

PLANNING DEVELOPMENT CONTROL COMMITTEE

13 December 2007

PLANNING APPEALS – SUMMARY OF DECISIONS JULY - DECEMBER 2007

REPORT OF THE HEAD OF PLANNING CONTROL

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RECENT REFERENCES:

PDC706 – Planning Appeals – January – June Appeals Report.

EXECUTIVE SUMMARY:

This report provides a summary of appeal decisions received during July to December 2007. Copies of each appeal decision are available from the Council's website.

RECOMMENDATION:

That the Report be noted.

PLANNING DEVELOPMENT CONTROL COMMITTEE13 December 2007PLANNING APPEALS – SUMMARY OF DECISIONS JULY - DECEMBER 2007Report of the Head of Planning ControlDETAIL:

A summary of appeal decisions received during July, August, September, October, November and December 2007

Date	2 nd July 2007
Site	8 Momford Road, Olivers Battery, Winchester, SO22 4LE
Ref no:	06/02625/FUL W20262
Decision	Dismissed
Proposal	Detached bungalow to rear
Summary	The Inspector considered that the main issue was the effect of the proposed development on the character and appearance of the surrounding area. It was concluded that, by providing a dwelling to the rear of the garden, it would compromise the spatial quality of the area and set an unwelcome precedent. DEL WR

Date	8 th August 2007
Site	Little Stocks Stables, Stocks Lane, Meonstoke, SO32 3NQ
Ref no:	06/02321/FUL
Decision	Appeal Allowed
Proposal	Variation of condition 3 of W13551/01 and 4 of W13551/02 (use only for benefit of applicant and not for any commercial purposes).
Summary	The Inspector concluded that the low-key carriage hire enterprise is neither inappropriate nor harmful to the character of the surrounding area, or to the quality of the landscape. The Inspector noted the neighbour representations concerning a potential threat to highway safety, but rejected such an argument on the grounds that rural lanes are often used by large vehicles and horse transporters. The Inspector also noted that the Highway Authority had raised no objection. COM WR (Officer recommended approval, but Committee refused the application).

Date	9 th August 2007
Site	Site at 43 Cromwell Road, Winchester, SO22 4AF
Ref no:	06/02601/FUL
Decision	Appeal Dismissed
Proposal	2 bedroom dwelling to the side of existing dwelling.
Summary	<p>The Inspector considered that the principle of an additional dwelling on this site was acceptable, as it would accord with PPS3. The Inspector noted that PPS3 also encourages high quality housing and good design, as well as an appreciation of the local design context. The Inspector concluded that filling in a substantial part of the existing side garden with a two storey building would disrupt the established pattern, design and symmetry of the area. The Inspector also considered that the proposal would diminish the spaciousness of the estate. Therefore, the Inspector stressed that the proposal would result in a cramped form of development and cause unacceptable harm to the nature of the locality. Referring to another appeal decision elsewhere on the estate, the Inspector considered that the nature of the current application could be distinguished from the previous appeal decision due to the nature and pattern of development in this current case. In addition, the Inspector considered that the proposal would reduce the private amenity space of the existing dwelling to a small and very awkwardly spaced area, and was hence unacceptable. The Inspector considered that the front gardens would not constitute acceptable private amenity space. Furthermore, the Inspector concluded that the private amenity space for the proposed dwelling was insufficient, and that this reinforced her view that the proposal would comprise over-development of the site.</p> <p>DEL WR</p>

Date	14 th August 2007
Site	Land at Mill Cottage, High Street, Meonstoke.
Ref no:	05/03023/FUL, 07/00099/FUL
Decision	Both appeals dismissed
Proposal	Appeal A – Erection of 2 dwellings. Appeal B – Erection of one dwelling
Summary	<p>Appeal A</p> <p>Turning firstly to highways issues, the Inspector considered that the visibility splays required by the Council were entirely reasonable. The Inspector rejected the appellant's argument that the existence of other poor quality accesses in the locality justified the creation of a new access of substandard visibility. The Inspector was particularly wary of the access due to the close proximity of a primary school. The Inspector considered that the proposed alterations to the flint wall would be harmful to the character of the area, and therefore fail to protect and enhance the conservation area. Concerning the loss of open space, the Inspector considered that the loss of open space would cause no particular harm to the character of the conservation area. The Inspector considered that the 'simple' design was acceptable, provided that suitable conditions in relation to materials were imposed. The Inspector noted the loss of a category B tree, but considered that were this to be the only reason for refusal then it may be possible to negotiate suitable replanting. There was also some doubt concerning the potential for retention of another category B tree. Concerning the trees, the Inspector concluded that if both Category B trees were lost then this would certainly be harmful to the character of the area. The Inspector considered that the impact of the proposal on the wider landscape character would not be significant. Finally, the Inspector considered the impact of flooding and drainage, but considered that the proposal could not be resisted on those grounds.</p> <p>Appeal B</p> <p>As with appeal A, the Inspector was not satisfied that acceptable visibility could be achieved or retained in relation to the junction. The Inspector was particularly wary of the access due to the close proximity of a primary school. Concerning the loss of open space, the Inspector considered that the loss of open space would cause no particular harm to the character of the conservation area. The Inspector considered that the 'simple' design was acceptable, provided that suitable conditions in relation to materials were imposed. In this appeal, both Category B trees were shown as being retained. However, the Inspector had some doubts as to whether this would be possible in reality, and there was not sufficient evidence available to provide any certainty on this point. The Inspector considered that impact of the proposal on the wider landscape character would not be significant. Finally, the Inspector considered impact of flooding and drainage, but considered that the proposal could not be resisted on those grounds.</p> <p>DEL IH</p>

Date	23 rd August 2007
Site	Cobbles, Stockbridge Road, Sutton Scotney, SO21 3JT
Ref no:	06/01979/FUL
Decision	Erection of 4 no dwellings (2 no three bed and 2 no two bed) with boundary wall, associated car parking, car ports and landscaping; alterations and extensions to Cobbles cottage and forecourt.
Proposal	Split decision – extension and alteration approved, but new dwellings refused.
Summary	<p>The Inspector considered that residential development of the site was acceptable in principle. The proposed terrace running across the site was considered by the Inspector to conflict with the softer boundaries currently in existence. Therefore, the Inspector concluded that the terrace would incorporate an urban feel, thus undermining the current open, rural character of the area. Consequently, the proposal was deemed to fail to preserve the setting of Cobbles. However, concerning the proposed works to Cobbles Cottage, the Inspector concluded that this development would preserve the setting of Cobbles, and therefore comply with PPG15 and HE.16. Concerning the application for planning permission in relation to the work to The Cobbles Cottage, the Inspector concluded that, subject to appropriate conditions, this aspect to the appeal should be allowed. Turning to the final issue, namely the impact on the Sutton Scotney Conservation Area, the Inspector restated the acceptability of the principle of housing development on the site. The Inspector considered that, just as the proposal failed to respect the setting of the listed building, the proposal would also fail to preserve or enhance the character of the conservation area. The Inspector stressed that he saw nothing in national or local policy that suggests that a conservation area should be protected only from public viewpoints. The Inspector considered that the proposal would be inconsistent with the rural nature of the conservation area. Concerning the alterations to The Cobbles Cottage, the Inspector considered that these would not fail to preserve or enhance the conservation area.</p> <p>COM, WR (the officer recommended refusal, this was upheld by the PDC Committee)</p>

Date	5 th September 2007
Site	Windy Ridge Stables, Botley Road, Curdridge, SO32 2DS
Ref no:	06/01011/FUL W08345/04
Decision	Dismissed
Proposal	Detached two bedroom bungalow with detached single garage
Summary	<p>The Inspector considered that, whilst the proposed dwelling was for the applicants' disabled son, providing a dwelling in this countryside location would be contrary to both local and national planning policy. Furthermore, it was considered that a dwelling in this location would result in increased urbanisation of the countryside.</p> <p>DEL WR</p>

Date	7 th September 2007
Site	165 High Street, Winchester, SO23 9BA (Subway)
Ref no:	07/00867/AVC
Decision	Allowed
Proposal	Illuminated fascia sign and window sign (PART RETROSPECTIVE)
Summary	The Inspector considered that, as the shop unit was within a row of frontages that have illuminated signage and that the illumination was low key, the provision of illuminated signs would not be detrimental to the character of the conservation area. DEL WR

Date	11 th September 2007
Site	The Wagon House, Manor Farm Barns, Abbotstone Lane, Old Alresford, Alresford, Hampshire, SO24 9DH
Ref no:	06/03434/FUL, 06/03435/LIS
Decision	Dismissed
Proposal	Rear Conservatory
Summary	The Inspector considered that the proposed conservatory would appear as an alien, modern addition to the historic building. Although the proposal would not be visible from a public footpath, the Inspector considered that the proposal could be seen from neighbouring gardens and an access to a field at the rear. Although other properties in close proximity had been extended, the Inspector concluded that these were more sympathetic than that proposed in this application. DEL, WR

Date	13 th September 2007
Site	18A St Faiths Road, Winchester, Hampshire, SO23 9QB
App Ref:	06/02317/FUL W19050/01
Decision	Allowed
Proposal	Variation of Condition 5 of W19050 (Access to flat roof)
Summary	The Inspector considered that the imposition of the original condition did not meet the test as specified in circular 11/95: he considered the condition restricted all access onto the roof by whatever means, which was unreasonable as a certain amount of maintenance of the roof would always be required. The condition was therefore removed, however, another condition was imposed that restricted the use of the flat roof. CTTE WR (Committee refused the application, contrary to officer recommendation for approval.)

Date	18 th September 2007
Site	The Bungalow, Alton Road, West Meon, Petersfield, Hampshire, GU32 1HZ
App Ref:	06/02324/FUL
Decision	Appeal Dismissed
Proposal	Relief from conditions 4 and 5 of permission W10723/04 and use of the retained building as self-catering holiday accommodation.
Summary	<p>The Inspector considered that, being set on an exposed hillside, the 2-storey replacement dwelling and the bungalow detract from the natural beauty of the AONB. He stated that the detrimental effect of both buildings is clearly greater than one. Therefore, the Inspector concluded that the retention of the Bungalow fails to conserve the natural beauty and character of the landscape; consequently, condition 04 was judged as reasonable and necessary now as when it was imposed. In relation to condition 5, the Inspector rejected the appellant's arguments concerning what constituted the curtilage. The Inspector considered that replacing the currently unkempt area with an agricultural use would bring its appearance and character into line with that of its rural surroundings and the AONB.</p> <p>Turning to the issue of using the retained building as self-catering holiday accommodation, the use was rejected by the Inspector. The Inspector acknowledged the appellants arguments in relation to the existence of government guidance encouraging the use of existing buildings in the countryside for self-catering tourist accommodation. However, the Inspector rejected the appellants argument, stressing that the government guidance cited also contained provisions relating to sustainability and also the conservation and enhancement of the character of the countryside. Furthermore, the Inspector highlighted the provisos of the 'Good Practice Guide on Tourism', which requires tourist developments to be located where they do not have an impact on sensitive environments and to be designed to have a positive impact on the landscape. Therefore, the Inspector concluded that the appellants argument failed.</p> <p>WR, DEL</p>

Date	19 th September 2007
Site	The Firs, Alresford Road, Winchester, Hampshire, SO21 1HH
App Ref:	06/03522/FUL
Decision	Dismissed
Proposal	Demolition of existing cottage, mobile home and outbuildings; erection of 1 no detached five bedroom dwelling with detached garage.
Summary	<p>The appeal revolved around the correct interpretation of policy CE.23. The Inspector considered that the proposed dwelling would be well screened from most directions, and that taken in isolation it would have a limited effect on the character and appearance of the surrounding area. However, the Inspector stated that such arguments could frequently be used in support of similar development in the countryside. The Inspector felt that, especially in areas of scattered housing, proposals such as this have the potential to cumulatively harm the character and appearance of the countryside. The proposal would result in the loss of a 'small dwelling', as defined by the Winchester District Local Plan Review 2006. The Inspector accepted the validity of the motivation for this policy and dismissed the appeal. The Inspector considered the contrary precedents presented by the applicants, but felt that they could be clearly distinguished from the application before him. The Inspector also stressed that the outbuildings to the rear of the property should not be taken into account in determining the size of the replacement dwelling.</p> <p>WR, DEL</p>

Date	20 th September 2007
Site	Torbay Farm, Sciviers Lane, Lower Upham
App Ref:	WLDC/352
Decision	Winchester City Council's appeal to the High Court dismissed
Proposal	Use of the site for research and development purposes, falling within Class B1(b) of the Use Classes Order 1987
Summary	<p>By Notice dated 18 February 2004 an application for a Certificate of Lawfulness to use the site for research and development purposes was refused under delegated powers. Torbay Farm is a former agricultural business, previously a conventional poultry unit which from about 1980 was used for the production of specific pathogen free eggs (SPF eggs). The eggs were then used elsewhere for vaccine production purposes. It is accepted that the use for the production of SPF eggs remains the lawful use of the site. The application was refused on the basis that the use was a sui generis or standalone use that did not fall into a Use Class so any change of use would require planning permission. An appeal was lodged and a Public Inquiry held. By letter of 10 June 2005, an Inspector upheld the Council's decision. However, the decision was challenged by the appellant and was subsequently quashed by the High Court, after the Secretary of State consented to judgement.</p> <p>The consequence of the Inspector's decision being quashed was that a fresh Public Inquiry was held. By letter of 16 November 2006 a different Inspector allowed the appeal and granted a Certificate of Lawfulness for research and development purposes (Class B1(b) of the Use Classes order). The Inspector considered that the use for</p>

	<p>production of SPF eggs falls within Class B 1(c) (industrial) which means that a change of use to B1(b) does not require planning permission.</p> <p>The Inspector accepted, as the previous Inspector had also done, that the production of SPF eggs was not itself an industrial use. However he concluded that the eggs were produced for, and were thus incidental to the vaccine production that took place elsewhere. As such, the egg production use fell within Class B1(c) being incidental to an industrial use.</p> <p>The Council, having taken legal advice challenged the decision in the High Court as it had been officers' (and the first Inspector's) view that an incidental use would need to be on the same site, or at least part of the same planning unit. The High Court on 20 September 2007 held that a use that was incidental to an industrial use fell within Class B1(c) regardless of where the industrial use took place. The Inspector's decision was therefore upheld. The Council was required to pay the Secretary of State's legal costs but not the costs of the other party (the original applicant).</p>
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Date	3 rd October 2007
Site	Newlands, Hambledon Road, Denmead, Waterlooville, Hampshire, PO7 6PP
App Ref:	06/03632/FUL
Decision	Appeal Dismissed
Proposal	Demolition of existing dwelling and erection of 9 no. two bed flats, 3 no. three bed and 2 no. two bed dwellings with ancillary car parking, landscaping and alterations to existing access.
Summary	<p>The Inspector did not accept that three storey development was necessarily out of character in this location. However, the Inspector felt that the proposed roof-form, with its mansard style roof and high eaves, would result in a detrimental impact on the character of the area. The Inspector considered that the design was clumsy and that the various elements suffered from a poor relationship with one another. Furthermore, the Inspector considered that the landscaping scheme proposed was 'over-formalised'. The Inspector noted the potential for overlooking stemming from the proposal, but considered that this issue could be addressed via the imposition of an appropriate condition. Turning to highway safety, the Inspector also felt that this issue could also be adequately addressed through the impositions of conditions.</p> <p>DEL IH</p>

Date	24 th October 2007
Site	Land Adjacent To Rosalinda, Main Road, Colden Common, Hampshire
App Ref:	06/02128/FUL
Decision	Appeal Allowed
Proposal	Retention of 2 no. mobile homes (RETROSPECTIVE)
Summary	<p>The Inspector considered that the site was capable of adequately accommodating two mobile homes. The Inspector stressed that Circular 01/2006 <i>Planning for Gypsy and Traveller Caravan Sites</i> stated that rural sites which are not subject to special planning constraints are acceptable in principle, and that this was the situation in this case. The Inspector was satisfied that the appellant had strong links with the area and considered that the need for gypsy site provision in the locality overrode the objections to residential development in the countryside. The Inspector considered that the screening of the site did not prevent the site being visible from the road, but considered that it would be unreasonable to expect a gypsy site to be completely invisible. The Inspector considered that the changes to the landscape character were justified and would have to be accepted in order to meet the need for gypsy accommodation.</p> <p>DEL, WR</p>

Date	14 th November 2007
Site	3-5 Court Road, Kings Worthy, SO23 7QJ 6-7 Court Road, Kings Worthy, SO23 7QJ 9-10 Court Road, Kings Worthy, SO23 7QJ
App Ref:	07/00312/FUL, 07/00309/FUL , 07/00310/FUL
Decision	All Three Dismissed
Proposal	<p>A - Demolition of 3, 4 and 5 Court Road and redevelopment of 23 no. dwellings, associated car parking, landscaping, open space and access alterations.</p> <p>B - Demolition of 6, 7 and 8 Court Road and redevelopment comprising 21 dwellings, associated car parking, landscaping and open space (RESUBMISSION).</p> <p>C - Demolition of 9 and 10 Court Road and erection of 14 no. dwellings, associated parking, landscaping and open space (RESUBMISSION)</p>
Summary	<p>Appeal A</p> <p>The Inspector considered that the proposal, as a result of its height, layout and overall size, would dominate the new houses to the south – and detract from the existing dwellings opposite, 10 and 11 Court Road. Therefore, the Inspector considered that the proposal would appear obtrusive and harmful to the suburban character of the street scene. The Inspector considered that the trees and grassed area would not provide adequate mitigation for the height, bulk and conspicuous siting of the proposal. In addition, the Inspector considered that the proposal would not benefit from effective punctuation in terms of built form. The Inspector noted the presence of gaps between the blocks, but was still of the opinion that the blocks would appear over-large, incongruous and unduly close together. Ultimately, the Inspector considered that the proposal would cause</p>

unacceptable harm to the character and appearance of the surrounding area.

Turning to the issue of living conditions, the Inspector considered that the bulk of the proposal would be substantially screened and would not appear unacceptably overbearing. Furthermore, the Inspector was of the opinion that the proposal would not result in an unacceptable loss of privacy at the adjoining property or result in unacceptable disturbance at the neighbouring property.

Appeal B

The Inspector noted the gaps proposed between the blocks, but considered that, given the angle of approach, the gaps would be too narrow for the blocks to appear wholly distinct when seen from the south and west. The Inspector considered that the design of the proposed blocks would accentuate their height and considered that the height, scale and layout of the proposal would result in an over-dominant form of development. Furthermore, the Inspector considered that the built form would dominate the proposed landscaping and diminish the spacious character of the street scene. In addition, she considered that the proposed buildings would appear cramped as well as obtrusive and although the design was considered to be acceptable, the Inspector considered that proposal would result in unacceptable harm to the character of the area.

Turning to the issue of living conditions, the Inspector considered that the proposal would result in unacceptable harm to the living conditions of the occupiers of 9 Court Road, through loss of outlook. Furthermore, the proposal would result in an adverse visual impact upon future occupiers of one of the town houses proposed in this application.

Appeal C

The Inspector considered that the proposal would appear excessive in scale compared with the existing nearby properties. In addition, she considered that the development would appear cramped because there would be insufficient open space, thus the proposal was considered to be unacceptably intrusive in the street scene. The Inspector noted the presence of the trees and the potential for them to mitigate the impact of the development, but considered that the built form would have such a bulk and be so close to the road that the trees would not alleviate its appearance effectively, particularly in winter. Furthermore, the Inspector considered that insufficient greenery would be seen from Court Road. Ultimately, the Inspector was of the opinion that the architectural style was acceptable, but that harmful visual impact caused by the scale, massing and siting of the buildings was not acceptable. Turning to the issues of living conditions, the Inspector considered that the distance of 14m to the adjoining boundary and 27m to the neighbouring property would be adequate to protect the outlook and privacy of adjoining residents, particularly since the boundary would be landscaped.

	<p>General Statements:</p> <ul style="list-style-type: none"> - The proposed density of the applications was 55.4, 60 and 70.4. The Council suggested that 30 dph would suffice to make good use of the land. However, the Inspector stated that she saw little in PPS to imply such a lack of ambition. - The Inspector considered that the existing dwellings should not be seen as a template for re-development, and that the proposed developments should be assessed with regard to their impact upon positive features of the existing street scene which contribute to the quality and interest of the wider area. - The Inspector welcomed the employment of a contemporary design, which she considered would in principle enhance the townscape. - The Inspector considered that it would be an advantage to redevelop Court Road in an integrated fashion. - The Inspector was of the view that the proposed frontage open space should be the pre-eminent feature, since its purpose is to assimilate the scheme into the surrounding suburban area and to offset the visual impact of this high density development. - The Inspector considered that even if one of the appeals had been allowed, no harmful precedent would have been set. - The Inspector considered that any under-supply of housing stock or lack of progress in delivery would not outweigh the harm caused by the proposed developments in relation to the main issues. - The Inspector considered that the provision of affordable housing weighs in favour of appeals A and B, but that the requirement for affordable homes does not alter the need for the dwellings to be of high design quality. <p>DEL, PI</p>
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DEL = Delegated Decision
CTTE = Committee Decision

WR = Written Representations
IH = Informal Hearing
PI = Public Inquiry