

PDC622
FOR INFORMATION
WARD(S): GENERAL

PLANNING DEVELOPMENT CONTROL COMMITTEE

20 April 2006

PLANNING APPEALS – SUMMARY OF DECISIONS

REPORT OF THE DIRECTOR OF DEVELOPMENT

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RECENT REFERENCES:

Report PDC607 – Planning Appeals - 20 December 2005

EXECUTIVE SUMMARY:

This report provides a summary of appeal decisions received during January, February and March 2006 including a further summary of the appeal decision relating to 1 and 3 Westley Close, received in December 2005.

RECOMMENDATION:

That the report be noted.

PLANNING DEVELOPMENT CONTROL COMMITTEE20 April 2006PLANNING APPEALS – SUMMARY OF DECISIONSREPORT OF THE DIRECTOR OF DEVELOPMENT

1.1 January, February and March Appeal Decisions for Development Control.

Date	6 th January 2006.
Site	Francis Yard, Main Road, Colden Common, Winchester
Ref no:	04/00742/FUL W18848
Decision	Appeal A - Dismissed Appeal B - Allowed
Proposal	Appeal A - Demolition of the existing dwelling, builders yard, and hall and the erection of 26 dwellings with new access road and associated garaging parking and turning. Appeal B – Demolition of existing buildings and the erection of 26 open market and affordable dwellings with associated garaging, bike stores, parking and turning area, open space and a new access road and signal controlled junction.
Summary	<p>Main issues:-</p> <ol style="list-style-type: none"> 1. the implications for the local community of the loss of a building which was last used as a community facility. 2. the effect of the proposed development on the character and appearance of the surrounding locality. 3. the effect of the proposed development on the living conditions of neighbouring occupiers, with particular reference to visual impact, sunlight and overlooking. <p>The Inspector considered that there was little prospect of viable community uses resuming in the village hall, in these circumstances the redevelopment of the site is not contrary to policies that aim to protect community uses. The Inspector considered that neither development would have an undue impact upon the amenity of neighbouring occupiers.</p> <p>The Inspector considered that the layout of appeal scheme A was of a poor standard particularly with respect to the public entrance and parking area by the proposed flats. The revised layout of appeal scheme B overcame these concerns. The Inspector also considered that the traffic-signal controlled junction would be adequate to cope with the extra traffic generated by the development.</p> <p>CTTE PI</p>

Date	27 January 2006
Site	Beaulieu Forest Road Swanmore Hampshire SO32 2PL W02736/18
App Ref:	05/02031/FUL
Decision	Dismissed
Proposal	Change of use from double garage/store to granny annexe and re-position

	the building
Summary	The Inspector concluded that, to allow the permitted building to be occupied independently of the main dwelling would be tantamount to allowing a new dwelling in the countryside. The Inspector considered that there were no special circumstances to override the general presumption against the provision of new dwellings in the countryside and to allow the appeal would cause unacceptable harm to the character and appearance of the countryside. DEL WR

Date	14 th February 2006
Site	2 Manor Farm Cottages Durley Hampshire SO32 2AF
	W02156/07
App Ref:	05/00149/OUT
Decision	Dismissed
Proposal	Outline application for the demolition of barn and erection of 1 No: dwelling on site adjacent to No. 2 Manor Farm Cottages
Summary	The Inspector dismissed the appeal solely on the fact that the Open Space Contribution had not been paid or no such planning obligation had been made. DEL WR

Date	3 rd March 2006
Site	Quillon, Upper Crabbick Lane, Denmead.
Ref	05/01302/FUL W19599
Decision	Dismissed
Proposal	Erection of 2 storey side and single storey front and rear extensions
Summary	The Inspector considered that the proposal would significantly reduce the gap between Quillon and the neighbouring property "Langstone" and would differ considerably in design from the examples referred to by the appellant. The Inspector considered that the proposal would materially harm the character and appearance of the locality and was therefore contrary to policy, and agreed with the Council that if the appeal was allowed it would set an undesirable precedent that may in the future seriously erode the spatial qualities of the street scene. The Inspector also considered that the 2 storey side extension would have a detrimental impact upon the living conditions of the occupants of "Langstone" in terms of loss of light. DEL WR

Date	8 th March 2006
Site	Grooms Cottage, Pursers Bramdean, Alresford
Ref	05/01404/FUL W15779/02
Decision	Allowed
Proposal	Relief from condition three of planning permission 99/00582/ful which relates to a detached dwelling for staff accommodation and states:- "The occupation of the accommodation hereby permitted shall be limited to a person solely or mainly employed at Pursers, Bramdean, or a widow or widower of such a person or any resident dependents. The reason given is

	“The site lies in an area where additional residential properties would not normally be permitted.”
Summary	<p>Main issue:-</p> <ol style="list-style-type: none"> Whether there is justification for lifting the condition having regard to the objectives of relevant planning policies and advice. <p>The Inspector recognised that the applicant’s personal and domestic living conditions have changed since 1999 and that staff are now housed in the main dwelling rather than in the cottage.</p> <p>The Inspector considered that the dwelling is unlikely to be used in compliance with the condition in the foreseeable future and that there is justification for leaving the dwelling tied to the main house with the imposition of a less onerous and more flexible condition. This would allow the dwelling to be occupied by staff and by family members including the applicant’s mother in law.</p> <p>The Inspector considered that the decision would not prejudice policy objectives concerning new housing in the open countryside, and would allow the cottage to be used rather than to remain empty and granted subject to the following condition:</p> <ol style="list-style-type: none"> The dwelling hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Pursers. <p>COMM WR</p>

Date	8th March 2006
Site	11 Sermon Road, Winchester.
Ref	05/01752 W10304/01
Decision	Dismissed
Proposal	Two storey dwelling
Summary	<p>Main issues:-</p> <ol style="list-style-type: none"> The impact arising from the proposal upon the character and appearance of the area. The impact upon the outlook and amenity of neighbours. <p>The Inspector considered that the erection of a dwelling on this small piece of land would result in a cramped and overbearing development at the end of a modest garden and at the entrance to a cul-de-sac. The Inspector added that the proposal failed to take account of its setting and would be an overdevelopment which would detract from and be harmful to the established character and appearance of its surroundings, as such the proposal was contrary to the objectives of the adopted and emerging local plans.</p> <p>With regard to the effect on the amenity of neighbours, the Inspector considered that this was such to justify refusing the scheme.</p> <p>DEL WR</p>

Date	20 th March 2006
Site	15 Chilbolton Avenue, Winchester.
Ref	05/01506/FUL W14276/04
Decision	a) Main Appeal - Dismissed . b) Application by the appellant for partial costs – Allowed . c) Application by Winchester City Council for full costs – Dismissed .
Proposal	a) Proposed erection of four new 4 bed dwellings, two new 3 bed dwellings, alterations to existing dwellings to provide two one bed-roomed flats an extension to provide circular stair and three 2 bed-roomed flats.
Summary	<p>(a) Main Appeal Main issues:-</p> <ol style="list-style-type: none"> 1. The effect of this proposal upon the character and appearance of the area including the loss of a tree. 2. The effect of the proposed upon the living conditions of neighbouring occupiers at 15a Chilbolton Avenue by reasons of loss of privacy or being dominant and overbearing. 3. Whether or not it should make provision for affordable housing. 4. Whether or not the proposal provides a satisfactory mix of dwellings. 5. Whether or not it would result in unacceptable increased hazards to road safety. <p><u>Character and Appearance.</u> With regard to the pair of semi-detached dwellings, the Inspector considered that the building would appear to be very cramped, and this would be totally out of character with the generally more spacious setting of properties along the road. It was considered that the semi-detached properties would be totally alien to the existing spacious pattern of development and harmful to the character of the area. With regard to the four houses at the rear of the site the Inspector considered that the houses would considerably detract from the sense of spaciousness and the setting of the existing house. The Inspector added that development so far into the depth of the site, and so apparent as viewed from the road, would be seriously out of character with the sense of spaciousness of the area. In relation to the trees the Inspector considered that although the loss of trees is regrettable, the proposed three new trees would mitigate the loss. With regard to the extent of hard-standing and car parking proposed, the Inspector concluded that particularly when viewed from the entrance to the site would highlight the cramped nature of the proposal in relation to its surroundings.</p> <p><u>Neighbouring Living Conditions.</u> The Inspector considered that elements of the proposed development would result in an intrusive and overbearing relationship with 15A Chilbolton Avenue. With regard to overlooking, the Inspector felt that the proposal would unreasonably erode the standard of amenity and privacy presently available to the occupiers of 15A. The Inspector considered that this reason alone warranted refusal.</p> <p><u>Affordable Housing.</u> The Inspector considered that the applicants tactic of removing a small segment of the site so as not to exceed the 0.5ha limit for the provision of</p>

affordable housing (thus avoiding the requirement to provide affordable housing), was unreasonable and that such a device could seriously prejudice the Council's affordable housing policies.

Housing Mix.

Policy H7 of the adopted local plan seeks a range of house sizes and types and in particular encourages the provision of smaller dwellings. The Inspector considered that 7 of the 11 units as proposed are types of dwellings that the authority has determined to be in short supply, and in this regard the proposal meets the aims of policy H7. Whilst the policy does not quite meet the 50% requirement for 1 and 2 bedroom units, the Inspector considered that the shortfall is marginal and is outweighed by the provision of 64% of the dwellings meeting an identified need.

Highway Safety.

Highway safety was not an issue between the authority and the appellant; however it was a matter of concern for local residents. With regard to parking provision the Inspector felt that the site is located in a sustainable location and that a provision level of 19 car parking spaces to serve 11 dwellings is adequate.

With regard to sight lines from the new access, the Inspector considered that sight lines to the north were clearly acceptable, and that a nearby tree and lamppost did not represent an unacceptable barrier to visibility in relation to sight lines to the south.

DELIH

(b) Application by the appellant for partial costs.

The Inspector identified the following issues:-

- 1) Winchester City Council failed to follow the correct procedures (the appeal questionnaire was submitted late, the authority failed to notify the public in sufficient time and the authority incorrectly advised the public with regard to public consultation).
- 2) Winchester City Council introduced new reasons for refusal.

The Inspector considered that the authority failed to comply with the established appeal procedure and whilst he sympathised with the staffing problems that gave rise to the failure to follow procedures, he considered that a failure to adhere to the rules must be held to be unreasonable. The Inspector considered that the failure led to additional expense and on this basis merits a partial award of costs.

With regard to the introduction of new refusal reasons, the Inspector felt that the authority had not introduced new reasons for refusal in an unreasonable way, and therefore no costs should be awarded in this respect.

(c) The application by Winchester City Council for full costs against the appellant.

The application was for full costs on the basis that the appellant has pursued an appeal with no prospect of success (i.e. the applicant had no prospect of meeting the policy governing housing mix of the development plan and other material considerations). The Inspector considered that the proposal includes types of dwellings that it has been identified are in short supply, and

	the proposal therefore meets an aim of policy H7 of the Revised Deposit Local Plan. The Inspector agreed with the Appellant's interpretation of the policy, and in the light of the available housing data considered it was evident that the proposal was not pursued without reasonable prospect of gaining planning permission and that the applicant had therefore not acted unreasonably.
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Date	23 rd March 2006
Site	Land Between Arbour Cottage and Tanglewood Upham Street Upham SO32 W10177/12
App Ref:	05/01139/FUL
Decision	Dismissed
Proposal	Erection of 1 no. five-bedroom detached dwelling and five bay garage/store; demolition of existing garage and change of use of land from paddock to residential garden
Summary	The Inspector considered that the size and siting of the proposed dwelling would intrude into the countryside and adversely affect the character and appearance of the surrounding area and street scene. CTTE WR

Date	23 rd March 2006
Site	Beaulieu Forest Road Swanmore Hampshire SO32 2PL W02736/21 (Appeal A) 05/02031/FUL W02736/19 (Appeal B) 05/01542/FUL W02736/20 (Appeal C) 05/01672/FUL
Decision	W02736/21 (Appeal A) Dismissed W02736/19 (Appeal B) Dismissed W02736/20 (Appeal C) Allowed
Proposal	W02736/21 (Appeal A) Relief from Condition 04 of Planning Permission W02736/17 (The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the existing dwelling) (RESUBMISSION) W02736/19 (Appeal B) Erection of 1 no. four bedroom detached dwelling W02736/20 (Appeal C) Erection of covered swimming pool attached to existing workshop/store
Summary	W02736/21 (Appeal A) - The Inspector considered that approval of the application without a condition restricting the occupation of the annexe would not have been granted and that this condition is necessary as additional dwellings in the countryside is contrary to policy. DEL WR W02736/19 (Appeal B) DEL WR – The Inspector considered that it is logical to dismiss this appeal on the same grounds as appeal A. DEL WR W02736/20 (Appeal C) – The Inspector considered that the filter/pump room required would not be visually intrusive and therefore not contrary to policy

	C19 of the adopted WDLP.
	DEL WR

Date	24 th March 2006
Site	High Dell Farm, Kilmeston Road, Warnford.
Ref	05/01498/OUT W07306/12
Decision	Dismissed
Proposal	The proposed erection of a chalet bungalow.
Summary	<p>Main issue; The effect upon the character and appearance of the area, which forms part of an Area of Outstanding Natural Beauty.</p> <p>The Inspector considered that there was no evidence provided by the appellant to justify making an exception to policy on the basis that there was a need for someone living and working within the rural area (an agricultural worker). The Inspector also considered that the development would seriously harm the character and appearance of an attractive rural area.</p> <p>The Inspector added that the need to protect livestock (horses) at the site was not sufficient to outweigh the harm which would be caused to the naturally important landscape.</p> <p>DEL WR</p>

1.2 Summary of appeal decision for 1 and 3 Westley Close

Date	22 December 2005
Site	1 and 3 Westley Close, Winchester
Decision	Appeal A: Dismissed (COMM IH) Appeal B: Dismissed (DEL IH)
Proposal	Appeal A: Redevelopment to provide 9 flats and 5 houses. Appeal B: Redevelopment to provide 5 flats and 6 houses including the retention of no 1 Westley Close
Summary	<p>In the case of each appeal, both applications are outline with sitting and means of access reserved for future consideration.</p> <p>Main Issue: The effect of the proposal on the character and appearance of the surrounding area.</p> <p>The Inspector identified that due to the configuration of roads in close proximity to the site, each scheme has to be considered in the context of its effect on the character of the area when viewed from both Westley Close and Stockbridge Road. The Inspector considered that the area surrounding the site owes much of its distinctive character to the spaces around and between the buildings and the large number of mature trees that provide an attractive setting.</p> <p>In each proposal the terrace of five dwellings would be located close to and alongside Stockbridge Road, the Inspector considered that the introduction of terraced dwellings in an area predominantly characterised by detached properties would introduce a much more concentrated form of built development in a prominent position close to the highway. The Inspector added that the terrace of five dwellings would appear to be unduly dominant</p>

	<p>and detract from the distinctive qualities and character of this part of Stockbridge Road.</p> <p>With regard to appeal A it was proposed that a block of flats replaced the existing dwelling on the site, i.e. number 1 Westley Close and the. Inspector concluded that the position of this new building was acceptable. (the appeal B scheme proposes the retention of number 1 Westley Close.</p> <p>In connection with the building proposed to replace no 3 Westley Close (both scheme A and B contain this proposal) the Inspector identified that the building would be substantially set forward than the existing building thereby reducing the existing space between the existing front elevation and highway. The Inspector considered that this proposal would have a significant impact upon the street-scene. The proposal also included a substantial element of hard-standing between the proposed buildings to provide car parking and manoeuvring, the Inspector considered that this feature would appear to be visually dominant.</p> <p>Due to the close proximity of the proposed buildings, amount of hard-standing, and lack of landscaping measures the Inspector added that the layout would appear to be cramped and out of keeping with its surroundings. The Inspector considered that the fact that there are other high density developments nearby, did not justify the proposed development on this site.</p> <p>With regard to highway safety the Inspector considered that the amended plans submitted by the appellant overcame the council's earlier reason for refusal.</p> <p>In connection with the provision for public open space and the need for a programme of archaeological works, the Inspector considered that both of these matters could be dealt with by a unilateral undertaking and appropriate condition respectively.</p>
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DEL Delegated decision
CTTE Committee decision

WR Written representations
IH Informal hearing
PI Public inquiry

OTHER CONSIDERATIONS:2 CORPORATE STRATEGY (RELEVANCE TO):

- 2.2 Success on appeal is a measure of quality. It demonstrates that the policies of the development plan and the decisions reached by officers and members can be successfully defended.

3 RESOURCE IMPLICATIONS:

- 3.1 The number of appeals received and the success of appeals has an impact on staff time and legal costs.

BACKGROUND DOCUMENTS:

None

APPENDICES:

None