

PLANNING DEVELOPMENT CONTROL COMMITTEE

29 July 2010

PLANNING APPEALS – SUMMARY OF DECISIONS (DC CASES) AND
ENFORCEMENT CASE DECISIONS - FROM 1 JANUARY 2010 – 31 MARCH
2010

REPORT OF THE HEAD OF PLANNING MANAGEMENT

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RECENT REFERENCES:

Relevant planning applications files.

EXECUTIVE SUMMARY:

This Report provides a summary of appeal decisions received during 1 January 2010 – 31 March 2010. Copies of each appeal decision are available on the Council's website.

Enforcement Case appeal decisions are listed from page 23.

RECOMMENDATION:

That the Report be noted.

PLANNING DEVELOPMENT CONTROL COMMITTEE

29 July 2010

Planning Appeals – Summary of Decisions (DC Cases) and Enforcement
Case Decisions - from 1 January 2010 – 31 March 2010

Report of the Head of Planning Management

Planning Appeals – Summary of Decisions (DC Cases) 1 January 2010 – 31 March 2010

Item No: 1			
Date of Inspector's Decision:	13th January 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	W	Costs:	Appellants Costs Dismissed
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/00189/FUL	Ref No:	W09310/09
Case Officer:	Mr Rob Riding		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		
Proposal:	Use of land for storage of buses		
Location:	Poplars Farm Curdrige Lane Curdrige SO32 2BH		

Summary of Inspector's Decision

The appeal related to the continued use of an area of agricultural land for the storage of buses which had been refused planning permission. The Inspector identified the main issues as being the effect of the use on the character and appearance of the area and whether the buses would cause an unacceptable nuisance by reason of excessive noise and disturbance.

In assessing the case the Inspector noted that the site is in a remote countryside location with little boundary screening to prevent views of the five buses parked on the land. Visually it was found that the buses represented an alien and intrusive feature within the rural landscape giving rise to an untidy site rather than one actively used for agricultural. The Inspector found that the appellant had failed to submit any evidence to show why the appeal site is essential for operational reasons, demonstrate that no other locations

could be equally suitable or provide a landscaping scheme.

The Inspector considered that the number of vehicular movements created by the use was not significant to cause any material difference to the conditions of highway safety and convenience in Curdridge Lane and did not give rise to any possible nuisance in terms of noise and fumes.

Due to the visual harm, the appeal was dismissed.

The appellant in contesting the appellant also made an application for costs against the Council. The appellant argued that the Council had acted unreasonably by providing no evidence to support the reason for refusal concerning the alleged noise and disturbance and the Council were also unwilling to enter into negotiations with the appellant at various stages in the planning process. However, the Council argued that their position with regard to nuisance was clear throughout and was not based solely on views expressed by local residents but was a matter of professional judgement. Furthermore, the Council refuted the unwillingness to enter negotiations as there were fundamental objections to the use which were made clear at all stages and there was no merit in discussing a revised application.

In considering the arguments put forward by both parties the Inspector could not identify any material shortcomings in the way that the Council had acted and their actions did not amount to unreasonable behavior. Accordingly, the application for costs was refused.

Item No: 2			
Date of Inspector's Decision:	14th January 2010	Inspector's Decision:	Appeal Allowed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			

Case No:	09/00299/TPO	Ref No:	WTPO/0020/371
Case Officer:	Mr Ivan Gurdler		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	16 Lime trees - remove new growth back to pollard points
Location:	Dawnhill Sleepers Hill Winchester SO22 4NG

Summary of Inspector's Decision

The inspector allowed the appeal and attached two conditions to his report in respect of the time limit for the work and to ensure that correct pruning practice is observed. The inspector didn't consider the work to be detrimental to the health and visual amenity of the trees and felt that the justification for carrying out such was sufficient. It was also questionable as to whether or not these trees were covered by a valid TPO.

Item No: 3			
Date of Inspector's Decision:	18th March 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	P	Costs:	Appellants Costs Dismissed
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/00649/FUL	Ref No:	W18753/02
Case Officer:	Lorna Hutchings		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Replacement of existing bungalow with 10 no. dwellings comprising 3 no. one bed flats, 2 no. two bed houses, 1 no. three bed dwelling and 4 no. four bed dwellings. (MAY AFFECT THE SETTING OF A LISTED BUILDING AND CONSERVATION AREA). Please note this application is now being decided by the Secretary of State as an appeal. Please send any comments you may have to the Planning Inspectorate by 11th January 2010.
Location:	Townsend Northend Lane Droxford SO32 3QN

Summary of Inspector's Decision

Main issues were the effect of the development on the character and appearance of the area and whether it would preserve - the landscape quality, the Conservation Area and the setting of Listed Buildings. The Inspector concluded that this would not be overdevelopment in principle and appropriate density would depend on good design and layout. He found the site prominent, is a transition between village and countryside and redevelopment would have a significant effect on the locality by extending the development of the more intensively developed part of the village northwards.

The proposed block (8, 9, and 10) was found to be unduly prominent in relation to the front elevation of Northend House. It's height on the elevated

site, length and eastwards projection and closeness to the listed building would have a dominating effect so as to harm the quality of the setting. It would also harm to a lesser degree the setting of Fir Hill due to the flank wall of 8 projecting in front of the tree line and its prominent location. The quantity of built form and abrupt change of character would have an unduly dominant and urbanising effect on North End Lane. The amorphous shape of the courtyard lacks integrated character and the front building separation would diminish the sense of enclosure giving undue prominence to boundary treatments. The tree line would diminish the quality of the indoor and outdoor living space of 6 and 7. Overall the manner in which it would relate to the village remained unsatisfactory and fell short of the high quality of design that the location needs. The proposal failed to respect or preserve the distinctive character and appearance of its surroundings, but would respect the AONB. There was not a compelling case that the need for market dwellings would outweigh the absence of affordable housing. It would be necessary for the development to contribute to the supply of affordable housing but the need for recreational open space was not proved.

Item No: 4			
Date of Inspector's Decision:	20th January 2010	Inspector's Decision:	Appeal Allowed
Appeal Procedure (see code below):	P	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			

Case No:	08/01937/FUL	Ref No:	W21223
Case Officer:	Mr Steve Opacic		
Original Decision Type:	Committee Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Residential development comprising of 90 dwellings (including affordable housing) associated garaging and car parking, new vehicular/pedestrian accesses to Worthy Road and Francis Gardens and pedestrian footpath from Nuns Walk, landscaping, play area and open space (THIS APPLICATION MAY AFFECT THE SETTING OF A PUBLIC RIGHT OF WAY)
Location:	Land At Francis Gardens Winchester

Summary of Inspector's Decision

This site is allocated as a 'Local Reserve Site' in the Winchester District Local Plan Review and the main reason for refusing the application related to housing land supply. The Council did not seek to defend this reason given

up-to-date assessments of land availability and other technical objections were addressed by planning conditions or obligations. Therefore the appellant and the Council agreed that the appeal should be allowed subject to conditions/obligations.

The Inspector considered the housing land availability situation and other issues, taking account of objections from local residents, including when the Police Headquarters site might deliver any housing. On this issue the Inspector concluded that 'at most only a small number of units would be likely to come forward there before the end of the 2009-14 5 year period' and went on to conclude that 'the prospect of development on that site does not alter the agreed position between the main parties that there is a significant shortfall in land supply'.

The Inspector assessed the proposed development against the advice in PPS3 relating to the situation where the local authority cannot demonstrate an up-to-date 5 year supply of deliverable sites (PPS3, paragraph 71). He concluded that the proposal 'fully accords with the relevant advice in PPS3' and that 'the release of the site now is justified'.

The Inspector also considered the various matters which were to be secured by planning condition/agreement, including affordable housing (at 40%), highway improvements, landscape and open space, and a contribution towards education improvements. Subject to some minor variations the Inspector supported the conditions and obligations sought and allowed the appeal. As the Council had accepted that there was a shortfall of housing land, the appellant did not seek an award of costs.

Item No: 5			
Date of Inspector's Decision:	5th January 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	P	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/00477/FUL	Ref No:	W10015/03
Case Officer:	Mrs Jane Rarok		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Temporary siting of two residential caravans for occupation by gypsies and travellers (as defined by Circular 01/2006) for a period of two years (THIS APPLICATION MAY AFFECT THE SETTING OF A PUBLIC RIGHT OF WAY) (RETROSPECTIVE)
Location:	Land Opposite Hambledon Infant School Church Lane Hambledon

Summary of Inspector's Decision

This was a joint appeal against an Enforcement Notice issued on 12 March 2009 and the refusal of retrospective planning permission for the temporary use of land for the siting of 2 gypsy caravans and the construction of an ancillary shed.

The inspector considered that the main issues were the impact on the character and appearance of the surrounding rural area, bearing in mind the appeal site's location in the East Hampshire Area of Outstanding Natural Beauty, in the designated South Downs National Park, within the setting of 2 listed buildings, and within Hambledon Conservation Area; and the living conditions of the occupiers of nearby residential properties.

The inspector considered that the fencing around the caravans and shed obscured views through into the open countryside, and from the open countryside into the pretty village. It was intrusive and obtrusive in views, unattractive and out of keeping. The caravans and the shed were similarly unattractive, visible over the fencing, and unexpected and uncharacteristic in this part of the countryside. In consequence the development caused unacceptable harm to the Area of Outstanding Natural Beauty and the designated National Park. It also failed to preserve the open rural character of this part of the Conservation Area, and the setting of the historic village, and hence failed to preserve the character of the whole Conservation Area.

Prior to moving onto the site Mrs Rogers, the appellant's mother, and her 2 sons lived in a council house in Hambledon for 15 years. The Council did not dispute that the appellant and his family came from an ethnic gypsy family and that in previous years, before moving into the council house, they led a nomadic lifestyle. However, there was little evidence of traveling whilst living in the council house. The family visited gypsy fairs, but not for work. They also went to family gatherings several times a year. However, there has to be a recognisable connection between the wandering or traveling, and the means whereby the persons concerned make or seek their livelihood.

It was the prospect of eviction from the house, due to rent arrears, that seemed to cause the family to move into the 2 caravans on the appeal site. Moreover, the appeal did not include touring caravans, for a nomadic purpose, which would be usual for a gypsy site. For all of these reasons, the

Inspector adjudged that the appellant and his mother and brother did not fall within the statutory definition of “gypsies and travellers”.

Accordingly, there was no justification for granting planning permission for non-gypsies to live in caravans on a caravan site, even for a temporary period. It is in an area where residential development has to be strictly controlled, and there is no agricultural or forestry justification to warrant allowing this unacceptable development, and which is so very damaging to the special qualities of the countryside in this area.

Since the appellant and his family had taken up residence it had been reported that there has been noise from car and vehicle doors shutting, noisy works to form hardstandings involving substantial vehicle movements, a generator running, raised voices, and dogs barking. Although the situation with the generator appeared to have been controlled, there was clearly an unacceptable effect on the immediate neighbours due to noise, which was not present to such an extent when the site was only used as a paddock for grazing horses, a quiet and peaceful activity. Moreover, caravans are not well insulated against the transmission of noise from inside them, and also moving around and talking outside them, and inside and outside the shed, is likely to be disturbing to nearby residents. This is also likely to be more upsetting in the early morning or late evening. The noise from the development adds to the harm that it causes to the rural area and therefore fails to satisfy Local Plan Policy DP.3 (vii).

Whilst the Council had withdrawn their reason for refusal relating to highway concerns, Church Lane is a very narrow road, and there is already potential, if not actual, conflict with vehicles and other users including, particularly, schoolchildren, parents and teachers. However, it appears that the reason was withdrawn because it was stated that no commercial business was run from the site. That is clearly wrong, as the landscaping business is run from the site, and the vehicles used for that business add to the potential for accidents in the locality. This added yet further harm to those issues that the Inspector had already identified.

As the Inspector had concluded that the appellants were not gypsies, the unmet need for gypsy sites and the fact that there were no gypsy sites for the appellant and his family to go to, were not relevant to his decision.

The Inspector considered that the decision not grant permission would, in all likelihood, interfere with the appellant's right to a home and require him and his family to vacate the land, which has to be regarded as their home, without any certainty of suitable alternative accommodation being readily available. However, he further opined that the appellant, and his mother and brother, chose to leave the council house, and moved onto the land without planning permission unlawfully, and the likelihood was that he would not get planning permission for the development.

In view of the number of national designations on the land, and the importance in terms of national policy of safeguarding the National Park, the

Area of Outstanding Natural Beauty, and the Conservation Area from unacceptable and harmful development, the Inspector considered that his conclusion was proportionate to the legitimate public interest aim pursued, that is, the economic well-being of the country and the protection of the rights and freedoms of others.

The appeals were dismissed and the Enforcement Notice upheld.

Item No: 6			
Date of Inspector's Decision:	22nd January 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/00587/FUL	Ref No:	W03930/11
Case Officer:	Mr Ian Cousins		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Construction of agricultural barn for storage of agricultural machinery and materials
Location:	Popes Farm Popes Lane Lower Upham SO32 1JB

Summary of Inspector's Decision

The Inspector considered that there was no justification for the barn in this location and that it would be detrimental to the outlook from the rear of the neighbouring residential properties. It was also considered that the barn would detract from the landscape quality of the area which is within the designated South Downs National Park.

Item No: 7			
Date of Inspector's Decision:	29th January 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/00169/FUL	Ref No:	W11683/04
Case Officer:	Miss Megan Birkett		

Original Decision Type:	Delegated Decision
Was Decision Overturned at Committee?	No

Proposal:	Erection of entrance gates walls and boundary fence
Location:	Salam Manor Curdrige Lane Waltham Chase SO32 2LQ

Summary of Inspector's Decision

The inspector dismisses the appeal and upholds the enforcement notice insofar as it relates to the erection of entrance gates and wall and refusal is given for planning permission for the erection of entrance gates and wall at Salam Manor. The inspector considered that the gates and wall look significantly out of place in this countryside setting due to their height, design, materials and prominence. Therefore due to the prominent location of the walls and gates they are seriously harmful to the rural character and appearance of the surrounding area and contrary to policy DP3.

Item No: 8			
Date of Inspector's Decision:	14th January 2010	Inspector's Decision:	Appeal Allowed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			

Case No:	08/02714/FUL	Ref No:	W17362/03
Case Officer:	Mr Nick Fisher		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	1 no. two storey chalet style dwelling; alteration to alignment of existing drive
Location:	Rushcutters 125 Downs Road South Wonston SO21 3EH

Summary of Inspector's Decision

The Inspector considered that the main issue is the effects of the proposed dwelling upon the character and appearance of the street-scene, and on the living conditions of future occupiers.

He found that the position of the proposed dwelling would not harm the character of the area. Whilst he felt that the design would be unremarkable he considered that it would not stand out within the area and its appearance would be acceptable. He determined that the relationship with the character of the area and appearance of the proposals would be acceptable.

The Inspector considered that the distance from the new building to other dwellings would be acceptable and would not harm the neighbours' living conditions.

Item No: 9			
Date of Inspector's Decision:	8th March 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	I	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/01043/FUL	Ref No:	W16870/02
Case Officer:	Mr Dave Dimon		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		
Proposal:	Change of use of part of an existing barn to a 1 bed flat (RETROSPECTIVE)		
Location:	The Yard Trampers Lane North Boarhunt		

Summary of Inspector's Decision

Main Issue - is the effect that the development has on the character and appearance of the surrounding rural area.

Theft could not have been dealt with so readily if the appellant was not living at the site but this may have had a deterrent effect in its own right which cannot now be considered separately from the occupation of the flat. The need for the flat for security has not been adequately addressed.

PPS7 states that isolated new houses in the countryside require special justification. The justification for the flat does not relate to the essential need for a worker to live permanently at or near their place of work. There would seem no reason why the accommodation needs of the business could not be met within one of the nearby settlements. Security alone cannot provide special justification.

Little weight can be attached to sustainability in terms of living and working in the same place.

It has not been shown that the building without the flat would not be suitable for agricultural/employment use.

In time the residential use would be likely to harm the character of the countryside because of the domestication and comings and goings.

Item No: 10			
Date of Inspector's Decision:	8th March 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/00826/FUL	Ref No:	W13728/12
Case Officer:	Nick Parker		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		
Proposal:	Two storey side extension with double garage		
Location:	The Old Vicarage Main Road Hursley SO21 2JW		

Summary of Inspector's Decision

Appeal dismissed. The Inspector concluded that whilst the proposed extension would have a neutral effect on the character and appearance of the conservation area it would result in unacceptable harm to the special architectural and historic interest and setting of the listed building. The Inspector judged these to be compelling objections and concluded that both appeals should be dismissed.

Item No: 11			
Date of Inspector's Decision:	8th March 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/00864/LIS	Ref No:	W13728/13LB
Case Officer:	Nick Parker		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Two storey side extension with double garage
Location:	The Old Vicarage Main Road Hursley SO21 2JW

Summary of Inspector's Decision

Appeal dismissed. The Inspector concluded that whilst the proposed extension would have a neutral effect on the character and appearance of the conservation area it would result in unacceptable harm to the special architectural and historic interest and setting of the listed building. The Inspector judged these to be compelling objections and concluded that both appeals should be dismissed.

Item No: 12			
Date of Inspector's Decision:	11th February 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/00325/FUL	Ref No:	W10377/05
Case Officer:	Mr Simon Avery		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Development of 10 no. one bed and 2 no. two bed flats with commercial space at ground floor level following demolition of The Heart in Hand PH (RESUBMISSION)
Location:	Heart In Hand 40 Bar End Road Winchester SO23 9NP

Summary of Inspector's Decision

The appeal site is a corner plot, on the east side of the junction of Bar End Road with Milland Road. It is presently occupied by a public house, with a car park to the rear and a garden on its south side. The proposals envisage a 2-storey building, designed to appear as 2 separate elements, with a 2-storey link joining them together. Access to the rear car park would be through an archway off Milland Road. The Council has not raised an objection to loss of

the public house as the proposal includes a ground floor commercial floor space to be situated on the corner with a large showroom window on both frontages. While the Inspector found the basic concept and the height of the development acceptable, he had reservations about the extent of its footprint and considered the design an inadequate response to this prominent corner site on a principal access route. The proposals were not a sufficiently positive or creative response and the design as a whole lacked coherence, partly because it consisted of 2 separate designs, with a weak 2-storey link between them. This lack of coherence was also evident in the roof form and fenestration of the corner block, while the southward extension of the development and its end elevation facing down Bar End Road presented an uninteresting approach to the city, somewhat lacking in character. A further concern arose from the extent and bulk of the building, which resulted in a rather cramped and dominant built form, at odds with the somewhat more spacious character of neighbouring development. The Inspector also considered that building very close to the back edge of the pavement in Bar End Road as proposed would have left inadequate space for any effective frontage landscaping and potentially may have lead to a poor environment for the occupiers of the ground floor flats within the development. Another concern related to the windows of 4 first floor flats within the development which would have faced towards the rear garden of no. 1 Milland Road. In this regard it was concluded that the proposals would be likely to give rise to a significant loss of privacy.

Item No: 13			
Date of Inspector's Decision:	20th January 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			

Case No:	08/02727/FUL	Ref No:	W01961/17
Case Officer:	Mrs Jill Lee		
Original Decision Type:	Committee Decision		
Was Decision Overturned at Committee?	Yes		

Proposal:	Erection of 1 no. three bedroom and 1 no. one bedroom semi-detached dwellings on land to the rear of 97 Harestock Road with associated parking/landscaping using existing access to Lovett Walk (RESUBMISSION)
Location:	Warren Acres 97 Harestock Road Winchester SO22 6NY

Summary of Inspector's Decision

Site forms part of the garden area of 97 Harestock Road. Proposal was for 2 no new residential dwellings. The Inspector considered that the introduction of development into the generous rear garden would change the character of the area producing a more congested environment. The density proposed was 46 dwellings per hectare much greater than surrounding development but within government guidance but the Inspector considered that the density comparison would be emphasised due to the close proximity of the proposed building to the boundary. The proposed building would be unduly prominent in relation to 95 Harestock Road and also 97 Harestock Road. The Inspector noted that the access would be off Lovett Walk which is characterised by detached dwellings in a spacious environment. The development would appear to be too large for its site and appear incongruous. Screening is entirely reliant on the existing hedge. The creation of the access for the 2 dwellings would make it busier at the end of Lovett Walk and would add to the impression of more congested surroundings and cause inconvenience to the negotiation of this narrow road. The proposed dwellings would have very small private amenity areas but they do not infringe any standards published by the Council or elsewhere, however they would contrast strongly and unfavourably with the spaciousness of the surrounding area. The modern design would provide a jarring element. Although each criticism in itself would not justify refusing the scheme, cumulatively they would have an adverse effect on the surroundings. The Council's officers recommended approval of the appeal scheme considering it to be an improvement on the previously refused scheme but the Inspector concluded that the scheme would still be harmful to the character and appearance of the area.

Item No: 14			
Date of Inspector's Decision:	2nd February 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			

Case No:	09/00626/FUL	Ref No:	W21423
Case Officer:	Mr Nick Fisher		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Erection of 5 bed dwelling with attached garage and garage to existing property
Location:	Land To Rear Of 10 Spring Lane Colden Common

Summary of Inspector's Decision

The Inspector considered that an increase in the density of the development to erect two units dwelling would result in a cramped form of development at odds with the newly constructed dwellings nearby. He considered that the erection of one dwelling at the site (as proposed) was the correct approach and when consideration was given to the density of the newly erected housing estate the addition of one dwelling would be appropriate. The proposal was therefore not at odds with policy H7 of the Local Plan

The Inspector considered that the requirement of a contribution towards Hampshire County Council's Transport Improvement scheme to improve nearby bus stops within Colden Common failed to meet tests (iv) fairly and reasonably related in scale and kind to the proposed development; and (v) reasonable in all other respects, of the circular regarding contributions. The Inspector concluded that the Council's reason for refusal regarding the failure to make a contribution was not justified.

With regard to the failure to provide a contribution towards public open space, the Inspector concluded that the council has adopted a formulaic approach and that it was entirely reasonable to require a contribution. The appeal was dismissed on the basis that the applicant had not made a contribution to public open space.

Item No: 15			
Date of Inspector's Decision:	27th January 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			

Case No:	08/02648/FUL	Ref No:	W08345/05
Case Officer:	Lisa Booth		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Change of use of stables and tack room to a two bed dwelling
Location:	Windy Ridge Stables Botley Road Curdridge

Summary of Inspector's Decision

The Inspector considered the main issues in this appeal against the refusal to permit change of use of stables and tack room to a two bed dwelling to be the sustainability of the proposed development and the effect on the character

and appearance of the open countryside.

In the first case the Inspector found that the appeal site is in the open countryside, close to Curdridge but that settlement is remote from a range of services and facilities, the nearest being in Botley, some 2km distant. The proposal therefore did not meet PPS7 or local plan objectives in terms of sustainable development objectives. Also, although exceptions are possible for new dwellings in such areas if they are required for agricultural, forestry or other rural occupation this is provided that a number of stringent tests are met, which include that there is a clear functional need, that the need relates to a full time worker and that the requirement could not be met by another dwelling in the area. No material had been put forward to elaborate that the occupiers would help at the adjacent Beechwood Farm and operate a form of equestrian centre as they stated or to demonstrate any functional need.

Secondly the Inspector considered that whilst the building itself is substantially screened from view from Botley Road, the change of use would result in a different appearance of the appeal site and introduce a range of domestic paraphernalia to the detriment of the character and appearance of the area, contrary to Government and Council policy.

The Inspector also agreed that the proposal failed to satisfy the Council's open space funding policy in regard to a contribution towards to identified deficiencies and improvements at the local recreation ground which he considered was justified.

The appeal was accordingly dismissed.

Item No: 16			
Date of Inspector's Decision:	31st March 2010	Inspector's Decision:	Appeal Allowed
Appeal Procedure (see code below):	I	Costs:	Appellants Costs Allowed
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			

Case No:	09/00072/FUL	Ref No:	W03147/29
Case Officer:	Mr Simon Avery		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Retention of mobile home as an agricultural dwelling
Location:	Fir Tree Farm Bishops Wood Road Mislingford Fareham PO17 5AT

Summary of Inspector's Decision

The site lies within the countryside where new dwellings would normally only be permitted if it has been satisfactorily demonstrated that, in agricultural or forestry terms, there was a need. The main issue in this appeal was whether or not there was clear evidence of a firm intention and ability to develop the enterprise concerned in accordance with the requirements of paragraph 12 (Annex A) of PPS7. The Inspector considered that a significant indication of the appellant's intentions and commitment to the enterprise was the fact that he has given up his employment as an HGV driver and was concentrating on developing the business on a full time basis especially bearing in mind the current economic situation. The County Land Agent (representing the Council) agreed that this was evidence of an intention to develop the enterprise. This conclusion is reinforced by the fact that the enterprise has been planned on a sound financial basis. This appeal had to be heard twice as it transpired that the first Inspector had had previous involvement with the site in another capacity, a matter which she only recalled the night before the appeal. In this regard, costs were awarded against the Council due to the late submission of the Council's Appendices. The Inspector took the view that, had the appendices been submitted on time, the first Inspector would have realised earlier that she had previously dealt the site and another Inspector could have been appointed.

Item No: 17			
Date of Inspector's Decision:	18th February 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	I	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			

Case No:	09/01160/FUL	Ref No:	W01898/17
Case Officer:	Lorna Hutchings		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Replacement detached four bedroom dwelling (RESUBMISSION)
Location:	Lower Chase Farm Lower Chase Road Swanmore SO32 2PB

Summary of Inspector's Decision

The main issue was the effect on the proposed replacement dwelling on the character of the countryside which falls in a Local Gap.

The inspector considered that the existing property displays several attractive features of a scale and appearance which is appropriate to its countryside setting and is not visually significant but is very prominent in views.

The significant increase in size was found to result in the proposed being more dominant, emphasised by the buildings appearance. Nothing else was similar in the area and the size and style would look incongruous in this setting. The size and appearance of the proposal would harm the character of the landscape and its scale, design and layout would not respond positively to the local environment. Therefore the requirements of Local Gap policy would not be met.

Item No: 18			
Date of Inspector's Decision:	12th January 2010	Inspector's Decision:	Appeal Allowed
Appeal Procedure (see code below):	H	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/01627/FUL	Ref No:	W21564
Case Officer:	Mrs Jane Rarok		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		
Proposal:	Formation of new vehicular access and on site parking area		
Location:	2 Station Hill Itchen Abbas Winchester SO21 1BB		

Summary of Inspector's Decision

The Appeal was to construct a vehicle access directly from Station Hill, Itchen Abbas. The proposal results in the loss of a section of hedge and embankment, and engineering works to change levels to accord with appropriate highways standards. The Inspector recognised that Itchen Abbas has many hedges along the road side and the loss of this hedge and its replacement with an access drive and hardstanding would cause some harm to the character of the village and the National Park. However he also felt that the hedge was more "varied and scrubby" than some of the others and that reduced the weight he gave its contribution to the natural beauty of the South Downs.

The Inspector also considered that the site was the only property without

vehicle access, and as the village had no shop and the on street parking is some walking distance from the house added significant weight to the benefits for the occupiers of the house.

On balance he considered that the hedge was "rather mediocre.....of many existing openings and the unique circumstances for this section of road" he considered that the harm to the character of the area was outweighed by the benefits to the appellant and future occupiers. He considered that these benefits outweighed any conflict with Local Plan policies.

Item No: 19			
Date of Inspector's Decision:	8th February 2010	Inspector's Decision:	Appeal Allowed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/00578/FUL	Ref No:	W04558/04
Case Officer:	Mr Andrew Rushmer		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		
Proposal:	Proposed fixed and obscure glazed dormer to north west (front) elevation, replacement obscure glazed windows on north west (front) elevation with clear glazing and proposed window in south west elevation		
Location:	The Binding House Bishops Sutton Road Bishops Sutton SO24 0AN		

Summary of Inspector's Decision

The Inspector noted that the requirement for the window to be obscure glazed had been imposed in a previous application, but considered that despite this the overlooking from this window was oblique and at some distance from the garden of the neighbouring property and considered that this did not result in a material degree of overlooking and hence there was no reason to require that this window be obscure glazed.

The non-opening obscure glazed window in the dormer, which had been deemed unacceptable in a previous application due to the perception of overlooking, was also considered to be acceptable by the Inspector, as it would not be possible to see out of it & so it could not give rise to overlooking. The Inspector noted the planning history of the site, but stated that her decision had been based on the individual merits of the application and the current planning policies.

Item No: 20			
Date of Inspector's Decision:	21st January 2010	Inspector's Decision:	Appeal Allowed
Appeal Procedure (see code below):	H	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/01690/FUL	Ref No:	W01770/03
Case Officer:	Beverley Morris		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		
Proposal:	Shed on top of garage roof (Retrospective)		
Location:	4 Cheriton Road Winchester SO22 5EQ		

Summary of Inspector's Decision

The Inspector considered the main issue to be the impact of the development on the Winchester Conservation Area. The Inspector considered that the fact that the shed had been stained dark green and additional planting had been put in place had softened the appearance of the shed and made it less conspicuous. The Inspector concluded that whilst the location of the shed is unusual it is not obtrusive in the street scene and does not appear out of character with the surrounding area. The Inspector also considered that the shed was not harmful to the character or appearance of the conservation area and that the limited glazing would not give rise to significant overlooking of neighbouring gardens.

Item No: 21			
Date of Inspector's Decision:	5th February 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	H	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/01177/FUL	Ref No:	W10198/04
Case Officer:	Mr Ian Cousins		
Original Decision Type:	Committee Decision		
Was Decision Overturned at Committee?	Yes		
Proposal:	Erection of a two storey side extension, first floor side and rear extension and front porch		

Location:	Sherbrooke Otterbourne Road Compton SO21 2RT
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Summary of Inspector's Decision

The Inspector considered that, whilst accepting the window to the dining room of the neighbouring property is a secondary window, the development will be detrimental to the outlook and amenity of this property. It was further considered that, although there will be the loss of some direct sunlight to the first floor bedroom window, this was not to any degree that would warrant the refusal of the application.

Item No: 22			
Date of Inspector's Decision:	22nd January 2010	Inspector's Decision:	Appeal Withdrawn
Appeal Procedure (see code below):	H	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/01217/FUL	Ref No:	W05871/07
Case Officer:	Mrs Jill Lee		
Original Decision Type:	Delegated Decision		
Was Decision Overturned at Committee?	No		

Proposal:	Two storey rear extension
Location:	Mundys House Lower Preshaw Lane Upham, SO32 1HP

Summary of Inspector's Decision

This appeal has been withdrawn

Planning Appeals – Enforcement Case Decisions - from 1 January 2010
– 31 March 2010

Item No: 1			
Date of Inspector's Decision:	5th January 2010	Inspector's Decision:	Appeal Dismissed
Appeal Procedure (see code below):	P	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	09/00045/COU		
Case Officer:	Mr Neil March		
Proposal:	without planning permission for authorised residential use		
Location:	Land Opposite Hambledon Infant School Church Lane Hambledon		

Summary of Inspector's Decision

This was a joint appeal against an Enforcement Notice issued on 12 March 2009 and the refusal of retrospective planning permission for the temporary use of land for the siting of 2 gypsy caravans and the construction of an ancillary shed.

The inspector considered that the main issues were the impact on the character and appearance of the surrounding rural area, bearing in mind the appeal site's location in the East Hampshire Area of Outstanding Natural Beauty, in the designated South Downs National Park, within the setting of 2 listed buildings, and within Hambledon Conservation Area; and the living conditions of the occupiers of nearby residential properties.

The inspector considered that the fencing around the caravans and shed obscured views through into the open countryside, and from the open countryside into the pretty village. It was intrusive and obtrusive in views, unattractive and out of keeping. The caravans and the shed were similarly unattractive, visible over the fencing, and unexpected and uncharacteristic in this part of the countryside. In consequence the development caused unacceptable harm to the Area of Outstanding Natural Beauty and the designated National Park. It also failed to preserve the open rural character of this part of the Conservation Area, and the setting of the historic village, and hence failed to preserve the character of the whole Conservation Area.

Prior to moving onto the site Mrs Rogers, the appellant's mother, and her 2 sons lived in a council house in Hambledon for 15 years. The Council did not dispute that the appellant and his family came from an ethnic gypsy family

and that in previous years, before moving into the council house, they led a nomadic lifestyle. However, there was little evidence of travelling whilst living in the council house. The family visited gypsy fairs, but not for work. They also went to family gatherings several times a year. However, there has to be a recognisable connection between the wandering or travelling, and the means whereby the persons concerned make or seek their livelihood.

It was the prospect of eviction from the house, due to rent arrears, that seemed to cause the family to move into the 2 caravans on the appeal site. Moreover, the appeal did not include touring caravans, for a nomadic purpose, which would be usual for a gypsy site. For all of these reasons, the Inspector adjudged that the appellant and his mother and brother did not fall within the statutory definition of “gypsies and travellers”.

Accordingly, there was no justification for granting planning permission for non-gypsies to live in caravans on a caravan site, even for a temporary period. It is in an area where residential development has to be strictly controlled, and there is no agricultural or forestry justification to warrant allowing this unacceptable development, and which is so very damaging to the special qualities of the countryside in this area.

Since the appellant and his family had taken up residence it had been reported that there has been noise from car and vehicle doors shutting, noisy works to form hardstandings involving substantial vehicle movements, a generator running, raised voices, and dogs barking. Although the situation with the generator appeared to have been controlled, there was clearly an unacceptable effect on the immediate neighbours due to noise, which was not present to such an extent when the site was only used as a paddock for grazing horses, a quiet and peaceful activity. Moreover, caravans are not well insulated against the transmission of noise from inside them, and also moving around and talking outside them, and inside and outside the shed, is likely to be disturbing to nearby residents. This is also likely to be more upsetting in the early morning or late evening. The noise from the development adds to the harm that it causes to the rural area and therefore fails to satisfy Local Plan Policy DP.3 (vii).

Whilst the Council had withdrawn their reason for refusal relating to highway concerns, Church Lane is a very narrow road, and there is already potential, if not actual, conflict with vehicles and other users including, particularly, schoolchildren, parents and teachers. However, it appears that the reason was withdrawn because it was stated that no commercial business was run from the site. That is clearly wrong, as the landscaping business is run from the site, and the vehicles used for that business add to the potential for accidents in the locality. This added yet further harm to those issues that the Inspector had already identified.

As the Inspector had concluded that the appellants were not gypsies, the unmet need for gypsy sites and the fact that there were no gypsy sites for the appellant and his family to go to, were not relevant to his decision.

The Inspector considered that the decision not grant permission would, in all likelihood, interfere with the appellant's right to a home and require him and his family to vacate the land, which has to be regarded as their home, without any certainty of suitable alternative accommodation being readily available. However, he further opined that the appellant, and his mother and brother, chose to leave the council house, and moved onto the land without planning permission unlawfully, and the likelihood was that he would not get planning permission for the development.

In view of the number of national designations on the land, and the importance in terms of national policy of safeguarding the National Park, the Area of Outstanding Natural Beauty, and the Conservation Area from unacceptable and harmful development, the Inspector considered that his conclusion was proportionate to the legitimate public interest aim pursued, that is, the economic well-being of the country and the protection of the rights and freedoms of others.

The appellants had argued that the compliance period was too short and should be extended to 2 years, however, the Inspector considered that the 6 months compliance period specified in the Notice was sufficient. He further considered that the requirement to remove areas of hardstandings, which was formed part of the unauthorised residential use, was not excessive.

The appeals were dismissed and the Enforcement Notice upheld.

Item No: 2			
Date of Inspector's Decision:	1st February 2010	Inspector's Decision:	Appeal Withdrawn
Appeal Procedure (see code below):	P	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	05/00082/BCOND		
Case Officer:	Mr Neil March		

Proposal:	failure to comply with Condition 1 of planning permission ref: 03/02954/FUL granted on 12 May 2004 for temporary five year change of use from agriculture to a motor cross site
Location:	Field Opposite Three Maids Hill Andover Road North Winchester

Summary of Inspector's Decision

Appeal has been withdrawn

Item No: 3			
Date of Inspector's Decision:	18th Feb 2010	Inspector's Decision:	Appeal Allowed
Appeal Procedure (see code below):	P	Costs:	Appellants and WCC Costs Dismissed
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	08/00372/BCOND		
Case Officer:	Tom Patchell		

Proposal:	On 14 May 1998 planning permission was approved on appeal, ref: 98/01514/FUL, for erection of detached four bedroom house, subject to condition stating: "Occupation of dwelling hereby permitted shall be limited to a person solely/mainly working on holding in connection with stud farm and equine clinic, or a widow(er) of such a person and to any resident dependents." This condition appears not to have been complied with as dwelling is occupied in breach of condition
Location:	Wangfield Farm Wangfield Lane Curdridge

Summary of Inspector's Decision

Joint Appeal

Item No: 4			
Date of Inspector's Decision:	18th February 2010	Inspector's Decision:	Appeal Allowed
Appeal Procedure (see code below):	P	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	08/00372/BCOND		
Case Officer:	Mr Tom Patchell		

Proposal:	Appeal against
Location:	Wangfield Farm Wangfield Lane Curdridge

Summary of Inspector's Decision

An Enforcement Notice was served, alleging non-compliance with an equine occupancy condition, following the receipt of information accompanying a planning application and appeal and the return of a Planning Contravention Notice. Within this information it was stated that the owner of the property was a remedial farrier who was away from the site much of the time and therefore had limited involvement in the equine clinic and stud. Due to the breakdown of his marriage, he relied on other employees and his father, who lived off site, to carry out the majority of the day to day duties involved with the equine clinic and stud.

Following the submission of Proofs of Evidence the appellants' agent introduced evidence that the owner's new partner had moved in 'earlier in the year' and was employed full-time within the equine clinic and stud and therefore complied with the condition. Although the Council accepted that the condition was now being complied with, they were unwilling to withdraw the appeal as it was unclear whether she had moved prior to the service of the Notice. At the appeal the owner's new partner stated on oath that she had moved in the Christmas prior to the service of the Enforcement Notice, which was accepted by the Inspector.

However, the Inspector considered that the preparation of horse shoes within the on-site forge should be considered as work within the equine clinic and stud and therefore the majority of the site owners' time was spent within the equine clinic and stud and the condition was therefore being complied with.

The appeal was therefore allowed and the Notice quashed.

Item No: 5			
Date of Inspector's Decision:	12th March 2010	Inspector's Decision:	Appeal Part Allowed/Part Dismissed
Appeal Procedure (see code below):	P	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	07/00144/WKS		
Case Officer:	Mr Neil March		

Proposal:	without planning permission the material change of use of the land from use for the preparation and servicing of hot tubs (which falls within Class B1) to use for the storage and distribution of portacabins (Class B8)
Location:	Wernick Ltd Balldown Business Centre Stockbridge Road Sparsholt SO21 2NA

Summary of Inspector's Decision

This enforcement appeal concerned the use of 2 adjoining sites for the storage of portacabins. Site A forms part of the Balldown Garage site, situated in open countryside between Winchester and Stockbridge, and comprises a two storey office / workshop building with hardstanding to the side and rear. The site is owned and operated by a portacabin hire company. Site B is a large open plot of land situated immediately to the north west of the Site A. It is owned by an individual, who previously owned and operated his hot tub business from Site A. He leases the land to the owners of Site A which they use as an overflow area for the storage of portacabins. He also uses a small part of the land himself for the storage of items in connection with his hot tub business that he operates from a site in Cadnam in the New Forest.

The Council had served Enforcement Notices on both plots of land. On Site A, the Council had under-enforced, that is, allowed the unauthorised storage of portacabins to continue subject to restrictions on height and the repair / maintenance of portacabins in the open. The stacking of portacabins on top of each other was considered to be visually harmful and therefore only storage of portacabins at single height level was permitted. The Enforcement Notice on Site B required the storage use to cease and the removal of all items from the land.

The notices were appealed on various grounds. In respect of Site A it was argued that the authorised use of the site was B8 (Storage and distribution) as a old planning permission granted in the late 1980's for B1 had not been implemented. It was also argued that there had been a continuous storage use on the site for over 10 years and was therefore immune from enforcement action. Even if these arguments were rejected and the storage use was a breach planning control, it was further argued that planning permission should be granted to allow them to continue storing portacabins on Site A stacked up to 2 high. For Site B, they argued that planning permission should be granted to allow them to continue storing portacabins one high and proposed a substantial landscape scheme around the boundaries of the site, which would also have the advantage of partly screening Site A.

Having examined the evidence given by a previous occupier and also the evidence contained in the Council's planning and enforcement records, the Inspector concluded that the B1 planning permission granted in the 1980's was implemented and therefore the change of use of Site A to the storage of portacabins required planning permission. The Inspector also concluded that there had not been a continuous storage use over the last 10 years on Site A due to a number of intervening uses such as car sales, the sale and display of hot tubs and the manufacture of hot tubs.

Furthermore, the Inspector refused to grant planning permission for the storage of portacabins on Site A up to two high, due to the visual harm that this would have on the character and appearance of the surrounding rural area. However, she did not feel that carrying out minor repair works to the

portacabins in the open parts of the site would cause any significant harm caused to the amenities of nearby residents and therefore deleted this requirement from the Enforcement Notice. The appeals in respect of Site A were therefore dismissed and the Enforcement Notice upheld, subject to variations.

In respect of Site B, the inspector also raised concerns about the visual impact of the use of the land for open storage, but felt that the substantial landscape scheme proposed by the appellants will help to mitigate the visual impact, and would also provide additional screening of Site A, which would otherwise, had not occurred. She also took into account the appellants' reported problems in finding a site in the area and their witness's explanation of why a location in this part of southern England is necessary for the successful operation of the business. She also felt that Site B was similar to the authorised (car storage) development to the south east of the appeal sites and therefore there was some established precedent for this type of open storage in the vicinity.

In balancing her concerns over the appearance of the countryside against the economic benefits of helping an established business to remain in the area and the sustainability benefits of reducing delivery distances as well as the benefit of additional landscaping to lessen the impact of Site A, the Inspector concluded that planning permission for single height portacabin storage on part of Site B would be acceptable, provided that the storage area did not extend across the whole of the land outlined on the plan attached to the enforcement notice and a landscaping scheme was put in place. The Inspector therefore granted planning permission for storage on Site B, subject to conditions limiting the use of the land for the overflow storage of portacabins in association with the use of Site A, restricting the height of storage (not exceed 3 metres), only allowing access to be through Site A and the submission and implementation of a comprehensive landscape scheme.

Item No: 6			
Date of Inspector's Decision:	4th March 2010	Inspector's Decision:	Appeal Allowed
Appeal Procedure (see code below):	I	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			

Case No:	08/00320/WKS
Case Officer:	Mr Rob Riding

Proposal:	the carrying out of operational development on the Land comprising the erection of a building
Location:	Meadowside Poles Lane Otterbourne SO21 2DZ

Summary of Inspector's Decision

This enforcement appeal concerned the construction of a building to be used as a garage/workshop on garden land associated with a dwelling. The appellant appealed on the basis that planning permission was not required, and should that fail, then planning permission should be granted for the development alleged in the Notice.

The appellant argued that there had been no breach of planning control as the land where the building had been erected fell within the curtilage of Meadowside and was therefore permitted development under Class E of the GPDO. However, the Council was of the opinion that whilst the land could lawfully be used as garden land in association with the dwelling it did not form part of its curtilage and was therefore not permitted development. The Council made reference to an appeal decision on a neighbouring site where a similar situation had occurred involving three buildings erected outside of the curtilage of the dwelling.

The Inspector found that whilst the building appeared somewhat detached the land upon which the building sits does not and has a close association with the dwelling. Furthermore, the Inspector was of the opinion that the land appears distinctly different from adjoining agricultural land. On balance the land was considered to be part of the curtilage of Meadowside and as the building met all the requirements of Class E of the GPDO a breach of planning control had not occurred. In light of this, it was not necessary for the Inspector to consider whether planning permission should be granted.

The appeal was allowed and the Enforcement Notice quashed.

Item No: 7			
Date of Inspector's Decision:	29th January 2010	Inspector's Decision:	Appeal Part Allowed/Part Dismissed
Appeal Procedure (see code below):	W	Costs:	No Application for Costs
W – Written representation; I – Informal hearing; P – Public Inquiry; H - Householder			
Case No:	08/00318/OPER		
Case Officer:	Miss Janine Wright		
Proposal:	without planning permission the carrying out of operational development comprising the erection of entrance gates, wall and boundary fencing		
Location:	Salam Manor Curdrige Lane Waltham Chase SO32 2LQ		

Summary of Inspector's Decision

This was a joint appeal against an Enforcement Notice issued on 10 September 2009 and the refusal of retrospective planning permission for the erection of entrance gates, walls and boundary fencing.

The Inspector considered that the main issues were the effects of the development on the character and appearance of the surrounding area. She noted that the character of the area was predominately hedgerow and that the entrance gates and wall stood out as highly incongruous with urban features. She considered the design to be harmful to the rural character and appearance of the surrounding area.

The Inspector dismissed the appeals and upheld the enforcement notice with variations.
