

BOROUGH OF BARROW-IN-FURNESS

PLANNING COMMITTEE

Meeting, 9th July, 2013
at 2.30 p.m. (Drawing Room)

A G E N D A

Site Visit

2013/0175 - Land at Crompton Drive, Dalton in Furness

Depart Town Hall Court Yard at 1.00 p.m.

PART ONE

1. To note any items which the Chairman considers to be of an urgent nature.
2. Questions on Notice

The Chairman to answer questions on any matter in relation to which the Council has powers or duties which affect the Borough and which fall within the terms of reference of the Planning Committee where due notice has been given in accordance with Council Procedure Rules 10.3 and 10.4.

3. To receive notice from Members who may wish to move any delegated matter non-delegated and which will be decided by a majority of Members present and voting at the meeting.
4. Admission of Public and Press

To consider whether the public and press should be excluded from the meeting during consideration of any of the items on the agenda.

5. Declarations of Interest

To receive declarations by Members and/or co-optees of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the revised Code of Conduct, they are required to declare any disclosable pecuniary interests or other registrable interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Members may however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable

pecuniary interests which they have already declared in the Register, as well as any other registrable or other interests.

6. Apologies for Absence/Attendance of Substitute Members.
7. To confirm the Minutes of the meeting held on 11th June and reconvened on 19th June, 2013 (copy attached) (Pages 1-6).
8. Delegated Approvals – For Information (booklet attached).

FOR DECISION

- (D) 9. Planning Applications (booklet and appendix colour supplement attached).
- (D) 10. Appeal Decision - Change of Use of Land to Siting of Caravans at Park Knott Smallholding, Dalton Road, Askam-in-Furness (2012/0489) (Pages 7-8).
- (D) 11. Appeal Decision - Application to Fell a Sycamore Tree Identified as T1 in the Application and Subject of Tree Preservation Order 1984 No.1 at 28 Infield Gardens, Barrow-in-Furness (2012/0836) (Page 9).
- (D) 12. Larger Home Extensions.

NOTE (D) – Delegated
(R) – For Referral to Council

Membership of Committee

Councillors

M. A. Thomson (Chairman)
C. Thomson (Vice-Chairman)
Derbyshire
Husband
Johnston
R. McClure
Murphy
Murray
Preston
Thurlow
Williams
Wilson

For queries regarding this agenda, please contact:

Keely Fisher
Democratic Services Officer
Tel: 01229 876313
Email: ksfisher@barrowbc.gov.uk

Published: 1st July, 2013

PLANNING COMMITTEE

Meeting: Tuesday 11th June, 2013
at 2.30 p.m. (Drawing Room) and
Reconvened on Wednesday 19th June, 2013
at 1.00 p.m. (Drawing Room)

PRESENT:- Councillors M. A. Thomson (Chairman), C. Thomson (Vice-Chairman), Cassidy (11th June meeting only), Husband, Johnston, Murphy, Murray, Sweeney (11th June meeting only), Thurlow and Wilson.

52 – Apologies for Absence/Attendance of Substitute Members

Apologies for absence were received from Councillors R. McClure and Williams.

Councillors Cassidy and Sweeney had replaced Councillors Derbyshire and Preston respectively for this meeting only.

53 – Minutes

The Minutes of the meeting held on 21st May, 2013 were taken as read and confirmed.

Town and Country Planning Acts

The Assistant Director of Regeneration and Built Environment submitted for information details of planning applications in this report which he had determined under delegated authority (Minute No. 254, Planning Committee, 3rd September, 2002, confirmed by Council 24th September, 2002). The decisions are reported for your information. The plans recommended for approval under the Town and Country Planning Acts will be subject to the standard conditions referred to in Minute No. 208 (April, 1971) of the Plans Sub-Committee, Barrow-in-Furness, County Borough Council, in addition to any conditions indicated hereunder. Applications with a (P) besides the applicant's name denotes those applications that were reported to the Planning Panel.

RESOLVED:- (i) To note the decisions made under the Town and Country Planning Act 1990 (as amended) as follows:-

54 2013/0240 Application for approval of details reserved by condition 12 (Travel Plan) and 22 (Cycle Stands) of Planning Permission B10/2012/0468 - Erection of a Premier Inn Hotel with associated car parking and landscaping at Proposed Premier Inn Development North Road Barrow-in-Furness.

55 2013/0167 Double storey side extension with utility room to side and detached garage to the rear at 102 Parklands Terrace Furnace Place Askam-in-Furness.

- 56 2013/0320 Application for non-material amendment following grant of planning permission B21/2012/0721 (Two storey extension providing two additional bedrooms, one with en-suite and an enlarged kitchen/diner. The extension will also join the existing house to an existing annex) to change approved hipped roof to a pitched gable end at School House Pit Lane Lindal-in-Furness.
- 57 2013/0221 Application for approval of details reserved by condition No.2 & 3 under appeal reference W0910/A/2129186 (LPA ref 2009/1127 (Alterations to London Road to improve it as an appropriate access to approved visitor facilities) at Lindal Business Park London Road Lindal-in-Furness.
- 58 2013/0125 Application to retain rear extension built in a revised form to that approved under ref 2011/0567 and to be used for occasional use as a function room (south room) in addition to the approved sales, display and storage uses (retrospective) at Crooklands Nurseries Ulverston Road Dalton-in-Furness.
- 59 2013/0181 Ground floor extension forming a lounge bedroom/en-suite kitchen and utility room at Rose Cottage Abbey Road Dalton-in-Furness.
- 60 2013/0242 Addition of bay window to front elevation and recladding elevation in limestone at 28 Merlin Drive Dalton-in-Furness.
- 61 2013/0261 Erection of a two storey side extension to provide a living room and bedroom with en-suite and a single storey rear extension to provide a kitchen, wet room and utility room at 3 Coronation Drive Dalton-in-Furness.
- 62 2013/0213 Application for a Certificate of Lawfulness of Existing Use or Development (CLOEUD) for continuation of use as a day nursery (Use Class D1) for up to 137 children rather than the 90 specified in the original planning application at Ardene (Happy Tots) Abbey Road Barrow-in-Furness.
- 63 2013/0307 Application for a Certificate of Lawfulness of Proposed Use or Development (CLOPUD) to replace existing extension with new rear/side kitchen extension at 27 Rakesmoor Lane Barrow-in-Furness.
- 64 2013/0275 Demolition of existing garage and construction of a two storey side extension, including internal alterations to provide two further bedrooms and construction of a single storey extension to rear at 35 Kentmere Crescent Barrow-in-Furness.
- 65 2013/0233 Ground floor extensions to side and rear elevations forming extended lounge and kitchen at 40 Cowlarns Road Barrow-in-Furness.

- 66 2013/0256 Advertisement consent to display 10 signs as part of 'click and collect' facility at Asda Stores Ltd Walney Road Barrow-in-Furness.
- 67 2013/0255 Erection of a drive through canopy for 'click and collect' customers at Asda Stores Ltd Walney Road Barrow-in-Furness.
- 68 2013/0254 Application for a Certificate of Lawfulness Of Proposed Use or Development (CLOPUD) for a rear dormer bedroom extension at 17 St Quintin Avenue Barrow-in-Furness.
- 69 2013/0277 Advertisement Consent for replacement signs comprising 1x part internally illuminated free standing sign on forecourt, 3 signs fixed to building (1 part illuminated, 2 no. non - illuminated), and set of 3 garage door graphics at ATS, 149-151 Ainslie Street Barrow-in-Furness.
- 70 2013/0170 Approval of reserved matters following outline consent B08/2011/0513 (industrial development) for access (involving the laying out of a new service road), layout (siting of future industrial units and a production facility) and landscaping which includes the creation of a detention pond as part of proposed drainage works (appearance and scale reserved for subsequent approval) at Gyrodata Drilling Automation Ltd Meetings Industrial Estate Park Road Barrow-in-Furness.
- 71 2013/0276 Proposed ground floor kitchen/lounge extension at 23 Carlton Avenue Barrow-in-Furness.
- 72 2013/0056 Erection of a detached garage with workshop area and utility room at 17 Broadway Barrow-in-Furness.
- 73 2013/0102 Change of use from social club to retail use as centre for display and sales of disability aids and pharmacy with alterations to front elevation to form display window and entrance at United Club and Institute Ltd (former) Friars Lane Barrow-in-Furness.
- 74 2013/0228 Erection of a single storey side extension forming extended drawing room at 14A Hall Garth Barrow-in-Furness.
- 75 2013/0272 Construction of porch and store area extension to the front and side elevations at 54 Balmoral Drive Barrow-in-Furness.
- 76 2013/0344 Application for a Non Material Amendment following grant of planning permission B21/2013/0185 (Erection of a ground floor extension to rear elevation to provide family room) to allow the amendment of the extension width from 4.8 metres to 6.1 metres and to change agreed patio doors to Bi-Folding doors at 19 Woodhill Crescent Barrow-in-Furness.

- 77 2013/0316 Application for a Non Material Amendment following a grant of planning permission B13/2011/0832 to replace existing integral garage door with window to provide a lounge in lieu of garage at 23 (plot 58) Kempas Avenue Barrow-in-Furness.
- 78 2013/0112 Advertisement consent for 2 signs comprising black painted lettering spelling 'SHIP INN' at Ship Inn Piel Island Barrow-in-Furness.
- 79 2013/0241 Erection of a kitchen and wet room extension to rear elevation at 72 Yarlside Road Barrow-in-Furness.
- 80 2013/0263 Addition of bay window to front elevation at 28 Foxfield Road Barrow-in-Furness.
- 81 2013/0208 Erection of a ground floor kitchen and utility extension to rear elevation at 1 Westminster Avenue Barrow-in-Furness.
- 82 2013/0212 Erection of a rear conservatory at 38 Headland Rise Barrow-in-Furness.
- 83 2013/0237 Rear ground floor kitchen and toilet extension at 54 Beach Crescent Barrow-in-Furness.

The following applications were not E A Developments:-

- 84 2013/0293 Town and Country Planning (Environmental Impact Assessment) Regulations 2011 – Screening Opinion - Erection of a portal framed building for an 'indoor skate park' at James Freel Close (Land adj. to Barton Townley) Barrow-in-Furness.
- 85 2013/0287 Town and Country Planning (Environmental Impact Assessment) Regulations 2011 – Screening Opinion (industrial development) for access (involving the laying out of a new service road), layout (siting of future industrial units and a production facility) and landscaping which includes the creation of a detention pond as part of proposed drainage works at Gyrodata Drilling Automation Ltd Meetings Industrial Estate Park Road Barrow-in-Furness.

The following applications were withdrawn:-

- 86 2013/0227 Erection of a conservatory to front elevation at 235 Ireleth Road Ireleth Askam-in-Furness.
- 87 2013/0368 Application for a non-material amendment following grant of planning permission 2008/1552 to allow the introduction of a cat ladder to rear sports hall elevation and a roof man-safe system at Furness College Channelside Barrow-in-Furness.

(ii) To note the decisions made under the Building Act 1984/The Building Regulations 2010 as submitted by the Principal Building Control Surveyor.

Town and Country Planning Acts

The Assistant Director of Regeneration and Built Environment reported on the following planning application:-

88 – South Lakes Wild Animal Park, Broughton Road, Dalton-in-Furness

From South Lakes Wild Animal Park Ltd in respect of the application for approval of details reserved by Condition No. 3 (Design and Construction details to the junction of A590 trunk road and U6097 (Melton Brow) to planning permission 2010/0712 Extension to South Lakes Wild Animal Park, Broughton Road, Dalton-in-Furness as shown on plan number 2013/0244.

Representations received and the results of consultations were reported.

Objectors attended the meeting made representations to the Committee. The applicant had been invited to attend but did not take the opportunity to do so.

The Committee had undertaken a site visit prior to the meeting.

Following extensive discussion with regards to this application it was moved by Councillor M. A. Thomson and seconded by Councillor Husband and

RESOLVED:- That the meeting be adjourned to request the Highways Agency to attend the Committee to enable Members to question them with regards to the safety of the junction.

The meeting was adjourned at 3.06 p.m.

The meeting was reconvened on 19th June, 2013 at 1.00 p.m.

88 – South Lakes Wild Animal Park, Broughton Road, Dalton-in-Furness (Continued)

The Chairman reopened the meeting and introduced Ruth Moynihan who was the Asset Development North West for the Highways Agency and Andrew Render from Enterprise Mouchel who was there to provide technical support information to Members.

Members questioned Ruth Moynihan in great depth with regards to the junction with safety being the main issue. Ruth Moynihan responded to all Members questions accordingly.

It was moved by Councillor Murray that a named vote be taken. This was not seconded.

RESOLVED:- (i) That planning permission be granted for the discharge of Condition 3 of planning permission 2010/0712 relating to the components of the junction between the A590 and U6097 only as detailed in drawing numbers; P4114/12/130E, P4114/12/131C, P4114/12/132B, P4114/12/140, P4114/12/141, P4114/12/142, P4114/12/143, P4114/12/144, P4114/12/145, P4114/12/146, P4114/12/147, P3876/11/110E, P3876/11/115B, P3876/11/120B, hereby approved; and

(ii) Note the information regarding the nature of the on-going design work relating to the repositioning and reconfiguration of the entrance to the new car park and associated landscaping and boundary treatments.

The meeting closed 2.20 p.m.

PLANNING COMMITTEE	(D) Agenda Item 10
Date of Meeting: 9th July, 2012	
Reporting Officer: Assistant Director of Regeneration and Built Environment	
Title: Appeal Decision - Change of Use of Land to Siting of Caravans at Park Knott Smallholding, Dalton Road, Askam- in-Furness (2012/0489)	

Report

Attached at **Appendix A** are the appeal and costs decisions with respect to a development of 19 caravans at the above. The appeal was allowed while the appellant's cost claim was dismissed. The decision is of interest for a number of reasons including the fact that this is the first appeal decision post the NPPF taking full effect (March 2013). While the development plan remains the starting point for consideration of applications the NPPF now outweighs any saved policies which are in conflict with it (saved structure plan policies were revoked in May). The approach is illustrated by the inspector in Para. 5 of his costs decision:

The LP policies were adopted some time ago and I find little weight should be given to LP Policy D1 in the light of its conflict with the Framework. However LP Policy G18 is broadly in line with the Framework objectives and should still attract full weight. When the application and appeal were submitted SP Policy E37 was still extant. It adopted a criteria-based approach to landscape character similar to that advocated in paragraph 113 of the Framework and would also have attracted full weight. The Council was right to assess the proposal against LP Policy G18 and SP Policy E37.

The inspector commented further on the weakness of D1.

It was unreasonable for the Council to rely on LP Policy D1 and this weakens its case.

Overall the inspector concluded that the Council had acted reasonably hence the dismissal of the costs claim. He further commented as follows (Para 7)

The Council did not carry out its own landscape and visual impact assessment (LVIA) but it refers to that prepared by the appellants in its Committee report. Unlike the appellants it considers that the landscape immediately to the south of Askam-in-Furness should be treated as highly sensitive and that the assessment of harm to the countryside should address not only visual impact from public vantage points but also the harm associated with loss of openness and urbanisation. The LVIA is a tool to assist in the decision making process.

Ultimately the degree of sensitivity to be given to a particular landscape is a matter of judgement and I do not consider that it was unreasonable for the Council to come to the view that it did.

However the inspector was of the view that the site benefited from a good level of screening and that as a consequence the benefits of the development outweigh any adverse impact.

The decision highlights the importance of comprehensive Committee reports, the potential weakness of saved local plan policies and the need for these to be assessed on a case by case basis in relation to compliance with the NPPF.

Background Papers

Nil

Appeal Decision

Site visit made on 15 April 2013

by **B Hellier BA(Hons) MRTPI**

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

Decision date: 4 June 2013

Appeal Ref: APP/W0910/A/13/2190335

Park Knott Smallholding, Dalton Road, Askam-in-Furness, LA16 7HF

- 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 and Mrs B Greaves against the decision of Barrow-In-Furness Borough Council.
- The application Ref B20/2012/0489, dated 9 July 2012, was refused by notice dated 5 December 2012.
- The development proposed is change of use of land to siting of caravans.

Decision

1. The appeal is allowed and planning permission is granted for change of use of land to siting of caravans at Park Knott Smallholding, Dalton Road, Askam-in-Furness, LA16 7HF in accordance with the terms of the application, Ref B20/2012/0489, dated 9 July 2012, subject to the conditions set out in the accompanying schedule.

Application for costs

2. An application for costs was made by the appellants against the Council. This application is the subject of a separate Decision.

Revocation of the Regional Strategy

3. The North West Regional Strategy was revoked on 20 May 2013. On the same date the saved policies in the Cumbria and Lake District Joint Structure Plan were also revoked so that Structure Plan Policy E37 which was referred to in the reason for refusal is no longer part of the development plan or relevant to this decision. The main parties have been given an opportunity to comment on this change in circumstances and their views taken into account.

Main issue

4. I consider the main issue is the effect of the proposal on the character and appearance of the countryside.

Planning policy

5. Policy D1 of the Barrow-in-Furness Borough Council Local Plan Review 1996-2006 (LP) seeks to safeguard the countryside for its own sake and only permits development where there is a demonstrable need that cannot be met elsewhere. LP Policy G18 establishes that permanent holiday caravans would not necessarily be inappropriate in the countryside. They will be permitted

subject to meeting five criteria. The dispute between the parties is whether the criterion that the surrounding landscape can absorb the proposal without detracting from its overall character is met.

6. National planning policy is set out in the National Planning Policy Framework (the Framework). The weight that should be given to relevant development plan policies should reflect their degree of consistency with the Framework¹. One of the core planning principles of the Framework is that the intrinsic character and beauty of the countryside should be recognised. However, this does not amount to a presumption against development in the countryside and I give little weight to LP Policy D1 insofar as it advocates this.
7. The Framework supports sustainable rural tourism developments which respect the character of the countryside². This approach is similar to that set out in LP Policy G18 and full weight should continue to be given to this policy. In relation to landscape impact the Framework advises that local planning authorities should set criteria based policies to judge the effect of proposals on landscape areas and wild life habitats³.

Reasons

8. Askam-in-Furness lies on the coastal plain on the Duddon estuary. To the south of the village the main road (A595) and coast railway run together for a short distance before the railway veers to the west following the Goldmire valley. Further east where the landform is higher the road climbs gently through a cutting. The appeal site is a strip of grazing land between the railway and road some 300 metres away from the built up area of the village. Immediately to the south is a brickworks. On the rising land to the east is a scattering of dwellings making up the hamlet of Greenscoe and on the hillside beyond a mix of woodland and quarry workings.
9. The Cumbrian local authorities have carried out a review of landscape character⁴. This represents a move away from designating areas of landscape value. It focuses on the principle that all landscapes matter and provides a basis for assessing the impact of development proposals on landscape character. The appeal site comes within a landscape classified as *sub type 5c rolling lowlands* which is described as a working landscape which should be enhanced and restored through the improved management of key features and the integration of development. The description also recognises that this landscape is under particular threat from development pressures.
10. The appellants state that the Goldmire valley and the road/rail corridor up to the outskirts of Askam-in-Furness is designated in the LP as an area of local landscape importance. However this is not part of the case put by the Council and I have been referred to no relevant development plan policies. In any event landscape quality is integral to the recent Cumbrian landscape character assessment referred to above.
11. The appeal site is set down below the road and is further screened by trees and scrub on the road embankment and a rather incongruous fence and row of evergreens on the southern boundary. Just inside the fence on the highest

¹ Framework paragraph 215

² Framework paragraph 28

³ Framework paragraph 113

⁴ Cumbria Landscape Character Guidance and Toolkit: Cumbrian Local Authorities March 2011

part of the site are a recently constructed agricultural building, stable block and a mobile home/chalet. The site shares a good access onto the A595 with the brick works. The proposal shows a layout for 19 caravans and schematic landscaping proposals designed to soften the impact on external views and to improve biodiversity.

12. The proposed caravans would be a significant development. The appellants have carried out a comprehensive landscape and visual impact assessment. Having regard to the adjacent brickworks and associated storage areas, together with the main road embankment, the assessment found the landscape to be one of medium sensitivity. The development would be visible from only a limited number of places: from Lots Road where drivers (and some walkers) would see the development against the background of the trees on the road embankment; from passing trains on the coast railway; and briefly from the footway/cycleway alongside the A595. From this it is concluded that although there would be an adverse effect on the landscape it would be slight, becoming very slight as the proposed landscaping matured.
13. The Council does not dispute the methodology of this assessment but consider that the landscape is of higher than medium sensitivity because it has a valuable role in defining the edge of the built up area, maintaining the openness of the countryside and preventing the coalescence of existing sporadic development.
14. It is right that the need to protect landscape quality and openness on the urban fringe is given due weight within the landscape assessment. However in this case I find the determining factor to be that the development would be particularly well screened and would have little impact, either on local views into or out of Askam-in-Furness, or on the wider landscape. There would thus be no material conflict with LP Policy G18. In addition, the economic benefits from visitors occupying the caravans and from some limited employment on site give support to the proposal. I conclude that the proposal would not have a significant adverse effect on the character and appearance of the countryside and that it would be a sustainable rural tourism development in accordance with paragraph 28 of the Framework.
15. In coming to this conclusion I have taken account of two previous appeal decisions at Greenscoe Quarry both of which were for holiday caravans and were dismissed in 1990 and 1993. However these sites were within an area of upland landscape on the hillside to the east of the main road where caravans would be more open to view. They do not provide a helpful comparison with the present proposal.

Other matters

16. The site would utilise the existing access to the brickworks from the A595. Fast moving traffic on the main road is a hazard but as noted above visibility is good and there is a central turning lane. The highway authority considers that the proposal would not have an adverse effect on highway safety and I agree that this would be the case.
17. I have also taken account of the proximity of the site to the railway which is used by trains carrying spent nuclear fuel and its proximity to the brickworks. Neither of these circumstances add to the attractiveness of the site to

holidaymakers but I do not consider this outweighs the potential benefits of the proposal to the local economy.

Conditions

18. The Council has suggested conditions and I have considered these in the context of the comments of the appellant and the advice in Circular 11/1995¹. I agree that standard conditions are required relating to commencement, compliance with approved plans and control over external materials.
19. The appellants have clarified that the caravans are for holiday use. As the site is outside, and separated from, the existing settlement it would not be suitable for permanent residential use. I shall therefore impose conditions restricting the caravans to holiday use and requiring the site to be unoccupied for a 31 day period during January and February each year as an additional safeguard against the establishment of permanent residential occupation.
20. Conditions are also necessary to secure an ecological buffer zone along Blea Beck and proper drainage arrangements prior to the caravans being brought into use. Finally, in order to soften the already limited visual impact, to strengthen existing screening and to control the extent and appearance of roads and parking areas, further details of landscaping and, specifically, control over hard surfacing in this rural location, are required.

Conclusion

21. For the reasons given above, and having regard to all other matters before me, I conclude that the appeal should be allowed.

Bern Hellier

INSPECTOR

Schedule of conditions (9)

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2289/01 and 2289/02.
- 3) Development shall not commence until the external materials and colours of the caravans have been submitted to and approved in writing by the local planning authority. The development shall be carried out as approved.
- 4) The caravans hereby approved shall not be occupied other than for holiday purposes and shall not be used as a sole or main place of residence. The owner/operator shall maintain an up to date register of names and addresses of the occupiers of the caravans and shall make the register available to the local planning authority upon request.
- 5) No caravan shall be occupied between 7 January and 7 February in any year.

¹ Circular 11/95 *The use of conditions in planning permissions* Department of the Environment

- 6) Development shall not commence until a scheme for the provision and management of a 5 metres wide buffer zone alongside Blea Beck has been submitted to and approved in writing by the local planning authority. The scheme shall ensure that the buffer zone is kept permanently open and shall be implemented as approved.
- 7) Development shall not commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include; existing and proposed tree and shrub planting, hedgerows and grass; means of enclosure; a road and car parking layout; caravan hardstandings; and hard surfacing materials. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority. Any trees or plants which within a period of 5 years from being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) No hardstandings shall be constructed other than those approved under Condition 7.
- 9) Development shall not commence until a scheme for the disposal of foul and surface water has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out as approved prior to the first occupation of any caravan.



Costs Decision

Site visit made on 15 April 2013

by **B Hellier BA(Hons) MRTPI**

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

Decision date: 4 June 2013

Costs application in relation to Appeal Ref: APP/W0910/A/13/2190335 Park Knott Smallholding, Dalton Road, Askam-in-Furness, LA16 7HF

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs B Greaves for a full award of costs against Barrow-In-Furness Borough Council.
 - The appeal was against the refusal of planning permission for change of use of land to siting of caravans.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009 *Costs awards in appeals and other planning proceedings* advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application for costs by the appellant and the response from the Council were made in writing.
4. The appellants claim that the Council relied on out of date policies and ignored the current character based approach to landscape assessment which is recognised in national policy. They consider this to be unreasonable behaviour as set out in paragraph B29 of Circular 03/2009. If a character based approach had been used the Council would have approved the application.
5. The LP policies were adopted some time ago and I find that little weight should be given to LP Policy D1 in the light of its conflict with the Framework. However LP Policy G18 is broadly in line with the Framework objectives and should still attract full weight. When the application and appeal were submitted SP Policy E37 was still extant. It adopted a criteria-based approach to landscape character similar to that advocated in paragraph 113 of the Framework and would also have attracted full weight. The Council was right to assess the proposal against LP Policy G18 and SP Policy E37.
6. The Council has put forward previous appeal decisions for similar development to the east of the A595 in support of its case. I agree with the appellants that they relate to sites in a different landscape setting and I have not relied on

them in coming to my decision. Nonetheless I do not consider that in referring to them the Council has acted unreasonably.

7. The Council did not carry out its own landscape and visual impact assessment (LVIA) but it refers to that prepared by the appellants in its Committee report. Unlike the appellants it considers that the landscape immediately to the south of Askam-in-Furness should be treated as highly sensitive and that the assessment of harm to the countryside should address not only visual impact from public vantage points but also the harm associated with loss of openness and urbanisation. The LVIA is a tool to assist in the decision making process. Ultimately the degree of sensitivity to be given to a particular landscape is a matter of judgement and I do not consider it was unreasonable for the Council to come to the view that it did.
8. The reason for refusal refers to visual intrusion into the open countryside. The Council has set out the landscape harm caused by the proposal and the conflict it finds with the development plan and the objectives of the Framework. It was unreasonable for the Council to rely on LP Policy D1 and this weakens its case. Nonetheless, having regard to the provisions of LP Policy G18 and SP Policy E37, the effect on the character and appearance of the countryside is an issue which it was reasonable for the Council to pursue.
9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Bern Hellier

INSPECTOR

PLANNING COMMITTEE	(D) Agenda Item 11
Date of Meeting: 9th July, 2012	
Reporting Officer: Assistant Director of Regeneration and Built Environment	
Title: Appeal Decision - Application to Fell a Sycamore Tree Identified as T1 in the Application and Subject of Tree Preservation Order 1984 No.1 at 28 Infield Gardens, Barrow-in-Furness (2012/0836)	

Report

This appeal concerned an application to fell a tree included within a preservation order and situated in the rear garden of the above. The appeal was dismissed with the decision letter attached at **Appendix B**.

The tree is much taller than the house which means that while located at the rear of the property it can still be seen in the wider public views of the area. The inspector agreed with the Council's assessment that it was a skyline specimen whose loss would make a noticeable gap in the linear belt of woodland (once defined the edge of Chetwynde). Furthermore he agreed with the Council that the applicant had not put forward sufficient justification for felling.

The decision illustrates the fundamentals of TPO legislation namely the need for an assessment of the tree's contribution to the wider public amenities of the locality and an appropriate assessment of the reasons advanced for felling.

Background Papers

Nil.



Appeal Decision

Site visit made on 24 May 2013

by I Murat

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

Decision date:

14 JUN 2013

Appeal Ref: APP/TPO/W0910/3150 28 Infield Gardens, Barrow-in-Furness

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a sycamore protected by a Tree Preservation Order.
- The appeal is made by Mr A W Stalker against the decision of the Borough of Barrow-in-Furness.
- The application Ref: B28/2012/0836, dated 17th December 2012, was refused by notice dated 7th February 2013.
- The proposed work is felling.
- The relevant Tree Preservation Order (TPO) is The County Borough of Barrow-in-Furness (Infield Gardens) Tree Preservation Order 1972, No.3, which was confirmed on 4th July 1972.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In accordance with current guidance, fast-track procedure cases are dealt with on the basis of the original application and its supporting documentation, the decision of the Local Planning Authority and the reasons they gave when making the decision.

Main Issues/s

3. I consider the main issues in this appeal are:
 - a. The effect on the appearance and character of the area if the tree is felled.
 - b. Whether the reasons given for the works are sufficient to justify that course of action.

Reasons

4. (a) **The effect on the appearance and character of the area if the tree is felled.** The principal vantage point is within the Infield Gardens estate. There is a view of the tree from Abbey Road, but a special effort had to be made to see the tree so I have not attached any weight to this view. From within Infield Gardens the tree clearly stands forward of the linear group of trees that travel along the boundary. The tree is a skyline specimen and a principal component of the group giving scale and maturity to the locale. Removal of

the tree would create a gap in the linear group that is not mitigated now or in the longer term by the presence of other trees.

Conclusions on (a)

5. Overall, I have decided that there would be a significant material effect on the appearance of the local area if the tree were felled.
6. **b) Whether the reasons given for the works are sufficient to justify that course of action.** In view of the amenity associated with the tree, there would need to be a sound reason to justify its removal. The reasons for felling are centred on health and safety and the removal of other trees in a planning application.
7. I have noted the fact the tree appears to have been topped as a form of past management and from the topping point there has been some die back and regrowth typical of topped trees. Such regrowth can be weakly attached to the parent plant and, on attaining significant dimensions, fail. However, such features can be addressed by judicious pruning of regrowth to reduce the risk of falling.
8. In view of the tree's status and its importance in the landscape I would have expected a more detailed assessment including an investigation of the stump, indicated in the photographic evidence, to determine the degree of sound timber and the extent of any decay into the main stem. It is not uncommon for twigs and branch wood, less than 2 centimetres in diameter, to become dislodged in high winds, but this does not usually constitute a serious hazard, nor would it designate the tree as 'dangerous'. It could be alleviated by maintenance of the tree which would include crown cleaning, i.e. removal of any dead, diseased, broken or rubbing branches that were found.
9. I have noted the appellant's reference to a previous planning application. In accordance with current guidance, fast-track procedure cases are dealt with on the basis of the original application and its supporting documentation, the decision of the Local Planning Authority and the reasons they gave when making the decision. The issue of a previous planning application was not before the council when they made their decision.

Conclusions

10. I have noted all that the appellant has stated in support of the application and those matters which are valid before me. Having considered carefully the points raised, I am not persuaded that the evidence placed before me is sufficient to justify the felling of a tree that makes a significant contribution to the amenity of the area. The appeal is dismissed.

I Murat

Arboricultural Inspector

PLANNING COMMITTEE	(D) Agenda Item 12
Date of Meeting: 9th July, 2012	
Reporting Officer: Planning Manager	
<p>Title: Larger Home Extensions</p> <p>Summary and Conclusions:</p> <p>New legislation introduces a fast track system for large domestic rear extensions but also requires some changes to the determination process of the Authority, in order to ensure their suitable consideration.</p> <p>Recommendation:</p> <p>That this information be noted, and that Members endorse the appropriate changes to the officer delegation agreement.</p>	

Report

On 9th May 2013, secondary legislation was laid before Parliament which will increase the size of single-storey rear extensions which can be built under permitted development, and will bring into force the associated neighbour consultation scheme.

On 30th May 2013, the government published the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013. This introduced new Permitted Development provisions for rear extensions on houses.

For a period of three years, between 30th May 2013 and 30th May 2016, householders may be able to build larger single storey rear extensions under Permitted Development subject to a new consultation process. The size limits will double from 4 metres to 8 metres for detached houses and from 3 metres to 6 metres for all other houses. A homeowner wishing to build a larger single storey rear extension must give prior notification to the Planning Authority and provide:-

- (a) a written description of the proposal which includes the length that the extension extends beyond the rear wall of the original house, the height at the eaves and the height at the highest point of the extension;
- (b) a plan of the site, showing the proposed development;
- (c) the addresses of any adjoining properties, including at the rear;
- (d) a contact address for the developer and an email address if the developer is happy to receive correspondence by email.

The Authority may ask for further details in order to make a formal assessment of the proposal, and then send notification letters to adjoining neighbours, with a strict 21

day deadline for comment. If any adjoining neighbour raises an objection within the 21 day period, the Planning Authority will take this into account and make a decision about whether the impact on the amenity of the adjoining properties is acceptable. No other issues will be considered. Only objections from adjoining neighbours may be taken into account, so no other bodies would be notified.

The Authority retains some control in that as with the existing permitted development legislation, the external materials must be of similar construction to the dwelling (apart from conservatories). In addition, to benefit from these rights, the extension must be built in accordance with the details provided to the Council and completed before 30th May 2016. There is no guidance for what constitutes "complete", or the status of those extensions that are incomplete after this date. It may be presumed that in the former, a habitation certificate has been issued, in the latter, that the development becomes unlawful and requires retrospective planning permission. The new legislation does not apply to properties within conservation areas or locations subject to an article 4 direction.

This process must be completed within 42 days. If no decision is made within this period, the extension can go ahead (i.e. approval by default); if it is refused there is a right of appeal. As with planning applications there is no right of appeal for third parties.

There is no fee in connection with this process; however because of the short timescale, each application could potentially involve a significant workload on our resources including diverting officers away from other applications, which could be particularly acute if an appeal arises against the refusal of a large extension. Consequently it is important that the Authority establishes an appropriate process to deal with these large extension submissions as expeditiously as possible. I consider that these applications should be determined by Officers, with more contentious ones being placed before the Panel, at the discretion of the Planning Manager. The delegation scheme will need to be revised in order to take account of these applications.

Background Papers

Nil

