



DERBY CITY COUNCIL

PLANNING CONTROL COMMITTEE

15 January 2009

Report of the Assistant Director - Regeneration

ITEM 7

Appeal Decisions

RECOMMENDATION

1. Committee is asked to note the decisions on appeals taken in the last month.

SUPPORTING INFORMATION

- 2.1 The attached appendix 2 gives details of decisions taken.
- 2.2 The intention is that a report will be taken to a Committee meeting each month.

For more information contact:	Paul Clarke 01332 255942 e-mail paul.clarke@derby.gov.uk
Background papers:	See application files
List of appendices:	Response to appeal decision

IMPLICATIONS

Financial

1. None.

Legal

2. None.

Personnel

3. None.

Corporate objectives and priorities for change

4. None.

APPEALS DECISIONS

Code No	Proposal	Location	Decision
DER/DC23/02/07	Appeal of 'High Hedge' decision	174 Duffield Road	Dismissed
<p>Comments: This appeal relates to the decision of the City Council to take any action regarding a 'High Hedge' brought to our attention under the 2003 Anti-Social Behaviour Act 2003 – Section 71(1) and 71(3).</p> <p>A formal High Hedge complaint was lodged with the City Council in March 2007. The hedge in question forms part of the boundary between 174 and 176 Duffield Road and consists of Leylandii. It is almost 19 metres in length and around 2.5 m in height. The complaint was that the height of the hedge reduced the light in the complainant's garden and therefore adversely affected plants.</p> <p>Using the formula given in the legislation, the 'action hedge height' was calculated to be 3.8 m. That is the height we would ask the hedge to reasonably be reduced to. Given that the actual hedge height was already well below that, the decision of the City Council was to take no action in this case.</p> <p>The Inspector concluded that a hedge below the action hedge height could not be accepted as likely to be causing a significant loss of light or adversely affecting the appellant's enjoyment of their property. He therefore agreed with the decision of the City Council that there was no necessity for the issue of a remedial notice and dismissed the appeal.</p> <p>This is the first test at appeal we have received following a decision under this still relatively new legislation, so it is heartening to receive confirmation from an Inspector that our procedures and considered assessment for dealing with these complaints are sound.</p>			

APPEALS DECISIONS (cont'd)

Code No	Proposal	Location	Decision
DER/01/08/00141	Extensions to dwelling house	24 Burnside Drive, Spondon	Allowed
<p>Comments: This application sought permission for a two storey side extension, a porch to the front and a single storey extension to the rear of a traditional semi-detached property with a hipped roof.</p> <p>This application was originally refused because the side extension was flush with the front and rear of the property. In the opinion of the City Council the proposal would have the effect of unbalancing the pair of semi's as it would not be sufficiently defined from the original house. Approval of this proposal may lead to others in the street which could lead to a terracing effect which would undermine the character and appearance of the street scene.</p> <p>Unfortunately the Inspector did not share the opinion of the City Council. She considered that the slightly lower ridge line of the extension and the use of small window openings was sufficient to prevent the over dominance of the extension. The inspector also concluded that the street scene as a whole was not regular or uniform. The appeal property is stepped slightly forward of the neighbouring property at No. 26 and this was sufficient to prevent the possibility of a terracing effect.</p> <p>Whilst the inspector took into account policy H16, she felt that the design of the resulting extension was not sufficiently harmful to justify withholding permission. She did however note the Council's concern that the approval of this proposal may set an undesirable precedent and concluded that all applications should be judged on their own merit which may result in different decisions in different circumstances.</p> <p>This is a disappointing decision as the Council felt that this proposal was harmful to the streetscene and the character of the area. Other inspector's have agreed with the City Council and Policy H16 and this decision, as the inspector notes, cannot be used to justify other inappropriate large side extensions.</p>			

RECOMMENDATION: To note the report.