

APPEAL BULLETIN FOR JANUARY 2006



Appeal Ref APP/B/1550/A/05/1179812
Application No 04/01015/FUL
Appellant The Sweyne Park School
Location The Sweyne Park School, Sir Walter Raleigh Drive, Rayleigh,
Essex SS6 9BZ
Decision Allowed subject to conditions (03.01.06)

The Inspector allowed the appeal for proposed construction of an all-weather playing pitch enclosed by a 3m high fence, building an earth bank, re-surfacing part of an existing car park and the placing of 2 storage containers as shown on the application plans. The Inspector took into consideration the Rochford District Local Plan (policy H24 and LT25).

The site is currently used for football games. The proposed mound would be some 0.6m high. This would enable spectators to look over the school boundary into the nearest gardens which would be as little as 30m away from the pitch. The Inspector felt the loss of privacy for those people living at the ends of Cheapside East and Oakwood Road could be reduced by the erection of fencing between the perimeter fence and the boundaries of properties to the east. The principal users of the pitch would be the school and opposing school clubs.

Objections were raised on the basis of increased vandalism, disturbance and crime in the area generally. To the Inspector's mind, provision of sporting facilities of this type is unlikely to cause a general increase in such anti-social behaviour. Indeed, it may give the opportunity for those inclined to such behaviour to employ their energies more productively.

The Inspector concluded the scheme would cause some harm to amenities, but these could be ameliorated by the imposition of conditions and good management. The appeal was granted planning permission in accordance with the terms of the application, Ref 04/1015/FUL dated 19 November 2004 and the plans submitted therewith, subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of 3 years from the date of this decision.
- 2) The all-weather surface hereby approved shall not be used after 17:00 hours on Saturdays or after 12:30 hours on Sundays.
- 3) No artificial lighting shall be installed or erected (other than that for security purposes) within the application site as shown on layout plan 04_6117-01 without the prior written consent of the Local Planning Authority.
- 4) No amplified music, speech or other form of public address system shall be installed or operated to serve the development hereby permitted without the prior consent of the Local Planning Authority.

- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels and contours; means of enclosure; pedestrian access and circulation areas; hard surfacing materials and waste bins.
- 6) No development shall take place until full details of a scheme to fence the area between the all-weather pitch and the eastern boundaries of the school have been submitted to and approved in writing by the local planning authority and the scheme shall be carried out as approved.

APPEAL BULLETIN FOR JANUARY 2006



Appeal Ref APP/B1550/A/05/1188760
Application No 05/00311/FUL
Appellant Mr B Bennett
Location 76 Ferry Road, Hullbridge, Essex SS5 6EX
Decision Dismissed (04.01.06)

The Inspector dismissed the appeal for proposed development of a side extension and a new first floor to bungalow. The Inspector took into consideration the Rochford District Local Plan First Review 1995 (policy H11), Supplementary Planning Guidance (LPSPG1) Housing Development Design and Layout 2003, the Second Deposit Draft Replacement Local Plan (policy HP6).

The appeal site contains a long, narrow span building with a pitched roof and constructed of brick. It was formerly an office and its appearance is not domestic though it is located in a predominantly residential area. The proposal is to enlarge the building and to make it two storeys in height within a pitched roof arrangement of unequal pitches. Two previous schemes for the enlargement of the property have been approved, one single storey and the other with dormers allowing accommodation within the roof space. The approved schemes are capable of implementation and are a material consideration. The existing building is simple in form and appearance. The proposed building would be different and more complex in every respect, being higher, wider and longer, and would be finished in a greater variety of, and different materials. In the Inspectors view the result would appear to be a new house of a different external appearance, rather than an extended house and in this respect considered the works of extension would bear a poor relationship with the original building.

The position of the front elevation of the enlarged building close to the footpath along Oakleigh Avenue would make the property much more dominant in the street scene. The position of the side elevation facing the Ferry Road frontage would relate well to the position of the semi-detached houses and garages to the north. However, the design and appearance of the elevation to Ferry Road would not relate well to the simple front elevations seen to the north, south and west. Both side elevations would appear fussy and contrived and would be unduly prominent in street scene.

The Inspector concluded that the proposed side and first floor extensions would have a harmful effect upon the existing building, the wider area of Ferry Road and Oakleigh Road, and is contrary to adopted policy H11, emerging policy HP6 and the SPG and dismissed the appeal.



APPEAL BULLETIN FOR JANUARY 2006

Appeal Ref APP/B1550/A/05/1188678
Application No 05/00454/FUL
Appellant Mr A T Richards
Location 76 Clarence Road, Rayleigh, Essex SS6 8SQ
Decision Dismissed (04.01.06)

The Inspector dismissed the appeal for the proposed development for a new dwelling to the side of 76 Clarence Road. The Inspector took into consideration the Rochford District Local Plan First Review (policy H11), Supplementary Planning Guidance, and the Essex Design Guide.

The appeal site is located in an area of predominantly detached and semi-detached post-war houses. There are a variety of house styles with single and two storey dwellings and chalets. The houses are generally set well back from the road with a wide carriageway, pavements and verges to either side, giving rise to a characteristic spaciousness and openness. The appeal property is a two storey semi-detached dwelling set at the south east corner of the junction with Warwick Road. It has a simple rectangular plan with a gabled roof and a detached garage to the rear.

It is proposed to provide a single storey house attached to the flank gable of No 76, it would have a pitched and hipped roof with the main ridge parallel to Warwick Road, it would be set forward off the principal building line on Clarence Road and would extend in depth beyond the rear elevation of the existing house. The dwelling would be around 3.8 metres wide with a depth of around 12 metres, compared to the existing house that is about 5 metres wide and around 7.5 metres in depth.

The Inspector considered that the form of the proposed house would look out of scale and character with the prevailing pattern and forms of development in the locality. The proposal would bear a poor relationship to the existing house and to nearby houses. Its elongate form extending in advance of the existing house and in depth beyond the rear elevation would look awkward and contrived. It would be especially prominent and discordant in views along Warwick Road. The proposal would intrude into, and would have an adverse impact upon, the open and spacious character of the area and have a harmful effect upon the street scene of Clarence Road and Warwick Road and dismissed the appeal.

APPEAL BULLETIN FOR JANUARY 2006



Appeal Ref	APPB1550/H/05/1195830
Application No	05/00803/ADV
Appellant	McCarthy & Stone Assisted Living
Location	Rochford Primary School, 6 Ashingdon Road, Rochford, Essex SS4 1NJ
Decision	Dismissed (27.01.06)

The Inspector dismissed the appeal for a non-illuminated directional sign at Rochford Primary School; he took into consideration the Rochford District Council Local Plan First Review.

The appeal sign is positioned on the flank wall of a junior school building located on the eastern side of Ashingdon Road close to its mini-roundabout junction with West Street and Hall Road. The Inspector felt that the sign, with its prominent white background, appears as an incongruous feature on the school's red brick flank wall. It sits awkwardly, sandwiched between the windows and the edge of the building. The sign fails to assimilate with the architectural features of the building but instead, in its modern materials, stands out as a prominent and anomalous feature to the detriment of the appearance of the host premises and the street scene in general. The sign fails to preserve or enhance the character or appearance of the Conservation Area.

The Inspector noted the agents' comment that the sign is needed only for a temporary period, however, in his view this does not outweigh the objections identified above and dismissed the appeal.

APPEAL BULLETIN FOR JANUARY 2006



Appeal Ref APP/B1550/A/05/1187455
Application No 05/00243/FUL
Appellant Blundell Ltd
Location 1 Potash Cottages, Barling Road, Barling Magna, Essex SS3 0LY
Decision Dismissed (31.01.06)

The Inspector dismissed the appeal for the proposed development to ground and first floor rear and part side extension to provide enlarged kitchen and third bedroom, shower room and cloaks. The Inspector took into consideration Planning Policy Guidance Note 2 (1995), the Essex and Southend-on-Sea Replacement Structure Plan (2001), Rochford District Local Plan First Review (1995) (Policy GB1, GB2 and GB7) and the Rochford District Council Replacement Local Plan (Policy R1 and R7).

The proposed development would see the erection of a two-storey side and rear extension on the existing dwelling, which was originally 2 separate small cottages in a small terrace of 4 cottages set in the open countryside. The dwelling has already been extended with a single storey rear extension and there is a valid planning permission for a large double garage, utility room and store in the garden to the east of the dwelling. The proposed development would further increase the scale of development on the site, particularly when compared with the original building, and this would, in the Inspector's view, represent a disproportionate addition and a material alteration to the scale of the development originally on the site. The Inspector considered that this would be in conflict with PPG2 and the Green Belt policies of the Development Plan, in particular policy GB1 and GB7 of the Local Plan.

The appellant considers there are a number of very special circumstances for allowing the proposed development:

Potash Cottages was originally 2 cottages and if they had remained separate could have both been extended by 35 square metres. However, the two cottages were converted into a single dwelling some time ago prior to the granting of the permission for the existing extension. The dwelling is currently inhabited on that basis and the merits of proposed development have to be considered in the light of the current circumstances.

With regard to the valid planning permission on the appeal site for the garage and utility room, the appellant indicated his willingness to relinquish this if planning permission were to be granted for the proposed extension, as the appellant feels this would substantially reduce the potential amount of development on the appeal site. The Inspector was not aware this was considered by the Council at the time the planning application was determined and, despite the appellant's reference to a legal agreement in his submission dated 28 October 2005, no such agreement or obligation was submitted with the appeal.

The Inspector was of the opinion that the proposed development is inappropriate in the Green Belt and that no very special circumstances have been put forward that would outweigh that inappropriateness or the harm to the openness of the Green Belt. As a result, the development is contrary to the guidance in PPG 2 and the policies of the Development Plan, in particular policies GB1 and GB7 of the Local Plan and dismissed the appeal.

APPEAL BULLETIN FOR FEBRUARY 2006



Appeal Ref APP/B1550/A/05/1189671
Application No 05/00600/FUL
Appellant Page Estates Ltd
Location Land Rear of 5 Daws Heath Road, Rayleigh, Essex, SS6 7QJ
Decision Dismissed (01.02.06)

The Inspector dismissed the appeal for the proposed construction of two bungalows. The Inspector took into consideration the Rochford District Local Plan First Review 1995 (policy H11 and H24) and Planning Policy Guidance 3.

Planning permission has been granted on application no. 05/00077/FUL for the demolition of the existing buildings at the appeal site, and the erection of a 3-storey building comprising 6 self contained flats, together with car parking and amenity space.

The appeal site is located to the rear of a larger vacant plot that fronts Daws Heath Road to the west and lies to the south of commercial properties that front Eastwood Road. The planning permission ref 05/00077/FUL for the larger plot showed the appeal site as being available to meet the requirements for amenity space of the future occupiers of the proposed flats. The appeal proposal however, shows a pair of bungalows on that site, together with a car parking area and a much smaller area of open space for use by the occupiers of the flats.

The Inspector felt the future occupiers of the flats should have access to at least the minimum private open space and that it should be suitable for use as a communal residents garden as recommended in Appendix 1 of the Local Plan. The current proposal leaves a much smaller total area of open space provided for the occupiers of the flats than under planning permission ref 05/00077/FUL and furthermore it is divided into 3 much smaller sites. Its location, so close to the bungalows would make it difficult for occupiers of the flats to make use of it and such use could result in unacceptable noise and disturbance to the occupiers of the bungalows.

The Inspector concluded that the proposed development would have a harmful effect on the living conditions of the future occupiers of the area with regard to private open space provision and would be contrary to policies H11 and H24 and Appendix 1 of the Local Plan and dismissed the appeal.

APPEAL BULLETIN FOR FEBRUARY 2006



Appeal Ref APP/B1550/A/05/1191601
Application No 05/00506/FUL
Appellant DDS Development
Location 7-9 Poplars Avenue, Hawkwell, Hockley
Decision Dismissed

The Inspector dismissed the appeal for the development proposed to demolish a pair of semi-detached bungalows and erect two detached two storey four-bed houses. The Inspector took into consideration the Rochford District Local Plan First Review (policy H11 and H24), the Council's Guide to Local Planning Policy – No. 5, Housing Development – Residential Extensions and Infilling and Planning Policy Guidance PPG3 – Housing.

The appeal site contains a large bungalow originally built as two but converted to one five-bedroom bungalow following the grant of planning permission in 1980. It is within a primarily residential area that has already been subject of some redevelopment. It is apparent that the character of the area has changed over recent years and there is a broad mix of housing types and plot sizes.

The proposed houses, with a ridge line of around 8.4 metres, would not only be significantly higher than No. 11 but would be approaching twice the height of No. 5 and the Inspector felt that, they would be an over-dominant feature when viewed from that part of the garden immediately to the rear of the house at No. 11 and within the context of the immediate street scene as opposed to the area in general, the two large houses proposed would appear out of scale and character with the prevailing pattern of development and this would damage the street scene, harming the residential character of the area in conflict with Local Plan Policy H24 and dismissed the appeal.

APPEAL BULLETIN FOR FEBRUARY 2006



Appeal Ref	APP/B1550/A/05/1171743
Application No	04/00735/COU
Appellant	Mr & Mrs P Splett
Location	Burtons Farm, Barling Road, Barling Magna, Southend-on-Sea, Essex SS3 0LZ
Decision	Dismissed (13.02.06)

The Inspector dismissed the appeal for proposed change of use of existing shop, ancillary use and first floor accommodation to residential use. The Inspector took into consideration the Essex and Southend-on-Sea Replacement Structure Plan (Policy C2 and RE2), the Rochford District Local Plan First Review (Policy GB5), the Second Deposit Draft Rochford District Replacement Local Plan (Policy R9) and Planning Policy Statement (PPS7): Sustainable Development in Rural Areas.

The appeal site includes two buildings, one of which is currently in use as a butcher's shop. The ground floor comprises the shop, meat preparation area, two cold storage areas, office, and toilet facilities. The upper floor of this one-and-a-half storey building has been fitted out as living accommodation, including a bathroom. The appeal proposal seeks the change of use of the whole building to residential use. The other building within the site is used for ancillary garage and storage purposes. The site forms part of the Burton's farm complex, which also includes Burton's Farmhouse, Burton's Lodge and Burton's Barn, all of which are in residential use.

The main area available for use as a garden lies to the front of the building, and is clearly visible from Barling Road. Although this area has been landscaped, it is largely open and free from intrusive structures. The Inspector considered that the converted building would be large enough to offer family accommodation but shared the Council's concern that domestic paraphernalia such as garden furniture, children's toys and washing lines would affect the character of this part of the site, making it more urban in appearance. To the Inspector's mind these changes would have a materially greater impact on the openness of the Green Belt and would not assist in safeguarding the countryside from encroachment.

Policy RE2 seeks to resist changes of use to residential on isolated sites located well away from existing settlements. The appellants' view is that the appeal site cannot be described as isolated because it is within a group of buildings, which is near to other dwellings and clusters of dwellings along Barling Road. The Council drew attention to the fact that the site is outside any designated settlement boundary and some distance from local facilities and services. Given the lack of footways and the distance to the village centre of Great Wakering, which is the nearest location providing a reasonable range of facilities, the Inspector considered it unlikely that occupiers of the proposed dwelling would often undertake that journey on foot. Where such development is not close to facilities, and services, nor well served by public transport, additional dwellings will conflict with the objectives of national and local policy to promote a more sustainable pattern of development and dismissed the appeal.

An appeal for costs was also dismissed as the Inspector did not consider the Council's behaviour was unreasonable, and found no grounds for an award of costs.

APPEAL BULLETIN FOR FEBRUARY 2006



Appeal Ref APP/B1550/A/05/1174533
Application No 04/01000/FUL
Appellant Mr & Mrs Rout
Location New Hall, Sutton Road, Rochford, Essex SS14 1LQ
Decision Dismissed (21.02.06)

The Inspector dismissed the appeal for the proposed erection of an orangery. The Inspector took into consideration the Rochford District Local Plan First Review (Policy GB1, GB7 and UC7) and the Essex and Southend-on-Sea Replacement Structure Plan (Policy C2).

New Hall is included as a Grade II building in the List of Buildings of Special Architectural or Historic Interest. It has undergone very sensitive repair and extension in recent years due to the efforts and enthusiasm of its owners. The two storey, five-window wide original house also has dormer rooms within its gambrel roof. There were later works of alteration and extension at and behind its rear elevation. Very recently, a finely judged and substantial addition has been built, extending the main east elevation northwards, simulating the robust Georgian style of the original house. This substantial addition, given planning permission and listed building consent in 2000, resulted only in a net increase of new floorspace of c. 35m², which is the maximum figure by which an extension to a dwelling in the Green Belt outside a settlement may normally exceed the original habitable floorspace, under Policy GB7 of the adopted Local Plan.

New Hall was not a small house before the recent substantial addition was built, and it is now very well provided with rooms for the needs of a family. The Council has operated its size-based policy for a number of years. The control of the size of additions to dwelling in Green Belts is said in PPG2 not to be inappropriate "provided it does not result in disproportionate additions over and above the size of the original building". Very special circumstances to justify inappropriate development will not apply unless harm of all kinds is clearly outweighed by other circumstances. The Inspector found no exceptional circumstances in this case and dismissed the appeal.

APPEAL BULLETIN FOR MARCH 2006



Appeal Ref APP/B1550/A/05/1194472
Application No 05/00431/FUL
Appellant Mr C Hubbard
Location CJ's Pool & Snooker Club, 7 Eldon Way, Hockley, Essex
SS5 4AD
Decision Dismissed (28.03.06)

The Inspector dismissed the appeal for the proposed creation of a roof terrace with 1.8 metre balustrade: Roof terrace to be used as outside seating and drinking area for patrons of the pool and snooker club. The Inspector took into consideration the Rochford District Local Plan First Review (Policy LT3, LT4).

Eldon Way is an established industrial estate characterised by a mixture of business uses. CJ's Pool & Snooker Club occupies the top floor of one of the industrial units, which backs onto the gardens of the houses and bungalows in Bramerton Road. To the rear of the Club building, and within the gardens beyond, are some tall mature conifer trees set in line. However, there is a clear gap in the line of trees opposite the rear garden of No. 14 Bramerton Road. This allows clear and uninterrupted views of the garden and rear patio area at the back of No 14 from the flat roof of the Club.

The proposal involves the establishment of a roof terrace on the existing flat roof, set towards the front of the building, along its southern side. The terrace would be used by members of the Club as an area on which to sit out and socialise. The Inspector was unclear as to whether the proposed balustrade would be an effective means of screening, preventing overlooking from the proposed roof terrace to the neighbouring gardens. He was satisfied that it would be possible to agree, by condition, details of a privacy screen of an appropriate height, and density, which would safeguard the privacy of the residents of the neighbouring properties, including No 14. In this way the terms of Policies LT3 and LT4 would not be compromised in this instance.

The Inspector concluded the harm caused to the living conditions of neighbouring residents in terms of noise and disturbance are so significant as to warrant the rejection of this proposal and dismissed the appeal.

APPEAL BULLETIN FOR MARCH 2006



Appeal Ref APP/B1550/C/05/2003217 (NOTICE A)
Application No 01/00221/COU-C
Appellant Ms C Foyle
Location Goad's Meadow, Murrels Lane, Hockley, Essex SS5 6AB
Decision The ground (c) appeal is allowed and the enforcement notice is corrected. However, the ground (a) appeal is also allowed and planning permission is granted, the enforcement notice as corrected being quashed.

The breach of planning control as alleged in the notice is, without planning permission; (i) the erection and construction of ancillary domestic structures including a portable building, all fences bordering and/or adjacent to the unauthorized domestic area, wooden "decking" with railings, a "Wendy house", sheds, a car park, lorry backs, children's play equipment, washing line, etc; and (ii) the insertion of domestic windows and doors in the previous stable building.

The requirements of the notices are to (i) remove all the above mentioned ancillary domestic structures and car park etc. referred to above; (ii) remove from the site all structures, building materials and rubble arising from compliance with (i) above and restore the land to its condition before the breach took place by levelling the ground and re-seeding with grass; and (iii) remove all domestic windows and doors from the stable building, reinstating the stable building so the doors and windows accord with the drawing approved as part of the planning permission ROC/730/81.

Appeal Ref APP/B1550/C/05/2003218 (NOTICE B)
Application No 01/00221/COU-U
Appellant Ms C Foyle
Location Goad's Meadow, Murrels Lane, Hockley, Essex SS5 6AB
Decision The ground (c) appeal is dismissed. However, the ground (a) appeal is allowed, the enforcement notice is quashed and planning permission granted.

The ground (c) appeals are based on the following arguments:

- i) Planning permission ROC/730/81 (which resulted in the 1983 permission) granted permission for the present building and included a condition in the interests of highway safety that there be provision within the curtilage of the site for the parking, manoeuvring and turning of vehicles. The existing hard standing was there when the Appellant bought the land and is presumed to have been there since 1983 to comply with this planning condition.
- ii) All fences are as existing at the time of the Appellant's purchase. Substantial fences are a condition of the 1983 permission.
- iii) The structures referred to are not of a size, permanence or physical attachment to constitute development.
- iv) The adaptation of the existing window and door apertures are de minimis and enhances visual amenity.

The breach of planning control as alleged in the notice is, without planning permission, change of use of the stables and land from use for equestrian purposes to a mixed use for equestrian and residential use. The requirements of the notice are to stop using any part of the site for residential purposes and remove from the land all domestic related items including caravans, vehicles and other domestic ancillary and incidental equipment other than that used in the authorized use of the site for the keeping and grazing of horses.

The appeal site stands at the corner of Church Road and Murrels Lane, being bounded to the east and north respectively by these two roads. Drainage ditches, fences and trees form the boundaries with these two roads, whilst the railway embankment forms the southern boundary. Residential and commercial premises along Murrels lane lie to the west. It is predominantly paddock with a small building in the corner furthest from the roads. This building was built as stables in 1983, and was converted into a home in 2001 by the appellant and her partner. Although the building has been substantially altered internally to provide a compact, but comfortable, one-bedroom home, changes to the building outside have been limited to repainting, which could have occurred with the building still in use as a stable, and to alterations to the pre-existing openings to accommodate windows and doors. The Inspector does not consider that reuse of the building has a materially greater impact on the openness of the Green Belt or materially and adversely change the character of the area.

Several residents believe that the appellant's occupation of the site has brought positive, and significant, benefits in terms of the stewardship of the land. There seems to be general agreement amongst them that the site was unkempt and in poor condition, suffering problems of fly-tipping. However, fly-tipping has stopped; ditches have been cleared, helping to prevent flooding; fences have been replaced; trees obscuring vision at the junction with Church Road, and which constituted a hazard to the telephone lines, have been removed.

The Inspector's formal decision stated:

I allow the ground (c) appeal in relation to Enforcement Notice A and correct that Notice by deleting (i) from the alleged breach of planning control and replacing it with the following: "(i) the erection and construction of a portacabin and sheds", and by deleting requirements (i) and (ii) and replacing them with "(i) remove the portacabin and sheds from the land". Requirement (iii) then becomes requirement (ii). I also correct the plan by deleting "CP".

However, subject to these corrections, I then allow the appeals under ground (a), and direct that the enforcement notices be quashed. I grant planning permission on the applications deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the change of use of the stables and land from use for equestrian purposes to a mixed use for equestrian and residential use (appeal reference APP/B1550/C/05/2003218) and the erection and construction of a portacabin and sheds, (appeal reference APP/B1550/C/05/2003217), all at Goad's Meadow, Murrels Lane, Hockley, Essex SS5 6AB, as shown on the plans attached to the Notices, subject in each case to the following conditions:-

- 1) When the premises cease to be occupied by Ms Charlotte Foyle and Mr Paul Buckley or dependants of such persons the portacabin and the van body brought on to the land in connection with the use shall be removed.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extensions, dormer windows or outbuildings shall be constructed or otherwise provided on any part of the residential curtilage of the site, as shown hatched black on the plan.

APPEAL BULLETIN FOR MARCH 2006



Appeal Ref	APP/B1550/A/04/1156699
Application No	04/00342/COU
Appellant	Romany Guild
Location	Cherry Hill Farm (opposite Witherdens Farm), Chelmsford Road, Rawreth, Essex
Decision	Dismissed (14.03.06)

The First Secretary of State gave consideration to the Inspectors report regarding an appeal against Rochford District Council's refusal to grant a two year temporary planning permission for the continuation of the use of the site for the stationing of 8 touring caravans and 5 mobile homes that have been subdivided into 6 residential plots on land opposite Witherdens Farm (known as Cherry Hill Farm).

Having considered the representations and policy guidance on conditions and temporary planning permission, the Secretary of State agrees with the Inspector that the conditions recommended by the Highways Authority would be an unreasonable imposition due to the temporary nature of the development and the likely very significant costs that would be involved.

The Secretary of State considers that the main issues are as follows:

- The Gypsy status of the appellants;
- Whether the development amounts to inappropriate development in the Green Belt;
- The effect of the development on the character and appearance of the area;
- The effect of the development on highway safety in the vicinity of the appeal site;
- Whether the development complies with the objectives for promoting accessibility as set out in the Structure Plan; and
- Whether there are any very special circumstances that are clearly sufficient to outweigh the harm to the Green Belt and any other harm.

The Secretary of State agrees with the Inspector that the site occupiers are all Gypsies for the purposes of planning law and policy. The Inspector stated the appeal site lies within open countryside; apart from the Green Belt designation it has no designation in the development plan. The character of the surrounding area is predominantly rural, and the site itself is surrounded by fields. Policy C2 of the Structure Plan states that any development that is permitted in the Green Belt should be of a scale, design and siting such that the character of the countryside is not harmed. The Inspector felt the appeal site is significantly harmful to the character of the countryside and clearly fails to accord with Policy C2 and Policy R1 of the Rochford District Replacement Local Plan Draft for Adoption Showing Changes.

The Secretary of State agrees with the Inspector that the main concerns regarding highway safety relate to vehicles entering the site. He considers that traffic slowing in this location could be a hazard to other road users. The lack of expectancy increases the hazards caused by any access that exists in isolation. The Secretary of State has noted that traffic passing the site will be travelling at, or close to, the national speed limit. He has therefore, given this consideration substantial weight. The site is in a relatively unsustainable location and there is no easy alternative to the use of private vehicles to access services from the site. He concludes that this adds to the harm caused by the development.

The Secretary of State agrees with the Inspector's conclusions regarding the educational concerns of the occupants of the site. The disruption to their children's education, should the occupants be moved off the site and return to roadside camping, is a material consideration of significant weight. However, the Secretary of State concludes that the need for education is not unusual and does not therefore constitute very special circumstances that clearly outweigh the harm to the Green Belt.

The Secretary of State concludes that the proposal is inappropriate development in the Green Belt. He has also identified further harm through the loss of openness in the Green Belt and the relatively unsustainable location of the site. In addition, there is significant harm to the character and appearance of the countryside due to the visual prominence of the site and extent of the development. The Secretary of State has given substantial weight to the harmful effect on highway safety. He agrees with the Inspector that the considerations in favour of the development, taken either collectively or individually, do not amount to very special circumstances of sufficient weight to clearly outweigh the identified harm and to justify inappropriate development in the Green Belt. He therefore concluded it would not be appropriate to grant a two-year temporary planning permission.

APPEAL BULLETIN FOR APRIL 2006



Appeal Ref APP/B1550/A/04/1163385
Application No 03/01026/OUT
Appellant M C O Developments
Location Land to the rear of 26 South Street, Rochford, Essex SS4 1BQ
Decision Dismissed (03.04.06)

The Inspector dismissed the appeal proposal for the development of the site for residential use. The Inspector took into consideration the Essex & Southend-on-Sea Replacement Structure Plan (Policy CS2, HC1, HC2 and T3), the Rochford District Local Plan First Review (Policy UC1 and UC3) and Planning Policy Guidance – Planning and the Historic Environment (PPG 15).

The appeal site lies fairly central to the Rochford Conservation Area. Its location adjacent to Locks Hill and the Back Lane public car park give the site some prominence within the surrounding area. The juxtaposition of the appeal site with the historic frontage development in South Street affords the site significant sensitivity in terms of how development proposals should be assessed.

There is an existing gated access to the site through the main Back Lane public car park and between the surgery and Dolphin House. This is the proposed access to be used as the main access to the residential development. The car park serves a number of residential and commercial premises including the surgery, offices, the Citizens Advice Bureau and a day centre. The Inspector did not consider that the proposed development of the appeal site would result in such significant levels of traffic movement to and from the site, or exiting via the West Street junction, over and above that which is already generated by the use of the busy car park and those who have access from it. The additional traffic generated by the proposed development and its impact on highway safety would not be so significant as should warrant withholding permission in this instance.

The Inspector noted the terms of the arboricultural report and the comments of the County Tree Officer with regard to a number of trees located on the appeal site covered by a Tree Preservation Order.

The Inspector expressed concern as to whether the proposal, in its submitted form, would preserve or enhance the character or appearance of the Rochford Conservation Area, which was so significant as to warrant the rejection of this proposal and dismissed the appeal.

APPEAL BULLETIN FOR APRIL 2006



Appeal Ref APP/B1550/A/05/1188267
Application No 05/00022/OUT
Appellant R Kerr
Location Rear of 130 Ferry Road, Hullbridge, Essex SS5 6EU
Decision Dismissed (24.04.06)

The Inspector dismissed the appeal for proposed development of 5, 2-bed flats. The Inspector took into consideration the Essex & Southend-on-Sea Replacement Structure Plan (Policy BE1 and T3), the Rochford District Local Plan First Review (Policy H20 and H11), Supplementary Planning Guidance Note 1: Housing Development Design & Layout and The Essex Design Guide for Residential and Mixed Use Areas and the Second Deposit Draft Rochford District Replacement Local Plan.

The appeal site lies behind No 130 Ferry Road that is occupied by an estate agent and a local health centre. On either side of No 130 are two properties, whose gardens adjoin the appeal site. The rear gardens of properties in both Mapledene Avenue and Mayfield Avenue back onto the appeal site. The site has a width of some 15 metres with an overall depth of some 65.5 metres. Due to the limited width of the site, to accommodate a development of the size proposed, the full depth of the site would have to be utilised. The associated garden space for the flats is proposed at the far end of the site, at a distance to the units themselves. The parking area would be sandwiched between the flats and the limited amenity space. The Inspector felt that the proposed new flats, behind the existing surrounding frontage properties, would be out of character and appearance with development in the surrounding area.

The proposed layout places the parking spaces hard up against the common boundaries with the neighbouring gardens. Vehicles parking, turning, manoeuvring and passing up and down the proposed driveway in close proximity to the neighbouring gardens would cause unacceptable noise and disturbance to the existing residents.

The Inspector concluded that this backland development would be out of character and appearance with the surrounding area; would unacceptably affect the living conditions of neighbouring residents in terms of noise and disturbance; and would harm highway safety and dismissed the appeal.



Appeal Ref APP/B1550/A/05/1196701
Application No 05/00610/OUT
Appellant Mr M B Rogers
Location Rogers Roost, Opposite 2 Goldsmith Drive, Rayleigh, Essex SS6 9QX
Decision Dismissed (27.04.06)

The Inspector dismissed the development proposed to demolish existing buildings and build 1 dwelling. The Inspector took into consideration the Essex and Southend-on-Sea Replacement Structure Plan (Policy C2), the Rochford District Local Plan First Review (Policy GB1), Planning Policy Guidance Note 2 – Green Belts and the Rochford District Replacement Local Plan Draft for Adoption Showing Changes (Policy R1).

The appeal site comprises land fronting the southern side of Goldsmith Drive, which is an unmade road. The site is in the countryside and not within any settlement in the Rochford District Local Plan First Review. As such, the dwelling would be inappropriate development in the Green Belt. PPG2, in paragraph 3.2, states that inappropriate development is, by definition, harmful to the Green Belt.

The Inspector considered the representations made by the appellant, in order to assess whether there were any matters that would constitute the very special circumstances that might justify allowing a form of development, which is inappropriate in the Green Belt. The appellant submitted that similar buildings have been converted to dwellings and the release of land from the Green Belt for major developments elsewhere. He also stated that there have been buildings on the appeal site since 1986. The Inspector noted that the appellant would prefer to replace the buildings with a dwelling, but this would not accord with Government advice in paragraphs 19-20 of Planning Policy Statement 7 Sustainable Development in Rural Areas and that although the garage and shed are both on footings, and have been used for storage, the Inspector was not persuaded that this outweighs the strong presumption against new residential development in the Green Belt.

The Inspector considered the proposal on its merits and found that it was not acceptable and dismissed the appeal.

APPEAL BULLETIN FOR MAY 2006



Appeal Ref APP/B1550/A/05/1196505
Application No 05/00367/FUL
Appellant Mrs S Howard
Location 1 Heron Close, Rayleigh, Essex SS6 9GF
Decision Allowed with conditions (04.05.06)

The Inspector allowed the appeal and granted planning permission for the conversion of the garage into a playroom in accordance with the terms of the application, Ref 05/00367/FUL, and the plans submitted therewith, subject to conditions.

The appeal site lies within a modern residential estate towards the west of the town. The dwelling on the site is a detached two-storey three bed property located on the corner of Heron Gardens and Heron Close. The appeal property has an attached garage with parking space to the front. Properties within the immediate vicinity of the site comprise a mixture of size and style, detached, semi-detached and terraced, some with on-site parking in the form of attached and detached garages and parking spaces to the front and some with parking courts. There were cars parked on the road itself and within the off-road parking spaces on the day of the Inspector's site visit.

The Council referred to Supplementary Planning Guidance Note 2, Vehicle Parking Standards (LPSPG2), 2003. This provides that in urban locations with poor off-peak public transport services, a maximum of 2 spaces per dwelling is appropriate, and in suburban locations where services are poor, a minimum of 2 spaces for three bedroom properties and a minimum of 3 spaces for four bedroom properties are appropriate. The Council considers that the single space that would remain to serve the appeal property would be insufficient, but did not indicate how the standard should be applied here with respect to public transport services. The Inspector considered that a single off-road parking space to serve this property would be adequate.

The Inspector noted, there are no current restrictions with regard to on-street parking and vehicles would be able to pass with cars parked on one side of the road. The likely level of on-street parking generated by the property would not result in any material harm, particularly given that on-street parking already takes place.

The Inspector concluded that the proposal would not result in a material impact on highway safety or the free flow of traffic nor would it have a harmful effect on the street scene. It would comply with policy H11 and the Supplementary Planning Guidance contained in LPSPG2 and allowed the appeal with the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

APPEAL BULLETIN FOR JUNE 2006



Appeal Ref APP/B1550/H/06/1197956
Application No 05/00936/ADV
Appellant Staples UK Ltd
Location Unit 7, Airport Retail Park, Rochford Road, Southend-on-Sea, Essex
SS2 6FN
Decision Dismissed (15.06.06)

The Inspector dismissed the appeal condition No. 5 which states “Notwithstanding the details on the plans hereby approved, signs 2a and 2b shall not be illuminated at any time without prior written approval of the Local Planning Authority”. The reasons given for the condition is “In the interests of the amenity and character of the area”.

The appeal premises form one half of the easternmost building within a retail park located adjacent to London Southend Airport. The appellants originally occupied the whole of this building and displayed various signs on it, including similar product signs to either side of the main fascia sign. With the division of the building into two separate units, the product signs have been placed side by side on the cladding to the west of the entrance.

The Inspector felt that, set well back from the surrounding roads, in an inside corner position within the retail park, the signs, even when illuminated, would have limited impact in views from outside the retail park. In this respect, the dense greenery alongside the eastern boundary with Rochford Road and the presence of a McDonald’s restaurant to the south of the main car park would very largely screen out views from the wider surroundings. However, the signs would be prominent features within the retail park itself. They would occupy virtually the whole of the area of the cladding, above the canopy walkway, to the west side of the main fascia and store entrance. Although, at 4.6m by 2.1m, they are smaller than the approved internally illuminated entrance sign, they are only marginally so. Together with this sign, the approved illuminated sign above the entrance and some smaller signs on the wall below the canopy, they would result in an extensive display of signs on the premises that would result in an over-intensification of illuminated signage on the store.

The Inspector concluded that the display of the two flexface product signs in internally illuminated form as proposed, would be detrimental to the interests of amenity and dismissed the appeal.

APPEAL BULLETIN FOR JUNE 2006



Appeal Ref APP/B1550/A/06/2008974
Application No 05/00886/FUL
Appellant Regis Group plc
Location Flats 1-6 Anchor Parade, Anchor Lane, Canewdon, Essex
Decision Dismissed (27.06.06)

The Inspector dismissed the appeal proposed for the construction of a new pitched roof incorporating a self contained flat.

Anchor Parade tends to stand out from its surroundings partly because of its height and bulk and partly because it has a flat roof. The proposed development would remedy the latter but at the cost of increasing the height and bulk of the building. The Inspector considered that this would be unacceptable, as the dominance of the building would then become excessive in this village setting. Also, the introducing of new living accommodation in this elevated position would give rise to additional overlooking to the rear of properties at 2, 4 & 4A Rowan Way and in Birch Close and create an overbearing presence in relation to these properties. The setting of the nearby listed Anchor Public House would also be harmed by the proposed increase in bulk of the building. The achievement of high standards of layout and design is a feature of both local and national policy. This proposal would fail to meet these high standards and this indicates that planning permission should be withheld. The Inspector found no matters that indicate otherwise and dismissed the appeal.

APPEAL BULLETIN FOR JUNE 2006



Appeal Ref APP/B1550/A/06/2007176
Application No 05/00823/COU
Appellant Steven Fullbrook
Location 60 Hullbridge Road, Rayleigh, Essex SS6 9QL
Decision Allowed (27.06.06)

The Inspector allowed the appeal and granted planning permission for an approximately 1.8m (6 foot) fence to run parallel with the footpath in Ferndale Road to enclose the rear garden at 60 Hullbridge Road in accordance with the terms of the application ref 05/00823/COU dated 20 September 2005, and the plans submitted therewith.

The appeal site is located on the corner of Ferndale Road and on a service road to the properties set back from Hullbridge Road. In front is a parking area beyond which is a grass verge separating Hullbridge Road from the property. On the other side of Ferndale Road is a wide area of grass verge with some mature trees. The verge on the appeal property side was much narrower than that opposite or in the immediate surroundings. A portion of the grass verge has been retained to the front-facing corner of the property. The Inspector felt that the large number of verges that are visible from Hullbridge Road reduce the fence's impact on the general sense of openness in the surrounding area. He considered that as now enclosed, the area will be maintained in a much more sympathetic manner, with the trees still visible over the fence line, to the benefit of the appearance of the street scene.

The Inspector considered all other matters, including letters from local residents supporting or objecting to the retention of the fence and the concerns over land ownership. However, was satisfied that none of these matters are sufficient to override the decision to allow the appeal.



APPEAL 1

Appeal Ref APP/B1550/A/05/1173277
Application No 04/00776/FUL
Appellant S P C LTD
Location 1 Southend Road, Hockley, Essex SS5 4PZ
Decision Dismissed (08.06.06)
The Development proposed is demolish existing dwelling and erect two storey block of 13 flats and associated parking

APPEAL 2

Appeal Ref APP/B1550/A/05/1193605
Application No 05/00674/FUL
Appellant S P C LTD
Location 1 Southend Road, Hockley, Essex SS5 4PZ
Decision Allowed subject to conditions (08.06.06)
The development proposed is 11 flats and associated parking and cart lodge

Many of the objections sent to the Council in regard to the Appeal 1 proposal referred to the widespread regret at the impending loss of what many saw as a local landmark building and the trees along its Southend Road frontage. A prior approval application was made for demolition. The Council consulted the Essex County Council's Conservation and Listed Buildings Officer and English Heritage. The house was considered unworthy of Listing and permission for demolition was not required. It was then demolished along with trees around the site, including those shown to be retained on the Block Plan for Appeal 1.

The Inspector took into consideration the Rochford District Local Plan First Review (policy H2, H11, H16, /h24, TP15 and UC7)), the Essex and Southend-on-Sea Structure Plan (policy BE1, H3 and H4), the Rochford District Replacement Local Plan (policy HP3, HP6, HP11, HP18 and TP9), Planning Policy Statement 1, Planning Policy Guidance 3 and the Rochford District Replacement Local Plan Supplementary Planning Guidance 1 – Housing Design and Layout.

Appeal 1: Although the Inspector endorsed the general appearance of the building, the frontage to Hockley Rise would appear cramped. Some of the parking spaces would be awkward and potentially hazardous in use and the enjoyment of the garden at 2A would be disturbed from use of other parking spaces. The developer may well be right that there is a market for small flats without useable amenity space but the amenity space would not only provide poorly for private outdoor enjoyment by adults or for young children's needs but it would be inadequate to provide a pleasant setting for the building itself. The Inspector's findings on parking and amenity space provision confirmed her view that this scheme would be an over development of the site. It would make more efficient use of this previously developed site in an urban area but at the expense of the character and appearance of the area contrary to the aims of local policy and national guidance and dismissed the appeal.

Appeal 2: The Inspector considered that the scheme would have a pleasant appearance complementary to other development nearby and without appearing cramped in Hockley Rise. The scheme still lacks useable amenity space but there is at least sufficient to

provide an attractive setting and appropriate spacing for the scheme where it adjoins lower density housing. Neither the lack of useable amenity space nor the reservation the Inspector had about one of the parking spaces are determinative and both are outweighed by the benefits of making efficient use of a quite well located urban site.

The Inspector allowed the appeal and granted planning permission for 11 flats and associated parking and cart lodge at 1 Southend Road in accordance with the terms of the application, Ref 05/00674/FUL, dated 6 August 2005 and the plans submitted therewith, subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of five years from the date of this decision.
- 2) The building shall not be occupied until a means of vehicular access has been constructed in accordance with the approved plans.
- 3) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing No DMG/05/189/3 for 11 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.
- 4) The car spaces to be provided shall be retained and kept available for the parking of cars at all times and none shall be dedicated to a particular flat or occupier.
- 5) Forward visibility at the junction of Hockley Rise and Southend Road shall be provided across the site to the boundary with Harris Court in accordance with drawing No DMG/05/189/3 and no obstruction of more than 600m high shall be placed or planted forward of that line.
- 6) No development shall take place until a plan showing a 1.5m y 1.5m forward visibility splay back from the footway has been submitted to and approved by the local planning authority. No obstruction of more than 600m shall be placed or planted forward of that line.
- 7) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; hard surfacing materials and minor artefacts and structures (eg. Furniture, refuse or other storage units and lighting etc).
- 8) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 9) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the design and materials of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.
- 10) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 11) Notwithstanding the details shown on the plans hereby approved, no development shall commence until further details of the roof design of the central building block facing Hockley Rise shall be submitted to and approved in writing

by the local planning authority. Development shall be carried out in accordance with the approved details.

- 12) No development shall commence until details of the proposed slab levels in relation to natural and finished ground levels of the site have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 13) Before development commences the access to Southend Road shall be permanently stopped up and no construction traffic shall deliver or enter the site other than from Hockley Rise.
- 14) With respect to any condition that requires the prior written approval of the local planning authority, the works thereby approved shall be carried out in accordance with that approval unless subsequently otherwise approved in writing by that local planning authority.

An application for costs was made by S P C Ltd under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5). The Inspector considered that unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93 had not been demonstrated and, therefore, concluded that an award of costs was not justified and refused the application.

APPEAL BULLETIN FOR JULY 2006



Appeal Ref APP/B1550/A/06/2008151
Application No 05/00851/FUL
Appellant Mr R Foley
Location Land rear of 11 Ridgeway, Rayleigh, Essex
Decision Dismissed (12.07.06)

The Inspector dismissed the appeal for the proposed erection of one 4 bedroom bungalow and garage. The Inspector took into consideration the Rochford District Local Plan First Review 1995 (policy H20).

The appeal location currently forms part of the rear garden of No. 11 Ridgeway and would have access via a part-shared driveway alongside the existing property. The proposed bungalow would also be to the rear of No 9 Ridgeway, 30, 30a and 32 High Road and adjacent to the current telephone exchange.

Development of the garage up to the boundary and the potential removal of some boundary planting would significantly alter the developed appearance of the site to the occupiers of 30 to 32 High Road. Screening by 2m fencing would not be enough to reduce the overbearing appearance of the property.

The amount of fencing required in an attempt to ensure privacy confirmed to the Inspector that overlooking is a major issue and that such fencing would inadequately address all his concerns. The loss of land to No. 11 would also reduce the size of its garden and be detrimental to any occupiers of the property.

In summary the proposal would provide very little private space for its occupiers and would encroach on neighbours' privacy to the detriment of all parties' living conditions. The means of access would be inadequate and unsatisfactory and would cause harm to neighbours. The Inspector found that the proposal would be contrary to policy H20 and dismissed the appeal.

APPEAL BULLETIN FOR JULY 2006



Appeal Ref APP/B1550/A/06/2007834
Application No 05/00871/FUL
Appellant Quest End Developments
Location Quest End, Rawreth Lane, Rayleigh, Essex SS6 9PZ
Decision Dismissed (31.07.06)

The Inspector dismissed the appeal to erect five garages with a two bedroom flat over.

Development of the site for thirteen terraced houses was granted permission earlier this year and is under construction (ref 05/00491/FUL). This case relates to part of that site and proposes a flat above a garage block in the same position as a garage block approved in the above application, together with two additional parking spaces.

The Inspector considered the effect of the proposal on the living conditions of neighbouring occupiers with reference to privacy and outlook. The proposed building would have a bedroom window in the front elevation that would be some 6m from the rear elevation of plot 8. The Inspector felt the distance between the proposed flat and plot 8 would result in substantial overlooking of the rear windows and rear garden to that plot and that it would be unreasonable to use obscure glazing of part of the proposed only bedroom window.

The window and balcony to the living room of the proposed flat would be some 5.5m from a bedroom window in the front elevation of plot 9 and some 7m from the kitchen and bedroom windows in the front elevation of plot 10. Notwithstanding that viewing would be from an oblique angle and that those windows are on the public side of the dwelling, the Inspector considered that the distance between the proposed flat and plots 9 and 10 would result in substantial overlooking.

The Inspector concluded that the proposed development would cause significant harm to the living conditions in terms of privacy to the occupiers of plots 8, 9 and 10 and in terms of outlook to the occupiers of 7 and 8 Farmview, contrary to policy H16 in the Rochford District Local Plan First Review and policy H11 in the Rochford District Replacement Local Plan and dismissed the appeal.

APPEAL BULLETIN FOR JULY 2006



Appeal Ref APP/B1550/A/06/2009119
Application No 04/01131/FUL
Appellant Quest End Developments
Location Quest End, Rawreth Lane, Rayleigh, Essex SS6 9PZ
Decision Allowed subject to conditions (31.07.06)

The Inspector allowed the appeal and granted planning permission for the demolition of existing industrial units and house and construction of 15 residential units. The Inspector took into consideration the Rochford District Local Plan First Review (policy H11), the Rochford District Replacement Local Plan (policy HP6) and Planning Policy Guidance Note 3 – Housing.

Development of the site for thirteen terraced houses was granted permission earlier this year and is under construction. The development proposed is for an identical scheme, with the exception of one additional detached house and an additional flat above a garage block. A concurrent appeal (ref APP/B1550/A/06/2007834) has also been made against the refusal of permission for a flat and garage block on a different part of the same site.

Plots 1-3 are under construction, forming a terrace of three houses with a frontage to Rawreth Lane. The proposed plot 4, a detached house, would form a mirror image to plot 3 on the opposite side of the access road. The dwellings between the appeal site and Caversham Park Avenue to the west are set on a consistent building line. Those between the appeal site and Farm View to the east are set on a staggered building line. As the proposed development would be sited between two different building lines, the Inspector considered that it would sit comfortably within the existing frontage, would not cause significant harm to the character and appearance of the street scene and accord with policy H11 in the Rochford District Local Plan First Review and policy HP6 in the Rochford District Replacement Local Plan.

The proposed flat (plot 5) above a garage block would have habitable room windows in the front elevation which would be some 12.8m from the side boundary of the rear garden of St Ives, an existing dwelling fronting Rawreth Lane. In view of the distance and siting at right angles to this property and the size of its garden, the Inspector did not consider that a significant amount of overlooking would occur. The proposed windows would also be some 24m from the rear windows of 11 Caversham Park Avenue, sited at an angle of some 30°. The Inspector was satisfied from his site visit that, in view of the distance and angle of the proposal from this property, there would not be a significant loss of privacy to those occupiers, and the proposed development would not result in significant harm to the living conditions of neighbouring occupiers and accords with policy H16 of the Rochford District Local Plan First Review and policy HP11 of the Rochford District Replacement Local Plan.

The Inspector granted planning permission in accordance with the terms of the application, Ref 04/01131/FUL, dated 20 December 2004, and the plans submitted therewith, subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
- 2) No development shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the position, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwellings are occupied. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows, other than those expressly authorised by this permission, shall be constructed on the northeast facing elevations of the dwelling on plot 5.

APPEAL BULLETIN FOR AUGUST 2006



Appeal Ref APP/B1550/A/05/1181505
Application No 05/00247/FUL
Appellant Mr & Mrs T Connolly
Location Highfield Lodge, Church Road, Hockley, Essex SS5 4SS
Decision Allowed and planning permission granted subject to conditions (03.08.06)

The Inspector allowed the appeal for the proposed development to 'retain use of garage as a games room, to carry out alterations to front elevation of garage and to retain link between garage and house'. The Inspector took into consideration the Essex and Southend-on-Sea Replacement Structure Plan, the Rochford District Replacement Local Plan (policy R1 and R5) and Planning Policy Guidance (PPG)2: Green Belts.

The appeal property is in an area of sporadic development between the village of Hockley and the railway line, within the Metropolitan Green Belt. Highfield Lodge has previously been extended, with planning permission by 32.25m². The link between the house and the former garage now used as part of the games room has a floor area of 3.1m². Thus in conjunction with the previous extensions, it breaches the 35m² limit set by policy R5 by 1%. The original (rear) part of the adjacent garage, which before construction of the link was detached but is within 5m of the house, has been converted to a games room including an en-suite toilet and shower. This has brought an additional 33m² or so of floorspace into habitable use as defined by the note to policy R5. The front part of the garage was formerly a carport in front of the original garage. Permission to replace it with a ridge roof front extension to the garage was granted in 2000 subject to conditions including that it be used solely for the parking of vehicles and for no other purpose which would impede vehicle parking. Conversion of this part has added a further 20m² of habitable floorspace to the house. It was submitted for the appellants that policies C2, R1 and R5 are not applicable to this element of the development as it involves conversion and re-use of an existing building rather than an extension. The Council contended that the conversion is effectively an extension and so does fall within the ambit of the policies.

On the issue of whether the development is appropriate in the Green Belt, the Inspector came to the conclusion that use of the garage as a games room and the link between the house and garage are contrary to policy R5 and inappropriate in the terms of C2 and R1.

The Council expressed concern about the potential for further conversion of the garage/games room to extra bedrooms or other living accommodation. This could increase the number of people living in the property, thereby adding to traffic and parking requirements. Such harm could be precluded through a planning condition and, the Inspector, considered it would be necessary for the protection of the Green Belt.

The Inspector concluded that for such a relatively minor development, this appeal has raised some complex planning issues, however, granted planning permission for use of garage as a games room, alterations to front elevation of garage and a link between garage and house in accordance with the terms of the application ref 05/00247/FUL and the plans submitted with it, subject to the following conditions:

- 1) The alterations to the front elevation of the garage hereby permitted shall begin before the expiration of five years from the date of this decision.
- 2) No development shall take place until details of the materials to be used in the external surfaces (including windows) of the alterations to the front elevation of the

garage hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 3) The garage, use of which as a games room is hereby permitted, shall be used only as a games room ancillary to the use of the main part of the house or for the parking of cars unless otherwise approved in writing by the local planning authority.

APPEAL BULLETIN FOR AUGUST 2006



Appeal Ref APP/B1550/A/06/2013047
Application No 05/01006/FUL
Appellant Mr & Mrs Elswood
Location 43 Wellsfield, Rayleigh, Essex, SS6 8DW
Decision Allowed (18.08.06)

The Inspector allowed the appeal, taking into consideration the Rochford District Local Plan First Review (policy H11). The single issue in this appeal relates to the effect of removing Condition 3 on the living conditions of the occupiers of the adjoining properties, with particular reference to privacy.

Condition 3 requires the two main windows in the proposed extension to be glazed with obscure glass, and to be non-opening up to a height of 1.7 metres. The Council's main concern relates to the possibility of overlooking from the proposed extension into the windows and gardens of the adjoining properties in Hambro Hill.

The Inspector noted that the nearest properties in Hambro Hill are Nos 21 and 25. The boundary between the appeal site and both of these adjoining dwellings is fenced with close-boarded fencing to a height of around 1.8 metres. In addition, within the rear boundary of No 21 is a dense screen of conifer trees, which have currently been trimmed to a height well above the top of the fence. The Inspector felt that these evergreen trees, together with the fence, preclude any likelihood of No 21 being overlooked from the rear. In the rear garden of No 25, close to the appeal site boundary, is a brick garage or outbuilding which likewise exceeds the height of the boundary fence and provides additional screening.

In the Inspector's view the neighbouring properties are more than adequately screened against any potential view from the appeal property. He also was under the belief that the imposition of obscure glazing and non-opening lights would be likely to involve some adverse consequences for the occupiers of the appeal property, in terms of reduced outlook and ventilation.

The Inspector concluded that the Condition in question should be removed. Allowing the proposed single-storey side extension without Condition 3 would not conflict with policy H11 or give rise to any other adverse consequences and allowed the appeal and to vary the planning permission granted by the Council by deleting the disputed Condition.

APPEAL BULLETIN FOR AUGUST 2006



Appeal Ref APP/B1550/C/05/2004249
Appellant Lola Gibbs
Location Land at Woodside, Granville Road, Hockley, SS5 5LF
Decision Dismissed (23.08.06)

The requirements of the enforcement notice are to remove the building, all structures, building materials and rubble, and restore the land to its condition before the breach took place by levelling the ground and reseeded with grass where appropriate. The Inspector took into consideration the national guidance of PPG 2 Green Belts and relevant local policies.

The site is in the Metropolitan Green Belt and therefore subject to the presumption against inappropriate development.

The appellant stated that the building serves for residential purposes, including a swimming pool and entertainment area, ancillary to the dwelling "Woodside" in the curtilage of which it lies. The Inspector noted, in its isolated rural setting, "Woodside" is itself a bungalow of significant size and prominence, and in its design and proportions the leisure building represents a not dissimilar addition to the built form to be seen at the site.

The appellant stated a smaller building could be erected as permitted development and that they have obtained a lawful development certificate in respect of a proposed building differing from that now in place largely in that it would have a ridge height of 3.8m rather than 6.1m. The relevant permitted development rights set limits to what can be built in this Green Belt area without express permission. The Inspector felt it unsound to argue that very special circumstances should include some tolerance zone where an excess over the permitted development limits should necessarily be sanctioned.

The Inspector concluded that the building is a disproportionate addition to the existing dwelling and the excess in permitted development rights is appreciable in this case and dismissed the appeal, upheld the notice and refused planning permission.

APPEAL BULLETIN FOR AUGUST 2006



Appeal Ref APP/B1550/A/06/2014259
Application No 05/00708/OUT
Appellant L S Mummery (Nurseries) Ltd
Location Rosedene Nurseries, Barling Road, Great Wakering, Essex
Decision Dismissed (29.08.06)

The Inspector dismissed the appeal for outline permission to erect a pair of 3 bed semi-detached chalet dwellings. The Inspector took into consideration the Rochford District Local Plan First Review, the Rochford District Replacement Local Plan (policy R1 and HP6), Planning Policy Guidance: Green Belts (PPG2) and the Essex and Southend-on-Sea Replacement Structure Plan 2001 (policy C2)

The appeal site which lies within the Metropolitan Green Belt, comprises a plot of land adjacent to Barrow Hall Road, east of its junction with Barling Road. The plot, currently part of Rosedene Nursery, has a frontage of some 23m and is adjoined by minor development on both sides with open agricultural land opposite.

The Inspector was of the opinion the proposal to erect a pair of new three bedroom semi-detached dwellings represents inappropriate development in the Green Belt, the size of the development would have a harmful impact on the openness of the Green Belt.

The appellant asserted that Stonebridge, the local name for the area around the appeal site, is of an urban character and it is unreasonable to apply the restrictive policies to minor infilling. The Inspector agreed that the proposal could be classed as infilling, but did not agree that Stonebridge is urban in nature; in his view Stonebridge is more akin to a rural hamlet.

The appellant's second matter is that the proposal has the support of national and structure plan policy, which encourages developers to make more efficient use of land within urban areas. However, as stated above this site is not, in his view, an urban area and in this situation, other development control policies outweigh the general aims of making efficient use of land.

The Inspector concluded that harm to the Green Belt by reason of inappropriateness and the harm caused to the openness of the Green Belt, together with the harm to the character and appearance of the locality would not be clearly outweighed by any matters that could comprise very special circumstances and dismissed the appeal.



APPEAL A

Appeal Ref APP/B1550/C/06/2005722
Application No 01/00219/COU_C
Appellant Mr A Colver
Location The Hut, Burlington Gardens, Hullbridge, Hockley, Essex SS5 6BE
Decision Dismissed and the enforcement notice is upheld with corrections
 (06.09.06)

The breach of planning control as alleged in the notice is the change of use of the land for the stationing of a caravan (mobile home) for residential and/or storage uses. The requirements of the notice are to:

- i. Remove the caravan (mobile home), restore the land to its condition before the breach took place by levelling the ground and re-seeding with grass; and
- ii. Stop using any part of the site for the siting of caravans and incidental equipment.

The ground of the appeal is that by the date when the notices were issued, no enforcement action could be taken in respect of the breaches of planning control. It is accepted for the Appellant that in the past this breach of planning control, comprising a material change of use, took place on the land. The use, however, is argued to be immune from enforcement having commenced in the 1970s and having subsequently subsisted in excess of the 10 year period during which enforcement action can be taken as laid down by s171B(3) of the Act with no abandonment of the use or any material change occurring during any later period of inactivity.

In order for the stationing of the caravan for human habitation to be immune from enforcement action, a period of 10 years continuous active use would need to be shown between 27 July 1982 and 14 November 1995. Notwithstanding his argument about applying the provisions of the Act retrospectively, the Appellant's case is that the use was, in any event, active from the 1970s right up to 1992 and beyond so that it became lawful at that stage. Subsequently, there was a dormant period of some years, when the use was neither abandoned nor supplanted by another use, before activity resumed when the site changed hands in May 2001.

In a sworn declaration of Raymond Meredith (family member who actively used the site) of 20 August 1992 states "There is now a shell of a caravan on the site". The Appellant argues that such a description does not necessarily mean that the caravan was incapable of occupation, but the word "shell" in the Inspector's mind conjures up a specific image of an empty case and he could see no reason why Mr Meredith would have used such a description had the caravan remained fitted out and capable of human habitation.

The Inspector felt the most telling evidence in this matter is that provided in the statement of Mr Meredith dated 20 August 1992 which gives a strong indication that the use of the site for the stationing of a caravan for human habitation had ceased for some time with only the shell of a caravan remaining. That being the case, the unauthorised use having ceased and there being no activity on the land against which the local planning authority could have taken enforcement action, it could not have become lawful when the provisions of the amended s191 and the new s171B of the 1990 Act came into force on 27 July 1992. The use of the site would by that time have reverted to the lawful single primary use for open leisure purposes. The Inspector had regard to all other documentation submitted in evidence, including aerial and other photographs of the site,

but found nothing to lead him to a different conclusion. The unlawful use did not resume until May 2001 and thus a later 10 year period cannot be demonstrated.

The Inspector did not agree with the Council's view that, following cessation of use for human habitation, the caravan was subsequently stored on the site. When it ceased to be occupied, the structure appears simply to have been left there and is not a functioning storage use. The burden of proof in this case rested with the Appellant and the evidence that the Inspector had, indicated, on the balance of probability, that on the date when the notice was issued it was not too late to take enforcement action in respect of the breach of planning control alleged, that is the stationing of a caravan for human habitation.

The Inspector concluded that the appeal should not succeed, upheld the enforcement notice with corrections (detailed below) and refused to grant planning permission on the deemed application.

- a) The deletion of paragraph 3 and the substitution therefore of the following "Change of use from open leisure purposes to a mixed use for open leisure purposes and for the stationing of a caravan for purposes of human habitation", and
- b) The deletion of paragraph 5 and the substitution therefore of the words "Cease using the land for the stationing of a caravan for purposes of human habitation, remove the caravan and all items brought onto the land in association with that use and restore the land to its condition before the breach took place by levelling the ground and reseeding with grass".



APPEAL B

Appeal Ref APP/B1550/C/06/2005723
Application No 01/00219/COU_C
Appellant Mr A Colver
Location The Hut, Burlington Gardens, Hullbridge, Hockley, Essex SS5 6BE
Decision Dismissed and the enforcement notice is upheld with correction (06.09.06)

Ground (d)

The breach of planning control as alleged in the notice is the erection of an ancillary timber building and hardstanding/parking areas etc.

The requirements of the notice are to:

- i. Remove all the above mentioned ancillary timber building and hardstanding/car park; and
- ii. Remove from the site all structures, building materials and rubble arising from compliance with requirement i. above and restore the land to its condition before the breach took place by levelling the ground and re-seeding with grass.

For an appeal under this ground to succeed, the operational development, that is the existing hardstanding, would have to have been substantially complete 4 years before the service of the notice to be immune from enforcement action, that is by 14 November 2001.

Written and oral evidence from witnesses suggest that when the site was owned by the Meredith family, hardcore was laid down at the access into the site and in a strip across the full width of the property at the front. That surface became so overgrown over time that in later years it was not discernible. The Appellant said he had to strim away the grass that had grown through it before he laid road planings on top to form the current surface in June/July 2002.

Taking into account what was on the site before works were undertaken by Mr Colver and what is there now, it is quite apparent that there has been a significant and permanent change to the land which has altered the physical character at the front of the site. The works took place less than 4 years before the service of the notice so that the appeal on ground (d) fails.

Ground (a)

The ground of appeal is that planning permission should be granted for what is alleged in the notices.

The appeal site is situated within the Metropolitan Green Belt. Planning Policy Guidance 2 and local policies in the Essex and Southend Replacement Structure Plan 2001 and the Rochford District Replacement Local Plan set out a presumption against inappropriate development within the Green Belt.

The Appellant suggested that the development on the appeal site can be seen as acceptable infilling between two developed sites, however, the Inspector disagreed; he

felt that the stationing of a caravan on this site for human habitation results in a loss of openness and a change in the nature of the site from one which contributes to the predominant rural undeveloped character of the area to one with a more urban nature resulting from the presence of the mobile home and the domestication of the site arising from the residential use, including the extensive formal hardstanding to the front and the large timber building to the rear.

The Inspector found no other considerations that individually or cumulatively outweigh the harm by reason of inappropriateness or amount to very special circumstances required to justify the inappropriate developments in the Green Belt. The appeals on ground (a) fail.

Ground (f)

The ground of appeal is that the steps required to comply with the requirements of the notice are excessive and that lesser steps would overcome the objections. In the Inspector's consideration of the appeals under ground (a), he found the Appellant's suggestion that all that is required is a landscaping/planting scheme would not overcome the harm he had identified. The requirements of the notices do not exceed what is necessary to remedy the breaches of planning control or to remedy the injury to amenity that has been caused. The appeals on ground (f) fail.

The Inspector directed that the enforcement notice be corrected by the deletion from paragraph 3 of the word "etc." Subject to this correction, the appeal was dismissed, enforcement notice upheld and planning permission refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

APPEAL BULLETIN FOR SEPTEMBER 2006



Appeal Ref APP/B1550/C/06/2005995
Application No 05/00198/BLDG_B
Appellant Mr J Welbourn on behalf of Allied Construction Ltd
Location Land to the East of Trenders Hall, Trenders Avenue, Rayleigh, Essex
SS6 9RG
Decision Allowed (07.09.06)

The breach of planning control as alleged in the notice is without planning permission, the demolition and rebuilding of the buildings hatched and marked '1' and '2' on the plan attached to the enforcement notice by the erection of walls, roof structure framework and other ancillary works.

Appeal Ref APP/B1550/C/06/2005995
Application No 05/01046/FUL
Appellant Mr J Welbourn on behalf of Allied Construction Ltd
Location Land to the East of Trenders Hall, Trenders Avenue, Rayleigh, Essex
SS6 9RG
Decision Allowed, planning permission granted subject to conditions (07.09.06)

The development proposed is retention of rebuilding work to barn together with completion of rebuilding operations; use for office purposes as previously permitted (04/00944/COU)

The Inspectors main issues in these appeals are firstly, whether the rebuilding of a former barn, to provide office accommodation, constitutes development appropriate to this part of the Metropolitan Green Belt, secondly whether the site's location along an unmade road remote from an urban centre gives rise to an office development with poor access and sustainability credentials, thirdly the impact of the development upon wildlife interests and lastly whether there are any very special circumstances that could warrant the retention of otherwise inappropriate development in the Green Belt.

The Inspector took into consideration the Essex and Southend-on-Sea Replacement Structure Plan (Policy C2, T1, T3, HC3 and RE2) and the Rochford District Replacement Local Plan (Policy R1 and R9).

The appeal site is situated on the western side of a largely unmade track, well outside any urban centre. The closest form of public transport is an infrequent bus service running along Rawreth Lane, the closest highway maintainable at public expense, approximately 500m to the south. Moreover, forward visibility along parts of the unmade track, which also has no footways, is poor, visibility at the junction of Trenders Avenue with Rawreth Lane is restricted in both directions and the road is poorly lit. As a consequence, the possibility of gaining access to the appeal premises by modes of transport other than the private car (walking, cycling and public transport) is limited and lacking in appeal and the unsatisfactory nature of the highway in carrying traffic of any kind is heightened by encouraging additional traffic generated by a commercial use along this thoroughfare.

A statutory requirement of section 66(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 (LBCA) should be accorded great weight as a special circumstance regarding the determination of these appeals. This states that, in considering whether to grant planning permission for development that affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special

regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Trenders Hall and most of its former farm buildings, of which the appeal building was one, are now in separate ownership. However, for most of the former barn's existence, they were part of one commercial farm operation. The current appearance of Trenders Hall dates from the prosperous period of Victorian "High Farming", when the nineteenth century working farmhouse, which is the image it presents today on its main southern frontage, would have been newly altered. The Inspector was convinced that the surroundings of this listed building should be kept as close as possible to the state they were in at the time that these important alterations to the listed building were carried out.

Historic plans submitted indicate that the barn on the appeal site was in place throughout this period. Moreover, its northern wall provided the southern side of a traditional enclosed farmyard to the east of the farmhouse. Taking these two factors into consideration, the Inspector considered a void where a barn has traditionally stood for some two hundred years would unacceptably harm the setting of the listed building, whose current appearance postdates the erection of a barn on this site.

The Inspector agreed with a statement, dated 19 January 2006 made by Mr Carpenter, Senior Historic Buildings Advisor to Essex County Council. In it he says "The barns in question appear to have no historic or architectural significance in themselves and are largely built of modern materials. The proposals would leave them looking more attractive than they have been in a long time, which could only be to the benefit of the setting of the listed building. Indeed, the raising of roof pitches (to accommodate Essex vernacular clay plain or peg tiles that are not normally laid on roofs with a slope of less than 45°) has improved their overall appearance".

The Inspector concluded that a new barn type building, put to an office use that was granted to its previous structure by Rochford District Council, would represent such a clear-cut improvement to the setting of Trenders Hall, that this significantly outweighs the harm to Green Belt openness and the location of office floorspace in a location with few alternatives to travel by private car and suffering from general highway shortcomings. The Inspector found the very special circumstances, deriving from the improvement to the setting of the listed building, clearly offset the inappropriateness of the development in the Green Belt and all other harm, therefore, both appeals succeeded on their planning merits with the following conditions:-

- 1) Within three months of the date of this decision, samples of the materials, to be used in the construction of the external surfaces of the building hereby permitted, shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or with any subsequent variation as may be agreed in writing by the local planning authority.
- 2) The premises shall be used for offices and for no other purpose [including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification].
- 3) Within six months of the date of this decision a scheme of hard and soft landscaping for the site shall have been submitted to the local planning authority, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and shall include details of schedules of species, size,

density and spacing of all trees, shrubs and hedgerows to be planted, areas to be grass seeded or turfed, including cultivation and other operations associated with plant and grass establishment, paved or otherwise hard-surfaced areas, existing and finished levels shown as contours with cross-sections if appropriate, means of enclosure and other boundary treatments, car parking layouts and other vehicular access and circulation areas, minor artefacts and structures such as outdoor seating and refuse or other storage units and existing or proposed functional services above or below ground such as drainage, power and telecommunications cables and pipelines, together with positions of lines, supports and manholes.

- 4) Such details agreed by the local planning authority in the approved details of landscaping shall be carried out in their entirety by the end of the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 5) The use of the buildings hereby permitted shall be limited to the employment of not more than seven persons working on the site, unless otherwise receiving the prior agreement in writing of the local planning authority.
- 6) No storage of any equipment, materials or goods shall take place in the open areas of the site, after completion of any building works associated with this planning permission.
- 7) Within three months of the date of this decision, a plan shall be submitted to the local planning authority showing the detailed means of access to the site, which shall include all necessary drainage; the details shall be implemented in accordance with the approved details before the occupation of the buildings or the completion of the development, whichever is the sooner.
- 8) Within three months of the date of this decision, a plan shall be submitted to the local planning authority showing the means of artificial lighting of the site; the details shall be implemented in accordance with the approved details before the occupation of the buildings or the completion of the development, whichever is the sooner.
- 9) Within three months of the date of this decision, a nature conservation management plan, including features for protection of the existing natural habitats during the course of construction work and long-term management responsibilities and maintenance schedules for all wildlife conservation areas, shall be submitted to the local planning authority. This shall be approved prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The long-term management plan shall be carried out as approved, unless otherwise agreed beforehand in writing by the local planning authority.

APPEAL BULLETIN FOR SEPTEMBER 2006



Appeal Ref APP/B1550/A/05/1183582
Application No 05/00105/FUL
Appellant Mr A Fairclough
Location The Yard, Trenders Avenue, Rayleigh, SS6 9RG
Decision Dismissed (19.09.06)

The Inspector dismissed the appeal proposed to redevelop reclamation yard and construct 3 detached 5-bedroom houses with double garages and access from private drive. The Inspector took into consideration the Essex and Southend-on-Sea Replacement Structure Plan (Policy C2, T1, T3 and T8), the Rochford District Replacement Local Plan (Policy R1) and Planning Policy Guidance Note 2: Green Belts.

The appeal site is an area of sporadic plotland development in a setting of fields and paddocks and served generally by unmade roads within the Metropolitan Green Belt. Having regard to the criteria in PPG2 and the development plan the Inspector felt the proposals comprise inappropriate development in the Green Belt.

The site is 500m along Trenders Avenue from Rawreth Lane. The first section of Trenders Avenue from Rawreth Lane has a reasonable surface of bituminous material. However, beyond that it is an unmade track with potholes in places. There are no footways but some street lighting, although not of high quality. There is an hourly bus service to Southend and Chelmsford on Mondays to Saturdays but no service on a Sunday or later in the evening. The Inspector stated that the appeal proposals would not be readily accessible by means other than the car. As such, the proposed development would not accord with the aims of policies T1 and T3.

The appellant estimates that there are some 50 daily traffic movements associated with the current use of the appeal site over 6 days of the week. Of these about 20% are lorries, the remainder being cars, vans and light trucks. On average a new dwelling would generate about 8-10 vehicle movements each day giving 24-30 in total from the appeal proposals. The Inspector considered the likely reduction in traffic on Trenders Avenue that would result from the appeal proposals and, in particular, the removal of most lorry movements would be beneficial to highway safety and concluded that the proposed development would not have a significant adverse effect on highway safety or conflict with the relevant aims of policies T3 and T8.

The appeal site is mostly well screened from view from nearby roads by boundary hedgerows and fencing. The existing buildings and stored materials are visible from Trenders Avenue through the fencing on the site frontage. The appeal proposals would involve the construction of three substantial 2-storey dwellings with steeply pitched roofs, with one of the dwellings towards the Trenders Avenue frontage and, due to its height and mass, would have a more dominant appearance than the structures and materials associated with the reclamation yard.

The Inspector concluded that there would be a number of benefits arising from the appeal proposals, but was not persuaded that in combination amount to very special circumstances that would outweigh the harm to the Green Belt and dismissed the appeal.



Appeal Ref APP/B1550/A/06/2010216
Application No 05/00633/FUL
Appellant Mr N Barratt
Location 289 Ferry Road, Hullbridge, Hockley, Essex SS5 6NA
Decision Dismissed (05.10.06)

The Inspector dismissed the appeal for the proposed demolition of existing dwelling and erection of single block of 16 flats with associated car parking, landscaping and amenity space. The Inspector took into consideration the Essex and Southend-on-Sea Structure Plan (Policy BE1), the Rochford District Replacement Local Plan (Policy HP6 and HP11) and PPS3.

The site is currently occupied by a substantial detached chalet-style house, which is largely screened from Ferry Road by a mature cupressus hedge. It is located within the settlement boundary of Hullbridge opposite a public car park and bus turning area and close to local shops and other facilities. At the Hearing the Council and the Inspector agreed that the site is in a sustainable location and that the principle of redevelopment with flats is acceptable. Nevertheless, the Inspector stated that there is a need to ensure that where higher densities are sought, as in this case, the proposal should be compatible with the character of the area.

The scheme has been designed with the two-storey element adjacent to No. 293 Ferry Road. There will be no habitable room windows facing the adjacent bungalow from the new flats and the height of the structure would be similar to that of the existing single dwelling. The appeal site is approximately 0.6m-0.8m above the level of the adjacent property. This fact reinforced the Inspectors concerns as to the impact of the bulky north flank elevation of the block upon the amenities of the residents of No. 293. In particular, the new structure will in places be only 1m from the common boundary and will extend rearwards beyond the building line of No. 289. Whilst the existing house is visible from No. 293 it is some 6.5m from the fence line. The siting of the proposed block so close to the common boundary, with no scope for meaningful landscaping, is likely to create unacceptable overshadowing and will represent a dominant and overbearing structure as viewed from the patio area of that property.

The Inspector concluded that the harmful effect upon the occupiers of No. 293 adds further weight to his concerns about the overall design, siting and layout of the scheme and dismissed the appeal.



Appeal Ref APP/B1550/A/06/2016963
Application No 05/00933/FUL
Appellant Ms W Manning
Location 30 Holt Farm Way, Rochford, Essex SS4 1SU
Decision Allowed (12.10.06)

The Inspector allowed, and granted planning permission to demolish the existing garage, subdivide plot and erect a two-bedroom detached chalet. The Inspector took into consideration PPS1 (Delivering Sustainable Development), PPG3 (Housing), Rochford District Replacement Local Plan (Policy HP6 and HP14) and the Essex and Southend-on-Sea Replacement Structure Plan (Policy T3 and T11).

Numbers 28 and 30 Holt Farm Way are semi-detached dwellings. Number 28 has a single storey side annex extension, adjacent to the boundary to number 30. The appeal site is currently occupied by a detached garage and is located between numbers 30 and 28.

The existing driveways of Nos 28, 30, 32 and 34 currently converge and access Holt Farm Way via a large communal tarmacaded area. The driveways then diverge with those serving Nos 28 and 30 abutting one another with no boundary wall or fence until some distance from the kerb. A minimum gap of about 4m exists at the corner of No 30 and the side boundary with No 28. The proposal is for a single garage with parking to the front of it for the new dwelling and two parking spaces for No. 30. In order to accommodate a 2.4m wide access to the existing and new dwelling the proposed second parking space for No 30 would be substandard in width. The Inspector considered that the provision of one parking space for No 30 and two parking spaces for the proposed dwelling, averaging 1.5 spaces per dwelling, would be adequate and would comply with Government Guidance.

The proposed access drive would be a minimum of 2.4m wide, not the 3.65m for a shared surface sought by the Highway Authority. The Inspector noted that there is a clear line of sight from the garage and parking space for the proposed dwelling to Holt Farm Way and due to the limited number of vehicle movements which would be associated with the proposed dwelling, the proposed access is acceptable and would not result in a hazard to pedestrians or vehicles using the access drive.

The Inspector concluded the proposal would provide adequate parking for No 30 and the proposed dwelling and that the limited increase in vehicle activity and the layout of the access would not be detrimental to highway safety and allowed the appeal subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with approved details.
- 3) The dwelling hereby permitted shall not be occupied until the garage and car parking spaces to serve it and the parking space and access to it for 30 Holt Farm Way have been provided in accordance with the approved drawings. Thereafter the garage and spaces shall be kept available for the parking of cars at all times.



APPEAL A

Appeal Ref APP/B1550/E/06/2014636
Application No 05/00918/LBC
Appellant Mr D Keddie
Location The Lawn, Hall Road, Rochford, Essex SS4 1PJ
Decision Dismissed (18.10.06)

The Inspector dismissed the appeal to erect a new winter garden to the existing hall at The Lawn. The Inspector took into consideration Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Planning Policy Guidance Note 15 – Planning and the Historic Environment (PPG15), the Essex & Southend-on-Sea Replacement Structure Plan (policy C2) and the Rochford District Local Plan First Review (GB1 and UC7).

The Lawn is a Grade II listed former dwelling house set within a private estate of some 47 hectares within the Metropolitan Green Belt. The proposal is to erect a single-storey side extension of about 144m² described in the application as a winter garden. The style and facing materials of the extension would broadly reflect those of the host building whilst the balcony and colonnade on the southern elevation of the existing house would be extended across the full width of the extension. The purpose of the extension is stated as being to overcome operational difficulties arising from the nature and extent of the existing accommodation.

The Inspector considered that, in listed building terms, an extension such as is proposed would be broadly acceptable. However, the Inspector expressed two concerns; the proposal to continue the existing colonnade and balcony across the southern face of the extension, albeit with a modest recess at the junction between the extension and the house, would not achieve the stated objective of unifying the winter garden with the main building. On the contrary, the elongation of the elevation in this way would create an imbalance in the overall composition, resulting in an uncomfortable relationship between old and new, to the detriment of the integrity of the main house. The second concern was with the pattern of fenestration in the west elevation and, in particular, the number of spacing of windows.

The Inspector considered the design of the extension, as currently proposed, to be unsatisfactory and detrimental to the character and setting of the main building and concluded that the proposal would fail to preserve the special architectural and historic interest of the building and its setting, in conflict with Policy UC7 and contrary to Government advice in PPG15 and dismissed the appeal.



APPEAL B

Appeal Ref APP/B1550/A/06/2015861
Application No 05/00917/FUL
Appellant Mr D Keddie
Location The Lawn, Hall Road, Rochford, Essex SS4 1PJ
Decision Dismissed (18.10.06)

The Inspector dismissed the appeal to erect a new winter garden to the existing hall at The Lawn. The Inspector took into consideration PPG2, PPG15, the Essex & Southend-on-Sea Replacement Structure Plan (Policy C2) and the Rochford District Local Plan First Review (Policy GB1).

PPG2 states that all new building in the Green Belt is inappropriate unless it is for one of the purposes set out in paragraph 3.4 while paragraph 3.2 states that inappropriate development, by definition, harmful. It also states that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The Appellant contends that the proposal is justified by the former existence of the now demolished west wing, by a need to safeguard the future of the listed building and by the commercial need for additional space to overcome operational deficiencies in the use of the building for its lawful purpose.

The Inspector appreciated the need for the business to remain competitive. However, there was nothing before him to indicate that its viability is in doubt or that there is a pressing need for enabling development to safeguard the building's future maintenance. The Inspector sympathised with the Appellant's operational difficulties but felt this matter should have been predicted when the change of use application was made and which ought reasonably to have been addressed at that time.

The Inspector concluded the matters did not, individually or collectively, constitute very special circumstances and felt the proposed extensions would represent inappropriate development in the Green Belt that would cause harm by reason of both inappropriateness and loss of visual amenity and dismissed the appeal.

APPEAL BULLETIN FOR OCTOBER 2006



Appeal Ref APP/B1550/A/06/2018219
Application No 06/00099/FUL
Appellant Mr & Mrs Potter
Location Long Ridings, Greensward Lane, Hockley, Essex SS5 4JP
Decision Dismissed

The Inspector dismissed the appeal proposed to remove part of the rear roof and construct a first floor rear extension to a bedroom on the existing ground floor footprint. The Inspector took into consideration the Essex and Southend-on-Sea Replacement Structure Plan (Policy C2), the Rochford District Local Plan First Review (Policy GB1 and GB7), the Rochford District Replacement Local Plan (Policy R1 and R5) and Planning Policy Guidance 2: Green Belts (PPG2).

The appeal site is within the Metropolitan Green Belt and the dwelling has previously been extended from its original size by some 38.8 square metres of habitable floorspace. Thus, the existing extensions have extended the original dwelling beyond that allowed under Policy R5.

The proposal would remove the existing dormer window and straighten up that part of the wall so that it would be the same depth as the adjoining first floor rear wall. The plans show that the external bedroom wall would be extended by some 0.35 metres, increasing the habitable floorspace by some 2.43 square metres. The Inspector considered that the extension proposed together with the previous extensions would be disproportionate additions over and above the size of the original building and would therefore be inappropriate development, which PPG2 advises is, by definition, harmful to the Green Belt.

The previous extensions to the dwelling have radically changed its appearance. The Inspector felt that the proposed extension from a small dormer window to a full two-storey wall with gabled roof over would exacerbate that change, diminishing the sense of openness by virtue of the significant increase in bulk and mass of the dwelling.

The Inspector concluded that there are no material factors that amount to the very special circumstances needed to outweigh the presumption against inappropriate development in the Green Belt and dismissed the appeal.



APPEAL BULLETIN FOR NOVEMBER 2006

Appeal A Ref	APP/B1550/A/06/2009316/NWF
Appeal B Ref	APP/B1550/A/06/2015906/NWF
Application No	05/00537/OUT
Appellant	Trustees of The Peaceful Place
Location	Land at Hullbridge Road, Rayleigh, Essex SS6 9QS
Decision	Dismissed and planning permission refused

The Inspector dismissed the appeals to erect a 20 bed nursing/care home (Use Class C2) with day care facilities together with the formation of a new access onto Hullbridge Road. The Inspector took into consideration the Essex and Southend-on-Sea Replacement Structure Plan (policy C2), the Rochford District Local Plan First Review (policy GB1), the Rochford District Replacement Local Plan (policy R1) and PPS1 Delivering Sustainable Development.

The site lays some 2.25km north of the centre of Rayleigh in a position about midway between the northern boundary of this settlement and the southern boundary of Hullbridge. To the north and west respectively the site adjoins the curtilage of the 2-storey house "Woodville", and land that has been divided into a number of plots by fences. A bridleway separates the south site boundary from undeveloped land. To the east of the site beyond Hullbridge Road is a golf course. The site lies in the Metropolitan Green Belt.

The Inspector did not dissent from the Appellant's assertion that the proposed building would be sustainable with regard to insulation, energy consumption, recycling and the like, but the issue here relates to sustainability in terms of transport. The site is some 2km from Rayleigh railway station and it lies on a bus route served by 4 buses an hour during the day. It was mentioned that residents would not be car owners, and like those persons using the day care facilities, they would be transported to the site by ambulances or buses owned by the Appellants. The Inspector noted that unlike many sites in the wider neighbourhood the appeal site is essentially free from built development that currently generates traffic. Any traffic to the appeal proposals would be additional traffic on the local highway network.

The occupier of the dwelling "Woodville", the curtilage of which adjoins the north site boundary, suggests that the enjoyment of his property would be detrimentally affected by traffic movement and associated noise generated by the appeal proposals. The Inspector agreed that this objection was well founded.

The Inspector concluded that the proposed development, although of a low profile would detract from the openness of the Green Belt and that no very special circumstances exist that outweigh the harm that the appeal proposals would cause to the openness of the Green Belt and dismissed Appeal A and dismissed Appeal B and refuse to grant planning permission for the development proposed in application Ref 06/00087/OUT.

APPEAL BULLETIN FOR DECEMBER 2006



Appeal Ref APP/B1550/A/06/2021821
Application No 06/00287/OUT
Appellant L S Mummery (Nurseries) Ltd
Location Rosedene Nurseries, Barling Road, Great Wakering Essex SS3 0NB
Decision Dismissed (12.12.06)

The Inspector dismissed the appeals to erect a pair of 2 bed bungalows. The Inspector took into consideration the Replacement Essex and Southend-on-Sea Structure Plan (policy C2), the Rochford District Replacement Local Plan (policy R1 and R2) and PPG2: Green Belts.

The appeal site and the settlement of Stonebridge Barling are situated within the Metropolitan Green Belt. The proposed dwellings would occupy a gap in the frontage of a row of detached houses and bungalows in the hamlet of Stonebridge. There is open farmland opposite the site and another gap within frontage development to the west of the appeal site, which belongs to the appellant.

The Inspector noted the proposal does not conform to local and national policies for the protection of the Green Belt. It does not conform to the list of developments that may be appropriate in the Green Belt and would conflict with the main objective of policies, which is to keep the area open.

The Inspector concluded that no very special circumstances exist that would clearly outweigh the harm that would be caused firstly, to the Green Belt by reason of inappropriateness or the harm to its openness and secondly, to the rural character of the locality and dismissed the appeal.