

INFORMATION REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

PLANNING APPEAL DECISIONS

1. PURPOSE OF REPORT

1.1 The report provides an outline of recent decisions issued by the Planning Inspectorate on appeals against decisions of the County Council.

1.2 The report briefly sets out the details of each case, the Inspectorate's decision, and points of interest arising.

1.3 This is an information item. Members are welcome to contact Officers outside the Meeting to discuss detailed matters arising from the decisions.

2. BACKGROUND.

2.1 Members will be aware that appeals can arise from a number of situations, including:

- The failure of the County Council to determine an application within the statutory period for that type of application
- The imposition of conditions on a permission / approval / consent
- The refusal of permission / approval / consent.

2.2 Appeals are made to the Planning Inspectorate, within statutory time periods from the making of a decision, or failure to make one. They are dealt with through the following main mechanisms:

Householder Appeal Service - This process was set up to speed up dealing with more simple household extension type appeal cases. There is no exchange of statements in this process but the Inspectorate make a determination based on the submitted planning application and any other relevant documents such as our Committee or Delegated Officer report.

Written Representation – Submission of written statements from the Council, appellants, and interested parties. This process is normally the simplest and speediest, with minimal cost involved for the parties.

Informal Hearing – Submission of written statements of case from the Council, appellants, and interested parties, followed by a Hearing chaired by an Inspector appointed by the Planning Inspectorate. Hearings normally last one day. The Council and appellants are entitled to make applications for costs at a Hearing.

Public Inquiry – Submissions of Statements of case and Proofs of Evidence from the Council, appellants, and interested parties, followed by a formal Inquiry chaired by an Inspector appointed by the Planning Inspectorate. The length of Inquiries can vary, dependent on the type of proposal, the number of issues involved, and the number of interested parties. The main parties are legally represented, can use specialist witnesses to offer evidence, and cross-examination of evidence takes place.

2.3 Officers are looking to feed back on appeal decisions on a regular basis as there are invariably matters of interpretation of policy and guidance arising from the decisions of Inspectors which need to be borne in mind in relation to consideration of undetermined applications. There are also simple 'lessons learned' / practice points which may be invaluable for Officers, Members and other key parties such as Town and Community Councils arising from the appeal process.

2.4 Full copies of the Planning Inspectorate decisions on the appeals can be accessed on the Planning Application Search facility on the County Council's website, by inserting the relevant application number, e.g. 45/2015/0468.

3. APPEAL DECISIONS

3.1 Application : 45/2015/0468

Proposal : Redevelopment of site to provide a church and community centre

Location: Former Thorpe Engineering and Design site, Ffordd Derwen, Rhyl

Application refused at Planning Committee

Informal hearing

APPEAL DISMISSED

Main issues: Impact of the proposed development on the supply of employment land and on flood risk.

Inspector's conclusions:

Employment land – the Inspector accepted it had been demonstrated that no suitable alternative site is available for the community use proposed, and that the development would result in the creation of jobs, but these would not meet the specific need identified in policy PSE2 for employment in the business, industrial or warehousing and distribution sector. Proposal would be contrary to the objectives of policies PSE2 and PSE3.

Flood risk – The uses of the centre were concluded to constitute a public building and hence a highly vulnerable use as defined in TAN15. In recognising factors in favour of the development, the justification tests in TAN15 are not met and the proposals are contrary to the objectives of policy RD1 and national planning policy.

3.2 Application : 46/2016/0198

Proposal : Felling of a horse chestnut tree

Location: Talardy Hotel, St Asaph

Application refused at Committee against Officer recommendation

Written representations

APPEAL ALLOWED

Main issues: amenity value of tree and the effect its felling would have on the character and appearance of the area; whether the works are justified having regard to the reasons put forward.

Inspector's conclusions:

Felling is justified having regard to the general condition of the tree, the effect of the works required to secure its retention, its limited life expectancy, and the limited contribution it would make in its altered form to the character of the area.

3.3 Application : 41/2015/0682

Proposal : Demolition of existing dwelling and erection of replacement dwelling

Location: Ty Ucha, Bodfari

Application refused under delegated powers

Informal hearing

APPEAL DISMISSED

Main issues: Effect of the proposed development on the character and appearance of the surrounding area, with particular regard to its size and position; and on the agricultural land resource of the area.

Inspector's conclusions:

Siting and scale of the proposed development would make it a conspicuous and intrusive element in the landscape; although compliant with policy RD4, the landscape harm would not be in accord with the development plan. Use of Grade 2 agricultural land as an extension of the residential curtilage not acceptable as this is a finite resource and no overriding need is established for its loss, contrary to paragraph 4.10.1 of Planning Policy Wales.

3.4 Application : 07/2015/1205

Proposal : Construction of manege for private use

Location: Pentre Bach, Llandrillo, Corwen

Original application was granted with conditions, under delegated powers. Condition 6 restricted the use to the applicant and her family.

Written representations

APPEAL ALLOWED

Main issues: Effect of the variation of condition 6 on the character and appearance of this part of the Area of Outstanding Beauty.

Inspector's conclusions:

Circular advice remains that planning controls are concerned with the use of the land rather than the identity of the user. The Council's concerns over the effect of additional traffic and pressure for ancillary development associated with a commercial use can be addressed by amending the wording of the condition.

Condition 6 was amended to read that the use of the manege shall be incidental to the dwelling Pentre Bach, prohibiting commercial or business use.

3.5 Application : 23/2014/1440

Proposal : Erection of 132kV electrical substation and associated works

Location: Land at Clocaenog Forest, Saron, Denbigh

Application refused at Planning Committee against Officer recommendation

Informal hearing

APPEAL ALLOWED

Main issues: Effect of the proposed development on the character and appearance of the area in terms of landscape and visual impacts; the effect of the development on the living conditions of nearby residents with particular reference to noise impact.

Inspector's conclusions:

In relation to the character of the landscape when viewed individually or cumulatively, the development would not have any significant effects, and in any event advice in TAN8 is categorical in regard to development within Strategic Search Areas that the implicit objective is to accept landscape change from wind turbine

development. The development would not result in any significant harm to visual amenity in the locality. There would not be unacceptable impact on the living conditions of nearby residents in regards to noise impact, subject to the imposition of a condition restricting noise to set levels.

4. RECOMMENDATION

4.1. The report is for information only.

GRAHAM H. BOASE

HEAD OF PLANNING AND PUBLIC PROTECTION