



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER:

APPEAL UPDATE REPORT

APPEALS RECEIVED

Appeal against the refusal of retrospective advertisement consent for the erection of an internally illuminated sign at Co-Operative Retail Services Ltd, Front Street, Langley Park, Durham, DH7 9XE (Reference - DM/15/02690/AD)

An appeal has been received against the refusal of retrospective advertisement consent for the erection of an internally illuminated sign at the above site. The application was refused under Delegated Powers in October on the following grounds:

“The proposed advert is inappropriate in terms of design, would be unduly prominent within the streetscene, would adversely affect the character and appearance of the building and the wider area, and would likely affect the amenity of neighbouring residents. The sign may also prove to be a distraction to passers-by in terms of public safety. Therefore the proposal is considered contrary to Policy CO14 of the Derwentside District Local Plan and Paragraph 67 of the NPPF.”

The Commercial Appeals Service procedure has been agreed and the decision will be reported to Members in due course.

APPEALS DETERMINED

Appeal against the refusal of planning permission for the construction of a detached dwelling house and garage at Southburn Livery and Stud, Chester Moor, Chester le Street, County Durham DH3 4QG (DM/14/03673/FPA).

An appeal against the refusal of Planning Permission for the above development was received on 31 July 2015. The application was refused under delegated powers for the following reasons:

'The site is located in an isolated countryside location and the applicant has failed to demonstrate that there is an essential need for a rural worker to live permanently on the site contrary to Paragraph 55 of the National Planning Policy Framework and saved Policy NE2 of the Chester le Street District Local Plan.

The applicant has failed to demonstrate the exceptional circumstances required to allow for the construction of new buildings in the Green Belt, and as a result the proposal is considered to be inappropriate development, causing harm to the openness of the Green Belt in conflict with paragraph 89 of the National Planning Policy Framework and saved Chester le Street Local Plan Policies NE4, NE5 and NE6, which seek to preserve the openness of the Green Belt and the purposes of including land within this designation.

The scale of the proposed dwelling is considered inappropriate to the size and requirements of the rural holding and is considered to be out of character with the surrounding area, to the detriment of the high landscape quality afforded to the area. The proposals are considered to be contrary to policies NE2 and NE15 in this regard.'

The appeal was dealt with by way of a hearing and site visit held on the 18 November 2015. The Inspector in determining the appeal considered that the main issues were as follows:

-whether the proposal is inappropriate development in the Green Belt and its effect on the openness and purposes of the Green Belt, as well as the effect on the character and appearance of the surrounding countryside; and
-if the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, including the stated need for an employee of the business to live permanently on site, so as to amount to the very special circumstances necessary to justify the development.

The Inspector stated that paragraph 89 of the National Planning Policy Framework (NPPF) regards the construction of new buildings as inappropriate in the Green Belt, other than for a limited number of exceptions, detailed within paragraphs 89 and 90. The Inspector considered whether the proposals complied with any of the exceptions and concluded that the building did not constitute the construction of an agricultural building, nor did it comprise of a limited infill on a previously developed site, the two directly relevant exceptions in this case. On this basis it was concluded that the proposal was inappropriate development in the Green Belt, which according to paragraph 87 of the NPPF is considered harmful and should not be approved except in very special circumstances.

The Inspector went on to state that the proposed development would have a greater impact on, and cause harm to, the openness and purposes of the Green Belt. In determining the degree of harm, the Inspector was of the view that although the Livery and Stud comprises of a number of substantial barns and other buildings and the design of the proposed dwelling would be relatively low level, positioned adjacent to existing buildings, the overall size of the built elements, including dwelling, garage, patio and retaining walls, would add significantly to the built footprint of the site and would represent a significant encroachment into land which is currently open and undeveloped. As the purpose of the Green Belt as defined in both national and local policy is to prevent such encroachment, the proposal was seen to conflict with these policies.

With reference to the character and appearance of the countryside, the Inspector considered that whilst the overall footprint of the proposed development would be significant, viewed from a distance it would blend into the complex of barns and other large buildings within the livery and stud. In addition the traditional design and recessive colours of the external materials proposed for the dwelling and garage would help to mitigate their visual impact within the landscape. In this respect the proposals were considered to cause limited harm to the character and appearance of the surrounding countryside and consequently were broadly consistent with local plan policies NE2 and NE15 and paragraph 109 of the Framework which seeks to protect valued landscapes.

In determining whether a functional need existed for a rural worker to live permanently on site to sustain the business, providing a very special circumstance that could potentially outweigh the harm that the proposal would cause to the Green Belt, the Inspector was of the view that the livery and stud operation did require an employee of the business to be on site day and night to supervise the horses particularly during foaling season, however the size of the dwelling and garage proposed was not justified by this requirement. The Inspector was equally unconvinced that the appellant had fully explored alternative options for accommodating the functional requirement in a way that would not cause harm to the Green Belt.

In conclusion the Inspector stated that the functional requirement for living accommodation on site would be outweighed by the harm that the proposed development would cause to the Green Belt. Therefore, the very special circumstance necessary to justify the proposal as inappropriate development in the Green Belt did not exist.

The Inspector dismissed the appeal.

Appeal against the refusal of Planning Permission for the erection of a wind turbine measuring 20 metres to hub with a maximum blade height of 27.2m at Allendale Farm, Allendale Cottages, High Westwood, Newcastle upon Tyne (Reference JO/1/2013/0167/DMFP).

Planning Permission was refused by members at your meeting on 28.12.13 for the above development on the following grounds –

'The proposed wind turbine would constitute an intrusive feature in an attractive rural setting which would be detrimental to the visual amenity of the area. It would fail to maintain, protect or enhance landscape character contrary to policies GDP1 and EN1 of the Derwentside District Local Plan and Part 11 of the NPPF which requires new development to protect and enhance valued landscapes.'

The Inspector considered that main issues to be the effect of the proposal on the surrounding area in terms of landscape character and visual impact, and whether any harm, in the light of the development plan, would be outweighed by the national objective of promoting renewable energy generation.

In considering the visual impact the Inspector concluded that the proposed turbine would not be a prominent or overbearing feature and its harmful effect on landscape character would be limited. He noted that although of modest size, the turbine would be a prominent feature in the local landscape when seen at close quarters however would mean that the proposal would not define the character of the landscape and the visual impact would be moderate from nearby vantage points. Beyond the local level the Inspector concluded that the proposal would be in scale with the surrounding landscape and would have an insignificant impact when viewed from further afield. He therefore concluded that it would cause limited harm to local landscape character and a moderate harmful impact when seen from nearby vantage points.

The Inspector noted that there would be no negative impacts from the development in terms of loss of outlook for residents, noise, shadow flicker, highway safety, stability in relation to coal mining legacy, impacts on rights of way, air safety, wildlife or television reception. In addition it was concluded that the turbine would not harmfully impact on the living conditions of the occupiers of the nearest residential property, Fox Flats.

In terms of benefits it was noted that the turbine would reduce running costs of the farm and would contribute to reducing its carbon footprint.

The Inspector noted that during the course of the appeal the government had produced a Written Ministerial Statement (WMS) on 18th June 2015 which amended guidance on renewable and low carbon energy and both parties were given the opportunity to comment on this. He pointed out that the WMS had immediate effect and attached substantial weight to the statement in assessing the case.

The Inspector noted that the development plan for the area does not identify suitable sites for this type of development and in such circumstances the WMS provides that 'local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has

their backing.’ In determining the appeal he was not satisfied that the impacts identified by affected local communities had been addressed (in terms of the effect on landscape character and visual impact). The Inspector stated that he found that the proposal would cause limited harm to local landscape character and would have a moderately harmful visual impact from nearby vantage points, in conflict with the landscape protection policies in the Local Plan. As such he felt that the proposal would not meet the transitional arrangements and gave significant weight to this non-compliance. He concluded that the factors which weigh in favour of the proposed development do not outweigh its shortcomings and therefore dismissed the appeal.

RECOMMENDATION

The reports are noted.

Report prepared by Nick Graham (Planning Officer), Jennifer Jennings (Planning Officer), and Fiona Clarke (Principal Planning Officer)