Planning Appeals Commission

Appeal Decision

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Appeal Reference:	2015/A0235
Appeal by:	Mr A Moore
Subject of Appeal:	The refusal of full planning permission
Proposed Development:	Hard standing area to provide parking for lorries (retrospective application)
Location:	Land approximately 50m north of Feddan Road, Tempo
Planning Authority:	Fermanagh & Omagh District Council
Application Reference:	LA10/2015/0538/F
Procedure:	Written representations and Commissioner's site visit on 28 June 2016
Decision by:	Commissioner McShane, dated 14 July 2016

Decision

1. The appeal is dismissed.

Reasons

2. The main issues are whether the appeal development:
   (i) is in accordance with the development plan;
   (ii) is suitable in principle in the countryside;
   (iii) is acceptable in terms of its affect on the landscape; and
   (iv) is acceptable in terms of its impact on residential amenity.

3. Section 6 (4) of the Planning Act (Northern Ireland) 2011 states that determination under this Act must be made in accordance with the development plan, unless material considerations dictate otherwise. The appeal site is located within the open countryside as designated by the Fermanagh Area Plan 2006 (FAP). While there are policies within the FAP that pertain to the rural area, these are not of assistance in considering the merits of the appeal proposal. The relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21); specifically Policy CTY 1.

4. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for non residential development are outlined. This includes industry and business uses in accordance with Planning Policy Statement 4: Planning and Economic Development (PPS 4).

5. Policy PED 2 of PPS 4 sets out the circumstances when economic development uses in the countryside will be permitted and cross references Policies PED 3, 4, 5 and 6. Of particular relevance to this assessment is Paragraph 5.11, which

explains that it is considered to be more difficult to absorb proposals for storage and distribution into the countryside without detrimental impact on rural amenity while their capacity for generating employment is generally less than other uses. The general policy approach is that development in the countryside should benefit economic activity while protecting or enhancing the environment.

6. The appeal development comprises an area of hard standing for parking 6 no HGVs with 40ft trailers on a site located between Feddan and Tempo roads. In terms of PPS 4, the development does not involve the expansion or redevelopment of an existing economic development use on this site and nor does it fall within the category of major industrial development. Furthermore, it does not comprise a small rural enterprise on land outside a village or smaller rural settlement. As such I find no support for the development within Polices PED 3, 4, 5, and 6.

7. Policy PED 2 states that all other proposals for economic development in the countryside will only be permitted in exceptional circumstances. The Appellant did not submit a statement of case; however the evidence put forward to support the development during the processing of the application is considered. While it is claimed that the proposal represents farm diversification, no evidence was submitted in this respect. It is claimed that the Appellant currently employs 5 people and that the expansion of the business requires additional parking. However there is nothing to indicate that these jobs would be at risk, if the appeal were to be dismissed. No evidence has been submitted to demonstrate that alternative sites have been investigated. Furthermore, there is nothing to indicate why this particular site has been chosen apart from the fact that it is owned by the Appellant's father in law. While the vehicles may mostly be used in England and are therefore parked infrequently at the site and no built development is proposed, neither these facts nor the mounding and landscaping that have already taken place outweigh the policy objection to the appeal development. There is no policy support for the proposal and therefore it is unacceptable in principle. Accordingly, the Planning Authority has sustained its first refusal reason based upon Policy PED 2 of PPS 4.

8. Policy PED 9 states that a proposal for economic development use, in addition to meeting the other policy provisions of PPS 4, will be required to meet a number of specified criteria. The appeal development is not compatible with the surrounding residential land uses. Specifically, it has not been demonstrated that there would not be an unacceptable impact by way of noise on a dwelling located 37m to the southwest of the appeal site. There is no indication that this is within the ownership of the Appellant. Environmental Health also has concerns in this respect and indicated that specific additional information should be submitted to enable a meaningful assessment to be undertaken. The required information was not submitted. The second refusal reason based upon Criteria (a), (b) and (e) of Policy PED 9 of PPS 4 is sustained.

9 Notwithstanding the mounding and landscaping that has taken place along the boundaries of the appeal site from the viewpoints identified, the lorry park, which is not adequately screened, fails to integrate into the rural landscape. The third reason for refusal based upon Criteria (k) and (m) of Policy PED 9 of PPS 4 is sustained.

10. In a submission during the processing of the application, the Appellant referred to two retrospective approvals for lorry parks that were granted by the Department (L/2002/0860/F and L/2007/0767/F). However, no information was provided to enable a determination as to whether the circumstances in those cases are comparable with the appeal development. In any event, each application must be considered on its own merits.

11. Having found that the appeal development fails to meet prevailing regional planning polices in PPS 4 and PPS 21 and that there are no other material considerations that would outweigh those policies, I conclude that the appeal must fail.

This decision is based on the following drawings date stamped received 14 September 2015

- Drawing No.01: Site Location Plan (Scale 1: 2500)
- Drawing No.02: Block Plan (Scale 1:500)

COMMISSIONER DMCSHANE

List of Documents

Planning Authority – Fermanagh and Omagh District Council:-

"A" Statement of Case and Appendices