



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER: 6

APPEAL UPDATE REPORT

APPEALS DETERMINED

Appeal against the refusal of planning permission for the erection of one dwelling plus new access involving removal of small section of stone wall (DM/16/00970/FPA) at Cadde Tou, Ebchester Hill, Ebchester.

An appeal against the refusal of Planning Permission for the above development was received on 23rd November 2016. The application was refused under delegated powers for the following reasons:

“The formation of an access together with the introduction of conflicting traffic movements on the B6309, generated by the proposed access, would be prejudicial to highway safety contrary to Derwentside Local Plan Policy TR2 and Section 4 of the NPPF. These adverse impacts in terms of highway safety would outweigh the economic, social and environmental benefits of the proposal, therefore according to paragraph 14 of the NPPF permission should not be granted.”

The appeal was dealt with by way of written representations and an unaccompanied site visit. The Inspector in determining the appeal considered that the main issue was the effect of the proposal on highway safety.

The Planning Inspector noted that the safety concerns were in relation to visibility for vehicles turning right into the site from the north and, specifically, whether a suitable safe sight stopping distance can be achieved for northbound traffic.

Based on the submitted speed survey The Inspector considered the guidance set out in Manual for Streets 1 and Manual for Streets 2 Council to be the most appropriate guidance. The Inspector accepted that an appropriate safe stopping distance of 49.7m would be required however he did not consider that the submitted drawings were satisfactory to demonstrate an appropriate

safe stopping distance in this instance. The drawings were not deemed suitable as they failed to include the correct stopping distances for each manoeuvre or take account of bonnet length in visibility measurements, nor was it clear whether in calculating the safe stopping distance account had been taken of the downward slope along this stretch which MfS/MfS2 recommends allowance to be made. The Inspector concluded that these factors would be likely to have a material effect on the distance indicated.

The Inspector was not satisfied that an adequate SSD between northbound vehicles and right turning vehicles had been demonstrated so as to provide a safe vehicle access and therefore he considered the proposal would fail to satisfy the provisions of DLP policy TR2.

The Inspector noted there were several matters that weighed in favour of the proposal and that the Development Plan is not up to date and therefore that paragraphs 49 and 14 of the Framework were engaged. However he concluded that the available visibility to right turning vehicles and the safe stopping distance for vehicles travelling northwards would not provide a safe access to the site and that this would significantly and demonstrably outweigh the modest benefits that would arise from a proposal of this scale.

The Inspector dismissed the appeal. An application for an award of costs was submitted on the grounds that the Council acted unreasonably in refusing to grant planning permission following the pre-application advice given to the Appellant. However the Inspector refused the costs application as he was satisfied that the Council had adequately and satisfactorily substantiated their reason for refusal at appeal and that the pre-application advice was not misleading to amount to unreasonable behaviour.

Appeal against Refusal of consent for temporary planning permission for 2 years for a static home (caravan) at land adjacent Chester Lea, Mill Lane, Plawsworth, Chester-le-Street.

In August 2015 an application to retain a static caravan for a temporary period of two years was refused under Delegated Powers for the following reasons:

1. The application is considered to represent a non-sustainable form of isolated residential development in the countryside without the benefit of special circumstances, contrary to the advice in Part 6 of the NPPF and the relative weights attributed to policies NE2 of the Chester-le-St. Local Plan 2003 (saved policies 2009), and 35 of the emerging County Durham Plan (Pre-submission Draft, 2013)
2. The development appears to be a permanent structure that harms the openness of the designated Green Belt, contrary to the advice set out in Part 9 of the NPPF and to the relative weights attributed to policies NE4, NE5 and NE6 of the Chester-le-St. Local Plan 2003 (saved policies 2009), and 14 of the emerging County Durham Plan (Pre-submission Draft, 2013)

An appeal against the decision was received in January 2016. The structure had previously been refused a Certificate of Lawfulness, having been claimed to have been in existence for a period of 10 years.

The Inspector considered the main issues as;

- Whether the proposal is inappropriate development in the Green Belt,
- If the development is deemed inappropriate, the effect on the openness Green Belt and the purposes of including land within it;
- If the development is deemed inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Whilst the structure was concluded temporary – capable of being moved by a crane and Heavy Goods Vehicle – and a static home is not a building for planning purposes, a Change of Use of the land was involved. The appeal proposal was found therefore to be inappropriate development, which is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. Substantial weight was attributed to the harm arising due to the inappropriate nature of the development.

The static home occupies a site not previously occupied by development. Despite the scale of the caravan even a modest unit was considered likely have a negative effect on the openness of the Green Belt. Between the unit itself and the activities associated with the residential use of the site, the development was concluded to have a significant impact on openness and would as a consequence be contrary to one of the five purposes of the Green Belt, that being to safeguard the countryside from encroachment.

The Inspector agreed with the Council's contention that the development resulted in an isolated dwelling in the countryside, and that this issue attached substantial weight against the development.

A range of potential special circumstances were examined against the requirements of the Public Sector Equality Duty (PSED) in accordance with the definition set out in the Department for Communities and Local Government document, Planning Policy for Traveller Sites (PPTS) 2015, and others contained in the Equality Act 2010 and Article 3(1) of the United Nations Convention on the Rights, with appropriate weight given to the issues raised.

It was noted that it is evident that a likely consequence of a dismissed appeal is that the family would be displaced from the appeal site and existing home. It was concluded however that the limited evidence put forward by the appellant's agents did not show that the family's needs could not be met on another site, or in alternative accommodation.

With 'substantial' identified harm to the Green Belt, harm to the openness of the Green Belt, and the isolated location of the site in the countryside, the

dismissal of this appeal was considered 'necessary and proportionate in the public interest'.

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