

# AGENDA ITEM 5

## DEVELOPMENT COMMITTEE

10 JUNE 2010

### REPORT OF PRINCIPAL PLANNING OFFICER

#### DEVELOPMENT CONTROL PERFORMANCE 2009/10

#### 1. PURPOSE OF THE REPORT

- 1.1 To advise the Committee, of the Performance Indicator outcomes related to the determination of planning applications for Q4 (January to March 2010), the workload trends currently present and the general performance of the team.

#### 2. RECOMMENDATION

- 2.1 The Committee notes the current performance data.

#### 3. DEVELOPMENT CONTROL PERFORMANCE

##### 3.1 BACKGROUND

- 3.1.1 The Performance Management Framework includes the following elements:

- The performance criteria we wish to meet, which are laid down as aims and objectives. These are an integral part of the Corporate Plan, which includes both corporate level objectives, and Local Priority Action Plans. Each Service also draws up its own Service Plan, which includes aims, objectives and targets. Our Community Strategy illustrates our shared vision with partner organisations, and details what we want to achieve together.
- Measures of performance against the above criteria. These include Best Value Performance Indicators and Local Performance Indicators, which together measure our performance against both the promises we make to the local community, and the roles which Government expects us to perform.

##### 3.2 BVPI MEASURES OF PERFORMANCE OUTCOMES AND CURRENT POSITION

- 3.2.1 The table below shows the Council's recent and current performance against national and local measures and targets. BVPI measures focus on efficiency and speed rather than the development of the service, the quality of the decisions made and the outcomes secured.

- 3.2.2 The figures in the table date from 2005 to 2010, the figures marked in Green represent targets that have been met and the figures in red show where the service has been below target.

Indicator	2005/ 06	2006/ 07	2007/ 08	2008/ 09	TARGET 2008/09	Q1 April – June 09	Q2 July – Sept 09	Q3 Oct – Dec 09	Q4 Jan – Mar 10	2009/10 outturn
157 (a): % 'major' applications determined in 13 wks	75.86 %	71.4 %	79.31 %	66.66 %	60%	25%	100%	100%	33.33%	64.28%
157 (b): % 'minor' applications determined in 8 wks	76.63 %	83.84 %	80.32 %	67.39 %	65%	85.71%	82.22%	84.74%	82.05%	83.5%
157 (c) : % 'other' applications determined in 8 wks	91.63 %	92.43 %	92.87 %	81.28 %	80%	91.48%	92.33%	89.28%	85.71%	90.23%
LOCAL: % all applications determined in 8 weeks	85.73 %	87.53 %	86.18 %	74.93 %	80%	87.01%	89.44%	88.27%	83.19%	86.65%
LOCAL: % householder applications determined in 8 weeks	95.89 %	94.01 %	95.65 %	83%	90%	92.42%	93.75%	94.44%	86.79%	91.98%

**3.2.2** Planning application performance for the final quarter of 2009/10 has shown performance figures sustained and reaching above target for all the above indicators. The final figures for 2009/10 has shown that we are reaching targets in all of our BVPI's.

**3.2.3** Maintaining target levels in the departments PI's is encouraging and has been possible due to the dedication of staff and the speediness with which they have adapted to new working practices and changes to procedures.

**3.2.4** Staff should be highly commended for maintaining performance targets in ever changing working practices and limited resources.

**3.2.5** The objective of the service in this next quarter and performance year is maintain this high level of performance.

### 3.3 QUALITATIVE MEASURES

**3.3.1** The outcome of appeals is regarded as a principal measure of decision making quality, being the means by which decisions are individually scrutinised and reviewed.

Indicator	2005/ 06	2006/ 07	2007/ 08	2008/09	TARGE T 2008/09	Q1 April – June 09	Q2 July – 12 Sept 09	Q3 Oct – Dec 09	Q4 Jan – Mar 10	2009/10 outturn
188: % of decisions delegated to officers	86.5 %	85.85 %	87.15 %	91.70%	90%	93.50%	92.31%	92.41%	94.12%	92.89%
204 : %age of appeals against refused applications dismissed	66.6 %	50.00 %	55%	46.57%	66.66%	50%	100%	100%	40%	62.5%
219a: no of Conservation Areas in Borough	44	44	44	44	44	44	44	44	44	44
219b: % of Conservation Areas with character	12	18 (41%)	21 (48%)	22 (50%)	36 (82%)	22 (50%)	26 (60%)	30 (68%)	30 (68%)	30 (68%)

appraisal											
219c: % of Conservation Areas with published management proposals	12	18 (41%)	21 (48%)	21 (48%)	<b>36 (82%)</b>	22 (50%)	26 (60%)	30 (68%)	<b>30 (68%)</b>	<b>30 (68%)</b>	
205 : quality of Planning Service checklist	72%	83%	83%	94.44%	<b>94%</b>	94.44%	94.44%	94.44%	<b>94.44%</b>	<b>94.44%</b>	

### 3.3.2 Planning appeal performance (BVPI 204)

The table below indicates the Council's appeal record for quarter 4, with key information associated with a selection of the appeals detailed in Appendix 1 below.

#### Appeals by decision background:

Decision type	No. of appeals dismissed	No. of appeals allowed
Delegated	1	0
Committee, in accordance with recommendation	1	0
Committee, departure from recommendation	0	3

### 3.4 DEVELOPMENT OF THE SERVICE

3.4.1 The 2009/10 Service Plan has now been formally agreed. The Service Plan for 2009/10 identifies the long term vision for service delivery within Regulatory Services. The long term vision is;

- Accessibility
- Engagement and Inclusiveness
- Outcome driven
- Customer Focus and Response
- Transparency
- Pro-activeness
- Efficient
- Learning and self-awareness

The Service plan also identifies recent achievement within Regulatory Services.

3.4.2 The initiatives for 2009/10 are set out within the Service Plan and are broken down into Development Control, Conservation and Enforcement. Listed below are examples of some of the initiatives identified for DC, Enforcement and Conservation;

- EETG – Service Redesign: Enforcement of Regulatory Services;
- EETG – Paperlight Ways of Working
- Maintaining performance
- External training
- Continual update/improvement of website
- CAPs training
- TPO data
- Historic building grants
- Conservation Area Appraisals on websites
- Pro-active enforcement

- Enforcement on-line

Progress has begun on a number of these initiatives which are designed to improve the delivery of the service and create efficiencies in working.

### 3.5 OUTCOMES

3.5.1 There are no well developed techniques to measure the quality of the outcomes of Development Control activity. However, it is helpful to consider it in terms of both 'service delivery' and 'results on the ground' and the following indicators are considered to offer insight as to the delivery of the service. The context for the examples below is 950 applications determined in the period addressed by this report.

#### 3.5.2 Impact of Development Control process on outcomes

It is estimated that approximately 30% of planning applications are the subject of improvements to design, layout and/or content as a result of negotiations carried out through the planning process. Each of these 'add value' to the development, in terms of the quality of the outcome (the final form of the development) and its impact on the surrounding environment and meeting planning objectives. This approach is furthered by the use of s106 agreements and these have been deployed to secure affordable housing and infrastructure contributions. Within 2009/10 the Council has secured affordable housing contributions to the level required (40%) in all applicable cases and secured infrastructure contributions to meet the requests of service providers, also at a rate of 100% in terms of car parking payments, library and civic amenity provision. We have also secured permission for a 100% affordable housing scheme of 26 dwellings in Melton Mowbray

3.5.3 The publishing of the Core Strategy (Preferred Options) has also facilitated progress in terms of addressing housing mix and sustainability issues. The Core Strategy, and the evidence base behind it, has enabled decision making to require house sizes to meet local need, including examples of the refusal of applications where they have presented the wrong type or mix of houses. It has also reaffirmed the approach of 'unsustainable locations' and Members will be aware of examples of development being refused in villages that are remote from services. The approach to affordable housing has been radically extended and decisions have implemented the approach of extending contributions to smaller schemes (6 units).

#### 3.5.4 Decision making

The central purpose of decision making is to determine planning applications in accordance with decision making responsibilities defined by s38(6) of the Act : in accordance with the development plan unless material considerations indicate otherwise. This encompasses the identification of all material considerations and their balancing with the Development Plan. Measures of the robustness of this process are considered to be appeal results (particularly any awards of costs which illustrate unreasonable decision making), complaints to the ombudsman regarding misapplication of policy or failure to take into account material considerations and departures from the development plan. The following examples have taken place in 2009/10:

- 1 examples of a significant departure from the development plan (which required notification to the Secretary of State as a major departure)
- 2 complaints to the Ombudsman: 1 relating to enforcement procedures that was withdrawn as misdirected and 1 that considerations have been incorrectly applied or omitted is under investigation.
- 37.5% of appeals have been upheld,
- 3 examples of costs have been awarded in this financial year. **The background causes and impact of these were considered by the Committee at its meeting of 29<sup>th</sup> April and as requested, comprehensive details of the claim,**

**the defence submitted by officers and the Inspectors adjudication are included in Appendix 2.**

### **3.5.5 Contribution to Council Priorities and objectives**

In common with all other services, the Development Control team seek to contribute to corporate priorities and objectives and, in terms of development, the service delivers the implementation of these ambitions, together with the content of the Local Plan. The objectives and priorities are embedded within the day to day service delivery and the teams positive approach to development (e.g. seeking solutions to problems rather than a direct refusal) has enabled development to make its contribution. Members will be aware of numerous examples of permissions being granted that contribute to these objectives:

#### Priority 7

##### **Help provide a stock of housing accommodation that meets the needs of the community, including the need for affordable housing**

We are addressing the imbalance of housing type and size.

We will require all residential developments to make a contribution towards affordable housing.

We will secure more rural affordable housing through the development of 'exception' sites.

- Securing 40% affordable housing contributions and a 100% affordable scheme in Melton.
- Ensuring a mix of house types and sizes within new developments: rejection of applications which do not address identified housing needs or do not provide adequate affordable housing. Successfully pursuing such arguments through the appeal process.

#### Priority 10

##### **Supporting economic recovery**

Ensure a high level of skills, education & employment is maintained across the Borough

Provide appropriate employment space & infrastructure

Maximise the Borough as a place for investment, with a focus on improving the visitor economy by maximising tourism potential

- Approving large scale employment schemes in Melton Mowbray/Asfordby Hill
- Protecting industrial land from displacement by other forms of development

#### Priority 11

##### **Enhance the vitality and viability of Melton Mowbray Town centre**

Promote and market the town to attract more visitors and increase footfall.

Encourage further investment and development in the town.

- Secured external funding for improvements to historic buildings in Melton Mowbray Town Centre - £15000 contribution has stimulated investment value of £106000
- Secured redevelopment of Town Station site with development which will increase town centre footfall

## **4 ENFORCEMENT PERFORMANCE**

4.1 The service plan requires a number of local performance indicators for enforcement. This is the first year that the figures have been collated and it is intended that in future figures will be monitored against past performance. Below are the indicators (and targets) used to assess the performance of the service;

- Planning Enforcement : % cases resolved per month against annual total of all cases (TARGET: 8.3%/month 100%/year)
- Planning Enforcement : cases reaching 'course of action' decision within 8 weeks (TARGET: 70% of cases)

- Planning Enforcement: % appeals against enforcement notices dismissed (TARGET: 100% of appeals)

4.2 Between 1 January and 31 March 2010, 50 new cases have been received and 48 cases were concluded in quarter 4. The service plan requires that 8.3% of cases per month are closed on a pro-rata basis to make 100% for the year. For the quarter alone, 8.3% would equate to 16.7 cases/month, whereas we actually resolved 16 cases/month or 8%.

4.3 Calculating the '8 Week' figure is more complex, and is dependant on whether the case has been closed, awaiting compliance with a request where we've allowed a time beyond the 8 weeks or we have an application pending. All these cases would have reached a 'decision' once the perpetrator had been formally advised of the local planning authority's position and the necessary action has been taken by the perpetrator, but the case may not have been officially 'closed'. Quarterly figure is 72% of cases received reached a 'course of action' during the quarter, with further 4 'undecided' cases still within 8 weeks of receipt as of 31 March 2010.

4.4 There have been no enforcement appeals decided within this quarter.

#### 4.5 Yearly totals 2009/2010

Indicator	Q1	Q2	Q3	Q4	Overall
No. of Cases Received	47	80	53	51	231
No. of Cases Closed	53	68	67	50	238
% Resolved per month against annual total (target 8.3% per month = 100% per year)	(18.3) 9.7%	(22.6) 7.1%	(22.3) 10.5%	(16.7) 8.1%	8.6% 103% total for the year
Cases reaching a course of action decision within 8 weeks (target 70% of cases)	74.5%	67.5%	72%	72%	71.5%
Appeals against enforcement notices dismissed (target 100% of appeals)	N/A	N/A	N/A	N/A	N/A

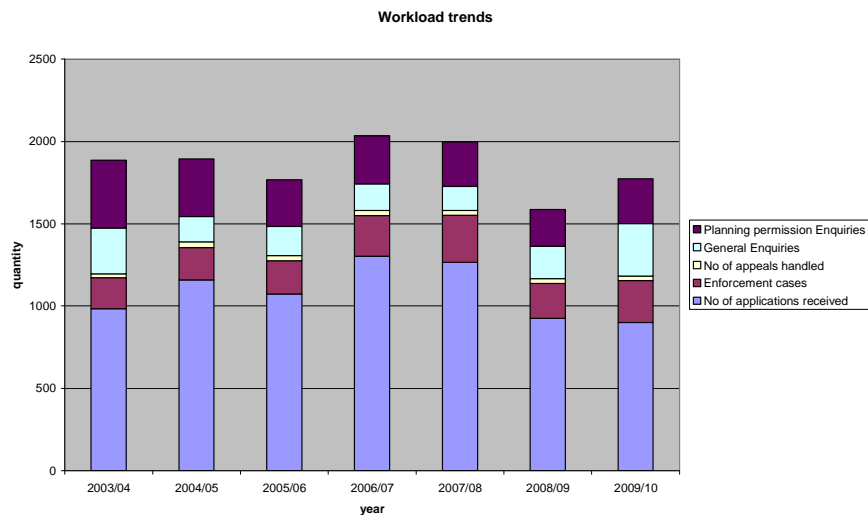
4.6 It is satisfying to find that whilst figures have fluctuated above and below the targets for the year that the overall figures for the year have exceeded the targets that have been set .

4.7 The overall performance figures can be attributed to the swift intervention of the team in respect of breaches of planning control, ensuring compliance with planning permissions, taking remedial action or securing applications for retrospective planning permission. Nevertheless, there remain many cases that take considerable lengths of time to progress, due to the complexity of the case, lack of response or discussion and negotiation seeking satisfactory development. Whilst the figures are encouraging, it should also be noted that the enforcement team duties are not only employed solely in the investigation of alleged breaches of planning control.

4.8 Over the last year, the Enforcement Technician has also managed to secure £53,550.00 in monies owed to the Council through S.106 agreements, also negotiating and securing a stepped payment plan from another developer for an outstanding sum of £20,000 to be paid to the Council over the coming year. During the year, the Enforcement Team has also been engaged in the Service Redesign EETG project. Strictly following the scope and desired outcomes of the project, many hours of research, consultation, review and deliberation has led the team to assess a number of options that are being pursued in an effort to make the enforcement of Regulatory Services more efficient.

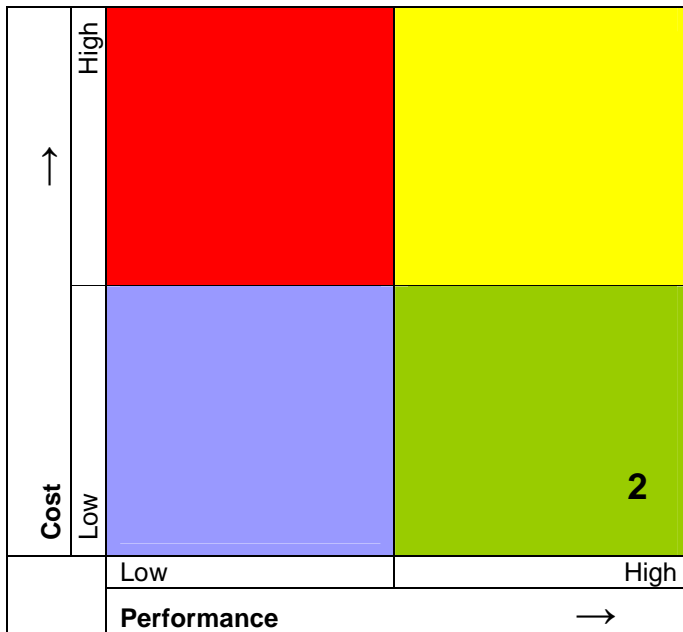
## 5 WORKLOAD CONTEXT

- 5.1 Members will be aware that the above statistics have been delivered in a changing workload context. The following graph illustrates the pattern of workload in recent years. As will be noted, the 2009/10 has gone against general trend and we have seen a significant downturn in applications received. This can be equate to the current economic climate.
- 5.2 The downturn in applications received has enabled us to maintain target figures despite the loss of a case officer. However, the number of applications are starting to pick up and there is concern that it may be difficult to sustain performance figures with our current staff levels.



## 6. VALUE FOR MONEY

- 6.1 Recent initiatives under the revised Performance Management Framework have emphasised the need to maintain focus on Value for Money as a measure of performance (as highlighted by the 'Use of Resources' assessment of the Council). Research undertaken reveals that the Council's Development Control Service performs significantly above average when measured both nationally against all other Councils and also when compared the 'family group' of similar Councils. In terms of cost, the Council is very much at the cheaper end of costs associated with planning both nationally and amongst the family group. The graph below – taken from the Corporate value for Money submission to the Audit Commission - illustrate these findings:



**Cost comparators**

- Audit Commission Value for Money Toolkit
- (Planning Total £'s /head - including Planning Policy)
- Nearest neighbours comparison
- Low cost 4th/16 cheapest MBC £10.37/head cf. £18.97 highest
- Geographic neighbours – low cost (3<sup>rd</sup>/7 cheapest)
- National : Bottom quartile

**Performance comparators**

- Significantly Above Average/high
- Audit Commission Value for Money Toolkit
- (Planning App % of applications decided in target time)
- Nearest neighbours comparison
- Above Average 7/16
- Geographic neighbours – High Performance (2<sup>nd</sup>/7)
- National – top quartile



**6.2** Under the Corporate ‘Standard of Service for Melton’ and EETG initiatives, the service has contributed as follows:

- Reduced costs of service by approx 20% since 2008/09 despite increase in workload
- Developed further new ways of working – increased flexibility
- Continual update/improvement to website facilitating ‘channel shift’
- Leading the Council in ‘paperlight’

**7. SUMMARY AND CONCLUSION : HOW ARE WE PERFORMING?**

7.1 This report has shown that in quarter four standards of performance have been maintained and target levels are being met.

- 7.2 There is some concern with regards to current staffing levels and workload capacity which may effect performance levels should workload increase. Towards the latter parts of the year it is evident that workload is beginning to increase.
- 7.3 The annual figures also expressed within the report show that throughout the year the services PI's have been met. In general terms, the Council's performance in terms of service delivery and maintaining high standards of processing, inclusion and the robustness of decision making is sound, with the quality of errors representing a very small proportion of overall activity.
- 7.4 The Enforcement Team's overall figures for the year have exceeded the targets that have been set and the enforcement team should be commended for their work and efforts.
- 7.5 There is continued concern about the Council's appeal record and the attraction of costs. The Council has been awarded cost on four recent appeals. This has been the subject of a Corporate Risk and something which is required to be monitored

### **APPENDIX 1 : APPEAL DECISIONS**

**Proposal: 09/00292/FUL Erection of 2 dwellings Plot 1 three bedrooms and Plot 2 four bedrooms at Sunny Vale Cottage, 10 Chapel Street, Barkestone Le Vale**

**Level of decision:** Committee

**Reasons for refusal:**

- The development, if approved, would create an undue loss of amenity for the neighbouring property by reason of a loss of outlook and the creation of an over dominant structure.

**Inspector's conclusions: Appeal Allowed –** . It was concluded that the proposal development would not adversely impact upon the living conditions at neighbouring properties and as such it would comply with the aims of Policies OS1 and BE1 which seek to ensure that the amenity of the occupants of existing dwellings is not unduly affected.

The appeal was also the subject of an application for costs. The Inspector awarded costs to the appellant. It was considered by the Inspector that the appellant incurred costs as the Committee was unduly swayed by the views of local residents opposed to the proposal rather than heeding the advice of its officers and as a result made generalised assertions about the proposals impact on No. 8 which were unsupported by any substantive objective analysis of the proposal.

**Proposal: 09/00719/FUL and 09/00377/FUL Change of use of public house to two dwellings and conversion of outbuildings into two dwellings garages and flat at The Three Crowns Inn, 39 High Street, Somerby**

**Level of decision:** Committee

**Reasons for refusal:**

- The proposal would result in an over intensive form of development resulting in inadequate provision of off street car parking in a location where on street opportunities are severely limited and on street parking would be detrimental to highway safety. The proposal is therefore contrary to policies OS1 and BE1 of the adopted Melton Local Plan.

**Inspector's conclusions: Appeal allowed –** The Inspector considered the main issue in both appeals is whether there would be adequate provision for the parking of motor cars. The

Inspector considered that car ownership and reliance of the use of private cars is high in Somerby and that, therefore, the development should provide maximum off-street parking. The Appeal B scheme would make that provision and The Appeal A scheme would exceed it. The Inspector therefore concluded that both schemes would provide adequate parking.

The appeal was also the subject of two applications for costs. The Inspector awarded costs to the appellant on both appeals. It was considered by the Inspector that the appellant incurred costs as the Council failed to produce evidence to support a decision contrary to officers' advice. The Council therefore acted unreasonably causing the appellant to incur unnecessary expenditure in pursuing the appeals.

**Proposal: 08/00907/OUT Low environmental impact redevelopment of site to provide business centre, 6 live work units and 36 dwellings with associated infrastructure and landscaping at Millway Foods Ltd, Colston Lane, Harby**

**Level of decision:** Committee

**Reasons for refusal:**

- The proposal would result in residential development which is not within or adjoining a settlement that has been identified as being suitable for development and as such is a departure from the local development framework.
- The proposal would result in the introduction of residential units which are in a unsustainable countryside location. It is not considered that there is sufficient justification to warrant residential development in an area located within the countryside, which does not fall within the types of residential development for which an exception is made to the general presumption against such development.
- the proposal would, if approved, result in the significant loss of employment on a site which has been identified for safeguarding.
- the proposal fails to meet the requirements for affordable housing as an exception site.
- the proposal would, if approved, result in a development which is significantly below the national and regional minimum requirements for density.
- the proposal would fail to make sufficient provision for the infrastructure requirements arising from the development
- Insufficient information has been submitted by the applicant for the Local Planning Authority to be able to assess the impact the proposed development will have upon protected species and their habitat

**Inspector's conclusions: Appeal dismissed** – The Inspector acknowledges that the proposal has been designed to a high ecological standard that encompasses advanced sustainable design principles. He also consider that the redevelopment of the site for business elements would be appropriate and that the proposal would represent a sustainable use of the site that would not give rise to a loss of rural employment potential and that a planning obligation has not been justified. However, these matters do not outweigh his conclusions in respect of the location of housing within the countryside outside of the existing village boundary, the shortcomings identified in respect of affordable housing provision and density and the lack of information on the effects on biodiversity and protected species.

This appeal was the subject of two claims for costs. The Council applied for full costs on the basis that ecological information had not been submitted and the appeal was doomed to fail. The Inspector awarded partial costs in association with the disputed reason for refusal 7, the effect on wildlife and biodiversity. The appellant applied for partial costs on the basis of obtaining evidence in relation to the employment study. The Inspector awarded partial cost for the expense of preparing evidence to refute this reason for refusal at appeal.

**Proposal: 09/00312/COU Change of use to part of existing double garage to create dog grooming area for business use Monday to Friday by appointment at Crowlees, 3 Church Lane, Thorpe Satchville**

**Level of decision:** Delegated

**Reasons for appeal:**

- The proposal is likely to result in an increase in the number of vehicles using Church Lane which is narrow in places, has no formal turning facilities and has poor visibility at its junction with Main Street for the speed at which vehicles approach the junction. This could result in additional dangers to road users and would not be in the best interests of Highway safety.

**Inspector's conclusions: Appeal dismissed** – The Inspector considered the main issue to be the effect that the proposed use would have on highway safety and the free flow of traffic along Church Lane. The Inspector concluded that whilst the business would operate on a relatively small scale the nature of the roads in the vicinity is such that even a small amount of commercial traffic would have an unacceptable impact on highway safety and the free flow of traffic.

**APPENDIX 2 : DETAILS OF COSTS AWARDS**

APPLICATION	Details of claim for costs	Council defence/rebuttal	Inspectors findings
<p>09/00377/FUL Somerby Change of use of public house to two dwellings and conversion of outbuildings into two dwellings garages and flat.</p>	<p>Rejection of expert consultee advice without replacement contrary evidence.</p>	<p>Reasonable planning grounds exist for the decision, this being that the specific site, restraints to access and parking limitations on the site. The site is in an area where residents are highly reliant on the motorcar and the maximum levels of parking should be provided. It is not considered that the maximum level of parking has been provided, particularly as the garage spaces provided fall below standard, and inevitably this will lead to on street parking where there is evidence of parking problems.</p>	<p>The Council took the view that the garages were substandard and would not be used. This is contrary to the advice of the Highway Authority that whilst not as deep as current standard the garages would be wider and suitable.</p>
<p>09/00719/FUL Somerby Change of use of public house to two dwellings and conversion of outbuildings into two dwellings garages and flat.</p>		<p>In accordance with Para B20 of circular 3/09, Members are not bound to follow the advice of their officers, provided they show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects.</p> <p>In this case they took full account of both the locational characteristics of the site, both in terms of the geographic location of the site in terms of dependency upon the motor car, and also the</p>	<p>No evidence was put forward in either appeal to support the claim that the garages would not be used.</p> <p>Furthermore no evidence was put forward in either appeal to substantiate a requirement for above standard parking provision. 6. I conclude that in neither appeal did the Council produce evidence to support a decision contrary to officers' advice. The Council therefore acted unreasonably causing the appellant to incur unnecessary expenditure in pursuing the appeal.</p>

		<p>specific issues relating to the immediately surrounding road network. They also considered national and local policy in respect of parking provision and considered its applicability to the proposal. This led to a requirement to judge whether policies were applicable and whether there were considerations present that indicated a decision should depart from them, and the Committee proceeded to determine this based on the evidence of the extent of compliance with policy and evidence of circumstances of the development that it was aware of from its own inspection of the site and hearing the contribution of the applicant, its officers and interested 3<sup>rd</sup> parties. These factors are detailed in the appeal statement paras 5.2 to 5.7.</p>	
<p>09/00292/FUL Barkestone le Vale Erection of 2 dwellings</p>	<p>1. The Council has sought to introduce two new reasons for refusal despite the previous appeal decision. These are loss of outlook and the creation of an over dominant structure. The Council also cited Policy BE1 in its reasons for refusal, which must be focused on loss of privacy, assuming that it is accepted there is no loss of sunlight/daylight. Loss of privacy is therefore a new reason for refusal. 2. The Council was warned at their</p>	<p>The Council considers that the proposed development would lead to loss of outlook and the creation of an over dominant structure. Accordingly the proposal is contrary to Policies OS1 and BE1. The Inspector in the previous appeal decision dismissed the appeal on the grounds that the proposal would be "harmful to the living conditions at No.8 Chapel Street" and stated that the development would cause "loss of</p>	<p>It is apparent that the pre application discussions that took place following the previous appeal decision focused on loss of light. Whilst the officer recommendation was to permit, I note that members are not bound to accept the recommendation of their officers. However, Paragraph B20 of the Circular indicates that the Council will need to show reasonable planning grounds for taking a contrary decision and</p>

	<p>meeting by the appellant that a costs award would be sought if the application was refused on the basis of the introduction of new reasons for refusal. Loss of outlook and privacy should not have been considered as material reasons for refusal.</p>	<p>light and despite the filtering effect of the beech hedge, have an overbearing effect on No.8 Chapel Street".</p> <p>The reference to Policy BE1 is not related to privacy but rather that in line with the previous appeal decision the proposal would lead to loss of outlook and therefore daylight, this is due to the over dominant structure proposed.</p> <p>In accordance with Paragraph B20 of Circular 3/09, Members are not bound to follow the advice of their officers and in this case they took full account of the locational characteristics of the site and the neighbouring property as well as the previous appeal decision. It is submitted that the Committee quite correctly considered the relevant factors and was entitled to make its judgment based on these factors.</p>	<p>produce relevant evidence on appeal to support the decision in all respects.</p> <p>Paragraph B16 requires reasons for refusal to be complete, precise, specific and relevant to the application. The Council's reasons for refusal based on a loss of outlook and the creation of an over dominant structure are effectively the same as for those for the previous planning application with the omission this time of "loss of daylight". Whilst I accept that an over dominant structure could be described as having an overbearing effect, I do not agree with the assertion that loss of outlook equates to a loss of daylight/sunlight with reference to Policy BE1. In my opinion it does not follow that a loss of outlook would necessarily lead to a loss of daylight.</p> <p>Paragraph B18 of the Circular makes it clear that where the outcome of an appeal turns on such issues as the living conditions of the adjoining occupiers of property that it is unlikely that costs will be awarded if realistic and specific evidence is provided about the consequences of proposed development. The officers stated in their committee report that "The combined effect of the reduction in overall height and</p>
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			<p>repositioning of the two storey element reduce the impact the proposal would have on the adjoining property No.8 Chapel Street. The amended design is considered to improve the relationship with No.8 and would not provide sufficient justification for refusal". However, the Committee chose to disregard the assessment that was carried out by the officers of the design improvements made by the appellant to Plot 1.</p> <p>I am obliged to consider the application for costs on the basis of the material before me including the discussions that took place, the relevant meeting of the Planning Committee and written representations from all the parties. On the basis of the evidence before me <i>I consider that the Committee was unduly swayed by the views of local residents opposed to the proposal</i> rather than heeding the advice of its officers and as a result made generalised assertions about the proposal's impact on No.8 which were unsupported by any substantive objective analysis of the proposal and in particular the amendments made to Plot 1.</p> <p><u>Conclusion</u> I find that the Council did act unreasonably in failing to</p>
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<p>08/00907/OUT : Millway Foods Ltd Colston Lane Harby  Low environmental impact redevelopment of site to provide business centre, 6 live work units and 36 dwellings with associated infrastructure and landscaping</p>	<p>Absence of specific policy support to protect employment use of the site. The appellant has been marketing the site over many years and presented marketing evidence showing a lack of interest from any parties wanting the site for an acceptable permitted use. Initial marketing evidence was sent to the Council with the grounds of appeal with subsequent evidence submitted with the Hearing statement. It is the responsibility of the Planning Inspectorate to pass on this evidence to the Council. The Council took little account of this evidence, but clung to their assertion that loss would be significant and contrary to policy, but with no policy to safeguard the site in this way. The EMRP5 at Policy 1[e] refers to good quality sites, but the only evidence from the Council refers to this site as of average quality.</p>	<p>The Council believe that they have provided evidence in the form of the Melton Borough Council Employment Land Study [ELS] and its findings that rated the site as viable. It is agreed that there is no specific policy that named this site for safeguarding, but consider that it is addressed within the development plan by more general policies. PPS4 at Policy EC12.1[c] requires the Council to take account of the loss of employment sites, which is what they have done. EMRP Policy 1[e], as part of the core objectives, has a need to ensure a sufficient supply of good quality land and premises available for economic development and Policy 20 indicates that the Council must maintain up-to-date employment studies to provide for the rural economy. The appellant has not been put to any unnecessary expense. It is accepted that the appellant can challenge findings of the Council. They commissioned the employment study, but this is considered unavoidable in order for them to present their case. This is part of the normal mechanisms associated with planning appeals with no unnecessary burden to either side.</p>	<p>substantiate its reasons for refusal.</p> <p>The site has been marketed extensively for employment use and whilst there were a limited number of enquiries, none of these has resulted in a positive acceptable offer. The appellant indicates that there is extensive availability of vacant floorspace and land with planning permission to provide for incoming and expanding employment uses with better located and more modern premises. The Hearing submissions were forwarded to the Council by the Planning Inspectorate on the 25 February 2010.</p> <p>The redevelopment of the site would not give rise to a loss of rural employment potential, but would provide the opportunity for modern employment premises aimed at providing for the local employment market in a sustainable way. The Council provided no evidence of substance to indicate that site has been identified for safeguarding as part of policy and no substantive evidence to indicate why the development could not be permitted for this reason, taking account of other employment sites within the vicinity.</p>
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