

Planning Services

COMMITTEE REPORT

APPEAL UPDATE (DURHAM CITY AREA OFFICE)

APPEAL DECISIONS:

Appeal by Colthome Ltd

Site at 48 Canterbury Road, Newton Hall, Durham, DH1 5PY

Appeal against the refusal to grant planning permission for the change of use of No.48 Canterbury Road, Newton Hall to form an A5 Hot-Food Takeaway.

The planning application for the change of use of No. 48 Canterbury to form a hot-food takeaway was refused planning permission 22 June 2009. The reason for the decision was;

“The Local Planning Authority that considers that the proposed A5 hot-food takeaway use would be detrimental to the residential amenity of nearby residents by virtue of unacceptable levels of noise and disturbance created by the comings and goings of customers and the associated vehicular movements, engine noise and closing of car doors. The proposal is therefore considered to be contrary to relevant Policies H13 and S10 of the City of Durham Local Plan 2004.”

The Inspector recognised that the presence of the existing businesses and a public house in the immediate area and in turn the level of noise and activity that will already occur around the site. However, the Inspector noted that the pattern of operation of a hot food takeaway tends to involve the attraction of car-borne customers as well as groups congregating when waiting for and eating food.

The Inspector considered that although there is a car park located to the rear of the premises many customers would likely park to the front. The levels of noise from the cars and from customers congregating would be readily audible for local residents. The Inspector concluded that the additional noise would be harmful to the amenities of nearby residents and considered the proposal contrary to Local Plan Policies S10 and H13 and as a result the appeal was **dismissed**.

Recommendation:

That the appeal decision be noted.

APPEAL UPDATE (EASINGTON AREA OFFICE)

APPEAL RECEIVED:

None

APPEAL DECISION:

Appeal by Mrs Frances Tait

Site at Rosemary Lane, Easington Village, Peterlee

An appeal was lodged and an application for costs was made by Mrs Frances Tait against the Council's Refusal to grant planning permission for the erection of a two-storey five bedroom house at Rosemary Lane, Easington Village, Peterlee.

The appeal has been allowed and planning permission granted for the development. The application for the award of costs has also been allowed.

Planning Officers recommended the application for approval, however this recommendation was overturned and the application was refused. The planning committee Members considered that the proposed development would have a detrimental effect on the street scene and character of Easington Village Conservation Area, and effect adjacent residents by way of overshadowing and loss of outlook.

The inspector concluded that the main issues were whether the proposal would preserve or enhance the character or appearance of the Easington Village Conservation Area and the effect on the living conditions of the occupants of Richmond House and 1 North Terrace.

The Inspector was satisfied that despite the proposed house having accommodation on three floors, it would successfully integrate with its surroundings in terms of siting, scale, form and materials and so it would not appear as an unduly prominent or incongruous feature in the street scene. For these reasons the proposal would preserve the character and appearance of the Easington Village Conservation Area. As a result there would be no conflict with Policies 1, 22 or 35 of the District of Easington Local Plan or with Planning Policy Guidance Note 15: Planning and the Historic Environment. The Planning Inspector also noted that the County Council's Design and Conservation Officer raised no objections to the scheme; which it was felt supported the Inspectors conclusions on this issue.

With regard to the impact the proposed development would have on adjacent occupants, the Inspector was satisfied that due to the siting of the proposed dwelling, the development would not cause any significant harm to the living conditions of neighbours. Consequently the Inspector felt that there would be no conflict with Local Plan Policies 1 or 35 insofar as they seek to ensure that there is no serious adverse effect on the amenity of people living in the vicinity of the development site.

In relation to the application for costs, the Inspector commented that he accepted that Members of the Development Control and Regulatory Panel visited the site and considered local objections before making their decision. Nevertheless, he considered that the Council failed to adequately substantiate the reasons for refusal. As such this amounted to

unreasonable behaviour and the appellant would have incurred unnecessary expenditure in pursuing the application to appeal. Consequently, he considered that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, had been demonstrated and a full award of costs were justified.

Recommendation:

That the appeal decision be noted.
