

FAREHAM

BOROUGH COUNCIL

Report to Planning Committee

Date: **27 February 2013**

Report of: **Director of Planning and Environment**

Subject: **PLANNING APPEALS - SUMMARY REPORT**

SUMMARY

This report summarises the appeal decisions received during the period 1 April 2012 to 31 January 2013 and provides an analysis of them.

RECOMMENDATION

That the Committee notes the contents of this report.

INTRODUCTION

1. The following report analyses the planning appeal decisions received in the period 1 April 2012 to 31 January 2013.

Analysis of Appeal Decisions and Trends

2. During the period covered by this report, 28 appeal decisions were received. Of those 28 decisions, 10 were allowed and 18 dismissed. The decisions can be broken down in greater detail as follows:-

	Total	Written	Informal	PLI
		Representations	Hearing	
Dismissed:	18	18	0	0
Allowed:	10	10	0	0

3. Of the 18 appeals dismissed, 12 were either refused under officers' delegated powers or recommended for refusal. Four of the other 6 appeals related to applications that were favourably recommended by officers but refused by the Planning Committee. Details of these appeals are set out below. The final 2 appeals were in relation to conditions attached to permissions.
4. Of the 10 appeals that were allowed: 7 related to applications either refused under Officers' delegated powers or recommended for refusal, 2 resulted from the Planning Committee overturning the recommendation of Officers, and one related to an appeal against non-determination.

The 28 appeal decisions received can be grouped into the following areas:-

	Allowed	Dismissed
Tree Preservation Orders	2	0
Householder Development	3	11
Residential Development (less than 10 units)	1	5
Residential Development (more than 10 units)	0	0
Advertisements	0	0
Variation of Condition	2	0
Commercial	2	2
Listed Building Consent	0	0
Planning Enforcement Notice	0	0
Lawful Use Certificates	0	0

No successful applications for costs were made during this period.

5. The planning appeals for this financial year to date cover a range of applications and development types but are all smaller scale developments. Many related to subjective issues of the impact upon character and adjoining properties. All the appeal decisions received are circulated to Members of the Planning Committee and therefore a detailed analysis of each one is not set out here. The following primarily focuses on those cases where the recommendations of Officers were not accepted by the Planning Committee.

The appeals allowed

6. In the case of 10 Delme Drive, Members refused the planning application against the recommendation of Officers. Members visited the site prior to taking a formal decision and concluded that the narrowness of the plots and the scale of two houses in particular would harm the character of the area. The Planning Inspector did not share this view and allowed the appeal; the Inspector did not however allow an application for costs against the Council.
7. An oak tree within the rear garden of a property at 18 Buttercup Way became the subject of an appeal. The house was granted planning permission in the late 1980s and had a modest rear garden containing a number of protected trees. When an application was received to fell an oak tree approximately 2 metres away from a conservatory Officers recommended that consent should be granted.
8. As the tree was confirmed as sound and healthy and no structural damage was claimed Members resolved to refuse consent.
9. The Planning Inspector in considering the appeal accepted that some visual harm would be caused by the loss of this tree. He stated however that 'in my view the house and extension have been constructed very close to the tree, which grows in a position which creates excessive shade and light reduction across the property and the detritus is significant and increasing as the tree develops. I accept that surgery can reduce these problems, and has been carried out in the past, but in my view the amount of regular periodic surgery to control the crown growth of this tree is undesirable and would not be a satisfactory long term solution.'
10. In allowing the appeal the Inspector imposed conditions requiring a replacement tree.
11. In the case of St Mary's Church in Church Road Warsash, planning permission was refused to erect photovoltaic panels on part of its roof; the Church is a Grade II listed building.
12. In considering the appeal the Inspector considered that the panels introduced an alien feature and would therefore cause some harm to the appearance of the building. In closer views however he considered that the elevation containing the panels had already undergone a degree of change which lessened the effect.
13. Furthermore he had regard for the benefits brought about by the use of PV panels and the fact that they were time limited and reversible. In weighing up the issues he concluded that the significant benefits of the proposal would outweigh the less than substantial harm caused.
14. In allowing the appeal he imposed a condition which effectively limited the life of the permission to 25 years from installation of the panels.
15. The non-determination appeal related to one of the chalets at Solent Breezes. The appellant was seeking permission to occupy the chalet all year round. Fareham Borough Council argued that Solent Breezes is not a sustainable location and is therefore inappropriate for all year round occupation; and that such changes of use alter

its fundamental character from that of a 'holiday home' park.

16. The Planning Inspector concurred with this Council's arguments and noted that Solent Breezes is an unsustainable location in the countryside and that there is no overriding need for permanent residential dwellings here. He also considered that such changes of use would indeed change the character of the site.
17. Whilst the planning appeal was allowed a condition was imposed to restrict its occupation to between the 1st March and 31st October, and for other limited times outside this period.

The dismissed appeals

18. Members will note that 4 of the appeals dismissed were favourably recommended by Planning Officers.
19. Two of the appeals (194 Swanwick Lane and 5 Oleander Close) related to the impact from proposed first floor extensions upon neighbouring properties. In both cases the first floor extension was located in very close proximity to the party boundary. Similarly the most impacted rooms were neighbour's conservatories and the rooms behind these conservatories.
20. Members did not accept the positive recommendations of Officers in either of these cases concluding that the impact upon the neighbouring properties was unacceptable. In the ensuing planning appeals, the Inspectors concluded that the resulting harm caused, especially the impact upon sunlight and daylight through the translucent roofs of the neighbouring conservatories justified the dismissal of the appeals.
21. The case of 263-265 White Hart Lane in Portchester, involved demolishing a retail shop, workshop and dwelling and replacing them with five dwellings. The scheme was favourably recommended to the Planning Committee.
22. Members concluded that the proposal comprised a cramped form of development which provided inadequate garden areas and off street parking; the planning application was accordingly refused.
23. In considering the appeal, the Planning inspector considered that the garden sizes proposed would not be adequate in all cases to serve family sized units. He therefore concurred the proposal gave rise to a cramped form of development.
24. In terms of car parking he noted that the on-site parking provision was three spaces below the Council's normal expected parking standards. The Inspector accepted that reduced standards could be accepted in accessible locations but the applicant had not demonstrated that this was the case here. He also acknowledged that capacity appeared to exist on street but concluded that relying upon on-street car parking did not give rise to a high standard of development or level of amenity for residents. The appeal was dismissed.
25. The next appeal related to a proposed chalet bungalow at the rear of 112 Locks Road. Officers favourably recommended the application but Members concluded that overlooking from rear facing windows would have an unacceptable impact upon the neighbouring property. The application was refused.

26. In assessing the proposal the Inspector noted that from the main rear walls of the existing and proposed dwelling, a separation distance of 22 metres appeared to be achieved. Once the neighbours conservatory was added on however (which measures approximately 2.5 metres in depth) the 22 metres was no longer met. In any event the Inspector concluded that in established residential areas, particular care needs to be taken when new residential development is proposed. The inspector concluded the extent of overlooking materially harmed the neighbouring property and the appeal was therefore dismissed.

Summary

27. The appeals received within this financial year have related to small scale developments, many of which involved subjective judgements relating to neighbours amenities, the character of the area and highway safety. No major policy challenges arose through these appeals. No costs were awarded against the Council through this period.

CONCLUSION

28. Members are recommended to note the contents of this report.

Background Papers:

The appeal decision notices in respect of those appeals mentioned in this report.

Reference Papers:

None

Enquiries:

For further information on this report please contact Lee Smith. (Ext 4427)