

known edge of the background circum-
 a development.
 100-067-064
 Philip Hutchinson; Written
 representations

BUILDINGS

Changes refused at listed manor
 Planning consent has been refused for alter-
 grade I listed manor house in Hampshire
 private school on the grounds that they
 in the character of a sunken garden.
 Plan was set out as three concentric rect-
 angled down to a central lawn. The terrac-
 e formed by low brick retaining walls with
 along the main axis of the house. The
 proposed to remove the outer masonry
 ing it with sloping grass banks, and use
 bricks to repair the inner wall.
 Inspector judged that the resultant softer
 , which would also alter the profile of
 part of the garden, would fundamentally
 character. In his view, the simply detail-
 ed walls formed an intrinsic part of the
 character. Significant repair costs did not
 justify consent for unsympathetic works
 and alteration, he ruled.
 100-067-068
 Philip Willmer; Written representations

Long straw required for cottage thatch
 Inspector has prescribed the use of long straw
 appropriate to thatch a grade II listed cot-
 tage in Hampshire that was badly damaged by fire
 r.
 Planning consent for reroofing
 the listed building, the council imposed a condition
 that long straw should be used with a
 plain flush ridge. The appellant pre-
 ferred combed wheat reed, on the grounds
 that it would last longer in the dwelling's
 location and was easier to source follow-
 ing a fire in long straw in 2008.
 Inspector noted that long straw roofs typi-
 cally have a heavy, rough mat like a blanket. Com-
 bed wheat reed roofs are typified by
 straight planes and angles. He was not
 convinced the use of long straw was inappro-
 priate for the straw type would undermine
 the architectural character, he opined.
 100-067-075
 Philip Willmer; Written representations

LEISURE AND ENTERTAINMENT

Caravans deemed harmful to hotel setting
 Planning consent for 32 static caravans linked to a hotel
 Georgian estate house in Northum-
 berland held unacceptable and the local
 authority was criticised for unreasonable behaviour.
 The caravans were to be sited in part of a gar-
 den walled area with vehicular access
 driveway across the front lawn and
 two styles of caravan with floor
 area of 54m² would be offered at the
 price of the market. The council claimed
 that the caravans would adversely affect the hotel's
 character and fail to respect the character
 of the site designated as a site of special
 interest.
 Inspector considered that a landscape and
 plan understated the likely impact of

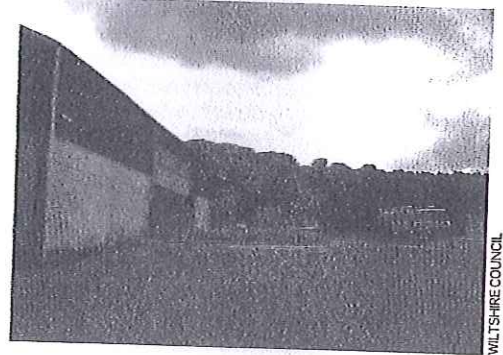
LEISURE AND ENTERTAINMENT

Pilot training refused in tranquil area

An inspector has refused to vary two conditions
 on planning permission for an airstrip in Wiltshire
 to enable its use as a training centre for
 microlight pilots, finding that it would disturb
 rural tranquillity.

A number of permissions allowed use of
 the land as a landing strip and of some
 agricultural buildings as hangars for small
 aircraft. The two conditions restricted the
 number of take-offs and landings permitted.
 Part of the training school programme involved
 "circuits and bumps" whereby trainee pilots
 undertook a number of circuits touching
 down and taking off again at the end of
 each one.

The site lay in the North Wessex Downs
 area of outstanding natural beauty (AONB).
 The disputed conditions had been imposed
 in an attempt to strike a balance between
 the aspirations of those seeking to pursue a
 noisy recreational activity and those wishing
 to enjoy recreational experiences more in
 tune with the character of the area, the
 inspector reasoned.



WILTSHIRE COUNCIL

In his opinion, tranquillity was an important
 characteristic which enhanced the experience of
 those using public paths and living in the AONB.
 He took the view that the very significant
 increase in the number of flights entailed by the
 appeal proposal would tilt the balance to the
 detriment of those using the area for quiet
 recreation and so harm its character.

DCS Number 100-067-074
 Inspector Brian Cook; Written representations

The development. In his view, the caravans would
 irreversibly transform the open parkland setting
 by creating a series of enclosures. He felt that the
 change in the character and perception of the land-
 scape would be evident to visitors to the hotel and
 in views from further afield, including those from
 an historic battlefield.

He also expressed concern about the relation-
 ship of some of the caravans to a cottage. A separa-
 tion distance of 27m from the nearest caravan to
 the rear elevation of the dwelling was inadequate
 in a predominantly rural location, he opined. He
 was concerned that occupants of the caravans
 might cause noise and disturbance when they ret-
 urned late at night from the hotel or elsewhere.

In dismissing the appeal, he rejected a costs
 claim by the appellants. In his opinion, the coun-
 cil's reasons for refusal were self-explanatory and
 the scheme's adverse impact did not require sub-
 stantial elaboration. The authority had indicated
 the features that would be affected and this was
 sufficient in policy terms, he concluded.

DCS Number 100-067-060
 Inspector David Cullingford; Written
 representations

Residential moorings rejected on river

The residential mooring of two boats under a rail-
 way bridge on the River Thames in south-west
 London has been rejected primarily on the grounds
 that it would reduce accommodation for tourist
 boat traffic.

The boats had been moored at the wharf for four
 years but the inspector accepted that at no time
 had the local authority considered that the use
 would be appropriate in the long term. He noted
 that the Thames forms part of the "blue ribbon"
 network defined in the London Plan. This seeks to
 protect existing facilities for passenger and tourist
 traffic and for sport and leisure purposes. An
 accompanying plan specifically identified the
 wharf as a location for improved day moorings.

The inspector recognised that varying water
 levels might deter smaller craft from mooring and
 that two large unprotected culverts could trap
 smaller craft. However, she noted that an area
 action plan clearly envisaged improvements to the
 wharf. While no detailed information was pro-
 vided about what such works might involve or
 how they might be funded, she had no reason to
 suppose that the moorings could not be made safe
 and attractive to visitors.

She was mindful that there was a groundswell of
 opinion that the council's policies were deficient
 in not making provision for residential moorings.
 However, she remarked that it was less than two
 years since adoption of the action plan, a docu-
 ment that had been prepared following extensive
 community involvement.

DCS Number 100-067-240
 Inspector Jennifer Vyse; Hearing

Holiday limits removed at remote cottage

A condition imposed on the change of use of a build-
 ing in Northumberland to a holiday cottage has
 been deleted after an inspector found little justifi-
 cation for limiting the length of occupation.

The property comprised a redundant British
 Gas communications facility. It was set in isolated
 woodland and farmland 500m from any main road
 and was accessed by farm tracks. In the inspec-
 tor's view, it was an extraordinarily incongruous
 structure, looking like a small signal box built
 from reconstituted stone blocks. He found its
 conversion to a holiday cottage appropriate in
 principle but felt that some restriction on the
 nature of the use was required.

The disputed condition limited occupancy to
 a four-week stay in any 13-week period and
 required a register to be made available. The inspec-
 tor saw no need for the four-week limit, reason-
 ing that the property's isolated location might
 appeal to an author or composer seeking quiet
 contemplation. The main point, he ruled, was

Read these appeal decisions from www.compasssearch.co.uk or call 01452 835820

NYM / 2010 / 0359 / F1

that the property should be limited to holiday accommodation and not used as a main residence. He amended the condition to state that the cottage should only be used as a holiday residence and a register of all occupiers should record their dates of stay and main addresses.

DCS Number 100-067-066

Inspector David Cullingford; Written representations

MIXED USE DEVELOPMENT

Park live-work unit description doubted

The conversion of a barn in the Brecon Beacons to a live-work unit has been rejected after an inspector decided that the appellant's description of the development is inappropriate.

The national park authority's policies permitted conversion of rural buildings to residential use, including to live-work units, as long as it could be shown that every attempt had been made to secure a suitable commercial, tourism, sport or recreational use. The inspector saw no evidence that any such attempt had been made.

In addition, he considered that the scheme would not create an independent live-work unit. Instead, he found that it would allow an existing business to expand into the barn, which would also be used to create a separate dwelling for the appellant's daughter. Since no agricultural justification for a further dwelling had been provided, he rejected the appeal.

DCS Number 100-067-253

Inspector Gareth Rennie; Hearing

NEXT WEEK

Store allowed despite improvement plan

A Lidl store has been allowed in North Yorkshire after an inspector found that a junction improvement planned for the site was insufficiently advanced to justify withholding permission.

DCS Number 100-067-270

Green belt harm blocks fishery scheme

An inspector has rejected a proposal for a smokery at a trout fishery in Kent, deciding that increased viability does not constitute very special circumstances to justify green belt harm.

DCS Number 100-067-272

Fallback case justifies motor home sales

The sale of motor homes at a Warwickshire garden centre has been allowed after an inspector took into account the lawful use of the land for siting of polytunnels and other structures.

DCS Number 100-067-096

Gypsy pitches ruled out by natural beauty

An inspector has recognised that need for Gypsy sites in East Sussex is likely to be met soon but refused temporary permission for three plots due to significant harm to the High Weald.

DCS Number 100-067-285

DC FORUM

Email your queries or your replies to earlier queries to casebook@haymarket.com or post to Development Control Casebook Forum, DCS Ltd, Casebook Suite 1, Fullers Court, 40 Quay Street, Gloucester GL1 2LW. Comment and post at PlanningResource.co.uk/forum

NEW QUERIES

All conditions on a planning permission have been discharged except one relating to visibility splays. Their dimensions have been negotiated with the authority and meet the requested specification. The local authority now requests an appropriate assessment for the local river special area of conservation (SAC). As the competent authority under the EU habitats directive, its stance is that it has to prepare an appropriate assessment of the impact on the site's integrity where proposals fall within the SAC. It now claims that it cannot discharge the condition for the foreseeable future because Natural England and the Environment Agency cannot agree whether the proposed dwelling would be detrimental to the SAC. Can you help? TA.

The Conservation (Natural Habitats) Regulations 1994 put into effect the directive. Where a proposal is likely to have a significant effect on a European site, the regulations require this to be considered before permission is granted. If this is not done at the appropriate juncture, the remedy is to revoke the permission rather than to hold back approval through a condition that has no significant habitat implications. The way to take this forward would be to appeal or make a formal complaint to the council, or both, although this might of course precipitate revocation of the permission. JH.

A captive balloon advertisement has been flown at a height of more than 60m for more than ten days. The site owner claims that the balloon does not require express advertisement consent because he has the consent of the Civil Aviation Authority and this has been verified. Your view on whether the balloon requires express advertisement consent would be welcome. SD.

Schedule 3 of the Town and Country Planning (Control of Advertisement) Regulations 2007 grants deemed consent for captive balloons flown at a height up to 60m for ten days per year. If the height exceeds 60m or the period of display exceeds ten days, express consent is required in addition to permission from the Civil Aviation Authority under the Civil Aviation (Aerial Advertising) (Captive Balloons) Regulations 1984. The situation is akin to needing both planning permission and building regulations consent. JH.

PREVIOUS QUERIES

TB enquired whether it is appropriate for an applicant to pay for the district valuer to check a viability exercise for an affordable housing contribution (Planning, 9 April, p21). MF referred to Homes and Communities

Agency advice on the issue and MB commented on the principle (Planning, 30 April, p21).

I have recently had a council requiring a unilateral undertaking to be submitted for external solicitors' vetting, at significant cost. Although I had doubts, I enquired whether this might be a matter for the ombudsman. I drew a distinction between a routine matter that the authority could deal with in-house and special advice where using external consultants would be reasonable. The ombudsman would not investigate, on the grounds that a refusal can be appealed.

In an appeal, the authority would have to substantiate its refusal. This would be difficult because the applicant has put forward evidence in preparing its case the authority, at its own expense, would have to seek independent advice on the viability appraisal. If this supports the appellant's case, the authority would have no defensible case and would surely seek a resubmission. I imagine that the appellant would be awarded costs. I accept that this is an unsatisfactory way of proceeding because it would involve the applicant in an unnecessary appeal. There is nothing in legislation on this issue and it seems unlikely to be a priority for government guidance. It is, however, a way of making the authority reassess its position.

I acknowledge that such charging has become accepted practice, but the charges are so inconsistent that something must be wrong with a self-employed consultant. One legal department sought to charge £195 per hour to a £1,200 maximum for checking a unilateral undertaking that I prepared for an education contribution. County council consultants sought a further £400 to accept responsibility for charges up to £2,500. Needless to say, without protracted legal battle, the development would not have been approved. In contrast, a neighbouring authority is about to adopt supplementary planning guidance on obligations providing for a charge of at least £400 for its legal fees, but there is no reference to anything else. I take JH's point about paragraph B.34 of Circular 05/2005 (Planning, 26 February, p21) but I think that this is thin ice on which councils are seeking to recoup charges. The paragraph could equally be interpreted as referring only to the contribution, which is effectively the moratorium required to satisfy the relevant tests in the circular and not to meet legal costs. As you point out, PPS 7 does not mention councils charging for consideration of agricultural assessment. Surely the whole thing is no different from councils asking highway departments to analyse transport assessments or travel plans, for which no charge is made to the applicant? JE.



While every effort is made to ensure that the summaries and opinions contained in Development Control Casebook and Forum are correct, neither the compilers nor the publishers accept any liability arising from use of this information without verification from source documents or professional planning guidance.

Download these appeal decisions from www.compasssearch.co.uk or call 01452 835820

TOWN AND COUNTRY PLANNING ACT, 1990
 NORTH YORK MOORS NATIONAL PARK AUTHORITY

NOTICE OF DECISION OF PLANNING AUTHORITY ON APPLICATION FOR
 PERMISSION TO CARRY OUT DEVELOPMENT

To A Geoffrey Walker
 Mole End
 Greenhow
 Pateley Bridge
 North Yorkshire HG3 5JQ

COPY

NYMNPA
 11 MAY 2010

The above named Authority being the Planning Authority for the purposes of your application registered 17 February 2004, in respect of proposed development for the purposes of retrospective application for change of use and alterations to existing buildings to create 4 no. holiday units at Trig Point 49, 80 Staithes Lane, Staithes have considered your said application and have granted permission for the proposed development subject to the following condition(s):

1. The self-contained units hereby approved shall not be used for residential purposes other than holiday letting purposes. For the purpose of this condition "holiday letting" means letting to the same person, group of persons or family for period(s) not exceeding a total of 28 days in any one calendar year.
2. The holiday letting units hereby approved shall not be sold off separately from the planning unit currently known as Trig Point 49 and shall not be let off separately except as detailed in Condition 1 above.

Reasons for Conditions

1. The site lies in an area where the local planning authority would not support the provision of permanent residential units in accordance with policy H4.
2. To minimise the impact on the local environment from servicing requirements and to accord with the provisions of policy TM1.

Development Plan policies relevant to the decision

Structure Plan E1 - Environment
 Local Plan GP3 - General Development Policy
 TM1 - Serviced Accommodation
 TM2 - Visitor Hostels

Reason for Approval

It is considered that the renovation works do not cause any demonstrable harm either in terms of visual or residential amenity, or highway safety and as such the proposal complies with policies TM1 and TM3 of the Local Plan.

COPY

Mrs V A Dilcock
 Chief Planning Officer

Date 11-3 APR 2004