

2ND QUARTER PERFORMANCE MONITORING

APPEALS

Appeal	Decision	Reason
3/2004/1005 Cemetery Road, Witton le Wear	Dismissed	The appeal was against the refusal of retrospective application for a wooden fence to the side of the house and the reinstatement of a garden shed to the rear. The Inspector concluded the development had not preserved or enhanced the character or appearance of the Witton le Wear Conservation Area.
3/2004/0742 land to the west of and within the curtilage of 3 Elm Park Terrace, Tow Law.	Dismissed	The appeal was made against the refusal of planning permission for two dwellings. The Inspector concluded that because the application site was outside the limits to development the proposal was in conflict with policy H11 of the WVDLP. The proposal was not infill development and so was in conflict with policy H4 of the WVDLP. The proposal would detract from the countryside's open and rural appearance and be in conflict with policy GD1 of the WVDLP. The proposal was not sustainable development and so was in conflict with PPG3 : Housing and PPS7 : Sustainable Development in Rural Areas.

COMPLAINTS

Origin of complaint	Allegation	Response
1. By applicant	Not happy with decision to require raft foundations which increased cost of development. Raft foundations were not necessary.	The applicants had employed a structural engineer who designed the foundations on the basis of the proximity of the development to a sewer and trees. The complainant appealed to Stage 2. The case officer checked with Northumbrian Water and was informed the development would be within 3 metres of a sewer. The complainant took advice from a structural engineer who would have carried out his investigations before designing a raft foundation.
2. By local resident	Objected to the grant of planning permission for a detached garage. The complainant alleged the case officer did not visit the site and that the first decision was made under delegated powers. Complained that when the second application for a longer garage was reported to Committee objectors were told that	The complainant was informed that due to the difference in ground levels between the application site and the complainant's land the proposed height was considered acceptable. The case officer did visit the site. The application was a delegated item. Due to the second application not changing the height of the garage Members were correctly advised that the increase in length was the relevant issue to consider. The complaint was taken to Stage 2. Confirmed that the case officer had visited the site. Explained why the height had been

	the height of the garage was not an issue to be considered because of the previous approval.	considered acceptable because of the site levels. Copies of the relevant local plan policies forwarded to the complainant.
3. By local resident	The complaint related to use of land for quad and bike races which were first reported to the Enforcement Officer and Environmental Health in October 2003. The use was still continuing without planning permission.	The complainant was informed that a Planning Contravention Notice had been issued. Meetings have taken place and a planning application has been invited. An application had been received but it was invalid. The complainant was assured he would be notified about the application when it was made valid.
4. By local residents	Local residents objected to a proposal to build a house. The application was withdrawn. A new application was submitted. Only 2 objections were made and the application was approved under delegated powers. The complainant claimed residents' concerns have not been given a fair hearing.	The complainant was informed that the residents' concerns were taken into account in the officer analysis and responses to objections. The application was correctly determined under delegated powers. The complaint went to Stage 2. The complainant was informed that there had been wide publicity of the application. The scheme of delegation was explained.
5. By local resident	Alleged that not notified about an application. Wrote letter of objection after found out about the application from a neighbour.	Complainant informed that a notification letter had been sent and site notice displayed. The letter of objection was received after the application had been approved.
6. By local resident	The complaint was made about the behaviour of the Chair of the Development Control Committee, and other Councillors, about the presentation of the officer report and the decision to grant planning permission.	This was replied to by the Head of Legal Services because the complaint referred to a Councillor and the behaviour of the Committee, and to the officer report and the way it was presented. She explained that the report made it clear to Councillors that where the proposal did not meet the guidelines of the local plan. She pointed out that the debate was evenly divided and explained why the Chair had to use his casting vote. She informed the complainant that the Chair had apologised for his behaviour to one of the Councillors. She explained that the officer had been helpful to the Committee but he had a duty to present accurately the officer report which recommended approval of the application. The role of the Standards Board for England was explained in relation to the complaint about Councillors' conduct.

7. By local resident	Concerned about the length of time taken for frosted glass to be fitted to gable windows of adjacent dwelling.	The complainant informed that the enforcement officer had given the developer 21 days to carry out the work and if the work was not done a Breach of Condition Notice would be issued.
8. By local resident	The complainant alleged the Council had failed to follow guidelines. Officers had failed to calculate the amount of overshadowing/loss of light. The dangerous access had been agreed. Objectors' comments had not been properly investigated. The Committee did not know the site. The Chair was unprofessional.	The complainant was informed that all of the issues raised were discussed at length in the Committee report. It is not standard practice to carry out calculations. The highway authority was consulted and the advice received was followed. All comments received were reported and commented upon. The Viewing Panel had visited the site. The role of the Standards Board for England was explained in relation to the complaint about Councillors' conduct. This complaint was taken to Stage 2. The complainant was informed that the measurements in policy H24 are guidelines only. The development would replace an existing large building close to the boundary. The development was to be 1½ storeys high on slightly lower land than the objector's property. Therefore calculations were not necessary. A detailed comparison of the measurements and position of the existing and proposed buildings was provided. The complainant was informed that there was no justification for going against the advice of the highway authority. The case officer was very much guided by the Acting Principal Planning Officer. The complainant was assured the Committee had considered the application very carefully and that no decision was made before the Committee met. The role of the officer was explained, i.e. to present accurately the officer report which recommended approval of the application.
9. By resident	Alleged that the Council's guidelines were not followed. The concerns of the objectors were not properly investigated. The Chair was rude to a Councillor. The slides displayed did not demonstrate the overbearing nature of the proposed development.	The complainant was informed that the officer report did discuss all of the issues at length. The officer report did summarise the residents' objections and made comments upon them. The role of the Standards Board for England was explained in relation to the complaint about Councillors' conduct. The complainant was informed that it is not unusual to take photographs only from within the application site. The procedure for notifying residents and reporting comments received was explained.
10. By resident	The complainant alleged that he had asked for the case officer to come out to give an opinion to the resident about the	The complainant was informed that it was not clear that the request was for the case officer to visit the resident. The officer assessment of the proposals was explained in detail. The complaint went to Stage 2.

	development proposed next door. No one came out. The Council has failed to look after the best interests of residents.	Officers visited the complainant and explained that the statements in policy H24 are guidelines. The complainant was informed it is not possible to withdraw the planning permission which has been implemented. A follow up letter was sent explaining that the application had been carefully assessed and that there was no reason to take a different view to the case officer and the Acting Principal Planning Officer.
11. From resident	Alleged that the residents have been badly let down because planning permission has been granted for unacceptable development. The Department has breached its own guidelines.	The complainant was informed that the objections received from the complainant were fully considered. Comments about the impact of the development were responded to. The complaint went to Stage 2. The complainant was informed that the application was properly assessed and objections were fully considered. The applicant had received advice from the Department prior to submitting the planning application. This complaint has now gone to Stage 3, received in Q3.
12. From resident	The complainant had objected to a planning application. The committee would not look at the effect the development would have on property. The development that has been implemented does not conform to the approved plans resulting in lost light and devaluation of property.	The complainant was informed that the Viewing Panel did visit the application site. It was accepted that there are some differences between the approved plans and what has been built. Amended plans had been requested. The Committee had considered whether the development would reduce light and had concluded there would be no significant harm. Value of property could not be taken into consideration. This complaint has now gone to Stages 2 and 3, received in Q3.

OMBUDSMAN CASES

Location	Response
34 Castle View, Witton le Wear	Ombudsman's discretion. The complainant had complained about the decision to grant planning permission for an extension at the rear of property. The complaint could not be pursued. The procedure leading up to the decision was broadly sound. The extension could not be seen from the complainant's property so no injustice had been suffered.

