

LIST OF APPEAL DECISIONS FROM 20 JULY to 24 AUGUST 2016

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/00654/FULL	Erection of a 50kW wind turbine with a maximum blade tip height of 34.2m and hub height of 24.6m, and associated infrastructure (Revised scheme)	Land at NGR 272259 114205 (Philham Farm) Chawleigh Devon	Refuse permission	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

This case is unusual and significant in that it represents the first wind turbine appeal decision made in the Mid Devon District in the light of the Written Ministerial Statement (WMS) made by the Secretary of State on 18 June 2015 to be applied to all proposed wind energy developments so that local people have the final say on wind farm application'. This proposal involves the erection of a 50kW Endurance wind turbine on an organic dairy farm near Chawleigh. The hub height of the wind turbine would be 24.6m above ground level, and the blades 9.6m long. The height of the structure to the tip of the blades, in an upright position, would be 34.2m. The application presented a revised scheme following an earlier refusal by the Local Planning Authority for a similar scheme. The revised scheme sought to slightly re-position the proposed site from that previously submitted; it also proposed more limited infrastructure works, and also provided additional supporting information relating to potential landscape and noise and heritage asset impact impacts. The scheme was refused by the Local Planning Authority in December 2013 on the grounds of the considered detrimental landscape and visual impacts and its considered harm to the setting of heritage assets in the area. The Appeal was initially dealt with by a Government Planning Inspector who was also required to take into account the WMS of June 2015 and transitional arrangements to be applied. In his own decision the Inspector concluded that the proposal would not cause significant harm to the setting or significance of identified heritage assets or to the living conditions of local residents through visual impact or noise. Whilst it was recognised that the proposal would have a harmful impact on the landscape, such harm was adjudged, by the Inspector, to be not so significant as to outweigh the benefits to be brought through the generation of renewable energy or in assisting the economic performance of the rural enterprise. In his own specific consideration of the WMS, the Planning Inspector opined, given (in his view) the impacts of the scheme are, or could be, made acceptable (as required by the NPPF) that 'must mean that the planning impacts identified by local communities have been addressed' and on that basis, 'the WMS did not justify a decision that would run contrary to the development plan and the Framework'. The Inspector accordingly recommended that the appeal be allowed subject to conditions.

However, on 7 October 2015, in exercise of his powers under s79 and para. 3 of Schedule 6 of the Town and Country Planning Act 1990, the Secretary of State (SoS) directed that he would determine the appeal. In his statement the SoS has noted and accepted much of the Inspector's own conclusions regarding potential landscape, heritage and other impacts. However, with specific regard to consideration of the WMS, and the considerations to be made relating to local community concerns, the SoS concludes that the planning impacts as identified by affected local communities have not been addressed in the circumstances of the case. Accordingly, he considers that the transitional arrangements within the WMS have not been satisfied and he gives substantial weight to this conflict. Given this, the SoS does not agree with the Inspector's overall recommendation that the appeal should be allowed: Decision: Appeal dismissed by Secretary of State.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
14/01650/CLU	Certificate of Lawfulness for the existing use of land for residential purposes and the siting of 1 caravan	The Caravan Woodclose Burlescombe Tiverton Devon EX16 7JU	Grant Certificate of Lawful Use	Delegated Decision	Grant permission	Public Inquiry	Appeal Dismissed

Summary of Inspectors Comments

The appeal was in respect of refusal of a certificate of lawfulness for residential use of land associated with a mobile home. A certificate of lawfulness was granted for the mobile home but this did not include the entire site, which was a former horticultural nursery with glasshouses still apparent on the site. The main issue in determination of this appeal was the extent of the planning unit and its established use, and whether the appellant was entitled to site the mobile home anywhere on the site and use the site wholly for residential purposes. The Inspector sets out a number of arguments and case law in this respect and concludes that the entire site is one planning unit in mixed use for agriculture and the stationing of a caravan/mobile home. The Inspector concluded that Mid Devon was correct to refuse the application on the basis that the entire site was not in residential use.

15/00989/OUT	Outline for the erection of 8 dwellings	Land and Buildings at NGR 277638 93018 (East Of Hill View) Cheriton Bishop Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

The planning application was refused by officers under delegated authority for 3 reasons summarised as follows: whether, with due regard to the development plan and national policy, there is a proven need for affordable housing which justifies the proposal in this location; the effect of the proposal on the character and appearance of the area; and whether sufficient information has been provided in respect of car parking and drainage.

The inspector agreed with the Local Planning Authorities decision on all matters, with confirmation that the applicant had not made any provisions to ensure that the affordable housing is made available as such in perpetuity.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01194/MFUL	Erection of a solar farm 4.9MW, landscaping and associated infrastructure, access and underground cables	Land at NGR 285528 98874 (Dunscombe) Newton St Cyres Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

The planning application was refused by officers under delegated authority for 2 reasons summarised as follows. The second of the two reasons for refusal related to the absence of adequate archaeological information. This has subsequently been provided and confirmation has been given that a scheme of archaeological investigation could be a condition of any grant of planning permission. Therefore, the Inspector was left to determine if the proposal would be acceptable in terms of the impact on the character and appearance of the landscape and whether the benefits of the scheme would outweigh any identified adverse impacts.

The Inspector agreed with the Local Planning Authorities decision, and concluded that the proposed solar farm would introduce a large-scale discordant change into the landscape with closely experienced impacts on users of public rights of way who would be particularly sensitive to the effects of the development; and adverse impacts would remain after mitigation. The aggregation of the harm to the character and appearance of the landscape would not be outweighed by the acknowledged benefits of the project; and the proposal would conflict with the development plan and also with the Framework when read as a whole.
