

Planning Committee

Appeal Decisions

The following decisions have been made by the Planning Inspectorate on appeals arising from decisions of the City

Application Number **08/02268/OUT**
Appeal Site **BOSTONS MARINE LTD, BAYLYS ROAD PLYMOUTH**
Appeal Proposal Outline application (with all matters reserved for later consideration) for the erection of 118 residential units, A2 (offices), A3 (restaurants/cafes) and B1 (businesses) units, water taxi pontoon and new buildings for existing GEOSA Oceanographic business.
Case Officer Jeremy Guise

Appeal Category
Appeal Type
Appeal Decision Dismissed
Appeal Decision Date 01/04/2010
Conditions
Award of Costs Awarded To

Appeal Synopsis

The Inspector commented that Policy CS05 (Development of Existing Sites) was not applied correctly and that there was no reasonable planning policy justification for the site remaining in employment use. However, he also commented that the application would generate a significant number of additional trips at the site which would be detrimental to local highway safety and the appeal was therefore dismissed on highways grounds. Costs were awarded to the appellant mainly on the grounds that the Council sought to safeguard the site unreasonably for employment purposes and did not apply Policy CS05 correctly.

Application Number **09/00453/LBC**
Appeal Site **7 THE ESPLANADE PLYMOUTH**
Appeal Proposal Internal and external alterations including replacement of windows and thermal insulation works
Case Officer Janine Warne

Appeal Category
Appeal Type Written Representations
Appeal Decision Dismissed
Appeal Decision Date 08/06/2010
Conditions
Award of Costs Awarded To

Appeal Synopsis

The Inspector noted that PPG15 'Planning and the Historic Environment', upon which the Council relied in part, was replaced in March 2010 by PPS5, of the same title, and its associated 'Historic Environment Planning Practice Guide'. These new documents were considered fully by the Inspector.

The larger window profiles proposed, and particularly the glazing bars, would be quite apparent from ground floor level in important views of the building and therefore would be particularly harmful to the character and quality of the elevations. As a result, the Inspector concluded that the replacement of the windows in the manner proposed would undermine the historic and cultural value of the terrace, lessen its special interest and diminish its significance as a valuable heritage asset. The alteration would not preserve the listed building and it would lessen its group value as part of the important group of planned terraces. It would also reduce the contribution made to the quality of the conservation area.

The Inspector also noted that it would be reasonable to require details of matching sash window to the lightwell by an appropriate condition on any consent, so this matter was taken no further. In addition, although the Council had agreed in principle to the removal and replacement of the internal lath and plaster, the Inspector did not accept this. In this respect, he stated that the removal of the internal lath and plaster wall finish would result in a major loss of original fabric and a consequent loss of significance. Furthermore, any replacement would not sufficiently mitigate the loss. The Inspector concluded that this was a matter on which consent could hinge, and therefore this too counted against the proposal and resulted in the failure of the appeal.

Application Number **09/01060/OUT**
Appeal Site **FORMER BAYLYS YARD, BAYLYS ROAD ORESTON PLYMOUTH**
Appeal Proposal Outline application (with all matters reserved for future consideration) for the erection of 96 residential units, B1 (A and B) units, D1 units, new buildings for existing geosocioceanographic business and new water taxi pontoon with ancillary café (A3).
Case Officer Robert Heard
Appeal Category REF
Appeal Type
Appeal Decision Dismissed
Appeal Decision Date 01/04/2010
Conditions
Award of Costs Awarded To

Appeal Synopsis

The Inspector commented that Policy CS05 (Development of Existing Sites) was not applied correctly and that there was no reasonable planning policy justification for the site remaining in employment use. However, he also commented that the application would generate a significant number of additional trips at the site which would be detrimental to local highway safety and the appeal was therefore dismissed on highways grounds. Costs were awarded to the appellant mainly on the grounds that the Council sought to safeguard the site unreasonably for employment purposes and did not apply Policy CS05 correctly.

Application Number **09/01342/FUL**
Appeal Site **88 OLD LAIRA ROAD PLYMOUTH**
Appeal Proposal Retention of raised timber sun decking to rear
Case Officer

Appeal Category
Appeal Type Written Representations
Appeal Decision Dismissed
Appeal Decision Date 20/04/2010
Conditions
Award of Costs Awarded To

Appeal Synopsis

The Inspector judged that the balcony would allow overlooking at very close quarters of the first floor windows and rear garden of number 90. It was also judged that the structure would take light and sunlight from the nearest lower-ground-floor windows of this property. The Inspector did not consider that this harm could be mitigated through the use of screening as this would affect the outlook of no.90. The proposed balcony is therefore contrary to policy CS34 of the Core Strategy 2007. Appeal dismissed.

Application Number **09/01400/FUL**
Appeal Site **LAND BOUNDED BY PLYMBRIDGE LANE, DERRIFORD ROAD AND HOWESON LANE
DERRIFORD PLYMOUTH**
Appeal Proposal Erection of student accommodation for 123 students organised around 16 communal dining/living spaces in two blocks and associated access, parking and landscaping
Case Officer Robert McMillan

Appeal Category REF
Appeal Type Written Representations
Appeal Decision Allowed
Appeal Decision Date 18/05/2010
Conditions
Award of Costs Awarded To

Appeal Synopsis

The application was refused permission for three reasons: 1) harm to visual amenity by reason of the height, bulk and massing of the development; 2) harm to residential amenity from the likely noise and disturbance generated by such a large number of students on a small piece of land; and 3) inadequate on-site parking.

The Inspector considered the main issues to be: "whether the proposal would firstly, accord with the Plymouth Core Strategy Area Vision for Derriford in terms of the scale and nature of use; and secondly, provide for sustainable travel means."

He surmised that it was in accordance with the Core Strategy and that existing character of Derriford and around the appeal site will have to change over time. The three houses to the north "will appear increasingly incongruous compared with the emerging scale of development around."

He did not consider the proposed three and four storey main elevations to Plymbridge Lane as excessive in their context and as compared with the later scheme permitted by the Council, reference 09/01888.

He fully accepted the need for and advantages of the provision of managed student accommodation at Derriford to serve the new Dental School. He stated that: "There is no evidence for me to accept the assumption that unruly behaviour in the neighbourhood would be a consequence."

He did not object to the limited on-site parking and observed that the site is well placed to encourage the students to travel by walking, cycling and use of public transport. He had no evidence that students would park on surrounding streets to an excessive degree to cause danger or inconvenience. The appellant had submitted a Unilateral Undertaking to establish a car club and other sustainable travel initiatives. This does not vest money with the Council unlike the Obligation with the later permitted scheme. The Council submitted this in evidence asking the Inspector to substitute it for the Unilateral Undertaking. He did not and considered that any deficiency in the Undertaking is outweighed by the significant advantages of the proposal.

He concluded that the development is acceptable and allowed the appeal. He attached the 28 conditions suggested by the Council.

Comment

The main lesson to learn is that when an application that is undergoing Section 106 Agreement discussions is refused, the Council loses its control in the negotiation process when the applicant appeals. This can result in the terms in any Unilateral Undertaking being less robust than those that could be secured in a negotiated Section 106 Obligation. It is a risk and material consideration for members and officers to take into account when determining such applications.

Note:

Copies of the full decision letters are available to the press and public at the First Stop Reception.