

# Planning Committee

## Appeal Decisions

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

Application Number **10/00711/OUT**  
Appeal Site **LAND TO THE REAR OF 7-11 UNDERWOOD ROAD PLYMOUTH**  
Appeal Proposal Outline application to develop land by erection of three 4-bedroomed 100sqm floor area detached dwellinghouses  
Case Officer Jon Fox

Appeal Category  
Appeal Type Written Representations  
Appeal Decision Dismissed  
Appeal Decision Date 25/07/2011  
Conditions  
Award of Costs Awarded To

### Appeal Synopsis

The Planning Inspector has concluded that the proposed development is unacceptable because one of the three proposed dwellings would cause a significant reduction in daylight, and over much of the year, sunlight enjoyed in the adjacent parts of the private back garden of 44 Market Road.

The Planning Inspector noted that the garden of this neighbouring property is on a significantly lower level than the appeal site, and so this combined with the close proximity of the proposed dwelling, would create unacceptable conditions. In this particular respect, the Planning Inspector has agreed with the Council that the proposed development is contrary to Policies CS15 and CS34 of the Local Development Framework Core Strategy 2007.

The Planning Inspector did not, however, agree with the other specific refusal reasons that had been identified by the Council, including concerns about noise and disturbance to 11 and 13 Underwood Road at the point of access to the site, the perceived poor relationship between the development and other existing adjoining dwellings, and concerns that the development would be out of character with other development in the area with no frontage on to the main road (Underwood Road).

The Planning Inspector also specifically stated in his decision letter that although national Planning Policy Statement 3: Housing, has been amended so that the definition of previously-developed land now excludes private residential gardens, that in his view, this change is not of 'particular significance' in the context of the appeal proposal.

Application Number **10/01145/FUL**  
Appeal Site **LAND AT PLEASURE HILL CLOSE PLYMOUTH**  
Appeal Proposal Develop site by erection of 8 terraced houses and setting out of wildlife habitat  
Case Officer Jon Fox

Appeal Category  
Appeal Type Informal Hearing  
Appeal Decision Dismissed  
Appeal Decision Date 04/08/2011  
Conditions  
Award of Costs Awarded To

### Appeal Synopsis

The houses were proposed to take up about half of an area set aside as natural grassland for nature conservation in a Section 106 dating from 1998 as mitigation for the habitat lost due to the retail development of the adjacent quarry site (originally Safeways, now Morrisons). The Inspector decided that the obligation in respect of the appeal site remains in force and he noted that the appellants had not sought to alter that obligation or to bring forward an alternative undertaking. The Inspector therefore considered that the scheme would not conserve or enhance the biological diversity, as sought by PPS9, and would conflict with policies CS18 and 19 of the Council's Core Strategy.

The Inspector assessed the impact of the development on nearby houses, particularly "Rooftops", and decided that there would be no material harm.

The Inspector noted that the appellants had indicated in their planning application that they were expecting to make payments to mitigate the impacts of the proposed development. He concluded that a payment would be required and that, in the absence of any obligation submitted to address the requirements, the scheme would undermine the Council's strategic approach to managing the impacts of development.

The Inspector took account of other matters, including the Government's commitment to a general presumption in favour of sustainable development, the presence of a 5-year land supply for housing in the City, and local residents' concerns over parking and traffic, but none of these affected his conclusion on the main aspects of the case.

An application for costs was made against the Council. The appellants argued that the Council had behaved unreasonably in that the nature conservation aspects could have been addressed by a condition on a planning permission and the Council's stance in respect of the impact on nearby properties was inconsistent with a previous application for developing the site. The Inspector considered that the Council had not behaved unreasonably on either count. He did not consider that a condition could have resolved the matter of the loss of natural grassland and he noted that there were sufficient differences between the previous scheme and the appealed scheme to justify the different approaches taken over the effect on nearby properties.

Application Number	<b>10/01337/FUL</b>
Appeal Site	<b>THE GOLDMINE, 50 BUTT PARK ROAD PLYMOUTH</b>
Appeal Proposal	Change of use and conversion and alteration of public house to form a house in multiple occupation (10 bedrooms) and formation of vehicle parking to rear
Case Officer	Janine Warne
Appeal Category	
Appeal Type	Written Representations
Appeal Decision	Dismissed
Appeal Decision Date	18/07/2011
Conditions	
Award of Costs	Awarded To

#### Appeal Synopsis

Following an overturned Committee decision, the Inspector dismissed this appeal on the basis of four principle issues, as outlined below.

Firstly, with regard to character, the Inspector agreed with Member's concerns, noting that the proposal would be incongruous with this out-of-town location and would result in increased competition for on-street parking causing significant and unacceptable harm to the established residential character of the locality, contrary to the adopted Development Guidelines SPD. In addition, the Inspector agreed that the proposal would fail to contribute to a positive sense of place and identity, contrary to policy CS01.

Secondly, with regard to neighbouring amenity, the Inspector agreed with Members that the proposal would be likely to result in noise associated with arrivals and departures (which would be of a different order from the noise associated with the former public house use) and would therefore harm the living conditions of neighbouring dwellings, contrary to policies CS22 and CS34.

Thirdly, with regard to highway safety/parking, the Inspector agreed that the proposal would be likely to cause hazard to highway users and unacceptable inconvenience to existing residents due to increased parking congestion, contrary to policies CS28 and CS34. However, contrary to Members' concerns, the Inspector concluded that use of the proposed access would not cause undue harm to road users. Rather, the Inspector deemed that the cramped site layout (with inadequate provision for bins and cycle parking) would result in inadequate vehicle turning space causing occasional reversing manoeuvres into the street which would be extremely hazardous.

Finally, the Inspector raised concerns regarding the living conditions of prospective occupiers. This issue was not raised by Members. The Inspector noted that the proposed privacy screens would restrict the outlook from two rear bedrooms to an unacceptable degree. In addition, the four bedrooms at the front of the building would suffer from overlooking at close quarters by pedestrians in the street and people approaching the rear entrance door would be able to look into nearby rear bedroom windows. The need to keep these windows permanently obscured would constitute unacceptability poor living conditions for the prospective occupiers of these rooms, in terms of lack of outlook, daylight and sunlight, contrary to policies CS15 and CS34.

The Inspector refused the application for costs. He noted that the Council was entirely within its rights to assess the proposed development and to express views about it which were at odds with the conclusions of its officers. He noted that whilst the reasons for doing so may have been influenced by local residents describing their experiences of the previous unauthorised HMO, this was not the same as having a prejudice regarding such uses. Furthermore the Inspector considered that the refusal reasons were clearly explained and justified by the Council's appeal statement. Therefore the Inspector concluded that unreasonable behaviour resulting in wasted expense, as described in Circular 03/2009, had not been demonstrated.

#### Note:

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