. In addition the property would retain its long rear garden and as the Inspector noted other similar extensions on corner plots in the area he considers that the proposal would not be out of character or incongruous in the street scene and concludes that the proposal would preserve the character and appearance of the local area and accord with Policy DE1.

The appeal is allowed and conditions imposed in respect of: time limit for carrying out development; conformity with approved plans; submission of materials schedule.

PLANNING APPEAL PROGRESS REPORT – SUMMARY TABLE

CURRENT APPEALS LODGED

Application Reference & Site Address	Case Officer	Type	Appellant	Proposal	Progress & Dates
FUL/2017/0563 215 The Farmhouse Beechwood Avenue	Anne Lynch	Written Representations	Mr Mohammed	Retention of the existing marquee on a temporary basis for 2 years	Lodged date: 12/06/2017 Start date: 11/09/2017 Questionnaire: 22/09/2017 Statement : 24/10/2017
FUL/2017/1984 3 Staircase Lane	Robert Penlington	Written Representations	Cowle	Works to TPO Tree – Oak – Remove all dead wood from the tree and cut back overgrown branches that are encroaching the house to a distance of 4 metres away from the front of the property	Lodged date: 09/10/2017 Start date: 04/01/2018 Questionnaire/Statement: 31/01/2018
HH/2017/1772 20 Watery Lane		Written Representations	Mr Abdullah	Erection of single storey side extension with first floor extension to the rear	Lodged date: 16/11/2017 Appeal not valid: No further action
FUL/2017/1846 246 Hipswell Highway	Anne Lynch	Written representations	Mrs Li	Change of use from retail (use class A1) to hot food take-away (use class A5)	Lodged date: 15/12/2017 Start date: 07/02/2018 Questionnaire/Statement: 12/02/2018
FUL/2017/2072 6 Cross Cheaping	Shamim Chowdhury	Written Representations	C/O Agent D2 Planning Limited	Change of use from Use Class A2 (Professional Services) to Use Class A5 (Hot Food Takeaway) and associated external flue	Lodged date: 19/12/2017 Start date: 23/02/2018
FUL/2017/2282 41 Holmfield Road	Shamim Chowdhury	Written Representations	Mr Singh	Erection of a bungalow	Lodged date: 21/12/2017 Start date: 23/02/2018
TP/2017/1283 3 Staircase Lane	Robert Penlington	Written Representations	Cowle	Oak tree – shorten x12 low branches by 4m from dwellings 1 & 3 Staircase Lane	Lodged date: 04/01/2018 Start date: 04/01/2018 Questionnaire: 31/01/2018

TP/2017/1984 <i>3 Staircase Lane</i>	<i>Robert Penlington</i>	Written Representations	Cowle	Works to TPO Tree – Oak – Remove dead wood from the tree and cut back overgrown branches that are encroaching on the house to a distance of 4 metres from the front of the property	Lodged date: 04/01/2018 Start date: 04/01/2018 Questionnaire: 31/01/2018
TP/2017/2277 <i>6 Innis Road</i>	<i>Robert Penlington</i>	Written Representations	Mrs Johnson	Oak (T1) – 20% crown reduction	Lodged date: 15/01/2018 Start date: 10/01/2018 Questionnaire: 16/01/2018
TEL/2017/2104 <i>St. James Church Leamington Road</i>	<i>Nigel Smith</i>	Written Representations	CTIL	Installation of a 17.5metre high telecommunications mast and equipment cabinet	Lodged date: 15/01/2018 Start date: 15/01/2018 Questionnaire/Statement: 22/01/2018
HH/2017/2228 <i>2 Sixpence Close</i>	<i>Anne Lynch</i>	Written Representations	Mrs Hirtenjohann	Erection of two storey extension to front	Lodged date: 08/02/2018 Start date: 03/04/2018 Questionnaire/Statement: 17/04/2018
FUL/2017/2958 <i>105 Far Gosford Street</i>	<i>Anne Lynch</i>	Written Representations	Mrs Johnston Cardtronics	Installation of ATM machine	Lodged date: 08/02/2018 Awaiting start date
HH/2017/2403 <i>129 Dickens Road</i>	Anne Lynch	Written Representations	Mr Woods	Erection of two storey side and rear extension, single storey rear extension and detached garage	Lodged date: 09/02/2018 Start date: 03/04/2018 Questionnaire/Statement: 17/04/2018
FUL/2017/2618 <i>1 Burns road</i>	<i>Nigel Smith</i>	Written Representations	Dr Bhandal Dental Surgery	Erection of dwelling	Lodged date: 13/02/2018 Start date: 13/03/2013 Questionnaire: 19/03/2018
FUL/2017/1589 <i>33 Walsgrave Road</i>	<i>Nigel Smith</i>	Written Representations	Mr Singh	Attic extension to existing first floor apartment including rear dormer windows	Lodged date: 19/02/2018 Start date: 13/03/2018 Questionnaire: 19/03/2018

FUL/2017/1978 <i>Harry Stanley House Armfield Street</i>	<i>Shamim Chowdhury</i>	Written Representations	Whitefriars Housing	Demolition of Harry Stanley House and construction of 15 affordable homes, associated external works and car parking	Lodged date: 21/02/2018 Start date: 11/04/2018 Questionnaire: 18/04/2018
ADV/2017/3183 <i>1 John Wigley Way</i>	<i>Shamim Chowdhury</i>	Written Representations	Mercedes Benz UK	Display of 15m high illuminated star tower sign	Lodged date: 09/03/2018 Awaiting start date
S73/2017/3114 <i>36 Cannon Hill Road</i>	<i>Mary-Ann Jones</i>	Written Representations	Mr Singh Johal	Variation of condition no.2 (to allow and increase the number of occupants from 8 persons to 9 persons) imposed on permission reference FUL/2015/3420 for the change of use from single dwelling (Use Class C3) to a house in multiple occupation for 8 occupants (Use Class Sui Generis) granted on appeal 19/09/2016	Lodged date: 12/03/2018 Awaiting start date
OUT/2017/1853 <i>r/o 90-96 Kenilworth Road</i>	<i>Liam D'Onofrio</i>	Written Representations	O'Flanagan	Outline application for the erection of 3 bungalows, discharging access, layout and landscaping (in part)	Lodged date: 12/03/2018 Start date: 12/04/2018 Questionnaire/Statement: 19/04/2018
FUL/2017/1899 <i>24, 26, 26a and 28 Lockhurst Lane</i>	<i>Anne Lynch</i>	Written Representations	Mr Chana	Change of use of 24-28 Lockhurst Lane from a nursery to a mixed use development comprising an A1 (shop), A2 (financial and professional services) , a hair and beauty salon (sui generis) and a mixed B1/B8 us (office/ storage)	Lodged date: 16/03/2018 Awaiting start date

APPEAL DECISIONS RECEIVED

Application Reference Site Address	Case Officer	Type	Appellant	Proposal	Appeal Decision & date
ENF/2017/00038 Land at the junction of Kenilworth Road & Fletchamstead Highway	<i>Marcus Fothergill</i>	Written Representations	Mr Simon Thurgood	Without planning permission the erection on the Land of metal fencing to the southeastern facing boundary (fronting Kenilworth Road) and southwestern facing boundary (fronting Fletchamstead Highway)	Decision: DISMISSED 02/02/2018
FUL/2016/2506 <i>76-77 Albany Road</i>	<i>Shamim Chowdhury</i>	Written Representations	Mr Murphy	Change of use to A1 retail (retrospective application)	Decision : ALLOWED 09/02/2018 decision type: <i>Delegated</i>
FUL/2017/0745 <i>27 Camden Street</i>	<i>Anne Lynch</i>	Written Representations	Mr Tee	Retention of storage buildings, fencing and hard surfacing	Decision : DISMISSED 12/02/2018 decision type: <i>Delegated</i>
LDCP/2017/0763 <i>27 Camden Street</i>	<i>Anne Lynch</i>	Written Representations	Mr Tee	Lawful development certificate for use of the land for general storage of vehicles and materials and ancillary repair of stored vehicles	Decision : DISMISSED 12/02/2018 decision type: <i>Delegated</i>
OUT/2017/1562 <i>14 The Riddings</i>	<i>Liam D'Onofrio</i>	Written Representations	Mr Jakeman	Outline application for a residential dwelling with allocated parking spaces (means of access submitted)	Decision : DISMISSED 16/02/2018 decision type: <i>Delegated</i>
FUL/2017/0443 <i>12 Wren Street</i>	<i>Liam D'Onofrio</i>	Written Representations	Mr Earp	Change of use from a dwellinghouse (C3 Use) to 6 independent bedsits (Retrospective)	Decision : DISMISSED 16/02/2018 decision type: <i>Delegated</i>
FUL/2017/0212 <i>83 Kirby Road</i>	<i>Pooja Kumar</i>	Written Representations	Stone and Stone Property Ltd	Erection of first floor rear extension and new external staircase to create two one bedroom flats (Use Class C3) and minor elevation alterations to existing flats	Decision: DISMISSED 16/02/2018 Decision type: <i>Delegated</i>

TEL/2017/0713 <i>The Painted Lady Longfellow Road</i>	<i>Pooja Kumar</i>	Written Representations	Cornerstone Telecommunications	Application for prior notification of proposed development by telecommunications code system operators	Decision : ALLOWED 23/12/2018 decision type: <i>Delegated</i>
FUL/2017/1685 <i>37 Heath Crescent</i>	<i>Shamim Chowdhury</i>	Written Representations	Mr Kismet	Change of use of ground floor from retail (Use Class A1) to hot food takeaway (Use Class A5)	Decision: DISMISSED 01/03/2018 Decision type: <i>Delegated</i>
HH/2017/2390 <i>4 Ten Shilling Drive</i>	<i>Nigel Smith</i>	Written Representations	Miss Nicholls	Raise brickwork to existing garage with new pitched roof over including tow pitched roof dormers to form gym	Decision: DISMISSED 06/03/2018 Decision type: <i>Delegated</i>
FUL/2017/0952 <i>Aylesford Intermediate Care Centre Aylesford Street</i>	<i>Nigel Smith</i>	Written Representations	Mr Patel Aylesford Coventry Ltd	Demolition of former care centre and erection of 189 beds student accommodations	Decision: ALLOWED 12/03/2018 Decision type: <i>Delegated</i> Application for the award of costs: REFUSED
HH/2017/1477 <i>41 Oddcombe Croft</i>	<i>Pooja Kumar</i>	Written Representations	Mr Hunt	Two storey side extension for additional living space	Decision: DISMISSED 16/03/2018 Decision type: <i>Delegated</i>
HH/2017/0018 <i>11 Stoneleigh Road</i>	<i>Shamim Chowdhury</i>	Written Representations	Mr Neal Seth	Erection of two sets of gates and railings	Decision: DISMISSED 16/03/2018 Decision type: <i>Delegated</i>
FUL/2017/1701 <i>89 Poppleton Close</i>	<i>Anne Lynch</i>	Written Representations	Mr Saadie C/O Agent	Change of use from C3 residential to 7 bed HMO for 7 occupiers (sui generis) (retrospective)	Decision : ALLOWED 22/03/2018 decision type: <i>Delegated</i>
FUL/2017/1831 <i>84 Poppleton Close</i>	<i>Anne Lynch</i>	Written Representations	Mr & Mrs Wenmouth	Change of use from C3 residential to 7 bed HMO for 7 occupiers (sui generis) (retrospective)	Decision : ALLOWED 22/03/2018 decision type: <i>Delegated</i>

FUL/2017/1823 <i>83 Poppleton Close</i>	<i>Anne Lynch</i>	Written Representations	Mr Andrew C Payne	Change of use from C3 residential to 7 bed HIMO for 7 occupiers (sui generis) (retrospective)	Decision : ALLOWED 22/03/2018 decision type: <i>Delegated</i>
HH/2017/2480 <i>15A Ainsbury Road</i>	<i>Pooja Kumar</i>	Written Representations	Mr Smith	Two storey rear extension with dormer windows to sides and single storey side extension	Decision: DISMISSED 23/03/2018 Decision type: <i>Delegated</i>
HH/2017/2739 <i>71 Loundon Avenue</i>	<i>Ayesha Saleem</i>	Written Representations	Mr Khan	Erection of two storey rear extension and single storey side extension	Decision: ALLOWED 23/03/2018 Decision type: <i>Delegated</i>