

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 July 2017 to 31st August 2017.

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 JULY TO 31 AUGUST 2017

No. APPEALS PENDING	13
No. APPEAL DECISIONS RECEIVED	13
No. ENFORCEMENT APPEALS LODGED	1
No. ENFORCEMENT APPEAL DECISIONS RECEIVED	0
No. OFFICER DECISIONS ALLOWED	3
No. MEMBER DECISIONS ALLOWED	2
No. COSTS APPLICATION AWARDED	0

Site Address:	Spiritualist Church of Christ Villiers Street
Reference Number:	FUL/2016/2385
Description:	Erection of 18 studio apartments and associated vehicle and cycle parking
Decision Level:	Planning Committee
Decision:	Refusal on 23/01/2017
Appeal Decision:	<i>Allowed on 12/07/2017</i>

Summary of Decision

The main issue is the effect of the proposal on highway safety having particular regard to the number of units proposed and off street parking provision.

The appeal proposal is to erect 18 studio apartments in a two storey building. Five car parking spaces are proposed, accessed via a new dropped crossing adjacent to No.52 Villiers Street and a cycle store would be located to the rear of the site.

Villiers Street is a residential road leading off Clay Lane. Clay Lane forms a junction with Walsgrave Road where there are a number of shops and services and public transport provisions. The Inspector observed on his site visit that Villiers Street was characterised by on street parking. Vehicles parked on both sides of the road other than where there were parking restrictions and he noted that the part of the road closest to Clay Lane was more heavily parked than the part of the road where the appeal site is located. It is submitted that vehicles parked in the road are those of shoppers, residents and workers at the hospital and the Inspector saw no reason to disagree with this.

The Inspector considers the appeal site is in a sustainable location where services and facilities could be accessed by foot or cycle and where there is also good access to public transport facilities to and from the site. In view of this considers it unlikely that future occupiers would have a high dependency on a private motor vehicle to access day to day services, places of employment or education. He considers that even if all of the units were occupied by a car owner it is likely that future occupiers would be able to park on the road near to the appeal site. This was demonstrated by the appellant's parking survey which found spaces available in the road mid-afternoon and early evening. The Inspector was not convinced that vehicles associated with the new apartments would place a significant pressure on the availability of existing parking spaces in the area to a degree that would be inconvenient to other road users or harmful to highway safety. He concludes that the number of units proposed and the associated car parking would not result in and overdevelopment of the site and that there would be no conflict with Policies H12 or AM22 of the GDP.

Although not raised as reasons for refusal the Inspector also considered impact on: character and appearance, where he concluded that the building would not be unduly prominent in the street scene or out of keeping with the character and appearance of the area and would not conflict with Policies H12 or BE2; living conditions, where he was satisfied that the new building would not be overbearing on the outlook from neighbouring windows or result in loss of light to neighbouring properties.

The appeal is allowed with conditions relating to: time limits for implementation, development to be carried out in accordance with approved plans, no occupation until access and car parking is provided, no occupation until cycle parking provided, submission of sample materials, submission of drainage details, submission of unexploded ordnance risk assessment, submission of hard and soft landscaping details, no occupation until lighting provided to parking areas, and no occupation until bin storage provided.

An application for the award of costs was made as the applicant submits that the Council should have followed the advice of its planning officer and highway authority and granted permission for the development. The Inspector concluded that the Council acted unreasonably in refusing the application and then failing to substantiate its concern at appeal but that this did not result in unnecessary or wasted expense on the applicants behalf as the work undertaken in respect to the

appeal was a necessary part of their case. In view of this the application for an award of costs was dismissed.

Site Address:	11 Ireton Close
Reference Number:	HH/2016/3135
Description:	Erection of garage / store at the front
Decision Level:	Delegated
Decision:	Refusal on 17/02/2017
Appeal Decision:	<i>Dismissed on 13/07/2017</i>

Summary of Decision

The main issue is the effect of the proposed extension on the character and appearance of the streetscene.

11 Ireton Close is within a terrace of 4 dwellings of modern design and similar appearance with front elevations devoid of any additions and comprising buff brick with contrasting timber cladding. The Inspector considers this gives the dwellings a degree of uniformity and rhythm with other similar blocks which establish a well-defined and consistent character.

The proposed extension would project 4m forward of the front elevation creating a substantial addition in a prominent location and would result in the removal of the feature cladding. The Inspector considered that this would appear incongruous and disrupt the rhythm of the design of the dwelling and severely compromise the uniform and distinct appearance of the terraced block and wider streetscene.

The Inspector concludes that the proposed extension would have a materially harmful impact on the character and appearance of the streetscene and would be in conflict with Policies H4 and BE2 of the CDP.

Site Address:	26 Despard Road
Reference Number:	HH/2017/0292
Description:	Erection of 2 storey side extension, single storey rear extension and rear dormer
Decision Level:	Delegated
Decision:	Refusal on 12/04/2017
Appeal Decision:	<i>Dismissed on 20/07/2017</i>

Summary of Decision

The main issue is whether the side extension part of the proposal would be harmful to the street scene.

26 Despard Road is at the end of a row of semi-detached houses all of which have hipped roofs. Immediately to the north, on the same side of the road, is a short terrace with gable end facing the appeal property and on the opposite side of the road is another short terrace with flat roofed two-storey side extension above a garage at No.13. The appeal property itself has a large dormer on its side roof slope.

The Inspector notes two factors what would reduce the visual harm. Firstly that the street scene is already compromised by the flat roofed extension at No.13 and secondly by the dormer at the appeal property. He considers that the removal of this dormer could be counted as a visual benefit but that this would not reduce the net harm caused by the appeal proposal. He takes into account the scale of the extension and that it would be set forward of the house's front elevation introducing a further discordant feature and does not consider that the gable ends of the nearby terraces justify changing the property's hipped roof to a gable. The Inspector concludes that the proposal would appear both incongruous and unsympathetic and unacceptably harmful to the street scene, in conflict with Policy BE2 of the CDP.

Site Address:	115 Butt Lane
Reference Number:	HH/2017/0636
Description:	Erection of single storey rear extension
Decision Level:	Delegated
Decision:	Refusal on 04/05/2017
Appeal Decision:	<i>Allowed on 20/07/2017</i>

Summary of Decision

The main issue is whether the extension would have a seriously overbearing and overshadowing impact on the neighbouring residential property at 117 Butt Lane or cause that property a significant loss of outlook.

The appeal property has an existing single storey rear extension over 7m deep. The proposed extension would project further beyond this and would conflict with the Council's SPG as the extension would extend 9.2m to the rear.

The Inspector notes that the SPG has limitations; it establishes guidelines rather than rules, it does not deal with situations where an extension projects beyond a wall that already infringes the guidelines, and it does not take account of situations where there is a boundary fence or wall and the ground level rises away from the buildings.

In this case there is a high boundary fence and the ground level on which the fence stands rises to the rear. The extension would have the same floor level as the house and the Inspector considers that the rear part of the extension would be hidden from anyone looking towards it from No.117. He considers that even if the extension were visible from the ground floor of No.117 the marginal effect of increasing the degree of projection over what exists at present would be limited. The inspector concludes that the proposal would not cause significant loss of outlook for No.117 and they would not experience a seriously overbearing impact or be overshadowed and thus the proposals would not conflict with Policy BE2 of the CDP.

The appeal is allowed with conditions relating to; time limit for development, compliance with the approved drawings and use of materials to match the parent building.

Site Address:	83 Mercer Avenue
Reference Number:	FUL/2016/1564
Description:	Change of Use from car storage to tyre replacement and care repair unit (B2) (retrospective)
Decision Level:	Delegated
Decision:	Refusal on 09/08/2016
Appeal Decision:	<i>Dismissed on 25/07/2017</i>

Summary of Decision

The main issues are the effect of the development on: the living conditions of the occupants of 83 Mercer Avenue and on other nearby residents, with particular regard to noise and disturbance; and the character and appearance of the area.

The appeal site is an existing commercial building previously in use for storage in association with the adjoining car showroom. To one side of the site is the car park for a nearby church, beyond which is the vicarage. To the other side of the car showroom is a service and MOT garage and car wash and there is a first floor flat above the car showroom.

A noise assessment was provided with the application which concludes that when the shutters of the unit are closed, noise levels are likely to be an indication of a significant adverse impact on the flat but with low impact on the vicarage. The report recommends the front doors and shutters be closed during all tyre replacement activity and that additional insulation should be installed in the building to reduce noise outbreak to the flat. The Inspector notes that the doors were open at the time of his visit and considers that this tends to be the way in which such businesses operate. He agrees with the Council's view that imposing a condition requiring the doors to be shut during tyre fitting is unlikely to be monitored effectively or enforceable in the long term and does not consider that there would be any appropriate or realistic way to mitigate the harmful impact of the noise on the flat or the vicarage.

The Inspector also notes that there are other sources of noise in the vicinity and the cumulative effect of more noise adds to his concerns over the harmful effect on living conditions within the flat and therefore he concludes that the development would have an unacceptable impact on the living conditions of nearby residents in conflict with Policies EM5 and E13 of the CDP.

The Inspector also considers the impact on the character and appearance of the area. He notes that other than parked cars there were only two small bins and a small waste container in the yard with tyres stored in the building and whilst the use of the building may have changed, the forecourt is still given over to the parking of cars, which is unlikely to have resulted in a significant change in its outward appearance. Taking into account the other commercial buildings nearby, he does not consider it has a significant effect on local character and would not conflict with Policy BE2.

Site Address:	38 Stoke Row
Reference Number:	FUL/2016/2686
Description:	Existing outbuilding converted to annexe and single storey side extension to extend existing bedrooms on existing dwelling and provide additional bedrooms in annexe to create 10 bedroom House in Multiple Occupation
Decision Level:	Delegated
Decision:	Refusal on 13/02/2017
Appeal Decision:	<i>Dismissed on 25/07/2017</i>

Summary of Decision

The main issues are the effect of the development on: the living conditions of existing and future residents, having particular regard to privacy, outlook and private amenity space; the character and appearance of the area; and highway and pedestrian safety in the vicinity of the site.

The appeal site is an end of terrace dwelling that has been converted into a 6-bed HMO and includes a two storey side extension. There is an outbuilding which is intended to form a separate HMO to the main house. The site is on a corner plot at the junction of Dane Road and Stoke Row.

The elevations do not identify any windows other than those on the front but the layout shows a window to bedroom 7 and the Inspector assumes that this would be the intention. The window would face that of bedroom 3 in the main dwelling and the distance between them is well below that expected by SPG. In view of this the Inspector does not consider that such an arrangement would provide a satisfactory level of privacy for either existing or future occupiers. Furthermore, he considers the narrow gap would have a significant impact on outlook which would be further restricted by the potential for parked cars with the outlook from bedroom 8 being similarly restricted. The Inspector also notes that bedrooms 9 and 10 would only be served by roof lights and that this restricted outlook would result in an oppressive environment for future occupiers which would not provide a satisfactory living environment.

The Inspector notes that the proposal would see the removal of all garden space to accommodate 6/7 cars which would remove all potential opportunity for sitting out and drying washing which would not result in a satisfactory living environment and comments that it is not possible to provide both sufficient parking and adequate amenity space within the site is perhaps indicative of the over intensive nature of the proposal. On the matter of living conditions, he concludes that the development would have an unacceptable impact on the living conditions of both future and existing residents in conflict with Policy H6 of the CDP.

In looking at the character and appearance, the Inspector notes that the development would alter the appearance of the outbuilding to something with the character of a small dwelling. He considers that the building would appear incongruous in the street scene as it would not reflect the scale of the main

dwelling or the neighbouring properties on Dane Road and that the increase in the scale and mass of the building would result in the over development of the site and an overly cramped appearance. The Inspector concludes that the development would have an unacceptable impact on the character and appearance of the area in conflict with Policy BE2 of the CDP.

In looking at highway safety, the Inspector notes that there is an existing vehicular access onto Dane Road which could be utilised at any time. Visibility from this access is constrained and even if exiting the site in a forward gear, vehicles would have to come a long way onto the pavement to see property and even further if reversing out which would be a risk to pedestrians. The Inspector concludes that the amount of parking that would be provided and the associated use of the access, the internal layout and restricted visibility onto Dane Road would result in additional and unacceptable risk to pedestrian and highway safety in the vicinity of the site in conflict with Policy AM22 of the CDP.

Site Address:	5 Davenport Road
Reference Number:	FUL/2016/1711
Description:	Proposed extension to detached garage and change of use to create 2 bedroom house
Decision Level:	Delegated
Decision:	Refusal on 14/09/201
Appeal Decision:	<i>Dismissed on 27/07/2017</i>

Summary of Decision

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

The appeal site is within the Kenilworth Road Conservation Area where the majority of housing comprises substantial detached dwellings set in large gardens. Along Davenport Road there are examples of other forms of development such as backland and modern infill but the predominant character remains that of substantial dwellings within large gardens.

The appeal site is a modest detached garage which is subservient in terms of size in relation to 5 Davenport Road. The proposed alteration and extension to convert the garage into a self-contained 2-bed dwelling would double to footprint and mass of the garage and would significantly alter the appearance of the garage. The Inspector considers the existing garage to be appropriate in size, which incorporates similar design details and materials to that of No.5 and that the proposed alterations would neither preserve nor enhance the appearance of the garage and would therefore harm the Conservation Area.

The Inspector notes that the extensions to the garage are intended to give it the appearance of a 'coach house' style subservient to No.5, but with its substantial size and no functional link to No.5 does not appear as a subservient out building. He considers that as a stand-alone dwelling with no front entrance, low height and narrow plot the dwelling would not be in keeping with nearby dwellings and the

subdivision of the original plot would erode the spacious character and predominant plot pattern of the Conservation Area.

The Inspector concludes that the proposal would fail to preserve or enhance the character and appearance of the Conservation Area and the significance of the heritage asset would be harmed and that the development conflicts with Policies BE9, BE2, H12 and H9 of the CDP.

Site Address:	91 Birmingham Road
Reference Number:	HH/2016/2474
Description:	Erection of summer house and storage at the bottom of the rear garden
Decision Level:	Delegated
Decision:	Refusal on 08/02/2017
Appeal Decision:	<i>Dismissed on 27/07/2017</i>

Summary of Decision

The main issues are: whether the development preserves or enhances the character or appearance of the Allesley Village Conservation Area; and the effect of the development on the living conditions of residents at Harry Caplan House in respect of outlook.

The appeal site comprises a mid-20th Century detached dwelling with modest sized rear garden located in the south-west corner of the Conservation Area to the rear of the site is the more modern development of flats (Harry Caplan House). The Inspector observes that in the vicinity of the appeal site the character and appearance of the Conservation Area is defined by the architectural quality and variety of its buildings, which creates an attractive and varied streetscape along Birmingham Road.

The appeal property has a large terrace to the rear that steps down to the rear garden. The summer house is located at the bottom of the garden and the store room would be located along the side of the rear garden adjacent to the boundary with No.89. Materials comprise mainly red brick with clay roof tiles to match the main dwelling. The summer house almost fills the width of the garden and is 3.5m high and 3m deep. The Inspector notes that the building takes up a large section of the rear garden and is of a substantial scale and height and the scale of built development in the garden would be further increased by the addition of the storage building.

The Inspector notes that the proposed building would not be readily visible from Birmingham Road although it is clearly visible from the parking area that serves Harry Caplan House. He considers that in general the rear boundaries of dwellings along Birmingham Road comprise fencing and planting with the roofs of small, mainly timber outbuildings being just visible above boundary treatments. "In contrast, due to its height, scale and appearance, notably the extent of brickwork above the fence, the summer house is a significant new built development, which interrupts the generally low lying pattern of small outbuildings and is clearly a discordance feature in its setting, which adversely impacts on the character and

appearance of the area. The proposed storage building would further exacerbate this impact.”

The Inspector accepts that the summer house and proposed storage building would be largely shielded from public view, but in this instance, it is the scale and appearance of the development and its location within the Conservation Area which would fail to preserve or enhance the character or appearance of the Conservation Area and therefore he concludes that the development would conflict with Policy BE9 of the CDP.

The rear elevation of the summer house is adjacent to a gated walkway that runs to the rear of Harry Caplan House. The Inspector notes that whilst the rear of the summer house is visible in passing along the walkway and partly viewed from the rear amenity areas to the flats, these passing and limited views do not restrict or result in serious harm to the outlook of the occupiers and the proposals would not conflict with Policy H4.

Site Address:	28-34 Corporation Street
Reference Number:	FUL/2016/1723
Description:	Change of use and sub-division of premises from a retail unit (Use Class A1) on the ground floor with offices (Use Class B1) on the upper floors to a mixed use comprising 5 units (Use Class A1, A2 and A3), office unit (Use Class B1) and gym area (student use only) on the ground floor and student accommodation tot eh upper floors comprising 62 self-contained flats/cluster flats providing 91 bedrooms. Extension of lift motor room, external alterations including new cladding and glazing to all elevations
Decision Level:	Planning Committee
Decision:	Refusal on 28/09/2016
Appeal Decision:	<i>Allowed on 09/08/2017</i>

Summary of Decision

The main issues are the effect of the development on the character, appearance and pedestrian accessibility of the area.

The appeal site is a city centre building previously in use for retail on the ground floor with offices above. The Corporation Street frontage faces the Grade II Listed Belgrade Theatre and a large open public square. The Smithford Way frontage forms part of a shopping street. Planning permission was granted for a similar scheme in 2015 which included a pedestrian link through the building at ground floor.

The Council’s evidence suggests the scheme was only considered acceptable as a result of the pedestrian link and raises no objections to the use of the upper floors of the building or design and appearance of the external cladding. In view of this the Inspector comments that “it is not entirely clear what harm the pedestrian link was seen to outweigh in the planning balance with the previous scheme.”

The Inspector considers that the proposed cladding would add an element of colour and the outward appearance of the building would complement other development in the area. The creation and use of the ground floor units is appropriate in this location and the appearance and use of the building should help to attract footfall to the ground floor commercial units which would be a clear benefit to vitality of this part of the city centre.

In terms of pedestrian accessibility, the Inspector notes that the development would not alter the existing situation, and saw nothing to suggest that pedestrian accessibility around the site would be in any way insufficient to accommodate any additional pedestrian traffic or activity associated with the development. He considers that the nature or level of activity from the development itself would not warrant the delivery of a new pedestrian link. Whilst a new link may provide wider benefits, the Inspector notes that there are no specific adopted policies that require it to be permitted as part of a change of use proposal. He states that “The lack of a new pedestrian link would not have any harmful effect on the current levels of accessibility. I recognise that the creation of such a link might be an aspiration of some importance to the Council. Nevertheless, in lieu of anything before me which suggests that a link is necessary to mitigate a particular impact of the development...I do not consider its omission from this proposal should be used as a reason for withholding planning permission.”

The Inspector concludes that the development would serve to enhance the character and appearance of the area, including its effect on the design and functionality of the Corporation Street frontage. In addition it would not have an unacceptable impact on pedestrian activity in the area or levels of accessibility across the city centre and consequently does not conflict with Policies BE2 or AM8.

The appeal is allowed with similar conditions to those imposed on the original permission.

Site Address:	10 South Avenue
Reference Number:	HH/2017/0159
Description:	Erection of front fence and gates (retrospective)
Decision Level:	Delegated
Decision:	Refusal on 15/03/2017
Appeal Decision:	<i>Allowed on 10/08/2017</i>

Summary of Decision

The front fence and gates have been erected and the main issues are their effect on the street scene and whether they preserve or enhance the character or appearance of the Stoke Park Conservation Area.

The appeal property is a 1970’s detached house with an extended 1930’s coach house annex. The house is set back from the highway and the red brick gable end of the coach house fronts onto the road and its main elevation faces the front garden area. The house is on the south side of South Avenue where buildings are laid out in an irregular fashion and comprise different ages and styles. The

Inspector considers that the character of the area immediately around No.10 comprises what appear to be garages, other outbuildings and fencing.

The Inspector notes the use of timber fencing along frontages is found on a number of properties in the area and that there is convincing evidence that the appeal fencing replaces fencing that was there previously and within this context concludes that the fencing at No.10 does not appear out of keeping.

The Inspector considers that the set of gates and railings is wide and of an ornate design. In its particular location, which is not representative of the Victorian character of the majority of the Conservation Area, she considers that the appearance of the metalwork is acceptable and concludes that the proposal has not resulted in the introduction of an unsympathetic and incongruous feature into the street scene. She states 'the fencing and gates do not disrupt the rhythm of development and do not detract from the unique character and quality of the area. The development has not harmed the street scene and preserves the character and appearance of the Conservation Areas' and therefore does not consider the proposal conflicts with Policies H4, BE2 and BE9 of the CDP.

Site Address:	63 Mayflower Drive
Reference Number:	HH/21017/0496
Description:	Erection of two storey side extension
Decision Level:	Delegated
Decision:	Refusal on 24/04/2017
Appeal Decision:	<i>Allowed on 21/08/2017</i>

Summary of Decision

The main issue is the effect of the proposed extension on the character and appearance of the surrounding area.

The appeal property is a modern end-terrace two storey dwelling located on the corner of Mayflower Drive and Allerton Close. Due to its corner position the side gable of No.63 faces onto the entrance to Allerton Close. The gap between the existing side gable and boundary is approx. 3m at the front. On the other side of the entrance to Allerton Close the gap between No.61 and the highway boundary is approx. 1m.

The Inspector notes that the block of terraces which the appeal site forms part is set behind a triangular shaped pavement area facing Mayflower Drive and this combined with the front gardens of the block of dwellings along with the irregular shaped area of incidental open space on the opposite side of the road gives this location a sense of openness which would be unaffected by the proposed extension.

The Inspector considers the design of the extension would be in keeping with No.63 and as the side garden is already enclosed, it would not have any significant effect on openness. He considers the profile of the side gable would not be too dissimilar to the existing and when viewed from along Mayflower Drive and Allerton

Close the proposed gable would not create any significant change to the streetscene. In taking the Council's SPG into consideration the Inspector considers the proposal meets two of the criteria in relation to corner plot extensions and whilst it does not maintain a 2m gap to the boundary in this particular case the area to the side of the dwelling is already enclosed and the majority of properties nearby which flank cul-de-sacs have less than a 2m separation between side gables and highway boundaries and consequently does not consider that maintaining a 2m gap safeguards the openness of this particular site or is in keeping with the character of the wider area.

The Inspector concludes that the proposal would not conflict with Policies H4 and BE2 and consequently the appeal is allowed with conditions relating to: time limits for development, conformity with approved plans and use of matching materials.

Site Address:	18 Treedale Close
Reference Number:	FUL/2015/4326
Description:	Change of use of part of ancient woodland to domestic garden
Decision Level:	Delegated
Decision:	Refusal on 05/09/2016
Appeal Decision:	<i>Dismissed on 23/08/2017</i>

Summary of Decision

The land has already been incorporated into the garden of No.18 and enclosed by a 2m high fence. The fencing can be erected under permitted development rights and this has not been considered further.

The main issues are: whether the proposal would be inappropriate development in the Green Belt for the purposes of the NPPF and development plan policy; the effect of the proposal on the ancient woodland, local nature reserve and local wildlife site; and if the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other consideration so as to amount to the very special circumstances necessary to justify it.

The extension to the curtilage or a change of use such as that the subject of this appeal is not identified in the NPPF as forms of development that can be considered appropriate. Therefore the Inspector concludes that the development is inappropriate development which is harmful by definition and therefore must be given significant weight.

The Inspector considers that the enclosure of the land by a solid fence does have an effect on the openness of the Green Belt and even though this impact is small it weighs against the development in addition to the inappropriateness of the proposal in principle.

The Inspector notes that the undisturbed floor of the ancient woodland beyond the site appears rich with vegetation and provides irreplaceable habitat for a wide range of species. The fencing off of a part of this and its surfacing with artificial turf

has changed the nature of this land to a sterile domesticated space and the Inspector concludes that it provides little in the way of comparable habitat or biodiversity value and as such conflicts with Policy GE11 of the CDP. Whilst the Inspector notes the land was sold to the appellant by the Council and that there is a contractual obligation to fence it, he gives this little weight.

The Inspector concludes that “the development causes significant harm to the Green Belt by way of its inappropriateness and so, as advised by the Framework, substantial weight should be given to this harm. I also consider that the development harms openness and the biodiversity of the ancient woodland, local nature reserve and local wildlife site, albeit the weight I give to these harms is limited....(but) the weight of this consideration does not clearly outweigh the harm and therefore there are no special circumstances to justify the proposal (and) consequently the development conflicts with Policy GE6.”

Site Address:	Compton Court Compton Road
Reference Number:	FUL/2016/3131
Description:	Extensions/alterations to create an additional 2 x bedsits on the first floor, 2 x bedsits on the second floor and roof alterations to create third floor including roof lights in connection with proposal to create 2 x bedsits and 2 x cluster flats, each with eight bedrooms and shared communal living space. Erection of external fire escape staircase to rear and side elevation
Decision Level:	Delegated
Decision:	Refusal on 07/03/2017
Appeal Decision:	<i>Dismissed on 23/08/2017</i>

Summary of Decision

The main issues are the effect of the development on: highway safety having regard to the proposed parking; the living conditions of existing occupiers of Compton Court having regard to the proposed parking; and the character and appearance of the area in respect of the location of the proposed bin store.

The present accommodation at Compton Court is made up of 19 one bedroom and 2 two bedroom flats with existing parking comprising the use of hardstanding areas to the front, side and rear of the building which is not formally marked out. There is a block of 5 garages to the rear of the site which is not in use.

The Inspector notes that at the time of his visit during the day more than 50% of the parking area was occupied and that demand for parking would be higher during evenings and at weekends and concludes from this that the existing parking areas are just about sufficient to meet the needs of the existing accommodation.

The proposal would result in the creation of an additional 22 units of accommodation. The Inspector considers the emerging parking standards to be a useful guide and on the basis of the HMO parking standard within this, the proposed development would generate the need for an additional 17 parking spaces. The scheme only provides 4-5 parking spaces over and above the existing

parking arrangement. The Inspector notes that the emerging parking spaces are maxima, that the site is in a sustainable location and the appellant is also proposing cycle storage but considers that the additional 4-5 parking spaces proposed would represent a significant shortfall and the proposal would result in a significant intensification of development at the site wherein the number of proposed units of accommodation would be doubled and the proposal would fail to provide sufficient parking to meet the needs resulting in increased on-street parking.

The Inspector considers that Compton Road is not particularly wide and the appeal site is located on a bend and in view of this that there is potential for highway conflict. He considers that due to the lack of off-street parking, residents would be tempted to park near to or on the bend which would interfere with visibility around the site and access which would also impede the movement of vehicles to the detriment of the free flow of traffic and highway safety in conflict with Policy AM22.

In looking at living conditions, the Inspector takes the view that the intensification of the use and short fall in overall parking provision would increase competition for limited off-street parking, which would inconvenience existing residents, in conflict with Policy H6 of the CDP. The Inspector concludes that his findings on the effect of the proposal on the character and appearance do not outweigh the harm identified to living conditions and highway safety arising from the lack of proposed parking.

PLANNING APPEAL PROGRESS REPORT – SUMMARY TABLE

CURRENT APPEALS LODGED

Application Reference & Site Address	Case Officer	Type	Appellant	Proposal	Progress & Dates
FUL/2017/0077 1 Empire Road	<i>Anne Lynch</i>	Written Representations	Mr Singer Garagelets	Provision of 32 replacement domestic garages	Lodged date: 01/07/2017 Start date: 10/08/2017 Questionnaire/Statement: 16/08/2017
ADV/2017/0790 219-237 Foleshill Road	<i>Nigel Smith</i>	Written Representations	Mr Page	Erection of 48-sheet LED advertising display measuring 6m by 3m	Lodged date: 03/07/2017 Start date: Awaiting start date
HH/2017/1008 9 John Grace Street	<i>Alan Lynch</i>	Written Representations	Mr Wanis	Conversion of existing garage to ancillary accommodation to existing house	Lodged date: 19/07/2017 Start date: 30/08/2017
FUL/2017/0498 12 Milton Street	<i>Anne Lynch</i>	Written Representations	Mr Fordham	Erection of detached house	Lodged date: 25/07/2017 Start date: 08/09/2017
FUL/2017/0619 389 Green Lane		Written Representations	Mr Thadwal	Erection of new dwelling adjoining 389 Green Lane	Lodged date: 10/08/2017 Start date: Awaiting start date
FUL/2017/0619 657 Stoney Stanton Road	<i>Nigel Smith</i>	Written Representations	Mr Shah	Change of use of ground floor from residential to butchers shop (A1) and erection of outbuilding, external staircase and two storey rear extension and installation of rear dormer window. First floor to be flat	Lodged date: 12/08/2017 Start date: Awaiting start date

S73/2017/1184 <i>New Century Park</i> Allard Way	<i>Anne Lynch</i>	Written Representations	Mr Goodwin	Variation of condition 22 (to enable occupation of 200 units prior to completion of Copsewood Grange and Lodge) imposed on application reference OJT/2012/0888 for phase II development for up to 329 residential units	Lodged date: 21/08/2017 Start date: Awaiting start date
HH/2017/0930 216 Lythalls Lane	<i>Rebecca Grant</i>	Written Representations	Mr Aujla	Erection of detached garage/garden store	Lodged date: 26/08/2017 Start date: Awaiting start date
FUL/2017/1451 59 Clay Lane	<i>Shamim Chowdhury</i>	Written Representations	Mr Ramzan	Change of use from retail shop (use class A1) to hot food takeaway (use class A5) and installation of external extraction flue.	Lodged date: 30/08/2017 Start date: Awaiting start date

APPEAL DECISIONS RECEIVED

Application Reference Site Address	Case Officer	Type	Appellant	Proposal	Appeal Decision & date
FUL/2016/2385 <i>Spiritualist Church of Christ Villiers Street</i>	<i>Nigel Smith</i>	Written Representations	Mr Maheat	Erection of 18 studio apartments and associated vehicle and cycle parking	Decision : ALLOWED 12/07/2017 decision type: <i>Planning Committee</i> (An application for the award of costs was DISMISSED)
HH/2016/3135 <i>11 Ireton Close</i>	<i>Shamim Chowdhury</i>	Written Representations	Mr Jump	Erection of garage / store at the front	Decision : DISMISSED 13/07/2017 decision type: <i>Delegated</i>
HH/2017/0292 <i>26 Despard Road</i>	<i>Alan Lynch</i>	Written Representations	Mr Lee	Erection of 2 storey side extension, single storey rear extension and rear dormer	Decision : DISMISSED 20/07/2017 decision type: <i>Delegated</i>
HH/2017/0636 <i>115 Butt Lane</i>	<i>Alan Lynch</i>	Written Representations	Mr & Mrs Froggett	Erection of single storey rear extension	Decision : ALLOWED 21/08/2017 decision type: <i>Delegated</i>
FUL/2016/1564 <i>83 Mercer Avenue</i>	<i>Anne Lynch</i>	Written Representations	Mr Ahmed	Change of Use from car storage to tyre replacement and car repair unit (B2) (retrospective)	Decision : DISMISSED 25/07/2017 decision type: <i>Delegated</i>
FUL/2016/2686 <i>38 Stoke Road</i>	<i>Anne Lynch</i>	Written Representations	Mr Cheema	Existing outbuilding converted to annexe and single storey side extension to extend existing bedrooms on existing dwelling and provide additional bedrooms in annexe to create 10 bedroom House in Multiple Occupation	Decision : DISMISSED 25/07/2017 decision type: <i>Delegated</i>
FUL/2016/1711 <i>5 Davenport Road</i>	<i>Kurt Russell</i>	Written Representations	Mrs Groves	Proposed extension to detached garage and change of use to create 2 bedroom house	Decision : DISMISSED 27/07/2017 decision type: <i>Delegated</i>

HH/2016/2474 91 Birmingham Road	<i>Shamim Chowdhury</i>	Written Representations	Mr O'Sullivan	Erection of summer house and storage at the bottom of the rear garden	Decision : DISMISSED 27/07/2017 decision type: <i>Delegated</i>
FUL/2016/1723 28-34 Corporation Street	<i>Anne Lynch</i>	Written Representations	Mr Li	Change of use and sub-division of premises from a retail unit (Use Class A1) on the ground floor with offices (Use Class B1) on the upper floors to a mixed use comprising 5 units (Use Classes A1, A2 and A3), office unit (Use Class B1) and gym area (student use only) on the ground floor and student accommodation to the upper floors comprising 62 self-contained flats/cluster flats providing 91 bedrooms. Extension of lift motor room, external alterations including new cladding and glazing to all elevations.	Decision : ALLOWED 09/08/2017 decision type: <i>Planning Committee</i>
HH/2017/0159 10 South Avenue	<i>Anne Lynch</i>	Written Representations	Mr Pangli	Erection of front fence and gates (retrospective)	Decision : ALLOWED 10/08/2017 decision type: <i>Delegated</i>
HH/2017/0496 63 Mayflower Drive	Alan Lynch	Written Representations	Ms Corfield	Erection of two storey side extension	Decision : ALLOWED 21/08/2017 decision type: <i>Delegated</i>
FUL/2015/4326 18 Treedale Close	<i>Andrew Cornfoot</i>	Written Representations	Mr Kemp	Change of use of part of ancient woodland to domestic garden	Decision : DISMISSED 23/08/2017 decision type: <i>Delegated</i>
FUL/2016/3131 Compton Court Compton Road	<i>Liam D'Onofrio</i>	Written Representations	Mr Dosanjh	Extensions/alterations to create an additional 2 x bedsits on the first floor, 2 x bedsits on the second floor and roof alterations to create third floor including roof lights in connection with proposal to create 2 x bedsits and 2 x cluster flats, each with eight bedrooms and shared communal living space. Erection of external fire escape staircase to rear and side elevation	Decision : DISMISSED 23/08/2017 decision type: <i>Delegated</i>