

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 21 October 2009

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APPLICATION REF. NO:	09/00463/FUL
STATUTORY DECISION DATE:	15 September 2009
WARD/PARISH:	BISHOPTON
LOCATION:	Cobby Castle Equestrian Centre
DESCRIPTION:	Conversion of barn/stables to form dwelling house, erection of conservatory to front, utility room and stables/feed store/storage to rear.Erection of 3no. replacement stables and enclosure to form yard.
APPLICANT:	Mr & Mrs Wood

APPLICATION AND SITE DESCRIPTION

This is a full application for the part conversion of an existing barn/ stables building to form a permanent dwelling in connection with an existing equestrian centre/farrier operation.

The dwelling would be formed within the existing stable block attached to the southern side of the barn and also within part of the barn itself and would be two storey in height. The accommodation would comprise: a kitchen/dining area, living room, utility room and playroom on the ground floor, with three bedrooms (one with on-suite) and bathroom on the first floor. The addition of a conservatory is also proposed to the dwelling which would be attached to the south facing elevation of the existing barn.

As a consequence of the five stables that would be lost by the creation of the dwelling it is proposed to provide two new stalls within the barn and erect a new building to provide three stables. This new stable building would be erected adjacent to the existing stable building on the eastern side of the barn forming an enclosed yard.

The equestrian business extends to approximately 11 hectares of permanent pasture land and includes a ménage, stables and barn. It is situated some 240m to the north of Bishopton village and is accessed via Cobby Castle Lane.

Planning permission (Ref: 06/404) was granted for a temporary dwelling in June 2006 lasting for a period of three years.

PLANNING HISTORY

92/668 – Planning permission was granted in February 1993 for the erection of an agricultural building.

93/741 – Planning permission was refused in February 1994 for a change of use of part of the agricultural building to form stables for hobby/commercial purposes and use of land for the exercising of horses. A subsequent appeal was allowed in May 1994.

05/69 – In April 2005 retrospective planning permission was granted for the temporary siting of a mobile caravan for use as an office in connection with the operation of the site as an equestrian centre.

06/404- Planning permission was granted in June 2006 for a retrospective change of use of the existing temporary portable office to temporary residential dwelling.

PLANNING POLICY BACKGROUND

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

E2 – Development Limits

E5 - Change of Use of Buildings in the Countryside

E7 - Landscape Conservation

H7 –Areas of Housing Development

T24- Parking and Servicing Requirements for New Development

Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas.

RESULTS OF CONSULTATION AND PUBLICITY

Seven letters, two of which are second letters from the same occupiers, have been received from local residents objecting to the application on the following grounds:

- *The dwelling would lie outside the village envelope and would therefore be contrary to Policy H7 Areas of Housing Development Restraint.*
- *There have been, and still are, a number of properties within the village which could provide suitable accommodation without encroaching on the countryside.*
- *If the application is approved there is the strong possibility that the village will suffer from further applications similar to this one.*
- *There is no functional need for a dwelling in connection with the livery use. Previous owners did not need such a requirement and lived within the village or away from it.*
- *Why has there been so much targeted crime on the site when reported crime in the village has reduced. Would a dwelling on site reduce it? Previous landowners with valuable horses here did not suffer from crime.*
- *The business plan would need careful consideration as to viability and sustainability particular in a global financial downturn in the economy.*

- *Would the accounts used to assess the viability of the business be those submitted to the Inland Revenue?*
- *Increased levels of traffic generated by the business would result in potentially hazardous conditions for pedestrians using Cobby Castle Lane.*
- *The close proximity of the school and that of the adjoining lane could cause significant traffic congestion.*
- *Concern for the safety of the children and the elderly residents of Cobby Castle Lane as a consequence of additional traffic.*
- *There are already sufficient liveries within the area without the need for an additional one.*
- *If planning permission is granted can the dwelling be restricted to a single storey to protect the visual environment?*
- *Could a covenant be put in place to allow for all future use to be of a tightly controlled business use and not private residential.*
- *Approving this application will only give rise to the view that flouting process and local regulations is to be encouraged. That the Council failed to act three years ago to uphold its own planning rules and gave a retrospective consent should not be a reason to compound the error to save face now.*

Six letters have also been received in support of the application.

Bishopton Parish Council has objected to the proposed development and the following points are made: -

- *This is effectively a retrospective attempt at correcting a long-term problem.*
- *The proposed dwelling is outside the building line and close to Bishopton Conservation area.*
- *It would have a detrimental effect on the visual amenities on the north side of the village.*
- *The Design and Access statement indicates that on site residence is required for security purposes etc. We dispute this requirement. Immediately adjacent to the site there is a paddock containing valuable horses owned by others which has not experienced security problems. Neither has the large game bird rearing centre nearby. Consequently there is no justification for a residence on site for security purposes. The Design and Access Statement also states that a substantial security system has been installed which further confirms that there is no need for a dwelling.*
- *The livery business is extremely small in comparison with other ventures in the local area none of which have deemed on site residential accommodation to be necessary.*
- *We see no requirement for the construction of additional stables. Bishopton is already inundated with horse livery businesses. Existing livery business already have substantial numbers of empty spaces.*
- *We assume that the financial accounts include income from Mr Wood as a mobile farrier and also from the livery business. We contend that the essential major part of the partnership is that of a mobile farrier and a minimal part is comprised of the livery business. The farrier side of the business does not require a residential base here.*
- *The turnover and profitability of the livery business are disputed. The net profits generated from on site activities are minimal. There again appears to be no financial justification to the construction of a residence on the site.*
- *Cobby Castle Lane is effectively a cul-de-sac, which has 8 houses together with the local primary school. Because of the nature of the road it is imperative that the volume of traffic that travels along it continues to be minimised. Since the erection of fencing by the*

applicants vehicles are unable to turn around in the Lane and on occasion have to reverse out of the lane causing an additional danger to residents and children. We therefore see no logical purpose in increasing traffic volumes in the Lane by increasing the number of stables available.

Northumbrian Water no objection to the proposed development

Northern Gas Networks has advised that there are no gas mains in the area that are likely to be affected.

Environment Agency has advised that the only issue they have as far as it relates to land contamination is that of controlled waters.

However the Agency considers that the controlled waters at this site are of low environmental sensitivity. They recommend that the requirements of PPS23 and Environment Agency Guidance on Land Contamination Reports should be followed. A separate consent will be required from the Agency in respect of the disposal of foul sewage.

The agency has also advised that the site must be drained by a separate system of foul and surface water.

The Council's Environmental Health Officer has commented that the site is within 250m of a former landfill site and other areas of known fill and therefore the standard contamination condition should be attached to any permission. A condition linking the dwelling to the livery operation is also recommended to avoid it being sold off separately as it may lead to complaints from future occupiers regarding noise etc.

The Council's Highways Engineer has raised no objection to the proposed development.

PLANNING ISSUES

The main issues to be considered in the determination of this application are:-

- Planning Policy
- Crime
- The effects on the visual amenity of the surrounding countryside
- Highway Issues

Planning Policy

The issue as to where there are any justifiable reasons to allow a new occupational dwelling is specifically addressed by policy H7 (Areas of Housing Development Restraint) of the Local Plan. Under this policy only those dwellings essential to for the proper functioning of a farm or forestry enterprises would be permissible (Criterion 1 of the policy).

However, this criterion has been superseded by advice contained in National Government Planning Policy Statement 7 (PPS 7) Sustainable Development in Rural Areas which extends the scope of occupational dwellings that may be acceptable in the countryside. Para 15 Annex A

states *There may also be instances where special justification exists for new isolated dwellings associated with other rural based enterprises*, Significantly it would satisfy the following criteria:

- Clear evidence of a firm intention to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions)
- Functional need; a functional need 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, in case animals or agricultural processes require essential care at short notice; to deal quickly with emergencies that could otherwise cause serious loss of crops or products.
- Clear evidence that the proposed enterprise has been planned on a serious financial basis.
- Functional need could not be provided by another dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the worker concerned; and
- Other normal requirements are satisfied, for example on siting and access.

Evaluation of Criteria

The previous financial assessment carried out for the Authority in the consideration of the application for the temporary dwelling indicated that the applicants have clearly invested in the equestrian operation through the provision of new fencing, additional lighting, improvements to stables, CCTV camera system, handstanding, tractors, a flat bed trailer for hay and numerous small pieces of equipment and tack. Consequently it is considered in the light of these commitments there is clear evidence of a firm intention and ability to develop the enterprise and therefore this element of the criteria is met.

Functional need to reside on the holding depends firstly on the nature of the enterprise operated and secondly on the scale of that enterprise. This requirement needs to be assessed based on the equestrian/ occupational system in operation and identification that there is a clearly established functional need.

In assessing this functional need for the temporary dwelling the Council's advisors, Acorus made the following comments: -

The on site management requirements of Cobby Castle, noting the type and current number of horses on the site, are considered to satisfy this criteria and that there is a 'functional need' for on site supervision both within and outside normal working hours to meet the welfare requirements of the horses.

The major requirements for on-site supervision are associated with the care of horses outside normal working hours to prevent incidents of colic, laminitis and other ailments which can strike down horses in a short period of time. Highly trained horses are prone to being more sensitive to changes in dietary conditions etc. when compared to normal livery horses.

The presence of high value horses (owned by third parties) is considered relevant as to the animal welfare and safety of horses and to the viability of the business.

It is considered that these comments are still relevant to this application and therefore officers are of the view that there is still a functional need for a dwelling on the site.

In support of the application financial accounts covering the last three years of the business operation have been provided in line with guidance set out Annex A (Agricultural, Forestry and Other Occupational Dwellings) of PPS7. The advice contained within Annex A states that planning permission for permanent dwellings should only be granted where the unit and activity have been established for at least three years, have been profitable for at least one of them, are currently sound, and have a clear prospect of remaining so.

In assessing the accounts the Council's Estates and Property Manager has stated that the accounts are healthy and therefore it is considered that the business operation is on a sound financial footing. In applying the test as to whether the business is economically viable PPS 7 advises that authorities should take a realistic approach to the level of profitability, taking account of the nature of the enterprise concerned and states that some enterprises which aim to operate broadly on a subsistence basis can be sustained on relatively low financial returns. Setting aside the farrier operation, which operates on the unit, officers are of the view that the livery operation satisfies the tests laid down in PPS7 in terms of profitability.

The combined criteria set out in policies E5 and H7 of the Local Plan state that in the countryside the change of use of existing buildings will be permitted where the building is of visual, architectural or historic importance a change of use will be permitted where those characteristics are not damaged. In this particular instance the building does not fulfil the criteria set out under those policies. The building is of modern construction and less than 20 years old. Nevertheless, in principle, the part conversion of the existing building to provide a dwelling is considered to be more appropriate in terms of its visual impact on the countryside rather than a separate stand alone new dwelling, which would visually be more apparent in the countryside.

Crime

The application states that one of the reasons for seeking permission for a permanent dwelling is to reduce crime and vandalism associated with the equestrian centre. Whilst officers note these concerns and that crime and fear of crime can be a material planning consideration in the determination of an application the weight given to the issue is a matter for each case on its merits. In this particular case officers have no reason to question the evidence put forward by the applicants but consider that this issue by itself would not usually justify a departure from recognised policies regarding new housing in the countryside.

Effects on the Visual Amenity of the Surrounding Countryside

The visual impact of the part conversion of the existing building to create a dwelling is likely to be minimal. The dwelling would be formed mainly within the existing fabric of the existing barn stable building. Other than the insertion of a number of window openings and the application of an element of timber boarding, similar to that found on modern agricultural buildings, physical changes to the existing buildings are fairly limited. The proposed new stable block is also well related to the existing complex and would be constructed of materials in keeping with those used on the adjacent stable building. Overall therefore, there is unlikely to be any significant impact on the character or appearance of the surrounding countryside as a consequence of the proposed development.

Highway Issues

The Council's Highways Engineer has raised no objections to the proposal on traffic or other highway grounds.

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

Officers are of the view that a satisfactory case has been put forward to justify a permanent dwelling in this countryside location, in connection with the operation of the livery/equestrian unit at Cobby Castle Lane. Overall it is considered that the proposed development will not give rise to conditions prejudicial to amenity or highway safety or cause any issues regarding crime prevention. Furthermore whilst the part conversion of the barn to residential use is not considered to fully comply with Policy H7 of the Borough of Darlington Local Plan, in that the building does not possess any architectural merit, it is considered that the conversion would be preferable to the erection of a new dwelling, which would be more visually damaging in this countryside location.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 – Implementation Limit (Three Years).
2. B4 - Details of Materials (Samples).
3. B5 - Detailed Application
4. J2 - Contamination
5. The occupation of the dwelling hereby approved shall be limited to a person or persons employed in connection with the livery/equestrian operation at Cobby Castle Lane.

REASON- To ensure that the dwelling is occupied by persons connected with the livery/equestrian operation, as the site is located in open countryside where residential development would not normally be permitted.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) no development within Schedule 2, Part 1, Classes A to H of that Order shall take place without the prior written consent of the Local Planning Authority.

REASON - To allow the Local Planning Authority to retain control over the development in the interests of visual amenity

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

It is considered that satisfactory justification has been provided for the erection of a new dwelling in this countryside location and overall the development will not give rise to conditions prejudicial to amenity or highway safety or cause any issues regarding crime prevention. Therefore the proposed development is considered to comply with the policies in the development plan and Government planning policy set out below: -

Borough of Darlington Local Plan 1997

E2 – Development Limits

E5 - Change of Use of Buildings in the Countryside

E7 - Landscape Conservation

H7 –Areas of Housing Development Restraint

T24- Parking and Servicing Requirements for New Development

National Planning Policy

Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas.

INFORMATIVES

The applicant is advised to make contact with the Environment Agency in respect of a separate consent for the disposal of foul sewage.