

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

DATE 15th NOVEMBER 2006

**REPORT OF CORPORATE DIRECTOR OF
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES**

Unauthorised development and non compliance with planning conditions (03/2705/REV) in respect to development at The Stables, Rear of Greencroft bungalow, Redmarshall.

Update to report placed before committee on the 10th May 2006.

SUMMARY

On 10th May 2006 Planning Committee endorsed enforcement action in respect to the development at The Stables, Redmarshall, if adequate steps were not undertaken by the site owner to resolve outstanding matters with respect to non compliance of conditions and other breaches of planning control.

Following Committee, the site owner was advised in writing of the outstanding breaches of planning and of the steps considered necessary to resolve these.

Some works have taken place relating to the removal and relocation of fencing within the development.

Matters remain outstanding in respect to the submission of information regarding the levels of the building and the surrounding land levels, the provision of a turning area and the provision of an access to the land to the rear of the site.

Officers have considered each aspect of the outstanding matters and have concluded that although information has not been submitted in respect to these items, that in view of the relocated fencing, the overall levels across the site and the provision of a driveway and turning area, that the development as carried out on site is acceptable for the purposes of the conditions and it is therefore not expedient to take enforcement action in these respects. However, as no information has been submitted the conditions cannot be discharged and the development therefore remains unlawful.

In addition to the above mentioned matters, there remains unauthorised development on the site. The land to the east of the site remains formally lawned, planted in part and has a gravelled access way running through it. These works are considered to be a breach of planning and have an adverse affect on the character and appearance of the site to the detriment of the wider area. Chicken sheds have been erected on the land to the rear of the residential property which are of a poor appearance and which are located within close proximity to the surrounding residential properties. It is considered that in their current state and location that these have a detrimental affect on the character of the area and the potential to detrimentally affect the amenity of these properties.

RECOMMENDATION

An enforcement notice be served on the owners of the land in respect to the following;

- a. The works which have been undertaken to the agricultural land which have resulted in it having an appearance similar to that of domestic curtilage and which requires the impacts of these works to be reversed so that the agricultural land can be reverted back to having an agricultural appearance.

- b. The non compliance of condition 11 of approval reference 03/2705/REV relating to the provision of access to the private sewage treatment plant.
- c. The removal from the land the unauthorised chicken coups.

BACKGROUND

1. Planning permission was granted on the 8th April 2004 under planning application 03/2705/REV for the erection of one dormer bungalow and other ancillary development at the site. The approval notice was subject to a total of fourteen conditions.
2. A further application was submitted to reposition the access, change the use of the adjoining agricultural land to domestic garden and erect a stable block. This application was refused by the Local Planning Authority on the 24th June 2004 for the following reason:

The proposal will extend development beyond the defined village limits into open countryside leading to an unjustified loss of agricultural land to the detriment of local amenities and contrary to the strategic and local plan policies.

3. The decision of the Local Planning Authority was appealed against and dismissed by the Planning Inspector who considered that the change from agricultural land to garden would effectively extend the defined limit to the village introducing additional domestic paraphernalia on a piece of land which is clearly agricultural in character. It was further considered that the stable block would not support the rural economy in any form.
4. The dwelling has been substantially complete, without submission or acceptance of appropriate information relating to the conditions attached to the approval. Furthermore, other unauthorised works have been undertaken on the site with respect to the erection of Chicken sheds and the carrying out of works to the adjoining agricultural land which results in the land having a domestic appearance and an access track laid within it.
5. The outstanding matters were reported to committee on the 10th May relating to breaches of conditions and unauthorised works at the site. Specifically, these were reported as follows;

Breach of conditions

Condition 6 requiring the scheme of means of enclosure associated with the development to be submitted to and approved by the Local Planning Authority had not been discharged.

Condition 11 relating to porosity tests and an access road to the sewage treatment plant still requires details of the proposed access way to be submitted.

Condition 12 requiring the finished ground levels associated with the development to be submitted to and approved by the Local Planning Authority had not been discharged.

Condition 13 relating to the provision of in curtilage turning head remains to be discharged.

Unauthorised works

The unauthorised development that has been carried out on adjoining agricultural land concerns the erection of fencing and the construction of a driveway laid out outside of the residential area of the site. It should be noted not only was planning permission refused and appeal dismissed to use this land as part of the domestic garden, a condition (no.5) attached to the permission 03/2705/REV requires the land to remain in agricultural use and not to be brought within the curtilage of the dwelling in order to ensure the adjoining land remains in agricultural use and to prevent the uncontrolled extension beyond approved village limits.

6. The previous report to committee concluded that there was a requirement to secure discharge of conditions 6, 11, 12 and 13 of planning application 03/2705/REV through the submission of adequate information and the removal of the unauthorised development in

respect to the fencing and driveway which has been laid out outside the residential area of the site and return the use of this area to agricultural use.

7. Planning Committee endorsed the recommendation that;
 - the owner be given 28 days from the date of the committee to submit adequate information to the Local Planning Authority in respect to the outstanding conditions of the planning approval to allow the conditions to be discharged and if fails to do so, that the Head of Planning Services be authorised to issue a Breach of Condition Notice.
 - The owner be given a period of 3 calendar months from the date of this committee to remove all unauthorised development from the adjoining land and return the land to agricultural use and if fails to do so then the Head of Planning Services be authorised to issue a Planning Enforcement Notice in respect to the unauthorised development.
8. The Local Planning Authority requested in a letter dated 26th May 2006 addressed to the owner of the site, that the relevant information be submitted to allow the outstanding conditions to be discharged from the permission and for unauthorised works be removed from the site in accordance with the recommendation of the report. The owner of the site has responded by submitting a plan indicating ground levels.

PRESENT SITUATION

9. Based on lack of adequate information being submitted and insufficient remedial works taking place on site the Local Planning Authority have had to consider the works undertaken against the planning application and against general planning policy. Considerations are as follows;

Breach of Conditions

Condition 6 states....

No development shall be commenced until details of all means of enclosure on the site have been submitted to and approved by the Local Authority. Such means of enclosure as agreed shall be erected before the development hereby approved is occupied and shall be maintained for the life of the development hereby approved.

Reason: In the interests of a visual amenity and retain control over the boundary of development.

10. Fencing previously located to the side of the property which appeared to define a garden area and which was located on the agricultural land has been removed (see appendix reference 7). In addition, a new post and four rail fence has been erected in a position between the agricultural land and the residential land (see appendix ref. 2). The location and style of fencing as laid out on site and as indicated on the attached plan generally defines the boundary between residential and what should be agricultural and is therefore considered to be acceptable. No plan of adequate detail has been submitted or approved in respect to this and as such, the condition cannot be formally discharged and the development will therefore remain unlawful. However, in view of the fencing being appropriate in style and location it would not be expedient to take enforcement action in respect to this element.

Condition 11 states.....

Further porosity tests shall be carried out in the satisfaction of the Local Planning Authority to demonstrate that suitable subsoil and adequate land area is available for the soakaway in accordance with and the Building Research Establishment Digest Standard 365 (soakaway system). the private treatment plant shall be de-sludged at not more 12 monthly intervals with a suitable access to be provided in accordance with a scheme to be agreed with the Local Planning Authority.

Reason: To prevent pollution of the water environment and ensure a satisfactory form of development.

11. The formally laid out gravelled and kerbed access track which is laid out within the agricultural land on site is considered to be excessive for its purpose, having a negative impact on the character and appearance of the agricultural land on which it is located (see appendix ref.8). As such it is considered that the access track which lies beyond the residential curtilage as defined on plan A and outlined with a blue line, should be removed from the site and the land reinstated to its former appearance.

Condition 12 states.....

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority, a detailed scheme showing existing ground levels, finished ground levels, finished floor levels for the dwelling house, a final ridge height of 6.4m above agreed ground level and road levels. Thereafter the development shall be completed in accordance with the approved details.

Reason: In order that the Local Planning Authority may exercise further control in the interests of the visual amenity of the area and to ensure that the visual amenities and privacy of neighbouring properties are not adversely affected.

12. The development as constructed has a ridge height of 6.4m above ground level which is considered acceptable in visual terms as this does not significantly dominate either the plot within which it sits or the adjoining property. Two other areas relating to the levels of the site have been considered, in part as a result of complaint from the owner of the adjoining property. These areas related to a raised area of garden and patio to the rear of the property and the raising of land to the front of the site, immediately adjacent to a garage wall and fence associated with of the adjoining property.
13. The garden and patio area have been raised and give a more level platform intervening between the dwelling and the agricultural land to the rear. Based on photographic records (see appendix ref. 6) it is apparent that the land has been raised although by precisely how much is unknown. The amount by which the land has raised allows a person to stand on a limited section of the patio and garden area of the property and achieve views into the rear area of the adjoining property and toward the rear windows within the associated dwelling (see appendix ref. 5). There are no views from the windows within the property at 'The Stables' into these areas of the adjoining property, only from the external areas. This relationship is not considered to be significantly different to the common relationship between two properties adjoining one another where views from patio areas and rear gardens afford views back to the rear of the adjoining property. In view of this it is considered the levels as laid out on site should afford adequate privacy normally expected from residential development as required by condition 12.
14. An area of land to the front of the property which abuts a section of the adjoining properties garage wall and boundary fence has been raised to a point just below the damp proof course of the building and lies above the bottom of the fence (see appendix ref 4). This results in the fence effectively retaining this area of garden. This raised land is a planted border associated with the front garden area of the 'The Stables'. The raised land needs to be considered on its planning merits and on the reasoning behind the condition, which required ground levels to be submitted to the Local Planning Authority. It is considered that the relatively marginal increase in levels does not affect the visual amenity or privacy of the neighbouring property whilst does not adversely affect the visual amenity of the site in general. As such, it is not considered to be something which can be dealt with as a breach of planning condition. Instead, it is considered that this is a private matter with regard to potential damage to the adjoining property.

Condition 13 states...

Notwithstanding the submitted plan No. 1.2, a turning space shall be provided in accordance with a scheme which has previously been submitted to and approved in writing by the Local Planning Authority within the site to enable vehicles visiting the site to enter and leave in forward gear. The turning facility as approved shall have a width of 4.5m, be designed to be on the eastern side of the front hard standing area

and be provided to the satisfaction of the Local Planning Authority prior to the development being occupied.

Reason: In the interests of highway safety and to protect the amenities of the adjoining residents.

15. It is considered that the driveway and turning space as laid out on site, (see appendix ref 3) within the area of residential curtilage as indicated on plan 1 as outlined in red, are adequate. It is therefore considered that it is not expedient to take action against this breach of condition. No plan of adequate detail has been submitted or approved in respect to this and as such, the condition cannot be formally discharged and the development will therefore remain unlawful.

Unauthorised material change in use of land

16. The immediately adjoining agricultural land has been levelled, laid out with turf, planted with ornamental trees and an access track laid running through it. (See appendix reference 7 & 8). It is considered these works result in the land having a residential appearance which is not considered to be appropriate for its location on the edge of the village, outside the 'Limits to development' as defined within the Stockton on Tees Local Plan.
17. The land does not appear to be used for agricultural purposes such as grazing or production and as a result of the works there is a clear visual relationship between the house, its residential curtilage and this area of agricultural land which now has the appearance and function of being incidental to the enjoyment of the dwelling house, having a suburbanising effect on the character of the agricultural land. As such it is considered there has been a material change of use to one which is incidental to the dwelling house.
18. In its previous state it is considered that the agricultural land formed a very clear and distinct boundary between the domestic curtilage and the countryside beyond. It is considered these works have harmfully eroded the distinction between the countryside and the village settlement.
19. In addition, there has been a previous refusal of planning permission and appeal dismissal to change the use of this land to residential curtilage.

Unauthorised erection of chicken coups

20. Two chicken sheds have been constructed on land to the rear of the property, on agricultural land. The chicken sheds are of a very basic construction having a timber frame and wire mesh cover. Both sheds are almost identical in size measuring approximately 7.3m x 2.4m in plan having an overall height of 2.4m. The sheds have been located in close proximity to the boundaries associated with adjoining properties.
21. For the purposes of Planning and the allowances of the GPDO 1995, the land is not considered to form part of an agricultural unit as defined by the act. This is as a result of the site not operating as a bonafide agricultural business. In view of this the chicken sheds are not considered to constitute permitted development under either agricultural or residential exemptions allowed under Class E of Part 1 and Class B of Part 6 of Schedule 2 of the Town and Country (General Permitted Development) Order 1995. As such, the structures would require permission in their own right.
22. The chicken coups have been considered against the provisions of the Local Development Plan, specifically policies GP1, EN10 and EN13.
23. Within these policies there is no specific policy support for structures of this nature, which are not part of an operational farm or business although it is considered the principle of locating a chicken shed on agricultural land as a hobby or similar could be considered to be acceptable. However, it would remain necessary to consider such a proposal against Policy GP1 of the Local Plan which requires the external appearance of development, its

effect on the amenities of surrounding properties and the quality and character of existing landscapes and buildings to be considered.

24. The chicken sheds are located within close proximity to the surrounding properties and are of a height which makes them clearly visible above the adjoining rear garden boundary structures. They are of a basic appearance which does not improve or positively contribute to the appearance of the site. In view of their appearance it is considered the chicken sheds have a detrimental impact on the character and appearance of the land and setting within which they are situated. Furthermore, as a specific result of their height and location it is considered that they would become a prominent feature in relation to the adjoining properties and have the potential to result in a degree of noise disturbance to the detriment of the occupiers of adjoining properties.
25. Were the chicken sheds moved to a location further away from residential properties, reduced in height and improved in appearance then it is considered they may be able to be accommodated without having detriment to the character and appearance of the area or without having significant detriment to the amenity of surrounding properties.

CONCLUSION

26. The planning approval was granted subject to conditions, which, at the time of determining the application were considered to be necessary in order to achieve a satisfactory form of development and in order to ensure it was acceptable to approve.
27. The development has been substantially completed without the necessary information being submitted in order to allow the necessary conditions to be discharged. However, it is considered that the location and style of fencing is now acceptable as laid out on site as are the levels of the finished building and the associated land for the purposes of planning. As such, it is not considered expedient to take enforcement action against these breaches. However, as no adequate information has been formally submitted in respect to these, the conditions cannot be formally discharged and the development will therefore remain unlawful.
28. It is considered that the agricultural land should be restored to have an agricultural appearance which is fit for agriculture. In order to achieve this it is not considered necessary to require the land to be stripped of turf and for the former contours to be restored, although it is considered that the grass should not be mown, the ornamental trees should be removed from within it and the access track and all its sub base and edging detail should be removed from this area of land in its entirety. This should allow the land to revert back to rough grassland, close to its previous appearance.
29. The access track laid to the private treatment plant has not been accepted by the Local Planning Authority and in its current form is considered unsuitable.
30. The chicken coups are considered inappropriate in their location and design and as such should be removed from the land.

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Financial Implications

As report.

Environmental Implications

As Report

Community Safety Implications

N/A

Human Rights Implications – the provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

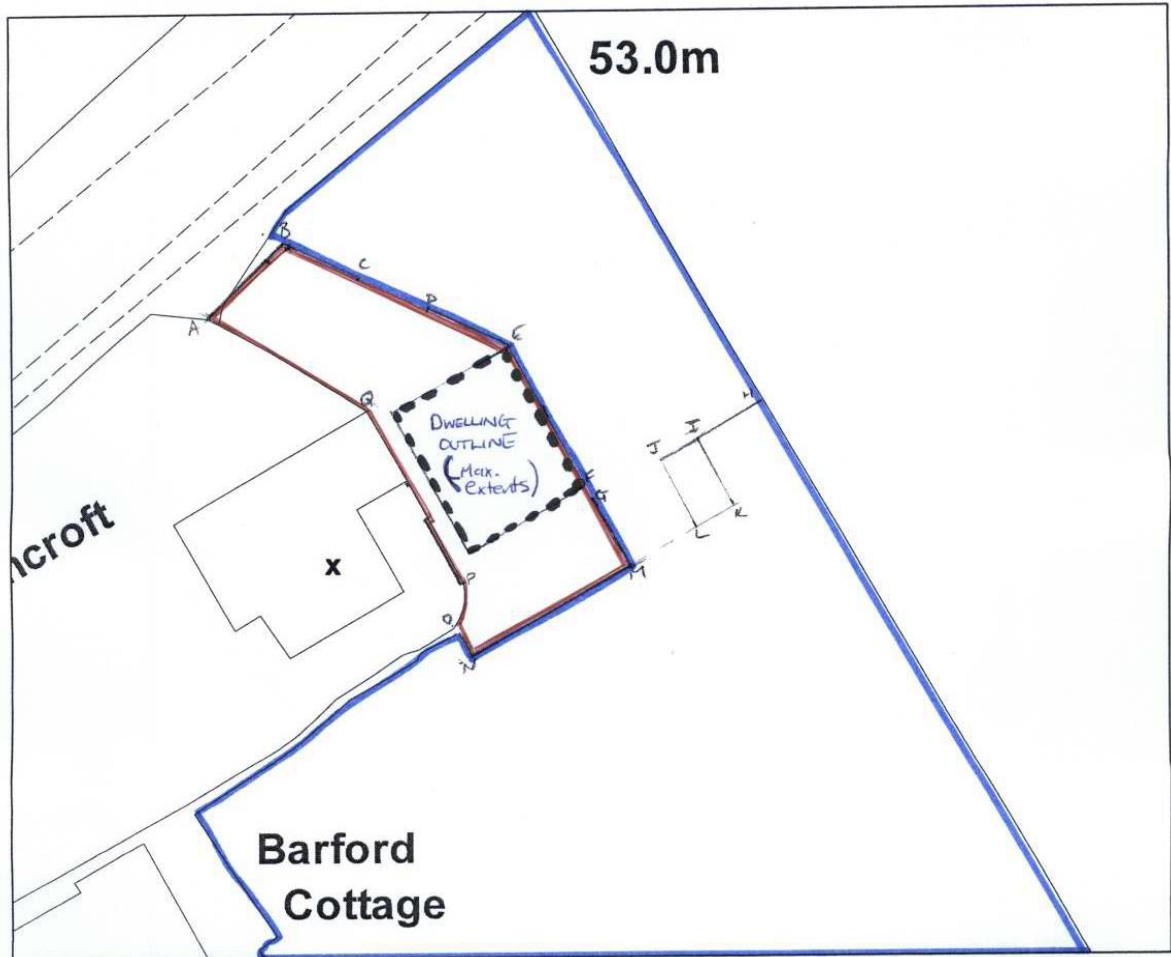
Background Papers

Planning Application 03/2705/REV

Ward	Western Parishes
Ward Councillor	Councillor F G Salt

The Stables Redmarshall

Scale 1:500 (NOT TO SCALE IF COPIED)



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Appendix reference 2.
Photograph showing current location of fence dividing boundary between residential and agricultural curtilages.



Appendix reference 3.
Photograph showing existing driveway and associated turning.



Appendix reference 4.
Photograph showing ground levels at front of property adjacent to neighbouring property.



Appendix reference 5.
Photograph showing rear garden area, boundary wall between The Stables and the adjoining bungalow and the point at which views can be achieved over the lower section of the boundary wall into adjoining property.



Appendix reference 6.
Photograph showing increased land levels (approx. 300mm) through imported material to rear of the site immediately adjacent to boundary wall with adjoining property.



Appendix reference 7.
Photograph showing works undertaken to agricultural land and its current character and appearance.



Appendix reference 8.
Photograph showing works undertaken to agricultural land, including access track and its current character and appearance.

