

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

DATE 15 OCTOBER 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: 7th November 2008

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.

The initial plans submitted with this application and associated documentation were found to be inaccurate during the course of considering the application which was therefore made invalid albeit having been placed before committee on two separate occasions. The application details are considered to be accurate and adequate information received to make the application valid.

Four letters of objection have been received from local residents, mainly objecting to the impact on privacy and amenity and the numerous changes being made from the initial scheme. Four 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.

Members will be aware that the Planning Committee carried out a site visit to the properties on 21st November 2007

Revised plans show a reduction in the scale of the buildings as constructed on site mainly as a result of the reduction in height and footprint of the garage blocks. Further amendments have been made since the consideration of the application at committee on the 3rd September 2008. Additional amendments to the previous submissions include a revised door and opening details to the front and side elevation of dwelling no. 1 and to the rear and side elevation of dwelling 2 to be more reflective of the approved scheme.

It is considered the amendments as submitted will limit the overall impact of change and detraction from the original design concept and it is considered that the proposals reflect the previously approved scheme. The proposal is therefore considered to accord with Policies GP1 and HO11 of the Stockton on Tees Local Plan.

Planning application 07/2319/ARC be Approved subject to the following conditions

- 01 ***The development hereby approved shall be in accordance with the following approved plan(s); unless otherwise agreed in writing with the Local Planning Authority.***

<i>Plan Reference Number</i>	<i>Date on Plan</i>
0567/LP	1 August 2007
0567/01 F	1 August 2008
0567/02 G	1 August 2008
0567/03 F	16 th September 2008
0567/04 G	16 th September 2008
0567/05 H	16 th September 2008
0567/06 G	16 th September 2008
0567/07 G	16 th September 2008
0567/EF1	3 March 2008
0567/EF2	3 March 2008

Reason: To define the consent.

02. ***The development hereby approved shall be implemented and completed in accordance with the approved plans within six months from the date of this consent unless the prior written consent of the Local Planning Authority has been obtained.***

Reason: To ensure that the unauthorised work is rectified within a reasonable time scale in the interests of the character and appearance of the area

03. ***Notwithstanding details hereby approved, a detailed scheme for soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include but not be restricted to landscaping works forming the northern, southern and western boundaries of the site. The scheme shall specify types, species and layout of planting and shall include provision for a hedgerow of native species to be provided on the southern site boundary. The works shall be carried out in the first planting and seeding season following the substantial completion of the dwellings and any trees or plants which within a period of five years from the date of planting die, are removed, become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.***

Reason: To ensure satisfactory landscaping to improve the appearance of the site in the interests of visual amenity and in accordance with Policies GP1, H03 and H011 of the Stockton on Tees Local Plan.

04. ***Full details of the proposed means of disposal of surface water and foul drainage shall be submitted to and approved in writing by the Local Planning Authority and shall be provided on site in accordance with the approved details prior to the development hereby approved being brought into use.***

Reason: To achieve a satisfactory form of development.

05. ***During construction of the scheme hereby approved there shall be no operation of plant outside the hours of 8.00a.m. - 6.00p.m. weekdays, 9.00a.m. - 1.00p.m. Saturdays and at no times on Sundays or bank holidays.***

Reason: To ensure construction works are undertaken in a manner which does not unduly prejudice the amenity of nearby properties.

- 06. Notwithstanding details hereby approved, all means of enclosure associated with the development hereby approved shall be in accordance with a scheme of such to be first submitted to and agreed in writing with the Local Planning Authority. Such means of enclosure as agreed shall be erected before the development hereby approved is occupied.**

Reason: In the interests of the visual amenities of the locality in accordance with the requirements of Policies GP1, H03 and H011 of the Stockton on Tees Local Plan.

- 07. Notwithstanding the provisions of classes A, B, C, D & E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order), the buildings hereby approved shall not be extended or altered in any way, nor any ancillary buildings or means of enclosure erected within the curtilage without the written approval of the Local Planning Authority.**

Reason: To adequately control the level of development on the site to a degree by which the principle of the permission is based.

- 08. Notwithstanding details hereby approved the precise position of the front boundary defining the position of the residential curtilage shall be submitted to and agreed in writing by the Local Planning Authority prior to occupation of the development hereby approved. The agreed boundary position shall be retained in perpetuity as the residential curtilage boundary for the site.**

Reason: In order to retain the positive and open appearance of the road corridor and prevent undue encroachment of the site towards the highway, in accordance with the requirements of Policies GP1 and H011 of the Stockton on Tees Local Plan.

INFORMATIVES

The plans submitted would result in a reduction in the scale of the garage blocks, effectively to that of the previously approved scheme whilst proposing a reduction in the roof height of part of dwelling 1 in order to retain effective breaks within the building form. In view of these and other changes as detailed within this report, it is considered that the remaining changes from the previously approved scheme are in the main relatively minor and are considered to not significantly unduly alter the character or appearance of the surrounding area and as such are considered to accord with Policies GP1, HO3 and HO11 of the Stockton on Tees Local Plan.

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 11th 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. However, in order to regularise some of the details, and following consultation with officers the scheme has been submitted which seeks approval for some of the changes with the intention of amending the scheme as built on site in respect to other changes. The amendments which this proposal seeks from the approved scheme are listed as follows;
4. Dwelling 1
 - Ridge height increased of main section from the approved 10m to 10.2m.
 - Reduction in step within building line of southern elevation from 1m to 0.6m (the proposed scheme has however indicated a reduced eaves level of this section in order to counter balance the visual break that would have been given an increased step in the elevation).
 - Additional 3 roof lights in north elevation.
 - Brickwork being provided above first floor window level.
 - Change from two small windows to single picture window on north elevation (1st floor).
 - Introduction of three new windows within the west elevation (side)
 - Insertion of new windows in east elevation (1 no. ground floor, 1 no. 2nd floor)
 - First floor staircase leading to 6 attic rooms previously not indicated on any plans.

These changes will result in the following changes to the development as built:

- reduction of the eaves and ridge height of the lower section of dwelling 1,
- reduction in depth and width to the lower section of dwelling 1,
- Replacement of French doors and Juliet balcony on the 1st floor of the northern elevation, and replacement with a picture window.
- Insertion of door in south elevation (single storey section)
- Replacement of French doors with arched boarded door.

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 9.4m.
 - Introduction of an additional small window in the south elevation (ground floor),
 - Introduction of two small windows on north elevation (1st floor),
 - 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.

These changes will result in the following changes to the development as built,

- Reduction in ridge height of rear section (to north),

- Amendment to window style in east elevation
- Amendment to door style in north elevation.

6. The proposed site layout plan denotes a hedge forming the southern boundary adjoining the highway verge whilst illustrates that existing trees and hedgerow to the north and west boundaries will be retained and enhanced with planting of native species and a 1.2m high post and rail fence provided .

CONSULTEE RESPONSES

Cllr J Cherrett & Fletcher: Summarised

7. When the first application was put forward we, as ward councillors, made it clear that any building on the site must reflect the rural nature of the original 2 storey agricultural cottages This included retaining features such as :-
The roofs being immediately above the window lintels.
The style of doors to be arched rather than rectangular.
Research into the records held by Cleveland Archives actually show that it was regarded as a building on 1 ½ storeys. What we now have is a pair of houses, one of which has 11 upstairs rooms on 2 floors.

Dwelling 1:

8. The ridge height of the main building has been increased by 0.2m. This has been done by putting in extra layers of bricks between the upstairs windows and the roof, which was specifically not in the original planning permission given.
We are asking for the roof to be lowered by removing these extra layers of bricks, bringing the new buildings back to the originally planned 2 storey building.
There will be no need for the extra windows on both the east and west of the building on the second floor if the roof height is lowered.
We object to the roof of the garages not being lowered to the level originally agreed, which is quite reasonable given that the garage block is going to be rebuilt to accommodate the reduction in width necessary. Also it will be more proportional.
We acknowledge that the picture window above the rear door will have the Juliet balcony removed, and accept that there is only going to be one window and not the 2 originally approved.
We strongly support the proposal to add the door to the roadside elevation.

Dwelling 2:

9. As on dwelling one, we object to the height of the roof, this one being 0.8 metres higher than approved.
We object to the substitution of a window matching the others with a French door that is not in keeping with the other arched doors. We ask the committee to ask for any doors that substitute for approved windows be arched or the door in rear elevation to incorporate art stone cill and glazing bars.
We are not objecting to the extra windows on the west elevation.
We strongly object to the square opening window on the east elevation we ask for the committee to insist on an arched opening in place of the square opening, or an art stone lintel, or to replace with windows. Following our meeting with the applicant we were of the impression that this window would have the brickwork altered to give the appearance of an arched top, not the row of bricks shown on the submitted plans. We do not believe that this square door will not be noticed by passers by, and do not expect a high boarded fence at the gate by this door to be allowed to be put in place.

Boundary.

10. We had made very clear representations when the plans were originally submitted that boundary hedges must be retained. The boarded fence must be replaced by hedging of native species as soon as possible. Every planning approval given for this development

has specified that the hedge at the front shall be “retained in perpetuity” and yet severe damage seems to have been caused by the weight of the fencing erected around the site.

A number of previous conditions have been completely ignored, and there have been complaints of building works done outside permitted hours made to the Council. A warning to stop building work in May last year, and build further at the possibility of such work not being approved was ignored. The planning committee must ensure that previous conditions are adhered to.

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.

Further to your letter dated 16th September 2008, in connection with the amended application for Bishopsgarth Cottages, I wish to comment as follows.

I note that several changes have been made especially the reduced ridge height above garage and other small amendments; unfortunately this does not go far enough to appease the situation to revert somewhat back to original plans and therefore I would not like to see the application be accepted as it stands. My comments of 5th September 2008 still remain the same in this regard.

Cllr Woodhead: Summarised

12. Objects for the same reasons as Cllr Perry.

PUBLICITY

13. Neighbours were notified and a total of 4 letters of objection were received. Objections as summarised below:-
14. Mrs L Nardone, 97 Wimpole Road' Stockton-on-Tees
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. Also consider the development to be significantly greater in scale than the previous buildings on site, have never agreed with two new buildings on site, that they are over bearing, affecting skyline being obscured. More overlooked as a result of the 12 windows facing them as against the 3 which were in the former cottage which has reduced comfort and use of the side and rear garden areas. The hedge to the front no longer provides screening as it has deteriorated significantly. Future permission should not be given for flats or multiple occupancy tenancy.
15. Garry Robson, 115 Wimpole Road' Stockton-on-Tees
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.
Further Comments;
The proposal continues to be huge, vulgar and discriminatory to the neighbours. It should not be allowed to stand without substantial revision back to the original approval.
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 principle of the development has already been established under this earlier approval and as such it is the unapproved changes to the scheme as built, and their associated impacts which form the material planning considerations of this report.
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 dwellings as built are different to those being sought for approval within this application and were the application approved redevelopment works, would need to be undertaken on site to reduce the scale of the development to that as submitted, this mainly being in respect to the height and footprint of the attached garages with the two properties, which, were the main areas of departure from the earlier approval.
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 and it is considered that this close relationship allows some change from a strictly traditional design which had been attempted to be achieved through the earlier approval. The amendments which approval is sought for are;
 - The properties having increased ridge heights; and
 - The properties eaves, being several brick courses above first floor windows; and
 - The proliferation of windows; andThese elements result in dwelling no.2 in particular having a greater dominance and a character which is less simple and cottage like which was initially considered to be appropriate for such a location.
23. Although the roadside elevation of dwelling 1 was built with an increased ridge height of 0.2m, a reduced step in its main elevation and a significantly increased eaves and ridge height of the lower section, the plans being considered indicate a reduced eaves and ridge height for the stepped section of the main part of the dwelling and the reduction in the height and footprint of the lower section of this dwelling to that as already approved. It is considered that these amendments to the buildings as constructed will reduce the effective scale of the property down whilst assisting in breaking up its elements to a satisfactory degree which would not be unduly dominating on, or out of keeping with its surroundings and which would generally conform to the scale as approved under earlier applications. Whilst it is accepted that the substitution of windows for doors and changes to opening styles differs in part from the concept of the initially approved scheme, these changes are not considered to be significantly detrimental in visual terms in view of the proximity of the site to the modern development of Wimpole Road and being located immediately to the urban area of Stockton. Objector suggestions to remove windows within the 2nd floor of dwelling 1 are not considered to be necessary as there will remain to be usable attic space

and it is considered that the additional windows within the side elevations are acceptable in visual terms and would not unduly compromise privacy.

24. The roadside elevation of dwelling 2 was built with an increased ridge height of 0.8m which is more significant than the increase of dwelling 1, this being the most significant remaining change. However, taking into account the limitations of other changes being proposed and the reductions of the 'as built' scheme, it is considered that the proposed development when considered as a whole, would remain to generally accord with Policies GP1, H03 and H011 of the Stockton on Tees Local Plan in regard to its impact on the character of the surrounding area.
25. 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 were submitted in this regard which indicated retaining existing hedge planting to the north, southern and western boundaries, although precise details were lacking and the landscaping condition was never discharged. 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. 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 and the revised plans show a 1.2m high post and rail fence and new landscaping along the northern and western boundary which is considered to be an appropriate treatment in this location. A field gate has been inserted within the northern site boundary to give access into the adjacent field. The applicant has advised this is a requirement of the former owner of the site who has retained ownership of the field. Subject to this being of an appropriate design and scale, it is considered to be an acceptable addition. A condition has been recommended in order to achieve adequate landscaping.
26. Whilst the hedge to the front of the site was considered to be an important defining feature of the street scene and worthy of retention, it appears to have been subjected to damage during the construction phase of the development. A boundary detail for the roadside boundary incorporating the provision of a hedgerow with possible hedgerow tree planting and other landscaping can be achieved through the condition as recommended. A condition is also recommended which prevents boundary treatments being erected without permission being granted by the Local Planning Authority.

Impacts on residential amenity and privacy

27. 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.

Other Matters

28. There were a number of conditions imposed on the previously approved scheme under application reference 06/0461/REV. In view of the development being part built on site and in view of details previously submitted in respect to these conditions, it is considered that conditions relating to protected species mitigation, external materials (walls and roof), Window style, material and recess details do not require to be reapplied. However, all remaining conditions and additional conditions as listed remain to be appropriate.

CONCLUSION

29. The plans submitted would result in a reduction in the scale of the garage blocks, effectively to that of the previously approved scheme whilst proposing a reduction in the roof height of part of dwelling 1 in order to retain effective breaks within the building form. In view of these and other changes as detailed within this report, it is considered that the remaining changes from the previously approved scheme are in the main relatively minor and are considered to not significantly unduly alter the character or appearance of the surrounding area and as such are considered to accord with Policies GP1, HO3 and HO11 of the Stockton on Tees Local Plan.

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

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 Cherrett