

# 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	<b>13/00214/FUL</b>
Appeal Site	<b>44 ALEXANDRA ROAD MUTLEY PLYMOUTH</b>
Appeal Proposal	Change of use of single dwelling house (Use Class C3) to 6-bedroom house in multiple occupation (Use Class C4)
Case Officer	Liz Wells
Appeal Category	
Appeal Type	Written Representations
Appeal Decision	Dismissed
Appeal Decision Date	22/01/2014
Conditions	
Award of Costs	Awarded To

#### Appeal Synopsis

An important decision for the Council in relation to the Article 4 Direction for HMOs where the applicant supported the application with a survey of the area. The Inspector identified the main issue is whether the proposal adversely affects the successful retention of family dwellings in the area, citing policies CS01, CS15, Strategic Objective 3 and the Development Guidelines SPD First Review (2013). Whilst the current number of HMOs is high and close to the guidance threshold of 90%, he saw no evidence that the property would not be suitable for family accommodation and consequently considered the proposed change of use would adversely affect the level of family housing stock in the area, contrary to these policies.

He notes criticisms of the methodology used by the Council to assess the concentration of HMOs but did not consider it appropriate for student accommodation blocks (within 200m of the site) to be included in any assessments – noting that such blocks do not provide a type of accommodation that is available to the wider community including local families. With regards to the site's city centre location, he considers the proposal would fail to satisfy the presumption in favour of sustainable development as the benefits identified by the appellant would be outweighed by the social harm that would be caused by the loss of a family dwelling in the area.

He did not consider the proposal was contrary to policy CS34 as this covers residential amenity but does not make specific reference to noise or disturbance. He does not consider the impact on appearance or generation of noise and litter to be the main issues.

The applicant cited two decisions and suggested that the LPA had acted inconsistently. The Inspector gives little weight to the decisions, one of which was decided prior to the adoption of the SPD and the other relating to the compatibility of a one bed flat on the in a property already used as an HMO. He also highlights that the previous SPG note on HMOs has been replaced by the adopted SPD.

The application for an award of costs is refused. That decision notes that although the data held by the Council is not as detailed as a house to house survey, given the resources involved in carrying out such research, he considers the Council's approach to be reasonable. Furthermore, the Council did not require the appellant to carry out the further work at his own cost but offered the appellant an opportunity to carry out such a survey to inform the Council's decision on the planning application. Regarding the definition of 'street' in the SPD, (as opposed to 'neighbourhood' and 'area' in policies CS01 and CS15 respectively) he does not consider there to be a contradiction between the terminology the Council has used.

Application Number **13/00313/FUL**  
Appeal Site **PHOENIX QUAY, GEORGE PLACE PLYMOUTH**  
Appeal Proposal Change of use from 5 business units to 17 flats (13 x 1 bed & 4 x 2 bed)  
Case Officer Olivia Wilson

Appeal Category  
Appeal Type Informal Hearing  
Appeal Decision Allowed  
Appeal Decision Date 06/02/2014  
Conditions  
Award of Costs

Awarded To

#### Appeal Synopsis

This appeal was allowed. The main issues considered were: a) whether the proposed development would undermine the objective of providing sustainable linked communities; b) the effect of the proposed development on highway safety and c) whether the proposed development should contribute towards offsetting carbon emissions and deliver affordable housing units. In relation to point a), the Inspector noted that there is current sufficient office space within the city to satisfy likely need, but that Area Vision 2 for Millbay and Stonehouse seeks to develop the area as mixed use. The Inspector considered that the loss of five units, with limited commercial potential, would not have a significant effect on the existing or future overall composition of the area, both in terms of loss of commercial use but also in terms of the appearance of the area. He therefore considered that there was no conflict with CS01, CS02, CS05 or Area Vision 2. He emphasised that this decision refers to the particular circumstances of this proposal and does not set a precedent for other proposals. In relation to lack of parking and impact on the local highway network, which was the second refusal reason, the Inspector noted that the two main parties had agreed prior to the hearing that the parking issue could be resolved by the implementation of further on street parking controls, with a financial contribution to towards implementation forming part of the Unilateral Undertaking. The inspector concluded that the proposed change of use would not be detrimental to highway safety or to the amenity of local residents and would not conflict with CS28 or CS34. In relation to the third matter, the Inspector noted that a Unilateral Undertaking had been submitted which sets out contributions towards highways, off-site renewable energy and on-site affordable housing. He found that the contributions towards renewable energy and highways met the tests stipulated by CIL reg 122. He also found that on-site provision of 5 affordable units would comply with policy CS15.

Application Number **13/00749/FUL**  
Appeal Site **COMPTON VALE COMPTON PLYMOUTH**  
Appeal Proposal Development of 6 terraced dwellings with parking at front and associated landscaping (resubmission of application 12/01868/FUL)  
Case Officer Olivia Wilson

Appeal Category  
Appeal Type Informal Hearing  
Appeal Decision Dismissed  
Appeal Decision Date 05/02/2014  
Conditions  
Award of Costs

Awarded To

#### Appeal Synopsis

The Inspector dismissed the appeal. The main issues that were considered in this case were a) the effect on the character and appearance of the protected trees and green space and b) the effect on the function of the site as a Biodiversity Network Feature. The Inspector noted that the site was identified as a Greenscape area in the Core Strategy (Policy CS18 and Diagram 7) and considered that it is an important landscape feature and a significant functional and visual component of the area, as well as providing a strong buffer between residential development to the east and west. He considered that the proposed development would be highly prominent and would represent an alien urban feature within the site. He considered that the loss of 13 trees would harm the integrity of the protected woodland and its contribution to amenity. He also considered that further trees would come under pressure for removal once the site was occupied. He noted that there would be new compensatory tree-planting elsewhere on site, but was not convinced that the proposed planting and management would provide adequate mitigation or compensation for the harm that would arise from the proposed development. The Inspector noted that the site was also a Biodiversity Network feature with city-wide importance for habitats and species. The Inspector agreed that there would be an urbanising effect from the scheme due to artificial lighting, noise and activity. He also was of the view that any biodiversity gain from mitigation measures would only be achieved in the long term and would harm the biodiversity function of the greenscape area as a network feature. He therefore concluded that it would be contrary to CS18 and CS19 and para. 7.11 of the Design SPD.

Application Number **13/00873/FUL**  
Appeal Site **GULLAND HOUSE, WINSTON AVENUE PLYMOUTH**  
Appeal Proposal Demolition of single storey building and erection of 4 storey student accommodation block to provide 4 self-contained flats (15 bed spaces in total)  
Case Officer Olivia Wilson

Appeal Category  
Appeal Type Written Representations  
Appeal Decision Dismissed  
Appeal Decision Date 05/02/2014  
Conditions  
Award of Costs Awarded To

#### Appeal Synopsis

The appeal is dismissed. The main issue was the effect of the proposed development on the character and appearance of the area. The Inspector noted that the proposed new block would be a substantial structure which would afford little scope for separation between the existing and proposed buildings. It would appear as an unduly dominant and overpowering element in the street scene. Because of the contrasting, modern design it would compete with the traditional two-storey buildings around it. He concluded that it would cause significant harm to the character and appearance of the area, contrary to CS02, CS34 and the Design SPD. He considered that effect on living conditions at neighbouring residential properties was acceptable bearing in mind the urban character of the area.

Application Number **13/01177/FUL**  
Appeal Site **317 HEMERDON HEIGHTS PLYMOUTH**  
Appeal Proposal Retrospective application for two storey side and rear extension and front porch- amendment to approved application 12/00505/FUL with front gable roof turned through 90 degrees  
Case Officer Mike Stone

Appeal Category  
Appeal Type Written Representations  
Appeal Decision Allowed  
Appeal Decision Date 24/12/2013  
Conditions  
Award of Costs Awarded To

#### Appeal Synopsis

The planning inspector said that the changes to the roof to create a gable end with a right angled dual pitched roof was a relatively common design and that there were many examples of dwellings with dual pitched roofs in the vicinity. The appeal property was also set well back from, and at a lower level than, the road and the inspector felt that, because of the factors, the extension did not jar with the host property and was not sufficiently unusual as to appear incompatible with the surroundings. An appeal for costs was refused. The inspector stated that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/09, has not been demonstrated and an award of costs was not therefore justified.

Application Number **13/01425/FUL**  
Appeal Site **166 BILLACOMBE ROAD PLYMSTOCK PLYMOUTH**  
Appeal Proposal Proposed double garage and demolition of existing single garage  
Case Officer Mike Stone

Appeal Category REF  
Appeal Type Written Representations  
Appeal Decision Allowed  
Appeal Decision Date 10/02/2014  
Conditions  
Award of Costs

Awarded To

#### Appeal Synopsis

The inspector did not agree with the council's view that the proposed layout with a double garage would be less safe than the current single garage situation. He felt that in practical terms there would be very little change in the space available for manoeuvring. He said that because of the wide footway and the presence of a slip road off the main road there was good visibility and room to manoeuvre that would lessen the potential for interruption of traffic as well resulting in greater safety than a straight access on or off a principal lane of main road.

Application Number **13/01604/FUL**  
Appeal Site **29 NORTH DOWN ROAD PLYMOUTH**  
Appeal Proposal Erection of balcony to rear  
Case Officer Louis Dulling

Appeal Category  
Appeal Type Written Representations  
Appeal Decision Dismissed  
Appeal Decision Date 27/12/2013  
Conditions  
Award of Costs

Awarded To

#### Appeal Synopsis

Inspector concluded that the structure would not appear unduly dominating or overbearing when seen from neighbouring properties. However shared concerns of the case officer dismissed appeal on the grounds of significant overlooking and serious loss of privacy to neighbouring properties contrary to policy CS34.

Application Number **13/01910/FUL**  
Appeal Site **8 HOLLYCROFT ROAD PLYMOUTH**  
Appeal Proposal Proposed single and two storey side extension and single storey front extension  
Case Officer Mike Stone

Appeal Category  
Appeal Type Written Representations  
Appeal Decision Dismissed  
Appeal Decision Date 20/01/2014  
Conditions  
Award of Costs

Awarded To

#### Appeal Synopsis

The inspector supported the council's view that the lack of sufficient setback for the two storey extension would contribute towards a terracing effect. This would be likely to appear as a cramped form of development that would fail to respect the rhythm and spacing of the street scene and was would be harmful to the character of the area and contrary to CS02 and CS34. The inspector accepted that there would be some loss of light entering the kitchen of the neighbour but, given the separation that would remain, did not feel that the proposal would significantly diminish the total amount of light within the kitchen. He felt that there would be no significant impact upon the residential amenity of the neighbouring property.