



# Appeal Decision

Hearing held on 12 March 2008  
Site visit made on 12 March 2008

by **Malcolm Rivett BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: enquiries@pins.gsi.gov.uk

Decision date:  
27 March 2008

**Appeal Ref: APP/W1335/A/07/2052271**

**Fairview Farm, Hummerbeck Lane, Evenwood Gate, Bishop Auckland, County Durham, DL14 9NT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Andrew Gibson against the decision of Teesdale District Council.
- The application Ref 6/2007/0129/DM, dated 15 March 2007, was refused by notice dated 4 July 2007.
- The development proposed is change of use of agricultural land and erection of 40 timber chalets.

## Application for costs

1. At the Hearing an application for costs was made by Mr Andrew Gibson against Teesdale District Council. This application is the subject of a separate Decision.

## Procedural matter

2. The appellant confirmed at the Hearing that, in addition to the log cabins, permission is sought for use of part of the site for camping, shown as "potential campsite" on the submitted drawings. However he stated that, other than for purposes incidental to the use of the site for chalets and camping, permission is not currently sought for a picnic area. I have determined the appeal on this basis, having regard to the Council's lack of objection to such an approach and my view that third parties would not be prejudiced.

## Decision

3. I allow the appeal, and grant planning permission for change of use of agricultural land and erection of 40 timber chalets at Fairview Farm, Hummerbeck Lane, Evenwood Gate, Bishop Auckland, County Durham, DL14 9NT in accordance with the terms of the application, Ref 6/2007/0129/DM, dated 15 March 2007, and the drawing nos listed in Schedule 1, subject to the conditions set out in Schedule 2.

## Main issues

4. The main issues in this appeal are the effect of the proposal on:
  - the amenity of users of Hummerbeck Lane bridleway;
  - highway safety; and

- the character and appearance of the landscape.

## **Reasons**

### *Amenity of Bridleway Users*

5. Hummerbeck Lane, which is a bridleway, would provide access to the site from Hilton Moor Lane. I concur with the parties that around 90 movements is a realistic estimate of the daily vehicle flow likely to be generated by the proposal. Although I have seen no surveys of current vehicle flows on the part of Hummerbeck Lane which leads to the site, based on what I have read and heard and saw on my visit, I envisage that the proposal would be likely to significantly increase vehicle flows along the lane. However, it was agreed that it is probable that vehicle movements would be spread across the day and it appears to me, therefore, that an average of around 6 vehicles per hour, associated with the proposal, would use the lane. It is approximately a mile along Hummerbeck Lane from Hilton Moor Lane to the site entrance (a walk of around 20 minutes) and therefore it seems to me that a pedestrian, horse rider or cyclist would be unlikely to encounter more than 2 or 3 cars whilst on the lane.
6. The lane is wide enough to allow cars to pass each other and a condition could ensure that it would be maintained as such. Although straight, the lane's rough surface would be likely to restrict vehicle speed. Given the length of bridleway affected, the volume of traffic, its speed and its ability to give other users of the bridleway a relatively wide berth when passing, I am satisfied that the proposal would be unlikely to cause any significant harm to the amenity of, nor discourage its use by, pedestrians, cyclists or horse riders. I therefore find that, in this respect, the proposal has no conflict with policy GD1(D) of the adopted Teesdale District Local Plan (TDLP). This policy requires that development does not disturb or conflict with adjoining uses. The Council also refers to policy TR10 of the TDLP which states that development which would directly affect a public right of way will only be permitted if an acceptable and equivalent alternative route is provided. However, in my judgement the proposal indirectly, rather than directly, affects the bridleway and therefore has no conflict with this policy.

### *Highway Safety*

7. I recognise that visibility to the left is restricted for drivers turning right from Hummerbeck Lane into Hilton Moor Lane. This results from the tight bend on Hilton Moor Lane which I envisage causes vehicles on that road to travel slowly and cautiously in this location, such that they would be likely to be able to stop safely if they encountered a vehicle turning out of Hummerbeck Lane. The half mile or so stretch of this road from Hummerbeck Lane to the A688 is narrow and has a number of blind summits. However, although I have seen no details of existing traffic flows or speeds on this part of Hilton Moor Lane, from my visit it appears to currently operate satisfactorily, albeit with some overrunning of the verge. Moreover, I understand that there have been no personal injury accidents in the last five years.
8. As part of the proposal five passing places on this stretch of Hummerbeck Lane are proposed and I am satisfied that these could be secured by condition. Bearing in mind the existing situation on the road I consider that the passing

places would ensure that the road would continue to operate safely with the additional traffic generated by the proposal whilst reducing the incidence of verge overrunning. I therefore conclude that the proposal would be unlikely to harm highway safety and that it thus accords with policies GD1(Q) and TR3(E) of the TDLP which state that new development should have adequate and safe access/infrastructure.

#### *Character and Appearance of the Landscape*

9. Policy TR3 of the TDLP indicates that permission will be granted for a chalet development in the countryside where (amongst other things) it does not detract from the character of the area and is adequately screened by topography or existing trees within the control of/managed by the applicant. Despite a suggestion to the contrary by an internal consultee, at the Hearing the Council confirmed that this policy does not require the complete screening of chalet developments.
10. The appeal site is within the valley of the Hummer Beck and the majority of the chalets would be situated either side of a low knoll. Tree planting around the perimeter of the site has already taken place although it is likely to be 10 years or so before this provides an effective screen. Currently Bolton Garths Plantation provides substantial screening of the site from much of Hummerbeck Lane and from longer distance views from the west. Although I appreciate that this is not within the control of the appellant, from what I have read and heard it is unlikely to make commercial sense for its owner to fell the plantation within the next 10 years. Furthermore, the Council indicated at the Hearing that it believed it unlikely that the plantation would be felled during this period. However, I have given little weight to the appellant's agreement with the plantation's owner for it to be retained, given that it is not clear to me what would happen if the agreement were broken.
11. The site is visible from the A68, on higher land around a mile away, although during the day I envisage that, at this distance, the dark stained/roofed log cabins would not be a prominent feature on the landscape. I accept that unrestricted external lighting of the site would, during hours of darkness, urbanise the appearance of the site when viewed from this location. However, I am satisfied that suitably focussed, low level external lighting, which could be secured by condition, would not have such an effect.
12. It appears to me that the topography of the area ensures that there are not long distance views of the site from the north or south. However, until the on-site planting creates an effective screen, the development would be visible from the north, west and south from certain points on Hummerbeck Lane, from footpaths no 22 and no 23 and from near Bolton Garths. Nevertheless, the views from these points, which are less than 150m from the site, are generally restricted, short distance ones, rather than extended ones of the surrounding landscape. Moreover, these views, which prominently include existing built development in the form of either Bolton Garths or the non-traditional Fairview Farm house and its large outbuildings, are of land which is of no special landscape designation. I agree with the appellant that, suitably stained, the log cabins would be "recessive" rather than prominent and, although relatively densely positioned, the topography of the site itself would mean that from most of these viewpoints it would only be possible to see part of the

development as a whole. Therefore, whilst I accept that the proposal would, to some degree, alter the close vistas of the site, I am satisfied that it would not significantly harm appreciation of the existing character of the area from these viewpoints.

13. I recognise that an Area of High Landscape Value (AHLV) lies relatively nearby to the south of the site, although it is not contended that the site can be seen from this area, nor does it appear to me that the proposal would be seen in views in to the AHLV from the surrounding area.
14. I conclude therefore that the proposal would be adequately screened by topography and trees and would cause no significant harm to the character or appearance of the landscape and it would thus accord with the intentions of policy TR3 of the TDLP as set out above. I note that, in conflict with an element of part B of this policy, Bolton Garths Plantation is not in the control of the appellant. However, as I envisage it unlikely these trees would be felled, I consider that this is not good reason to dismiss the appeal. I am also satisfied that the proposal has no conflict with policies 4 and 64 of the Durham County Structure Plan and the elements of national planning policy referred to by the Council.

#### *Other Matters*

15. The appellant and local residents/businesses have referred to the need for farm enterprises to diversify their activities and to the wider tourism/economic benefits of the proposal. Whilst not quantified I accept that such benefits are likely to some degree and this has added some weight to my decision based on the main issues of the case.

#### *Conditions*

16. For the reasons indicated by the Council I agree that conditions are necessary regarding landscaping, external lighting, materials, means of enclosure and improvements to the highway and bridleway. Whilst I agree that it is necessary to restrict occupation of the cabins to prevent their use as permanent residential accommodation, I am satisfied that this can be achieved by preventing occupation by any individual/group for more than 6 weeks per year and does not require complete closure of the site for 4 weeks each year.

#### *Conclusion*

17. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Malcolm Rivett*

INSPECTOR

### **Schedule 1 – Approved drawings**

4304-06 (Site Location Plan)

4304-06 (Site Plan)

4304-06 A

4304-06 B

4304-07 (Reception Chalet and Car Parking area)

4304-07 (Proposed Highway and Access Arrangement)

4304-08

4304-066

Elevations and Floor Plan – Chalet D

Elevations and Floor Plan – Chalet E

### **Schedule 2 – Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall only be used for holiday accommodation and shall not be occupied by any person or group of persons for a period in excess of 6 weeks in total during 1 calendar year. The owner shall maintain a register of persons occupying the premises and shall make it available for inspection upon request by the Local Planning Authority, having been given 24 hours notice of such inspection.
- 3) Prior to the occupation of any part of the development hereby approved the bridleway improvement works set out in the maintenance agreement (Bridleway 24 Etherley and Bridleway 68 Evenwood and Barony Maintenance Agreement, plan ref 4604-7, dated 22 February 2007) shall be undertaken. Thereafter the bridleway shall be maintained as such.
- 4) No development shall take place until works to provide passing places on Hilton Moor Lane, to hard pave the first 10m of Hummerbeck Lane from its junction with Hilton Moor Lane and to improve the site access on to Hummerbeck Lane have been completed in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.
- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables,

- pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.
- 6) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
  - 7) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any tree or plant (including any replacement) which, within a period of 5 years from its planting, dies, is removed or becomes severely damaged or diseased shall be replaced in the next planting season with another of similar size and species unless the Local Planning Authority gives written consent for any variation.
  - 8) No external illumination shall be installed on the site, other than in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.
  - 9) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted and the accesses and parking areas have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and shall be retained and maintained as such thereafter.
  - 10) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and types of means of enclosure to be erected. The means of enclosure shall be completed before the buildings hereby approved are occupied. Development shall be carried out in accordance with the approved details.

**APPEARANCES**

**FOR THE APPELLANT:**

Mick Robson	Acorus Rural Property Services, Hollyshaw House, Hollyshaw Lane, Leeds, LS15 7BD
Andrew Gibson	Fairview Farm, Hummerbeck Lane, Evenwood Gate, Bishop Auckland, County Durham, DL14 9NT
Michael Davis	Rural Landscape Consultants, Oakwood, St Briavels, Gloucestershire, GL15 6SJ

**FOR THE LOCAL PLANNING AUTHORITY:**

Maria Ferguson	Teesdale District Council
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**INTERESTED PERSONS:**

Wendy Swords	Late Shopper, 5 West View, Evenwood, Bishop Auckland, DL14 9QH
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**DOCUMENTS**

- 1 Letter notifying interested parties of date/time of Hearing
- 2 Plans showing boundary of Area of High Landscape Value
- 3 Additional Landscape Plan
- 4 Plan of footpaths/bridleways
- 5 Costs application on behalf of the appellant
- 6 Initial statement by Council in response to the costs application