

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

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

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

**07/2319/ARC**

**Bishopsgarth Cottages, Darlington Back Lane, Stockton-on-Tees**

**Application under section 73 to amend condition no.2 (approved plans) of planning approval 06/0461/REV**

**Expiry Date 2 October 2007**

### **SUMMARY**

Several planning approvals have established provision for two dwellings and associated works at the site. The initial approval attempted to restrict the overall scale and design of the development in order to control its impact in the landscape in view of it being on the urban fringe and outside of the defined limits of development.

Development has been undertaken on site which is not in accordance with the previously approved plans resulting in an unlawful development. This application has been submitted in order to regularise the development undertaken on site.

The earlier approvals for the site are a material consideration in determining this application and as such, considerations in respect to this application generally relate to the additional impact of the changes above and beyond the impacts of the approved scheme, although the nature of the former development on the site has also been taken into account.

Two letters of objection have been received from local residents which relate to the impact on privacy and amenity and the numerous changes being made from the initial scheme. 4 letters of objection have been received from Ward Councillors. Councillor objections are based on the level of changes to the previously approved details and the resultant impact of these changes on the appearance of the site and its impact on the character of the surrounding area.

Amendments include increased eaves and ridge heights to properties, increased building widths, additional windows and changes to design detail including door and opening styles. Attic rooms have been added to both properties. Members will be aware that the Planning Committee carried out a site visit to the properties on 21<sup>st</sup> November 2007

It is considered that the amendments result in buildings of increased size, dominance and grandeur to those previously approved and their cumulative impact and increase in size are beyond what was considered to be acceptable at the time of the original approval. These amendments are considered to detrimentally change the overall design concept and built form and scale of the development and it is therefore considered that the retrospective application does not accord with Policy GP1 and HO11 of the Stockton on Tees Local Plan which require developments to be appropriate in scale and character to their surroundings.

### **RECOMMENDATION**

**1. Planning application 07/2319/ARC be Refused for the following reason:-**

***In the opinion of the Local Planning Authority the built form of the development as constructed, dominates the site and its immediate surroundings as a result of its scale, design and form, being uncharacteristic of its immediate surroundings, having a detrimental impact on the character and appearance of the urban fringe area, being contrary to Policies GP1, H03 and H011 of the Stockton on Tees Local Plan.***

***2. In view of the application relating to retrospective development it is further recommended that The Head of Law and Democracy be instructed to take all necessary enforcement action.***

## **BACKGROUND**

1. Previous approvals

*05/2424/FUL - Application for the erection of 2 no. detached dwellings with garages and demolition of existing buildings.*

*06/0461 - Revised application for the erection of 2 no. detached dwellings with garages and demolition of existing buildings.*

*06/2771 - Application under section 73 to vary condition no.2 (approved plans) of planning approval 06/0461/REV for the erection of 2 no. detached dwellings with garages and demolition of existing buildings.*

2. The applicant was advised in a letter of 11<sup>th</sup> May 2007 that works on the site should cease until matters had been resolved.

## **PROPOSAL**

3. Retrospective planning permission is sought to amend the approved plans for application reference 06/0461/REV in order to regularise unauthorised changes made to the development as constructed. The amendments from the approved scheme are listed as follows;

4. Dwelling 1

- Ridge height increased of main section from the approved 10m to 10.2m.
- Eaves height of lower section increased from 2.6m to 3.9m on southern elevation and extension of water table detail.
- Ridge height of lower section increased from 6.1m to 7.5m
- Depth of lower section increased from 8.9m to 9.8m
- Increase in width of lower height section from 8.6m to 9.6m
- Reduction in step within building line of southern elevation from 1m to 0.6m
- Additional 3 roof lights in north elevation.
- Brickwork being provided above first floor window level.
- Change from two small windows to French doors on north elevation and inclusion of Juliet balcony.
- Removal of door from south elevation
- Lowering of position of roof lights within south roof slope
- Introduction of three new windows within the west elevation (side)
- Replacement of arched boarded doors in east elevation with French doors.
- Insertion of new windows in east elevation (1 no. ground floor, 1 no. 2<sup>nd</sup> floor)
- First floor staircase leading to 6 attic rooms previously not indicated on any plans.

5. Dwelling 2

- Increase in ridge height and eaves height of the building. Ridge being increased from the approved ridge height of 8.6m to 9.1m.
- Increased ridge height of rear section (to north) from 6.1 to 7m
- Increased depth of rear section from 6m to 7.75m.
- Introduction of an additional small window in the south elevation,
- Introduction of two small windows on north elevation,
- Replacement of window with French doors on north elevation,
- Substitution of arched opening with square opening in east elevation,
- Provision of brickwork above first floor windows,
- Insertion of additional window in west elevation,
- Insertion of additional window in east elevation,
- Removal of one roof light in north roof slope,
- Staircase and 2 no. attic rooms previously not indicated on any plans.
- The base of a garden room has been added to the east side elevation of dwelling 2 which the applicant has advised he intends to use as a patio and apply at a later date for the erection of a garden room / conservatory in this position.

6. Site in General

- In order to discharge conditions relating to 06/0461/REV a landscape plan was submitted. Although this was generally acceptable, slight amendments were required. No such amendments were received and as such there has been no discharge of conditions relating to landscaping or boundary enclosures.
- The plan which was submitted indicated a 1.8m high wall between dwelling 1 and the driveway, existing and new planting forming the western and northern boundaries of the site, a 1.8m high wall forming the eastern site boundary, a 1.8m high fence forming a boundary between the two dwellings and the southern boundary being formed through retention and supplementing of the existing hedge.
- The brick walls have been erected on site in the positions indicated on plan. Close boarded fences have been erected along the northern and western boundaries ranging in height from approximately 1.2m to 1.5m.
- The applicant has made a request to erect a 1.8m high close boarded fence along the southern boundary and provide planting adjacent.

## **CONSULTEE RESPONSES**

### Cllr J Roberts: Summarised

7. Objects to the scheme as the buildings breach the previously agreed planning consents in significant ways including roof heights, additional windows, removal of windows and dormer windows, additional French doors, difference in size of windows, additional roof lights, additional brickwork above windows, removal and lowering of roof lights. It is considered the additional roof height and additional roof windows will create an unacceptable loss of privacy for those residents in Wimpole Road. The buildings are not in keeping with the rural landscape, the previous approval had a more rural look. The rear hedge was required to be retained yet it appears to have been replaced with a close boarded fence.

### Cllr S Fletcher: Summarised

8. Objects on the following grounds;  
The replacement of Bishopsgarth Cottages must have an exterior in keeping with the rural setting of the houses. The present buildings are not at all in keeping with the rural landscape, nor do they look anything like the agricultural cottages that they replaced. It is understood that the buildings are relatively significantly different from what was approved and that more recently noticed discrepancies result in greater difference as a result of being taller and more obtrusive in the landscape, having brickwork above first floor windows looking less like rural buildings, having larger windows which are not in keeping with cottage size windows initially given approval for and the arched doors that were initially

approved gave a rural feel yet have been placed with a more suburban solution of French doors.

9. It appears that the hedge to the rear has been replaced with a boarded fence. There is more car parking than fits with government guidance. The buildings as built are not at all reflective of their rural setting or other dwellings on the northern section of Darlington Back Lane and could set a dangerous precedent for the conversion and building of others, leading to urban sprawl in a rural area.
10. There is a 5 barred gate from the driveway into the field whilst the rear of the property is fenced. The front hedge is collapsing under the weight of the metal fencing yet is supposed to remain in tact. Objection is made to the loss of the hedge which should be retained and reinstated.

#### Cllr M Perry: Summarised

11. Objects to the application as the development which has been carried out has moved away from the original plans and does not reflect on that which the planning permission was given and is not in keeping with the rural setting of the original cottages. The areas of concern are;  
Additional windows, removal of windows and dormer windows, additional French doors, difference in size of windows, additional roof lights, additional brickwork above windows, removal and lowering of roof lights.

#### Cllr Woodhead: Summarised

12. Objects for the same reasons as Cllr Perry.

### **PUBLICITY**

13. Neighbours were notified and two letters of objection were received. Objections as summarised below:-  
  
Mrs L Nardone, 97 Wimpole Road' Stockton-on-Tees
14. Objects in the strongest terms to the balcony which runs the length of the gable end of dwelling one. This would afford views over the nearby properties  
  
Garry Robson, 115 Wimpole Road' Stockton-on-Tees
15. Objects as the buildings tower over the hedges and trees. The development has already been subject to a second access road, how many attempts are the objectors going to get to alter their original plans. The dwellings are already too big for the plot, overlooks property being intrusive as a result of height and number of windows.
16. Terry Newman, 117 Wimpole Road  
Disappointed that work is nearly complete and is quite different from the original plans. The changes seem to have been done by stealth and the size is no comparison to what was originally on site. Concerned that the properties may be used as a B&B based on the number of bed / attic rooms.
17. Diane Dent, 111 Wimpole Road  
The plans do not comply with the initially approved plans. We have had to put up with an awful lot of noise and disruption to our lives during the construction of these properties. How on earth does a building that looks like a grotesque misshape get planning permission in the first place? The developer is not the one who has to look at this on a daily basis.

### **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 HO3**

Within the limits of development, residential development may be permitted provided that:

- (i) The land is not specifically allocated for another use; and
- (ii) The land is not underneath electricity lines; and
- (iii) It does not result in the loss of a site which is used for recreational purposes; and
- (iv) It is sympathetic to the character of the locality and takes account of and accommodates important features within the site; and
- (v) It does not result in an unacceptable loss of amenity to adjacent land users; and
- (vi) Satisfactory arrangements can be made for access and parking.

**Policy HO11**

New residential development should be designed and laid out to:

- (i) Provide a high quality of built environment which is in keeping with its surroundings;
- (ii) Incorporate open space for both formal and informal use;
- (iii) Ensure that residents of the new dwellings would have a satisfactory degree of privacy and amenity;
- (iv) Avoid any unacceptable effect on the privacy and amenity of the occupiers of nearby properties;
- (v) Pay due regard to existing features and ground levels on the site;
- (vi) Provide adequate access, parking and servicing;
- (vii) Subject to the above factors, to incorporate features to assist in crime prevention.

**MATERIAL PLANNING CONSIDERATIONS**

- 18. This application relates to the amendment of the earlier approved scheme for the site under application reference 06/0461/REV. This application is not considering the principle of development on the site as this has already been established in the earlier approval, instead, it is necessary to consider the unapproved amendments made and their associated impacts.
- 19. In the consideration of the earlier approvals for the site, attempts were made to prevent an excessive uncharacteristic development being created on a site which was home to a

dilapidated group of buildings which had a relatively traditional character and appearance, albeit being unsympathetically modified in parts, and which were limited in scale.

20. In determining the earlier approvals it was considered that what was being approved represented the limit as to what could be reasonably justified in terms of replacement dwellings, in view of the site falling just outside of the defined limits of development for Stockton and there being a general policy requirement to restrict new development in such areas.
21. The amendments to the approved scheme as carried out on site includes the increase in ridge height for both properties, increase in eaves levels, increase in buildings widths and depths, insertion of additional windows, replacement of traditional features such as boarded doors and arched openings, as well as effectively lifting the roof allowing brickwork courses to be formed between the top of windows and the start of the roof.
22. The site, although being adjacent to open fields to the north and west, is within a street scene which includes the more modern development of Wimpole Road. It is considered that this close relationship may allow some change from a strictly traditional design which had been attempted to be achieved through the earlier approval. All of the amendments undoubtedly result in the buildings having a greater dominance and grandeur from the approved scheme, being less representative of the more agricultural type buildings formerly on site. The properties eaves, being several brick courses above first floor windows results in the first floor windows having a greater dominance thereby eliminating the cottage character. Proliferation of windows moves the development further away from a more simple character whilst a loss of timber boarded doors and arched openings effectively remove the detail which gave the development a semi rural appearance.
23. Other specific areas of concern relate to dwelling 1 which was approved with the southern roadside elevation having a 1m step in its building line and a low height section having an eaves level of 2.6m. The scheme as built has provided a 0.6m step in the elevation which is not considered sufficient to achieve the principle of breaking up the mass of the elevation as was its purpose whilst the increased eaves level by 1.3m has resulted in a much larger and uncharacteristic appearance to the dwelling, again, not achieving the principles of trying to limit apparent bulk and mass. Increase to building widths also contributes to the increased mass. In addition the water table detail (stone coping along side of roof) has been extended along the lower section, giving a more grand appearance.
24. The initial approval was conditioned in relation to various elements including a scheme of landscaping and boundary enclosures to be submitted to the Local Authority. Details have been submitted in this regard which indicated retaining existing hedge planting to the north, southern and western boundaries, although precise details were lacking and as such there has been no discharge of these conditions. It is considered that planting forming the northern, western and southern boundaries would be appropriate in view of the sites location in the urban fringe, adjacent to open fields, however, the northern and western boundaries have been formed by close boarded fencing which is not considered to be a suitable treatment in this location adjoining the open countryside.

### **Impacts on residential amenity and privacy**

25. The two dwellings are located approximately 38m from the nearest residential properties on the opposing side of the highway. It is considered that the amendments made to the scheme are not sufficiently significant to have an undue adverse impact over this distance, particularly as there is an intervening highway. It is also considered that the adjoining property to the east is cited sufficient distance away to prevent any undue impact. One point of objection relates to the provision of a balcony on the side elevation of dwelling one. This balcony is a gallery internal within the conservatory and formed part of approval

reference 06/0461/FUL. As such, in view of these matters it is not considered to be of significance to the determination of this application.

## **CONCLUSION**

26. The site lies outside of the limits of development as defined within the Stockton on Tees Local Plan where there is no presumption in favour for the development of residential properties. The previous approvals accepted the principle of replacement dwellings on the site, however, attempted to ensure their scale and appearance was appropriate for their setting and for the principle of being replacement structures. The development as constructed is considered to be out of keeping with the surrounding area and beyond what could be reasonably considered as replacement buildings for the previous buildings on site, being contrary to Policies GP1, H03 and H011 of the Stockton on Tees Local Plan.
27. In view of the application being retrospective there is a requirement for the recommendation to include enforcement action. In view of previous approvals for the site defining what was previously considered to be a maximum level of development at the site and the amendments having a cumulative detrimental impact on the character of the area, it is considered that the enforcement action required should ensure the development on site is in accordance with previously approved plans.

## **HUMAN RIGHTS IMPLICATIONS**

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

### **Corporate Director of Development and Neighbourhood Services**

Contact Officer Mr Andrew Glossop

Telephone No 01642 527796

Email address [development.control@stockton.gov.uk](mailto:development.control@stockton.gov.uk)

### **Financial Implications**

As report

### **Environmental Implications**

As Report

### **Legal Implications**

As report

### **Community Safety Implications**

As Reported

### **Background Papers**

Adopted Stockton on Tees Local Plan (June 1997)

Planning Policy Guidance Note 7 'Sustainable development in rural areas'

## **WARD AND WARD COUNCILLORS**

Ward Bishopsgarth and Elm Tree

Ward Councillor Councillor Mrs S. Fletcher

Ward Councillor Councillor J M Roberts

