

Planning Committee

Appeal Decisions

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

Application Number	09/01899/OUT
Appeal Site	NORTH WEST QUADRANT, DERRIFORD ROAD PLYMOUTH
Appeal Proposal	Outline application for a mixed use development including: 356 dwellings, D1 non residential institutions including healthcare, C2 residential institutions, A1 retail foodstore, smaller A1 shops, A2 financial and professional services, A3 restaurants and cafes, A4 bars, A5 hot food takeaways, B1 offices, C1 hotel, car parking, highways and accesses, public open space, landscaping, transport infrastructure and pedestrian links and cycle provision
Case Officer	Robert McMillan
Appeal Category	
Appeal Type	
Appeal Decision	Dismissed
Appeal Decision Date	05/08/2013
Condition	
Award of Costs	Awarded To

Appeal Synopsis

The Secretary of State for Communities and Local Government (SoS) has dismissed the appeal by Wharfside Regeneration (Devon) Ltd (Wharfside) against the refusal of planning permission by Plymouth City Council for a mixed use development including shops at land to the west of Derriford Hospital known as the North West Quadrant (NWQ). The SoS made a partial award of costs against Wharfside for unreasonable behaviour during the inquiry.

A public local inquiry was held over 15 days last autumn. The Planning Inspector recommended that the appeal should be dismissed. The SoS agreed with the Inspector's overall conclusions.

Main considerations

The SoS considered that the main considerations were:

- Whether the proposals would accord with the development plan, that is the Core Strategy (CS);
- Retail policy;
- Prematurity in relation to the Derriford and Seaton Area Action Plan (DSAAP);
- Traffic on the strategic road network (SRN);
- Highway safety;
- Car parking/sustainable transport;
- Travel plans;
- Affordable housing;
- Design and layout;
- Community impacts;
- Potential benefits: economic development and growth;
- Viability and deliverability; and
- The restrictive covenant.

All the issues are important but the critical ones in the outcome of this appeal were:

1. whether the scheme conflicted with the CS;
2. the potential benefits in terms of economic development and growth of the development completed, either in full or substantially, within the foreseeable future; and
3. the viability and deliverability of the overall development which was crucial and affected the weight to be attached to some of the other key issues.

The SoS agreed with the Inspector that: ". . . Taken as a whole the scheme would not accord with the development plan. The Inspector said that development would 'offend'

Proposals DS16: A new District Centre for Derriford and DS18: Transport Infrastructure Improvements of the DSAAP but the SoS gave the DSAAP limited weight .

Overall conclusions

The mixed used scheme including several uses that complied with the CS and DSAAP that weighed in its favour. But it would not deliver the CS requirement for a new district centre

and '. . . That this weighs heavily against the proposals'. It would be contrary to CS policies for Derriford and fail the sequential test in the CS and the National Planning Policy

Framework (the Framework). (The sequential test is that for larger shopping developments the developer should first look to locate them in town centres, then edge of centres and

finally out of centre. For this appeal the NWQ was considered to be an out of centre location.)

The SoS attached little weight to the matter of the prematurity in relation to the DSAAP in weighing against the development. But he agreed with the Inspector that if the scheme went ahead it would be likely to deter investment in another site in Derriford and Seaton.

The SoS agrees that it is likely that only the profitable parts of the scheme would be built comprising the supermarket, multi-storey car parks and larger houses so that the developer would not be able to provide sufficient funds to carry out the junction improvements at the Derriford roundabout. This could lead to significant congestion for many years.

The proposals would not amount to sustainable development (in terms of sustainable travel) and so conflict with relevant CS policies and the Framework.

Little if any affordable housing would be provided and the mix of housing is poor with too many small flats.

In design terms the amount of underground parking 'is a major design flaw in terms of viability'. Other design concerns over inactive street frontages and overshadowing might be acceptable with a thriving High Street. But with the doubts on the deliverability of much of the scheme these concerns should be given some weight.

The proposals are contrary to the CS. The potential benefits that the scheme could theoretically boost economic growth but the poor prospects for its delivery, either in full or substantially, mean that they should be given little weight as a material consideration. Furthermore '... By potentially stifling investment in a new district centre elsewhere the scheme might well suppress economic growth.'

The SoS concluded that: '... The proposal conflicts with the development plan and that there are no material considerations of sufficient weight which would justify allowing the appeal.' As such he dismissed the appeal.

Partial award of costs against the developer

The SoS made a partial award of costs against Wharfside on the ground of unreasonable behaviour because of the unnecessary or wasted expense incurred by Plymouth City

Council (PCC) because Wharfside submitted late evidence on viability and highways, after the exchange of proofs of evidence.

The SoS did not make any award of costs against PCC.

Application Number	12/01672/FUL
Appeal Site	47 MUTLEY PLAIN PLYMOUTH
Appeal Proposal	Change of use of first and second floors to student house in multiple occupation (6 persons), change of use of basement to one bedroom self-contained flat and demolition of existing garage to form parking area for 3 vehicles
Case Officer	Jon Fox
Appeal Category	
Appeal Type	Written Representations
Appeal Decision	Dismissed
Appeal Decision Date	10/10/2013
Conditions	
Award of Costs	Awarded To

Appeal Synopsis

The Inspector agreed that the proposed basement flat would suffer from poor levels of daylight and outlook due to being at a low level, hemmed in by retained high walls, and further constrained by the parking of cars and the bin store and screen

Application Number **12/01850/FUL**
Appeal Site **41 STATION ROAD KEYHAM PLYMOUTH**
Appeal Proposal Change of use and conversion from a flat and maisonette to 3 flats
Case Officer Jon Fox

Appeal Category
Appeal Type Written Representations
Appeal Decision Allowed
Appeal Decision Date 14/10/2013
Conditions
Award of Costs

Awarded To

Appeal Synopsis

The Inspector agreed that on-street parking is the issue, but disagreed with the Council that further on-street parking arising from the proposals would result in a risk to highway or public safety, and that local residents would not be inconvenienced to any material extent. The Inspector also considered that the single bus service nearby would be reasonable for this one-bedroom property and that the topography of the area would not necessarily put people off from cycling, especially as ample cycle parking is proposed.

Application Number **13/00227/FUL**
Appeal Site **8 CLIFTON STREET PLYMOUTH**
Appeal Proposal Change of use from single dwelling house (use class C3) to 5 bed house in multiple occupancy (use class C4)
Case Officer Mike Stone

Appeal Category
Appeal Type Written Representations
Appeal Decision Dismissed
Appeal Decision Date 16/10/2013
Conditions
Award of Costs

Awarded To

Appeal Synopsis

This appeal was one of the first against a refusal stemming from the Article 4 Direction that removed permitted development rights to convert single dwellings into HMOS. The inspector accepted the Council's view that, although data suggested almost 85% of properties within 100 metres of the house were in some form of multiple occupation, the street had not reached a tipping point. The inspector said that the absence of any HMOS in Clifton Street meant that properties here remained attractive and viable family homes. The introduction of a HMO would be harmful to the character of the area and prejudice the Council's objective of creating sustainable, well-balanced communities. He added that he did not feel that the introduction of a management plan condition would be sufficient to out-weigh the harm caused by the loss of a family home.

Note:

Copies of the full decision letters are available to Members in the Ark Royal Room and Plymouth Rooms. Copies are also available to the press and public at the First Stop Reception.