

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 18 November 2009

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APPLICATION REF. NO:	09/00279/FUL
STATUTORY DECISION DATE:	28 July 2009
WARD/PARISH:	SADBERGE AND WHESSOE
LOCATION:	Bishopton Equestrian Centre, Mill Lane, Bishopton
DESCRIPTION:	Erection of Dwellinghouse
APPLICANT:	Grange Farm Livery and Equestrian Centre, Church View, Bishopton

APPLICATION AND SITE DESCRIPTION

The application site is situated on the eastern side of Bishopton village some 90m from the nearest dwelling and approximately 70 m to the south east of Bishopton and Redmarshall C of E Primary School. Planning permission is sought for the erection of a detached dwelling adjacent to the Equestrian Centre.

Planning permission was granted in January 2005 for the erection of an agricultural/livery building including the creation of an outdoor ménage, use of land for a cross country riding course and football pitch with associated access road and car parking.

Planning permission is now sought for the erection of a sizable detached residential dwelling with detached double garage. The proposed property would occupy a plot of approximately 850m² to the north west of the main livery building. The proposed dwelling would be located close to the access to the site, with the intention of allowing for increased site supervision. The proposed dwelling occupies a footprint of approximately 11m in width by a depth of 10.4m (the rear of the property is staggered so a section is 9.5m in depth). The proposed height of the dwelling is 8.7m to the ridge of the dwelling. Both the front and rear of the dwelling features dormer windows. A detached double garage is proposed immediately to the south of the proposed dwelling measuring 6.3m in width by 6.3m in depth with a hipped roof at a height of 5m to ridge and 2.8m to eaves. The owners of the Equestrian Centre currently reside and run the enterprise from a nearby residential property.

PLANNING HISTORY

04/00908/FUL - Erection of an agricultural/livery building including the creation of an outdoor ménage and use of land for cross country course and football pitch with associated access road and car parking.

06/00747/FUL - Extensions to existing building to provide open covered storage for hay and implements for agricultural use.

08/00456/CU – Retrospective change of use from open fronted storage area for hay and implements to open fronted stables with storage.

PLANNING POLICY BACKGROUND

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

- E2 – Development Limits
- E4 – New Buildings in the Countryside
- E7 – Landscape Conservation
- H7 – Areas of Housing Development Restraint
- H11 – Design and Layout of New Housing Development
- R14 – Recreation Development in the Countryside
- R15 – Horse Related Development

Planning Policy Statement 7 : Sustainable Development in Rural Areas (hereafter PPS7) is also significant in terms of national policy context. Paragraph 8 of PPS7 deals with the construction of new dwellings in the countryside. The statement notes that isolated new houses in the countryside require special justification. This usually based upon agricultural need, however horsiculture may also be presented for special justification. Paragraph 3 of Annex A of PPS7 sets out that planning permission may be granted for a dwelling in the countryside providing:

- i. there is a clearly established existing functional need ;
- ii. the need relates to a full-time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- iii. 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;
- iv. the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- v. other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.

PPS7 clarifies that a *functional test* is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:

- i. in case animals or agricultural processes require essential care at short notice;
- ii. to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems.

In cases where the local planning authority is particularly concerned about possible abuse of these tests, guidance in PPS7 advises local authorities to investigate the history of the holding to establish the recent pattern of use of land and buildings and whether, for example, any dwellings, or buildings suitable for conversion to dwellings, have recently been sold separately from the farmland concerned. Such a sale could constitute evidence of lack of agricultural need.

Paragraph 6 of Annex A states that the protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one.

RESULTS OF CONSULTATION AND PUBLICITY

Twenty two letters of neighbour notification were issued along with a site notice, no objections were received as a result of this public consultation.

Five letters of support were submitted as part of the information accompanying the application from customers of the livery supporting the principle of a dwelling on the site in order to improve security.

Bishopton Parish Council has objected to the application for the following reasons:

- The proposed building is outside the village building line.
- The applicant already lives on land attached to the site.
- The applicants current residence is within adequate sight and sound of Equestrian Centre. There is no obstacle preventing the installation of alarms and cameras directly between the applicants residence and the Equestrian Centre.
- There are discrepancies concerning materials to be used (e.g. for roofing) on different documents.
- Annex A (of PPS7) states ‘essential workers live at or very close to the site for their work’ – It is considered they already do.
- The site of the proposed house is on an infilled quarry, the substrata may be fly ash.
- The site is adjacent to Bishopton Conservation Area, which restricts developments that effect views into and out of the conservation area.

The Council’s Highway Officer has advised that previous approvals have required provision of a dedicated route within the site. It would appear that these works have not been implemented and the access is effectively being used as a shared surface. This would not be acceptable for a residential use and a condition must be included should planning permission be granted requiring provision of a dedicated pedestrian route within the site.

The Council’s Conservation Officer has advised that the proposed dwelling is in a prominent location despite featuring some relatively recent screen planting.

The scale of the proposed house is considered excessive featuring four bedrooms and three bathrooms

The design of the proposed dwelling is poor, particularly the front porch and wide, non-traditional window openings. It is considered quite inappropriate adjacent to a conservation area and much is contrary to the Design of New Development SPD.

Concerns are also raised about the need for a double garage and its design is considered unsympathetic and not in keeping with a rural area.

Environmental Health initially requested the submission of a full desktop study as a result of the initial study submitted in conjunction with the application which indicated that the proposed dwelling was to be located on top of a former quarry with 'unknown fill'. The Phase 1 study has indicated that the quarry was backfilled with boiler ash to a depth of approximately 38m (at its deepest). This information has been provided from anecdotal sources and there has still not been any intrusive survey work undertaken in the form of trial pitting and/or gas monitoring to establish the nature and extent of the fill at the site. The recommendation of the Desktop Study is that a phase 2 intrusive survey should be undertaken. Until such information is provided the Environmental Health Section is not prepared to support the application.

CPRE were consulted on the application but no response has been received.

Northern Gas Networks have raised no objections to the proposal.

Northumbrian Water have raised no objection to the proposal.

NEDL (Electricity) have raised no objection to the application.

PLANNING ISSUES

The principal planning issues in this case are whether the proposal constitutes inappropriate development in the countryside, and if so, whether there are other considerations to clearly outweigh any harm, thus justifying the proposal on the basis of very special circumstances and impact of the dwelling on the landscape character of the area.

Planning policy

The site lies outside of the development limits of Bishopston by approximately 52m. The Borough of Darlington Local Plan Policy H7 defines the type of housing development which will be permitted in the countryside this does allow for housing where it is essential for the functioning of an agricultural operation for a farm worker to live at or in the immediate vicinity of their place of work.

Guidance set out in PPS7 makes it clear that new dwellings in the countryside, i.e. outside settlement boundaries, require special justification for planning permission to be granted. As stated above Policy H7 broadly follows guidance set out in PPS7 and requires that applications for workers dwellings in the countryside to be supported by an appraisal of the enterprise, prepared by an impartial suitably qualified consultant.

Such an appraisal should demonstrate:-

- That there is a clearly established existing functional need.
- The need relates to a full time worker and does not relate to a part-time requirement
- The unit has been established for at least 3 years and has been profitable for at least one of them, is currently financially sound and has clear prospects of remaining so.

- The functional need could not be fulfilled by another existing dwelling or any other accommodation in the area
- Other planning requirements, e.g. in relation to access or impact on the countryside are satisfied.

The appraisal submitted with the application indicates that since being established in March 2006 apart from the initial first year of operation the business has run at a profit. Accounts supplied by the centre demonstrate that the business is showing signs of continued growth and appears to be financially sound. On the basis of the information provided in the appraisal it is considered the criterion of Annex A of PPS7 regarding profitability is satisfied.

One of the key requirements of development plan policies and Annex A to PPS7 is the establishment of a functional need. The functional need in relation to this application is identified as somebody residing at the equestrian centre, a manager, in order to provide 24 Hour essential care for horses, be able to attend to medical emergencies and to improve security through natural surveillance. Therefore the applicant is of the opinion a permanent dwelling needs to be erected on the equestrian centre site.

The applicants are keen to express that the reasons justifying a permanent residence providing 24 hour supervision as being essential for horse breeding. However the applicants planning statement states that this 'is an area of the business yet to be fully developed' so it should not be taken into account when considering the needs of the functioning equestrian centre. Functional need cannot be determined on aspirations it must be determined on the evidence of existing business only, it is not accepted that all of these operations are essential and that the identified operations justify somebody to be resident on the site. It is recognised that it would be convenient but it is considered not to be essential. It would not be considered unreasonable for such operations to be covered by employees working to a shift pattern. It is also pertinent to note that the operations have been carried out by the applicant since the business was established over 3 years ago which according to financial information, has been accepted as being profitable and successful.

With regards to security it is considered that whilst again it might be desirable for somebody to live on site it is not essential as this aspect could be addressed by electronic measures that relay information offsite to the owner's property or another dwelling within Bishopston that could respond to any incident promptly.

PPS7 at Annex 7 states:

"It will often be as convenient and more sustainable for such workers to live in nearby towns and villages or suitable existing dwellings, so avoiding new and potentially intrusive development in the countryside." This is considered to be particularly relevant in this case.

The submitted appraisal considers the 'off site' option but dismisses it on the basis that there are no properties in Bishopston for sale within adequate 'sight and sound' of the equestrian centre. The applicant contends that the existing dwelling is not within direct sight or sound of the equestrian centre however the property is only about 160m from the main building and has direct access from the rear garden to the fields forming part of the equestrian centre. From this land the equestrian centre is some 107m away. Although there are no suitable properties currently available on the market they do exist and the fact the business has been successfully operated from 1 High Street, Bishopston since establishment has served to prove that an on site dwelling is

not essential to its operation. Given the proximity of the settlement of Bishopton the essential worker(s) would be able to carry out the 'out of hours' operations and respond relatively quickly to any emergencies or security incidents.

It is not considered that the applicant has provided sufficient robust evidence to identify a clear, functional need for the dwelling at the present time and therefore fails to meet all criteria detailed in PPS7.

Impact on the landscape character of the area

Notwithstanding the failure of the scheme when accessed against the criteria within PPS7 given its location adjacent to a Conservation Area, in the countryside, surrounded by open land, it is essential that the dwelling is designed to a high standard to reflect the built character of the village, enhance local distinctiveness and be sensitive to the character of the surrounding countryside (Policy E2 and H11). Furthermore Policy E4 requires that new development in the countryside must be located with and be visually related to existing buildings. The Council's Conservation Officer considers the scale of the proposed house to be excessive within this rural location. The design of the proposed dwelling is considered to be inappropriate within close proximity to the conservation area and has a number of features and design details such as an elaborate porch and front and rear dormers which are more typical of a house in a modern housing estate rather than that found in a rural area on the fringe of a conservation area. It is acknowledged that there are some modern houses nearby, on St. Peters Wynd, however these properties are located within development limits and therefore not subject to the same level of scrutiny under Policy E2 to justify approval outside of development limits.

The evidence provided does not justify a new dwelling of this size and scale, in this particular location. As such the application is not consistent with Government Guidance and the Local Plan and would not be acceptable.

Other matters

The proposed dwelling is located on a former sand quarry which has been infilled with what is likely to be Boiler Ash. A Phase 1 contamination study has been submitted the conclusions of which are that a Phase 2 intrusive investigation is recommended. At this stage no trial pitting or gas monitoring has been undertaken in order to establish the nature and extent of the fill. The Councils Environmental Health Section are not prepared to recommend approval of this application until this further information is received. However, should the planning committee be minded to grant permission it would be essential for a condition to be applied that required this study to be completed prior to any works taking place.

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.

It is acknowledged that equestrian centres by virtue of the expensive nature of the equipment and livestock can often find themselves targets for crime, most commonly thefts. Bishopton Equestrian Centre will likely be no exception, it is acknowledged that a dwelling offering 24

hour surveillance would be desirable for improving security but there are other electronic measures which could be utilised to improve security and act as a deterrent. Even with a dwelling on site it would be no guarantee the centre would not be targeted by criminal activity in the future.

CONCLUSION

The application site lies outside the development limits of Bishopton, therefore the proposal is considered to be a new dwelling in the countryside. There are very strict controls relating to new dwellings in the countryside, particularly when the proposed use is intended for a worker to live near an enterprise and the application must satisfy all of the 5 criteria set out in PPS7, Annex A.

The proposal fails to demonstrate that there is a clear functional need for a dwelling to be erected at the site particularly bearing in mind the proximity of the existing dwelling which currently serves the site.

As the proposal is not considered to be justified as an agricultural workers dwelling, it is, by definition, inappropriate development in the Countryside, contrary to the Borough of Darlington Local Plan Policies H7 and E2.

The development would add to the encroachment of buildings to the west of Bishopton Village, contrary to Policy E2 of the Borough of Darlington Local Plan.

The scale and design of the dwelling is also considered inappropriate in this rural location and would have some detrimental impact upon the adjacent Bishopton Conservation Area. The development is also contrary to the adopted Design of New Development SPD.

RECOMMENDATION

THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASONS:

1. The proposal fails to demonstrate that there is a clear functional need for a dwelling to be erected at Bishopton Equestrian Centre as the functional requirements of the centre are currently being met by a property nearby. The proposal therefore fails the test measures set out in Planning Policy Statement 7 –'Sustainable Development in Rural Areas' and is contrary to Policies H7 and E2 of the Borough of Darlington Local Plan.
2. The development does not fall within the categories of development appropriate within the open countryside and is therefore inappropriate. In the absence of very special circumstances being demonstrated, to outweigh the harm caused to the countryside and adjacent Bishopton Conservation Area, the proposal is contrary to Policy H7 and H11 of the Borough of Darlington Local Plan.
3. The applicant has not adequately demonstrated that residential development on top of a in filled quarry does not pose a risk to future occupants in terms of contamination and potential gassing from the fill material.