



Appeal Decision

Hearing held on 28 September 2010

Site visit made on 28 September 2010

by Louise Crosby MA MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
25 October 2010

Item 9(b)

Appeal Ref: APP/N1350/A/10/2127675

**Grange Farm Riding and Livery Centre, Church View, Bishopton,
Darlington, TS21 1HB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Grange Farm Livery and Riding Centre against the decision of Darlington Borough Council.
- The application Ref: 09/00279/FUL, dated 29 April 2009, was refused by notice dated 24 November 2009.
- The development proposed is erection of dwelling in association with equestrian enterprise.

Decision

1. I allow the appeal and grant planning permission for the erection of a dwelling in association with equestrian enterprise at Grange Farm Riding and Livery Centre, Church View, Bishopton, Darlington, TS21 1HB in accordance with the terms of the application, Ref: 09/00279/FUL, dated 29 April 2009, subject to the conditions in the attached schedule.

Main issues

2. The main issues are
 - i) whether there is sufficient justification for a permanent dwelling, sufficient to outweigh the aims of national planning policies that seek to restrict new development in the countryside and the effect of such a dwelling on the character and appearance of the surrounding area; and
 - ii) whether the submitted remediation strategy is adequate to protect the future occupiers of the dwelling from contamination within the site.

Reasons

3. It is well documented that new dwellings in open countryside are only acceptable in a very limited number of cases. Government guidance in Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS7) seeks to promote sustainable patterns of development by focusing most additional housing in existing towns. Paragraph 15 of Annex A to PPS7 advises that dwellings in association with rural-based enterprises, such as this, may be justified, but that the same stringent levels of assessment to applications for occupational dwellings should be applied, as they would be for agricultural and forestry workers dwellings.

4. The appeal seeks to justify the erection of a dwelling and garage close to the entrance to an equestrian business. The whole site extends to around 24ha and is located outside the defined development limits of Bishopton. However, the appeal site is close to the dwellings and school on the periphery of this part of Bishopton. The appellants told the hearing that the need to live on the appeal site has arisen as a result of the gradual increase in the number of horses (now between 40 and 60) on the site. Based on the scale of the current business and number of horses now present, the Council agreed at the hearing that there is currently a requirement for at least one full-time person to be employed in connection with the business. It was also agreed that there is a functional need for a dwelling in connection with the business so that a full-time worker would be readily available, at most times, for animal welfare reasons. I have no reason to disagree.
5. Turning now to consider whether any other suitable accommodation exists which could fulfil the established functional requirement. The appellants currently live in a semi-detached dwelling within Bishopton, to the west of the appeal site. The long rear garden of this dwelling abuts the appeal site, thereby giving direct access to it. Nevertheless, because of a landscaped bund around the yard area and large agricultural building containing stables, the yard is not visible from the garden area and only the upper section of the tall agricultural building can be seen. A few paddocks containing horses are visible from the garden, but only very limited views of the access into the appeal site are available from the end of the garden. Moreover, because of the length of the garden, little of the appeal site is visible from the rear ground floor windows of the dwelling.
6. I understand that the landscaped bund around the large agricultural building and yard area, which prevents the appellants from being able to effectively see important parts of the appeal site, was required by planning condition when permission was granted in 2005 for an agricultural livery building, an outdoor ménage and a cross country riding course. I can appreciate that since the access and yard area are across an unlit paddock, with no direct views, this does cause the appellant problems, particularly at night.
7. I heard that live CCTV has been investigated, but found not to be feasible because of the presence of trees and the bund. This has been overcome to some degree by CCTV within the stables, which records activity in the yard, and so is helpful in the event of break-ins and to act as a deterrent to intruders. Nevertheless, the benefits of this are limited, particularly on a site of this size and in terms of animal welfare.
8. There are other dwellings for sale near the appeal site. Two of these would allow better surveillance of the access and one of those slightly better views of the stables and yard. However, neither would be significantly better than the existing dwelling, nor provide the level of surveillance and supervision necessary. Consequently, it seems that alternative dwellings in the village would provide little net benefit and certainly none would allow the appellants to hear if any of the horses in the stables were distressed.
9. Turning to consider the dwelling before me, audited accounts have been submitted which show that the last three years have been profitable and profits have increased year on year since 2007. In addition, I understand that having

a dwelling on site would allow for the business to be developed further and hence increase its profitability. As such, the business appears to be financially sound.

10. Regarding the size of the dwelling and its effect on the character and appearance of the adjacent BCA, the submitted plans show a four bedroomed dwelling. It has been designed to be low in height, with the first floor windows set partially into the roof. As such, it would not appear excessive in terms of its scale and mass and I note that part of the ground floor would provide an office in connection with the business. The double garage would also be modest in size and has been designed with a double pitched roof in order to reduce its overall mass.
11. The proposal would be well screened from most parts of Church View by the existing mature boundary treatment and where there is currently a gap, this has already been planted with trees. From the dwellings to the west, views would be screened to some degree by the landscaped bund and other landscaping. From most other directions it would be screened by the large agricultural building. Overall, given the proximity of the proposal to the very large dwellings on the edge of the village (St Peter's Wynd) and its relationship with the large agricultural building, the siting and design of the proposal would be acceptable. Also, given the more modern styles of development in the part of BCA closest to the appeal site I consider that the design of the dwelling and garage would respect its character and appearance. As such, the proposal would accord with the guidance in Annex A of PPS7 and LP¹ policies H7, H11 & E2.
12. Regarding the issue of contamination, the Council agreed at the hearing that the outstanding matters could be dealt with by the suite of model planning conditions relating to contaminated land, issued in May 2008 by Communities and Local Government. These are intended to support the effective implementation of PPS23² and thus ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. Consequently, the proposal would accord with LP policy E47.
13. In addition to the standard time condition and those already mentioned in relation to contamination a number of others are necessary, including one to restrict the occupation of the dwelling, given the special justification for it. Also, although Circular 11/95 advises that permitted development rights should only be removed in exceptional circumstances, I have imposed such a condition here in relation to extensions to ensure that the dwelling and garage remain of a size that is commensurate with the established functional requirement. Conditions in respect of materials and boundary treatments are necessary for visual amenity reasons. A footpath is necessary for pedestrian safety reasons, given the dual use of the access road. Finally, I have imposed a condition to ensure that the development is

¹ The Borough of Darlington Local Plan (incorporating Adopted Alterations September 2001)

² Planning Policy Statement 23: Planning and Pollution Control

carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Louise Crosby

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Ian Lyle	England and Lyle Chartered Town Planners
Mr Eric Brannan	Appellant
Mrs Catherine Brannan	Appellant
Mr Jonathan Sturrock	Appellant's son

FOR THE LOCAL PLANNING AUTHORITY:

Mr Nelson BA MA	Planning Officer, Darlington Borough Council
Ms Sarah Clement-Dawson	Environmental Health Officer, Darlington Borough Council

DOCUMENTS

- 1 List of suggested planning conditions

Schedule of conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwelling and garage hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 0910/001, 0910/002, 0910/003, 0910/004, 0910/005, 0910/006.
- 4) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, forestry or equine or a widow or widower of such a person, and to any resident dependants.
- 5) The building shall not be occupied until a separate means of access for pedestrians has been constructed from the public highway to the dwelling.
- 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied. The development shall be carried out in accordance with the approved details.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extensions to the dwelling or garage shall be erected.
- 8) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 9 to 13 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 12 has been complied with in relation to that contamination.
- 9) Site Characterisation - An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

- 10) Submission of Remediation Scheme - A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 11) Implementation of Approved Remediation Scheme - The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.
- 12) Reporting of Unexpected Contamination - In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification

report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11.

- 13) Long Term Monitoring and Maintenance - A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period, which shall first be agreed in writing with the Local Planning Authority, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.