

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE:

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APPLICATION REF. NO:	08/00807/FUL
STATUTORY DECISION DATE:	26 November 2008
WARD/PARISH:	HEIGHINGTON & CONISCLIFFE
LOCATION:	The Paddock, Field 4535, Killerby
DESCRIPTION:	Erection of a residential dwelling
APPLICANT:	Mr Ronald Slack

PLANNING CONTEXT

In order to put this application in context, it is considered appropriate to give Members some background to this site. In 2002, planning permission was granted for the erection of a general purpose agricultural building. An enforcement notice was served in relation to this building as it was being used in an unauthorised manner for residential occupation. This notice was upheld following a Public Inquiry, and the applicant was required to strip out all of the internal elements of the building and cease its residential occupation. The applicant has now complied with the Notice to the satisfaction of the Local Planning Authority.

In 2005, planning permission was granted for the stationing of a mobile caravan on the site, to allow the applicant to establish if a viable agricultural farming enterprise could be established on the site. The test period was for 3 years and the following planning condition was imposed:

“The permission hereby granted shall be for a limited period expiring on 13 July 2008 when the use shall cease”

APPLICATION AND SITE DESCRIPTION

The time period for the stationing of mobile caravan has expired and this application has been submitted for the erection of a stone built residential dwelling to support the applicant’s calf rearing and livestock enterprise at the site

The application is supported by a detailed Assessment on the enterprise and the need for a new dwelling, which was prepared by Addisons Chartered Surveyors..

On behalf of the Council, Smiths Gore (Rural Consultants) has assessed the information with particular regard to the likelihood of the business being viable and successful.

The site is located at Killerby Bridge, which is approximately 350m south of Killerby village.

PLANNING HISTORY

02/00114/FUL - In Nov 2002 planning permission was GRANTED for the erection of a general-purpose agricultural building.

03/00087/FUL - In Dec 2003 planning permission was REFUSED for the erection of a stable block.

03/00728/CU - In Dec 2003 planning permission was REFUSED for the siting of a temporary caravan.

04/00347/FUL - In Aug 2004 planning permission was REFUSED for the erection of an agricultural building.

04/00348/FUL - In Aug 2004 planning permission was REFUSED for the siting of a temporary mobile home.

05/00494/FUL - In July 2005 planning permission was GRANTED for the erection of an agricultural building.

05/00495/CU - In July 2005 planning permission was GRANTED for the siting of a temporary mobile home.

06/00939/FUL - In November 2006 planning permission was GRANTED for the erection of an implement shed and store

08/00534/FUL - In September 2008 an application was WITHDRAWN for the erection of a residential dwelling

PLANNING POLICY BACKGROUND

The following policies in the Borough of Darlington Local Plan are relevant:

- E2 - Development limits
- E4 - New Buildings in the Countryside
- H7 - Areas of Housing Restraint.
- H8 - Agricultural Occupancy

Government guidance is contained within Planning Policy Statement 7; Sustainable Development in Rural Areas

RESULTS OF CONSULTATION AND PUBLICITY

Campaign for the Protection of Rural England

The CPRE have objected to the application on the following grounds:

- *In our opinion the Assessment does not demonstrate agricultural viability;*
- *It is our understanding the applicant only owns 3 acres at the Paddock, Killerby and 5 acres at Caldwell and the rest, and by far the majority, is rented grazing, but this could be released at any time and reduce the viability of the business;*

- *It is noted the various owned and rented holdings are scattered and will require travelling to monitor the stock. This is not compatible with sustainability issues*
- *If it is acceptable to travel to Calderwell, Butterknowle and Stanwick grazing, can the applicant not live in an existing property or in one of the villages, and travel from there, rather than constructing a new building in the countryside?*
- *We consider the proposal an overdevelopment of the site*
- *The location has a very open aspect and we consider the development will be detrimental to the visual amenity of the area*
- *The parking is noted as being 2 cars and 5 light goods/public carrier vehicles. This seems, in our opinion, a somewhat excessive number of light goods/public carrier vehicles for the type of development proposed*

Killerby Parish Meeting have objected to the application on the following grounds

- *The field is so small it appears difficult to justify the building of a farmworkers dwelling, despite the inclusion of rented land elsewhere which may only be on a short term agreement, and is therefore inappropriate;*
- *Access to the plot for agricultural vehicles is on a dangerous stretch of road (five light goods vehicles on the application appears high)*
- *The view of many people locally who are connected with farming is that the proposed business will not make a living wage*
- *There have been problems in the past with non compliance of earlier planning permission;*
- *The running of an intensive enterprise like this conflicts with the appearance of the surrounding countryside. A previous application for building on this site was refused partly for this reason and Item 1 stated “the proposal is located within the countryside. The proposal therefore conflicts with Policy E2 (Development Limits) and E4 (New Buildings in the Countryside)”*
- *There are also concerns regarding pollution and flooding as the site is close to a beck and can suffer from run off from surrounding fields*

Northumbrian Water

Northumbrian Water raise no objections to the proposed development

CE Electric UK

CE Electric UK raise no objections to the proposed development

Northern Gas Networks

Northern Gas Networks raise no objections to the proposed development

PLANNING ISSUES

The following policies within the Borough of Darlington Local Plan are relevant:

- Planning Policy
- The effects on the visual amenity of the surrounding countryside
- Highway issues
- Flooding Issues
- Land Contamination

- Agricultural Occupancy Condition

Planning Policy

The application site lies outside of any development limits as defined by Policy E2 (Development Limits) of the Local Plan. Policy H7 (Areas of Housing Development Restraint) states that in the countryside, outside the development limits, new residential development will be permitted where:

It is essential for the proper functioning of a farm or forestry enterprise for a farm or forestry worker to live at or in the immediate vicinity of his/her place of work.

The supporting text states that in exceptional circumstances a new dwelling may be necessary for occupation by a farm or forestry worker to allow, for example, a minimum level of supervision or the ability to respond rapidly to emergencies. Evidence of need must be provided by the applicant and should normally include a detailed assessment by an independent person or body.

This is supported in Annex A of Planning Policy Statement 7 – Sustainable Development in Rural Areas (PPS 7). PPS 7 confirms that new permanent dwellings should only be allowed to support existing agricultural activities on well established units providing:

- There is a clear established existing functional need;
- The need relates to a full time worker, or one who is primarily employed in agriculture and does not relate to part time requirement
- The unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound and have a clear prospect of remaining so
- The functional need could not be fulfilled by another dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers
- Other planning requirements are satisfied.

The applicant's business comprises 30 acres of grassland made up of 5 acres at Caldwell, 2 acres at Stanwick; 20 acres at Butterknowle and 5 acres at the application site, The Paddock. There is a stock shed capable of wintering 40/50 cattle which allows for sale of an autumn batch at turn out at up to 12 months of age. Winter reared calves are put out to grass and are sold at approximately 12 months at in-housing time. The applicant supplies numbers of weaned calves to local farmers, which buy seasonally.

In addition, the applicant is the keeper of three pedigree Charlais suckler cows and intends to build a small nucleus herd of six to allow for sales of between 4 and 5 pure bred bulls and heifers per annum. He also rears continental cross cattle. The applicant intends to sell 50 forward stores per annum at grass turn out, 40 forward stores at in-housing time for final finishing and 80 younger reared and weaned stirks to supply local farmer demand.

The current labour requirements are the applicant, who manages the holding with occasional assistance from his wife.

In terms of complying with the requirements of Policy H7 and PPS 7, the application has been supported by an "Assessment of Need for a New Agricultural Dwelling", submitted on behalf of the applicant by Addisons Chartered Surveyors.

The Assessment states that with regard to the labour requirement for the proposed business, when full production is established it is essential for the workers to be within sight and sound of the farm buildings and have easy access to allow for regular checking and inspection of stock in the interests of welfare and security. The labour requirement based upon the standard day requires 1.27 full time workers, which would be met by the applicant and assistance from his wife. Three-year profit and loss accounts from Messrs. Adams Accountants and Registered Auditors of Spennymoor, show that each year there has been a profit, with the best profit margin being within the current year of 2008.

There are no other dwellings on the application site that the applicant could utilise and the purchase of a house within a nearby village would be beyond the means and justification financially of the farming business.

Smiths Gore, on behalf of the Council, has inspected the Assessment and made comments on the functional and financial tests relating to the application. It is agreed that there will be a labour requirement for the business, once expanded, in excess of one labour unit and that the rearing of young calves and the breeding of pedigree cattle will require constant supervision both during the day and throughout the year. The comments about welfare and security are valid based on the full number of cattle being purchased. Smiths Gore considers that the functional test has been met.

Smiths Gore also conclude that the financial test has been satisfied insofar as there have been three profitable years up to the present and that the business will remain profitable provided that the numbers of animals budgeted for are purchased.

Based on the information submitted with the application and the assessment by Smiths Gore, Officers are satisfied, on balance that the proposal meets the functional and financial requirements set out in PPS 7 and Policy H7. The other planning requirements, such as access, design and scale will be considered later in this report.

Visual Amenity

If both the functional and financial tests are met, other criteria are then applicable. Government advice in PPS 7 is that the size of the dwelling should reflect the established functional requirement. The functional needs of the farm are the determining factor not personal needs of the worker.

One of the concerns of Officers with the last application (ref no: 08/00534/FUL) related to the size of the proposed building and the number of bedrooms within, which was four, with two in the roof space. The applicant has submitted this revised application and the original concerns have been taken into consideration.

The proposed dwelling would be constructed from random stonework with a natural terracotta pantile roof. All windows and doors would be painted timber and the rainwater goods are cast iron. The property is a single storey dwelling consisting of two bedrooms, a bathroom and living room in the main section and a kitchen and utility room in a rear off shoot. There is no living accommodation in the roofspace. The dwelling would measure 10m at its widest (front elevation); 12m at its longest (south facing elevation) with an overall height of 5.2m under a dual pitched roof. The rear off shoot has a hipped roof with an overall height of 4.2m.

PPS 7 states that any new dwelling, must relate well with any existing buildings on the holding. The dwelling would be situated next to the existing agricultural building, which is constructed from same materials as the proposed dwelling. The existing store is slightly longer and higher than the proposed dwelling. The site is bounded to the north and east by a row of trees alongside a beck and it is not clearly visible from the highway at this point. The B6279 (Staindrop Road) runs along the southern boundary of the site, and the proposed building would be visible from here. However, the proposed building would be over 30m away, and set against a backdrop of the existing agricultural building. Views from the west would be partially obscured by existing trees and hedgerows.

In order to retain control over the future development of the site, it is considered appropriate and common practice, to impose a planning condition restricting permitted development rights relating to the enlargement, improvement and alteration of the dwelling including the erection of any new detached structures.

The size, design and location of the dwelling and the removal of the bedrooms in the roof space comply with Officer advice and it is considered that the building will not have an adverse impact upon the character of the surrounding rural locality and it would comply with Policy E4 (New Buildings in the Countryside) of the Local Plan

Highway Issues

The existing vehicular access of the B6279 would be used. The Council's Traffic Manager has carried out a speed survey and the 85th percentile speed is 56mph in both directions and therefore a visibility splay of 2.4m x 160m either side of the access would be considered acceptable. This would require the removal and cutting back of a significant length of the existing hawthorn hedge, especially to the west of the junction. This can be secured by the imposition of an appropriate planning condition.

Flooding Issues

The application site lies within a Flood Zone due to the close proximity of the Killerby Beck. The applicant submitted a Flood Risk Assessment (FRA), which the Environment Agency considered unacceptable as it failed to demonstrate how identified flood risks at the site would be managed. A second FRA was submitted and the Environment Agency have withdrawn their objection, subject to the imposition of appropriate planning conditions.

Land Contamination

The applicant submitted a Preliminary Risk Assessment, which provided details on the previous use and current use of the site and the Environment Agency consider that the land is not contaminated.

Agricultural Occupancy Condition

Officers are satisfied that the applicant has justified that there is a need to provide accommodation on the site so he can live at his place of work. It is also necessary to ensure that the dwelling is kept available for meeting this need. PPS 7 states that an agricultural occupancy planning condition must be attached to any grant of planning permission. This would also accord with Policy H8 (Agricultural Occupancy) of the Local Plan

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to

exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION

Planning permission was granted in 2005 to allow the applicant to reside on site in a mobile caravan for three years, which would give him the opportunity to create a farming enterprise and produce a business plan for those three years, and also confirm future projections. This is in accordance with advice given in Planning Policy Statement 7 – Sustainable Development in Rural Areas. The application was accompanied by an Assessment from Addisons Chartered Surveyors, which was verified by Smiths Gore on behalf of the Local Planning Authority. Smiths Gore concluded that both the functional and financial tests set out by PPS7 have been met. The proposed dwelling has been designed and sited in such a manner, that it would not have an adverse impact upon the visual amenity and character of the rural setting.

Officers are satisfied that, on balance, the applicant has complied with the requirements of national planning guidance and the proposed development accords, subject to appropriate planning conditions, with the following policies within the Borough of Darlington Local Plan and Planning Policy Statement 7 Sustainable Development in Rural Areas.

- E2 - Development limits
- E4 - New Buildings in the Countryside
- H7 - Areas of Housing Restraint.
- H8 - Agricultural Occupancy

RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT OT THE FOLLOWING CONDITONS:

1. A3 – Implementation Limit (Three Years)
2. B4 – Details of Materials (Samples)
3. Notwithstanding the details shown the approved plans, precise details of windows, doors and rainwater goods shall be submitted to and approved, in writing, by the Local Planning Authority prior to the commencement of the development. The development shall not be carried out otherwise than in complete accordance with the approved details.
REASON: In the interests of the visual appearance of the development.
4. The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA prepared by Nigel Simpson and received via email dated 3 November 2008) and the dwelling hereby approved shall not be occupied until the following mitigation measures detailed within the Flood Risk Assessment have been implemented.
 - a) Provision of compensatory flood storage at the site shall be constructed as detailed on Page 3 (para. 42), to provide no less than the capacity stated. The swale shall be implemented and maintained as detailed in the Flood Risk Assessment thereafter;

- b) Flood proofing measures detailed on Page 4 (para. 4.4) in the proposed development;
Finished floor levels to be set no lower than 83.07m Above Ordnance Datum (OAD);
There shall be no land raising other than the dwelling itself as detailed on Page 3 (para. 2.16)

REASON: To reduce the impact of flooding on the proposed development, future Occupants of the development and surrounding areas

- 5. Notwithstanding the details shown on the approved drawings, precise details of the access arrangements, including a visibility splay of 2.4m x 160m shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall not be brought into use until the required details have been satisfactorily implemented.

REASON: In the interests of highway safety.

- 6. C26 – Agricultural Occupancy (restriction)
- 7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no enlargement, improvement or other alteration to the dwelling, including additions and alterations to the roof and any additional structures/buildings within the curtilage of the site, shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

REASON: In order that the Local Planning Authority is able to retain control over the future development of the site

- 8. B5 – Detailed applications (Implementation in Accordance with the Approved Plans)

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

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