

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**DATE 30<sup>th</sup> JANUARY 2008**

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

**05/3273/FUL**

**Grove Stables, Forest Lane, Kirklevington**

**Erection of cattery, new road access, siting of LPG tank and effluent treatment tank.**

**Expiry Date 28 March 2006**

### **SUMMARY**

The application site is situated towards the western edge of Kirklevington Village and has a rural setting that is separated from the higher density village setting by the railway line.

Planning permission is sought for the erection a cattery with a maximum capacity of 14no. Cats. Consent is also sought for a new egress onto Forest Lane LPG tank and effluent treatment plant associated with the proposed development.

Discussions have been on-going between the applicant and the council's highways engineers in order to demonstrate that a satisfactory access and egress can be provided on the site and the applicant has removed part of the bank for demonstration purposes.

### **RECOMMENDATION**

**Planning application 05/3273/FUL to be refused for the following reason;**

***In the opinion of the Local Planning Authority the proposed development by virtue of poor visibility and sight stopping distances would result in an unsafe access to the detriment of both highway and pedestrian safety and is therefore in conflict with policy GP1 of the adopted Stockton on Tees Local Plan.***

### **BACKGROUND**

The application site has a varied history, planning consent was originally sought in 1994 (94/0686/P) for a change of use from agricultural land to livery stable and siting of residential caravan. The application was refused due to the intensification of the existing access by virtue of inadequate sightline visibility and due to preventing residential development in the open countryside.

An application for a certificate of lawfulness (96/0843/P) for (1) use of stables as commercial livery & associated activities (2) siting and residential use of a mobile caravan (3) siting and use of a portable cabin (4) construction of buildings at the stables including a barn, shed, stable block and 3 brick stables (5) completion of operations including resiting of a railway box and installation of a ménage was given approval in 1998.

A further application was submitted in 2001 which sought retrospective planning consent for a verandah and single storey extension, raising roof, rear canopy, chimney, new gates to entrance, brick cladding and other alterations (01/1437/P). The application was approved subject to conditions. Although an appeal was lodged against condition 3 of the application which related to the curtilage of the dwelling and the subsequent appeal was allowed.

During the application process discussions of this current application have taken place with the applicant to obtain a more detailed site plan and also with the Council's Highway engineers in relation to achieving a satisfactory access/egress. Information was also been received in relation to a dispute over landownership, however, the applicant has amended the redline boundary of the site and the Local Planning Authority are satisfied that the proposed development is now wholly within the applicants ownership.

### **PROPOSAL**

Planning permission is sought for the erection of a 5m x 22m building measuring a maximum height of approximately 3.5 metres to be used to create a cattery with a maximum capacity of 14no. Cats. Consent is also sought for a new egress onto Forest Lane LPG tank and effluent treatment plant associated with the proposed development.

### **CONSULTATIONS**

The following Consultations were notified and any comments received are set out below:-

#### **Northumbrian Water Limited**

No objections

#### **Northern Gas Networks**

There maybe apparatus in the area that may be at risk during construction works and should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail.

#### **NEDL**

No objections but draw the developer's attention to the Health and Safety Executives publications on working with electricity.

#### **Parish Council**

Further to our email, and letters of January March and April 2006, the Parish Council has examined this latest amendment, an feels that the proposed amendment makes no material difference that their objections; moving the proposed exit access nearer the existing one, in itself at an awkward location, worsens the road safety aspect of the proposal.

Although we are not opposed to a cattery per se, we still recommend refusal on road safety grounds.

#### **Environmental Health Unit**

Further to your memorandum regarding the above, I have no objection in principle to the development, however, I do have concerns regarding the following environmental issues and would recommend the below conditions as detailed be imposed on the development should it be approved. Should the application be approved the person keeping the Animal Boarding Establishment will be required to hold a licence to be issued by the local licensing authority.

Drainage - septic tank/ cesspool

The applicant shall satisfy the Local Planning Authority (LPA) of the adequacy of the proposed means of drainage prior to the development commencing. Any septic tank to be employed shall be

built in accordance to BS 6297 1983 and shall discharge over a biological filter unit, the final effluent from which shall be discharged in a manner approved by the Environment Agency and the Building Control Officer. Full details of the size and manner of construction of the septic tank shall be agreed in writing with the LPA prior to development commencing. The proposed development shall not commence until a trial hole has been excavated in the region of any proposed new outfall and reveals to the satisfaction of the LPA the adequacy of the subsoil drainage in the regions of the proposed outlet, otherwise drainage to a cesspool will be required. Suitable access shall be maintained for the regular emptying of any septic tank or cesspool. Any septic tank shall be desludged at not less than 12 monthly intervals

### **Environment Agency**

The Environment Agency has been formally consulted by the Local Planning Authority in relation to the above application. In response to this consultation The Environment Agency has made the following comments to the Local Planning Authority.

I refer to your email which was received on 13 April 2006.

The information submitted in the Flood Risk Assessment is sufficient for us to withdraw our objection. However, the Agency recommend the removal of fallen timber lying across the beck which offers potential obstruction to flood flows in the watercourse and could contribute to bank erosion and flooding.

### **Urban Design Engineers**

I refer to your memo dated: 17 December 2007

Reference drawing no: 001

### General Summary

I refer to the most recent information submitted with regard to this planning application and confirm that an initial appraisal of the report has been undertaken and I object to this application on highway grounds. Further consideration is to be undertaken and an update report will be produced in due course.

### Highways Comments

The cattery is proposed within the existing curtilage of Grove Stables on Forest Lane on the fringe of Kirklevington village on an unclassified road with a speed limit of 60mph. There is an undulating topography along this section and the carriageway width is between 3m and 4.5m. Traffic surveys indicate that between 400 and 500 vehicles travel along this road in a 24hour period and 85<sup>th</sup> percentile speeds are 36.5mph. It is expected that the cattery would introduce around 24 (12 in and 12 out) trips onto this highway at its peak time.

A further highway report has been submitted by the applicant in support of the cattery and new road access, this has been initially assessed. The existing highway objection to the proposal is therefore still appropriate until a full appraisal of this report can be undertaken.

The initial assessment of the report and a site visit confirm that the safe stopping distance and visibility for vehicles travelling eastbound along Forest Lane (towards Kirklevington) is critical in the assessment and it is insufficient. I am currently investigating whether any mitigation could improve this that would allow the highway objection to be removed.

The key facts relating to the objection on highway visibility grounds are:

- The road has a 60mph speed limit, however the actual speed surveys are nearer to 36mph.

- An assessment based on criteria for 30mph shows the access still fails to meet the minimum criteria for stopping sight distance, in both national standards and the newer 'Manual for Streets'.
- Vehicle speeds of closer to 40mph are actually achievable on this section of highway and this demonstrates that the safe operation of this access with the proposed increased traffic is not acceptable.

The applicant has offered to include additional drainage for the highway along the front of his property where currently surface water collects and can lead to icy conditions in winter time. This approach is welcomed, although it does not alleviate the concerns of insufficient visibility.

#### Landscape & Visual Comments

I have visited the site and considered the submitted documents and would comment that the application is acceptable from landscape and visual terms in principle subject to the following being submitted and approved.

- This is subject to the issues below being resolved to the acceptance of the LPA
- Provision of detailed survey showing location of existing trees and hedgerow with proposals indicating retained trees as required below
  - There will be loss of existing hedgerow, this has not been maintained as such, and as a result this now reads as a line of small/medium trees/bushes
  - Through the necessary profiling of the bank (excavated in advance of determination and permissions) it is likely that further losses may occur
  - Retention of an existing semi-mature ash tree which appears to be on the proposed new access alignment should be achieved by re-alignment
  - Retention of existing mature hawthorn at the top of the excavated bank (above) should be achieved by minimum 'take' for the re-profiling
  - Full soft landscaping scheme must be submitted to include replacement and additional shrub, tree and in particular hedge planting
  - Removal of conifer species shown retained between existing and proposed access roads should be replaced with suitable sensitively selected native trees and hedge to form a suitable entrance

#### LANDSCAPE CONDITIONS REQUIRED

#### LANDSCAPING - SOFTWORKS

Notwithstanding the proposals detailed in the submitted plans, no development shall commence until full details of Soft Landscaping has been submitted to and approved in writing by the Local Planning Authority. This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations inter relationship of plants, stock size and type, grass, and planting methods including construction techniques for pits in hard surfacing and root barriers. All works shall be in accordance with the Council's Design Guide, Specification (Residential and Industrial Estates Development) current edition BS4428:1989, Code of practice for General Landscape operations, and the Horticultural Trades Association (2002) Code of Practice. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following commencement of the development or prior to the occupation of any part of the development and the development shall not be brought into use until the scheme has been completed to the satisfaction of the Local Planning Authority.

Reason: To ensure a high-quality planting scheme is provided in the interests of visual amenity which contributes positively to local character and enhances bio diversity.

## MAINTENANCE- SOFTWORKS

Notwithstanding the proposals detailed in the submitted plans a soft landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas/ retained vegetation, other than small privately owned domestic garden shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development. Maintenance shall be detailed for a minimum of 5 years from date of completion of the total scheme regardless of any phased development

Any vegetation within a period of 5 years from the date of from the date of completion of the total works that is dying, damaged, diseased or in the opinion of the LPA is failing to thrive shall be replaced by the same species of a size at least equal to that of the adjacent successful planting in the next planting season unless the Local Planning Authority gives written consent to any variation.

Landscape maintenance shall be detailed for the initial 5-year establishment period followed by a long-term management plan for a period of 20 years. The landscape management plan shall be carried out as approved

Reason: To ensure satisfactory landscaping to improve the appearance of the site in the interests of visual amenity."

### Built Environment Comments

No comments.

## **PUBLICITY**

Neighbours were notified and a total of 10 objectors and 2 letters of representation were received. The comments received are detailed below (in summary):-

### **Objections**

- Concerns over highway safety
- Increase commercial activity in rural area
- Industrial development outside the village envelope
- Impact on visual amenity
- Proposed construction materials not considered to be appropriate to the area
- Ill planned buildings on the site already are not in keeping with the character of the grade II listed building, Grove Farm
- Soakaway leads into a waterway
- Issues of land ownership
- Future development potential/conversion of the proposal
- Exiting leylandi hedge should not be seen as screening as it currently obstructs site lines
- Impact on livestock via disease from cats

### **Representation**

- Remaining land should not be used for future housing as the site lies outside the village envelope.
- Seek assurances that there will be no unpleasant odours
- The cattery will not become a boarding kennel in the future

Comments have also been received from the applicant in relation to the objections received; these are detailed below in summary.

- ❑ The new access is designed to provide a much safer line of sight for vehicles egressing the site; the existing access will be to entry only.
- ❑ There has never been a cattery on the site; the planning application is for new, not retrospective development.
- ❑ The development will not result in problems of noise or smell and will not be used for dog's
- ❑ Issues of land ownership are strongly refuted
- ❑ As domestic development at the east of the village increases so to does the demand for services such as that proposed.

## **PLANNING POLICY**

The relevant development plan in this case is the adopted Stockton on Tees Local Plan.

Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plans are: - *the Tees Valley Structure Plan (TVSP) and the Stockton on Tees Local Plan (STLP)*.

The following planning policies are considered to be relevant to the consideration of this application:-

### **Policy GP1**

Proposals for development will be assessed in relation to the policies of the Cleveland Structure Plan and the following criteria as appropriate:

- (i) The external appearance of the development and its relationship with the surrounding area;
- (ii) The effect on the amenities of the occupiers of nearby properties;
- (iii) The provision of satisfactory access and parking arrangements;
- (iv) The contribution of existing trees and landscape features;
- (v) The need for a high standard of landscaping;
- (vi) The desire to reduce opportunities for crime;
- (vii) The intention to make development as accessible as possible to everyone;
- (viii) The quality, character and sensitivity of existing landscapes and buildings;
- (ix) The effect upon wildlife habitats;
- (x) The effect upon the public rights of way network.

### **Policy EN13**

Development outside the limits to development may be permitted where:

- (i) It is necessary for a farming or forestry operation; or
- (ii) It falls within policies EN20 (reuse of buildings) or Tour 4 (Hotel conversions); or

In all the remaining cases and provided that it does not harm the character or appearance of the countryside; where:

- (iii) It contributes to the diversification of the rural economy; or
- (iv) It is for sport or recreation; or
- (v) It is a small scale facility for tourism.

### **Policy EN32a**

Proposals for new development will not be permitted within Flood Zones 2 or 3 as shown on the Proposals Map, or other areas identified as at risk of flooding, unless the applicant can demonstrate by means of a Flood Risk Assessment and sequential tests that:-

- i) there is no alternative site at no risk or at lower risk of flooding; and
- ii) there will be no increased risk of flooding to the development; and
- iii) there will be no increase in risk of flooding elsewhere as a result of the development.

Where permission is granted for development in flood risk areas, or for development that would increase the risk of flooding, appropriate flood alleviation or mitigation measures, to be funded by the developer, must be undertaken.

### **Policy EN28**

Development which is likely to detract from the setting of a listed building will not be permitted.

Planning Policy Statement 7: Sustainable Development in Rural Areas and Planning Policy Guidance 15: Planning and the Historic Environment and Planning Policy Guidance 25: Development and Flood Risk are also considered to be relevant to this decision.

### **SITE AND SURROUNDINGS**

The application site is a small holding situated towards the western edge of Kirklevington Village and has a rural setting that is separated from the higher density village setting by the railway line. Grove Farm lies to the north of the site with a small stream known as Picton Stell to the east.

### **MATERIAL PLANNING CONSIDERATIONS**

The main planning considerations of this application are the impacts on the planning policies, the character of the area, the amenity of neighbouring occupier's access and highway safety, setting of a listed building and flood risk.

#### **Principle of development;**

The application site lies both outside the defined limits to development of Kirklevington village and within the Environment Agencies flood risk zone no.3 is therefore subject to policies GP1, EN13 and EN32a of the adopted Stockton on Tees Local Plan. The site lies near to the listed Grove Farm and policy EN28 is also considered relevant.

Planning Policy Statement 7; Delivering Sustainable Development in Rural Areas (PPS7) encourages new businesses and farm diversification in rural areas provided that they are consistent in their scale with their rural location. Equally local plan policy EN13 states that development may be acceptable outside the limits to development where it does not harm the character or appearance of the countryside where it contributes to the diversification of the rural economy.

Given the small-scale nature of the proposal, the relevant national and local policies and its location on the western edge of Kirklevington village it is considered that despite being outside the limits to development it is on the edge of a developed settlement and the principle of a proposed cattery in this location is acceptable.

#### **Character of the area;**

The proposed development is of a low nature and would be largely hidden from view by the existing leylandi trees at the front of the site. Given the set back within the site it is considered that the proposed development is unlikely to have such an impact on the character/visual amenities of the area so as to justify a reason for refusal of the application.

Several objectors have also raised concerns in relation to the impact that the proposed materials would have on the character of the area. A planning condition can however, be imposed to ensure that satisfactory materials are agreed with the local planning authority during construction of the development should members approve the development.

#### **Amenity;**

The Environmental Health Unit has raised no objection to the proposed development in terms of noise and odour. Given that the proposed development would be in excess of 70 metres to the

nearest residential dwelling (Manor Farm) therefore it is considered that the proposed cattery would not have a detrimental impact on the amenity of the neighbouring residents so as to justify a refusal of the application.

The Environmental Health Unit has commented that a license would also be required although this is a separate requirement from the planning process.

**Access and highway safety;**

Many of the objectors have raised concerns in relation to access and highway safety. The Local Authorities Highways Engineers have given an initial assessment of the latest highway report and at this point in time maintain their previous objections, although are investigating whether any mitigation could improve this which may allow the highway objection to be removed.

The issue of the remaining objections are on the basis of the overall speeds achieved on this stretch of road, that the access fails to meet the minimum criteria for stopping sight distance of 30mph, in both national standards and the newer 'Manual for Streets' and with vehicles speeds of closer to 40mph the safe operation of this access with the proposed increased traffic is not acceptable.

Although the applicant has offered to include additional drainage for the highway along the front of his property where currently surface water collects and can lead to icy conditions in winter time, which is welcomed it does not alleviate the concerns of insufficient visibility.

On this basis there is still an outstanding highway safety issue. The proposal therefore conflicts with policy GP1 of the adopted Stockton on Tees Local Plan and is consequently recommended for refusal.

**Flood risk;**

The applicant has submitted a flood risk assessment to the Environment Agency in line with both Government guidelines and local EN32a of the adopted Local Plan. The Environment Agency has commented that they have no objections to the proposal and the development is therefore judged to be in accordance with policy EN32a.

**Setting of listed building;**

PPG15 outlines that the setting is often an essential part of the building's character, especially if a garden or grounds have been laid out to complement its design or function. The proposed development would be in excess of 70 metres from Grove Farm, which is grade II listed. Given the rear aspect, the distance between the listed buildings and the proposed development it is not considered that the development would have such a detrimental impact on the listed buildings so as to justify a refusal of the application. The proposal therefore accords with policy EN28 in this respect.

**Other Issues;**

Following the dispute over landownership the applicant has subsequently amended the redline boundary of the site and the Local Planning Authority are satisfied that the proposed development is now wholly within the applicant ownership and the previous concerns raised are now considered to have been addressed.

Concerns have also been raised in relation to the site being developed in the future for housing or as a boarding kennel. However, the application can only be judged on the proposal of the cattery and any future applications would be judged on their on merits.

**CONCLUSION**

In conclusion, whilst the principle of development on the site remains acceptable and the proposed development is not considered to have a significant impact on either the character of the area or



the amenity of the neighbouring properties, serious concerns remain over the proposed new access in relation to sight stopping distances. Given that the new access is considered to be unsafe and would have a detrimental impact on access and highway safety the proposed development is recommended for refusal.

**Corporate Director of Development and Neighbourhood Services**  
**Contact Officer Mr Simon Grundy Telephone No 01642 528550**

**Financial Implications** – As report

**Environmental Implications** – As report

**Legal Implications** – As report

**Community Safety Implications** – As report

**Background Papers** –

Stockton on Tees Local Plan (June 1997), Adopted Tees Valley Structure Plan (February 2004),

**Human Rights Implications** - The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report

#### **WARD AND WARD COUNCILLORS**

**Ward**

**Yarm**

**Ward Councillors** J Earl, Mrs J. Beaumont and A B L Sherris

#### **Background Papers**

Stockton-on-Tees Local Plan

Regional Spatial Strategy

Tees Valley Structure Plan

Planning Policy Statement 7: Sustainable Development in Rural Areas

Planning Policy Guidance 15: Planning and the Historic Environment

Planning Policy Guidance 25: Development and Flood Risk

Planning Applications 94/0686/P, 96/0843/P & 01/1437/P