

Appeal Ref	APP/B1550/A/07/2054195
Application No	06/01090/FUL
Appellant	Rayleigh Cricket Club
Location	Field adjacent to the recreation ground (east side) Rawreth Lane, Wickford, SS11 8SP
Decision	Dismissed (07.01.08)

The Inspector dismissed the appeal that sought planning permission for the erection of a single storey wooden clubhouse (incorporating changing rooms, toilets, kitchens storage area and lounge bar) without complying with conditions attached to planning permission Ref 99/00222/FUL. The Inspector took into consideration the Rochford District Replacement Local Plan (Policy PN5).

The conditions in dispute are No. 12 which states:- 'No amplified speech/music or other form of public address system shall be broadcast or operated on any part of this site.' And No. 13 which states – 'Neither the site nor clubhouse hereby permitted shall be used outside the hours of 08.00 to 23.00 Monday to Saturday, nor 08.00 to 23.00 on Sundays.'

The proposal is to modify Condition 12 to allow the use of the site and the clubhouse between the hours of 08.00 and 23.00 on Sunday to Thursday, from 08.00 to 24.00 on Friday and Saturday, from 12.00 to 22.30 on Good Friday, from 12.00 to 15.00 and 19.00 to 22.30 on Christmas Day and from 08.00 on New Year's Eve to 01.00 on New Year's Day.

With regard to sound, the proposal is to modify Condition No. 13 to allow amplified speech/music, such as discos and small bands, only inside the clubhouse, between the hours of 18.00 to 24.00 on Friday and Saturday and on Sundays preceding Bank Holidays and from 18.00 on New Year's Eve until 01.00 on New Year's Day. At all other times amplified speech/music shall be limited to the provision of television inside the clubhouse and within the hours specified in Condition No. 12 as proposed to be modified.

The cricket ground is in the open countryside, which is part of the Metropolitan Green Belt, a short distance to the east of the main built-up area of Rawreth. There is a dwelling virtually opposite the access to the site which is at its western end and there are 3 pairs of cottages known as 'Clarkes Cottages' to the east of the site, the nearest of which is some 40 metres from the clubhouse.

While the use of the clubhouse at Easter, Christmas and the New Year could be considered as exceptional events, the use of the building for potentially noisy events until midnight each weekend would extend the noise from music and entertainment and the general use of the clubhouse into the quiet of the night. At the time of closure the likelihood of slamming of car doors and revving of engines as well as high-spirited behaviour could extend this potential for noise until significantly later in the night.

The Inspector concluded the proposal would conflict with policy PN5 and would cause unacceptable harm to the living conditions of adjacent residents, having regard to noise and disturbance and dismissed the appeal.

Appeal Ref	APP/B1550/A/07/2050337
Application No	07/00304/FUL
Appellant	Ms S Mead
Location	92 Greensward Lane, Hockley, Essex SS5 5HF
Decision	Dismissed (09.01.08)

The Inspector dismissed the appeal development proposed revised application to demolish an existing dwelling and construct a two storey building to provide four No. two bedroomed flats with parking and amenity areas and revised access. The Inspector took into consideration the Rochford District Replacement Local Plan (Policy HP11).

Greensward Lane is a main traffic route into Hockley fronted by residential development of varying styles but also including a school (Greensward College), a church and a parade of shops. No. 92 is a bungalow, one of some nine low-rise dwellings on the south side of the road between a point opposite Greensward College and the junction with Broadland Road to the east.

The proposed development would replace the bungalow with a two storey building providing four two bedroomed flats. The new building would have a similar set back to the bungalow to be demolished but would be wider and deeper and, at some 8.95m to ridge, significantly higher. This greater height would be emphasised by the drop in level of around 0.4m between number 92 and number 100, the property immediately east. The Inspector thought the height and bulk of the proposed development would look out of place and detract from the appearance of the area, conflicting with the aims of policy HP11.

The Highway Authority has objected to the proposals, considering both the parking arrangements within the site and the proposed access arrangements to be unsatisfactory. Plans of the proposals show two access points into the site and the second of the Council's grounds of refusal is that the formation of an unnecessary access on to Greensward Lane is proposed to the detriment of highway safety. The appellant stated she would be content to have the access at the western end of the site excluded from the proposals. The Inspector felt this might resolve the issue; however, in light of his conclusion about the visual impact of the proposals, parking and access are not matters upon which his decision turns.

The Inspector considered all matters raised including letters of objection from neighbours and the Parish Council and recent planning permission relating to number 100 but found nothing to alter his conclusion and dismissed the appeal.

Appeal Ref           APP/B1550/A/07/2047805  
Application No       04/01103/FUL  
Appellant            Mr G Bullis  
Location             White Lodge, Beke Hall Chase North, Rawreth, Rayleigh, Essex  
Decision             Dismissed (11.01.08)

The Inspector dismissed the appeal development proposed replacement of an existing uninhabitable dwelling with a two-storey detached house. The Inspector took into consideration Planning Policy Guidance Note 2 (PPG2) – Green Belts and the Rochford District Replacement Local Plan (Policy R1).

The Inspector considers there are two main issues in this case. The first is whether the former residential use has been abandoned. The second is whether, taking into account conclusions on the first main issue, the proposed development represents inappropriate development in the Green Belt and, if it does, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The courts have generally held that, in determining whether or not a use has been abandoned, there are four relevant matters to take into account: (1) the physical condition of the building; (2) how long ago the use ceased; (3) whether there has been an intervening use; and (4) evidence as to the owner's intentions regarding the resumption of the use.

The Council's evidence is that in the 1980s there were two joint owners of White Lodge. Miss Cole moved out of White Lodge of her own volition in 1986 due to the poor state of repair of the dwelling. On account of its unfitness for human habitation, White Lodge was the subject of a demolition notice in 1990. This was subsequently changed to a closing order to allow Miss Cole to use it for the storage of furniture.

It is apparent from the Council's evidence (none of which is challenged by the appellant) that White Lodge has been unfit for human habitation for at least 17 years; that there has been no residential occupation of it for at least 21 years; and that the previous occupier (and joint owner), Miss Cole, never had any intention of returning the property to residential use. There is no evidence that the other joint owner, resident in Canada, had any interest in the future of the property at all.

The Inspector concluded on the first main issue that the former residential use has been abandoned.

There is provision in paragraphs 3.4 and 3.6 of PPG2 for the replacement of existing dwellings, within the Green Belt, as long as the new dwelling is not materially larger than the dwelling it replaces. However, this provision can be of no consequence in a situation where, as here, residential use has been abandoned and, effectively, there is no existing dwelling.

The proposed development would be considerably larger than the existing structure on the site. In the Inspectors view, the added mass of the proposed development would visibly reduce the openness of the Green Belt. The Inspector felt it is not a sustainable location for new residential development, due to its remoteness from facilities such as shops and that access to the site would be poor.

The Inspector concluded that the harm identified is not clearly outweighed by other considerations; that very special circumstances to justify inappropriate development in the Green Belt have accordingly not been demonstrated; and that the proposed development would be in conflict with national Green Belt policy as set out in PPG2 and Policy R1 and dismissed the appeal.

Appeal A & B Ref APP/B1550/C/07/2036550  
Application No 05/00175/CONS\_A  
Appellant Miss S Barron  
Location The Red Lion Public House, 67/69 High Street, Great Wakering  
Decision Dismissed and enforcement notice upheld with variations  
(18.01.08)

The breach of planning control as alleged in the notice is: without planning permission, the removal of two windows to the front ground floor elevation and the replacement with white UPVC style windows. The requirements of the notice are

- i. Remove from the building the two unauthorised windows to the front ground floor elevation and any associated frames and fixing.
- ii. Replace the two unauthorised windows to the front ground floor elevation with timber-framed sash windows as shown in the attached drawing (Appendix 1) and retain thereafter. The windows shall be single glazed and painted white.

67 High Street is a grade II listed cottage attached to, and now used as part of, the Red Lion Public House at 69 High Street. The property lies within the Great Wakering Conservation area in a prominent position in the streetscape. The windows that are the subject of the enforcement notices are on the ground floor of the front elevation and are white UPVC replacements of windows that were themselves earlier 20<sup>th</sup> century insertions. The windows are all the same size, and are divided into three sections with a central opening upper light. The glazing is textured and has decorative lead comes applied to the external face.

The appellant submits that the window that has been replaced was similar to the new insertion and that consequently the work has not affected the character of the listed building. The previous window as constructed of black painted timber mullions and metal frames, with two white painted opening lights to each of the two side panels that flanked the large central glazed section. The window had a traditional leaded light construction to the fixed elements. In the replacement window, the proportions of the sub-divisions and the glazing panes have been altered and the use of UPVC causes a distinct difference in appearance. Also, the panes of the previous window sat directly on the timber sill, whereas the replacement has a sub-frame above the sill. For these reasons, the replacement window has changed the appearance of the listed building and whether or not this change is harmful is not relevant to the requirement to obtain listed building consent for the alteration.

The Inspector considers that the new windows fail to preserve the appearance of the conservation area and have harmed the character of the listed building. The development therefore conflicts with Development Plan policy and national guidance on work that affects the historic environment.

The appellant maintains that the Council is seeking more than it can legitimately require by asking that timber sliding sash replacements are reinstated, when these were not present immediately before the UPVC windows were installed. The Council considers that the requirements of the notice specify works that alleviate the effect of the alterations that were carried out without listed building consent because it is not desirable or practical to reinstate a window in a style to match that removed.

There is no dispute that window was in position when the building was first listed. Therefore, all that can be required in the listed building enforcement notice is that the building is restored to its last authorised state.

In this case, the Inspector felt the breach would be remedied by removing the UPVC insertions and replacing them with windows that are similar to those that were taken out, and agreed with the appellant that the requirement for sash windows goes beyond this.

The Inspector directed that the enforcement notice be varied by the substitution of the words 'Replace the two unauthorised windows to the front ground floor elevation with windows to match those previously removed, as shown in the photograph attached as Appendix 1 to this decision' for the words 'Replace the two unauthorised windows to the front ground floor elevation with timber-framed sash windows as shown in the attached drawing (Appendix 1) and retain thereafter. The windows shall be single glazed and painted white.' in part (ii) of the requirements of the notice. Subject to this variation the Inspector dismissed the appeals, upheld the enforcement notice, and refused to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.