

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**DATE 8 APRIL 2009**

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

**08/3586/FUL**

**Bishopsgarth Cottages, Darlington Back Lane, Stockton-on-Tees  
Retrospective application for erection of 2 No. dwelling houses**

**Expiry Date: 10 March 2009**

### **SUMMARY**

Planning permission was granted for 2 no. replacement dwellings on the site which is located outside of the limits to development as defined within the Borough Local Plan. There is no planning policy in favour of new residential development in such locations unless it is specifically needed for reasons such as farming or forestry. In view of the original proposals being a replacement scheme, it was considered an acceptable proposal subject to some limitation relating to the scale of the replacements and other normal considerations of design and appearance which needed to be suitable for its setting.

Development commenced on site and since the original approval there have been other approvals for minor additions. The development that has been carried out on site is outwith any of the approved schemes and has increased roof heights of buildings, increased footprints of buildings, changed elevation details and boundary treatments have been erected which have not been agreed with the Local Planning Authority. It is considered that the cumulative impact of these unauthorised changes results in the buildings being of an excessive scale for the site and its location taking into account the relatively small scale of development previously on site and of a less appropriate character for the sites urban fringe location, thereby being contrary to Policies GP1, EN13, HO3 and HO11 of the Stockton on Tees Local Plan and PPS7, Sustainable Development in Rural Areas.

There have been no formal neighbour objections to the application. Two letters of objection have been received from the Ward Councillors. These objections relate mainly to the extent of the development beyond the previously approved scheme in respect to the scale, detailing and external boundary treatments.

The applicant has submitted information relating to the departures from the previous approvals, however, these are not considered to outweigh the need to control the development in line with established local and national planning policies.

### **RECOMMENDATION**

**Planning application 08/3586/FUL be Refused for the following reason(s)**

**In the opinion of the Local Planning Authority, by virtue of the scale and prominence of the dwellings, their relationship with one another, their design treatment and the boundary treatments associated with the site, the replacement dwellings have significantly altered the urban fringe / semi rural character of this area and are considered to have an overly dominating impact on the site, thereby conflicting with the saved Policies GP, HO3 and**

**HO11 of the Stockton on Tees Local Plan and National Planning Policy contained within PPS7, Sustainable Development in Rural Areas.**

**In the opinion of the Local Planning Authority, by virtue of the scale of the dwellings it is considered that these no longer constitute replacement of the much smaller former buildings on the site, being contrary to saved Policy EN13 of the Stockton on Tees Local Plan and PPS 7 Sustainable Development in Rural Areas which restricts unjustified residential development within such locations**

***And the Director of Law and Democracy be authorised to take appropriate enforcement action which will result in the development being in accordance with the approved details and intended condition outcomes of planning approval 07/2319/ARC, although excluding the following:-***

- the introduction of a false door within the ground floor of the lower height southern elevation of dwelling no. 1, and
- the change to the style of door and cill detail within the ground floor northern elevation of dwelling no. 2.

## **BACKGROUND**

1. The principle of the development for 2 no. dwellings on the site was established under application reference 05/2424/FUL. Further applications varied and added to the original approval. The development has not been undertaken on site in association with any of the earlier approvals whilst not all conditions precedent were discharged prior to commencement. As such, it is considered that these earlier approvals are unable to be implemented legally apart from application 07/2319/ARC. Application 07/2319/ARC required remedial works (including the reduction in the width, depth and height of the garage block associated with dwelling no.1) to be undertaken by 20<sup>th</sup> April 2009. Failure to carry out these remedial works, without an approved variation, would result in approval 07/2319/ARC being unable to be implemented, leaving the site with no approvals for the two no. dwellings.

2. Previous approvals

***05/2424/FUL - Application for the erection of 2 no. detached dwellings with garages and demolition of existing buildings.*** Approved on the 16.01.2006 with several conditions relating to;

- *The retention of the hedge forming the southern boundary;*
- *Building survey work;*
- *Land contamination;*
- *Landscaping scheme;*
- *Drainage;*
- *Construction working hours;*
- *Materials for the external surfaces;*
- *Driveway surface materials;*
- *Means of Enclosure;*
- *Removal of Permitted Development Rights;*
- *Species mitigation works;*
- *Timing of demolition works re Bats.*

This approval expired on the 16<sup>th</sup> Jan 2009. The development has not been carried out in accordance with the approved plans associated with 05/2424/FUL and pre-commencement conditions were not discharged. As such, this approval is no longer capable of being implemented legally.

**06/0461/REV** - Revised application for the erection of 2 no. detached dwellings with garages and demolition of existing buildings. Approved on the 01.06.06 with conditions attached relating to;

- The retention of the hedge forming the southern boundary;
- Landscaping scheme;
- Drainage;
- Construction working hours;
- Materials for the external surfaces;
- Window design details;
- Driveway surface materials;
- Means of Enclosure;
- Removal of Permitted Development Rights;
- Species mitigation works;

The condition relating to the external materials was discharged on the 12<sup>th</sup> July 2006 based on a red clay Pantile being used on the roof and a Hanson Worcestershire Red Multi.

This approval expires on the 1<sup>st</sup> June 2009. The development has not been carried out in accordance with the approved plans associated with 06/0461/REV and pre-commencement conditions were not discharged. As such, this approval is no longer capable of being implemented legally.

**06/2771/VARY** - 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. (The amendments related only to dwelling no.1). Approved on the 07.11.2006 with conditions attached relating to;

- The retention of the hedge forming the southern boundary;
- Landscaping scheme;
- Drainage;
- Construction working hours;
- Materials for the external surfaces;
- Window design details;
- Driveway surface materials;
- Means of Enclosure;
- Removal of Permitted Development Rights;
- Species mitigation works;

This approval expires on the 7<sup>th</sup> November 2009. The development has not been carried out in accordance with the approved plans associated with 06/2771/VARY and pre-commencement conditions were not discharged. As such, this approval is no longer capable of being implemented legally.

**06/3554/FUL** – Application for the creation of new access to serve new dwelling house (dwelling no. 2). Approved on the 17.01.2007 with conditions attached relating to;

- Driveway surface materials;
- Scheme of hedgerow removal works (for the access point).

This approval expires on the 17<sup>th</sup> January 2010. Pre-commencement conditions were not discharged. As such, this approval is no longer capable of being implemented legally.

**07/2319/ARC** – Application under section 73 to amend condition no.2 (approved plans) of planning approval 06/0461/REV. Approved on the 20.10.2008 subject to conditions relating to;

- *Implementation time scales (required remedial works to buildings to be undertaken within 6 months of approval, i.e. by 20<sup>th</sup> April 2009)*
- *Soft Landscaping*
- *Drainage*
- *Construction Hours*
- *Means of Enclosure*
- *Removal of PD Rights*
- *Frontage Boundary – position*
- *Design of Picture Window*

It was no longer considered necessary to impose a hedgerow retention condition on this application as a result of relatively substantial damage being caused to the hedgerow during the construction phase of the development. However, the soft landscaping condition imposed required the landscaping of the southern boundary to be agreed with the Local Planning Authority.

Should the works not be implemented by the 20<sup>th</sup> April 2009 then the development on site will be without consent with all other previous applications being unable to be implemented as a result of the development not having been carried out in accordance with approved plans and / or pre commencement conditions not having being discharged.

The plans approved under application 07/2319/ARC accepted the following changes from earlier approvals.

#### *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.*
- *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 (1<sup>st</sup> floor).*
- *Introduction of three new windows within the west elevation (side)*
- *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.*

#### *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 (1<sup>st</sup> 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.*

However, in considering the development as built on site and areas for improvement to reduce some of the detrimental impact created as a result of not conforming with the

approved scheme, the previous approval under application ref: 07/2319/ARC would have required the following remedial works to be carried out to the two dwellings;

*Dwelling 1:*

- *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.*
- *Lowered eaves level of part of main elevation fronting Darlington Back Lane (to get greater check in elevation to compensate for elevation not being stepped by amount approved, 0.6m instead of 1m).*

*Dwelling 2*

- *Reduction in ridge height of rear section (to north),*
- *Amendment to window style in east elevation*
- *Amendment to door style in north elevation.*

The application was approved with a site layout showing a 1.2m high post and rail fence to the north and west boundaries with new planting. The southern boundary indicated a hedge but no text confirming this. A condition required agreement of a boundary scheme here.

## **PROPOSAL**

3. Retrospective planning permission is sought for the erection of 2 no. dwelling houses. Whilst the application has been submitted as a full application in its own right, the plans essentially vary the details approved under 06/0461/REV. The application has been submitted in order to regularise unauthorised changes made to the development as constructed.
4. Dwelling one is illustrated as being over 3 floors, having 5 bedrooms on the 1<sup>st</sup> floor and 6no. store rooms on the 2<sup>nd</sup> floor served by a formal staircase and having roof lights and windows providing light to these. A conservatory and a 3 car garage are attached. Dwelling two is also provided over 3 floors, having 5 bedrooms at first floor and 2no. store rooms on the 2<sup>nd</sup> floor, again, being served with roof lights and windows. A garage is attached.
5. The site layout plan indicates separate access to the dwellings, dwelling one being served by a driveway leading around to the rear of the property and dwelling two being served by a driveway leading to the site of the property. The northern and western boundaries are indicated as being new 1.8m high close boarded fences with the southern boundary being a 1.2m high close boarded fence with a new hedgerow.

## **CONSULTATIONS**

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

CE Electric UK

Standard Connection Comments

Northumbrian Water Limited

No objections

Northern Gas Networks  
No Objections

Councillor Mrs S Fletcher

I fully support the comments of Councillor Cherrett and would add that as in original comments to the original application, the hedge at the front must remain intact.

Following the amendment of the site ownership certificate, my original objections dated 12/1/09 to this application still stand:

I wish to object to this latest planning application re Bishopsgarth Cottages.

Last year we met with the applicant and his agent and agreed certain changes to be made to the building which had been built. There was a mutual agreement to these changes and planning approval was given based on that.

Now the applicant has basically reneged on those promises and wishes to leave the building as it has been built, outside of the planning approvals.

This includes 1.8m close boarded fences at side and rear of the property

Double gates on new access road which appear to have brick pillars a more sympathetic design would be a wooden field gate at this position

Dwelling one was to have a mock doorway added between the utility and garden store this no longer appears. Also, the garages have been built much larger than approved plans and it was agreed that the ridge height would be reduced. The balcony on North elevation was to be removed and the doors replaced with windows again this is not reflected in current plans. The windows on the East elevation were to be re-instated with a timber boarded door and heights reduced.

On dwelling two it was agreed that the ridge height of the garages would be lowered and that the windows in East elevation would be arched. The doors in the North elevation were to have a stone step and horizontal bar added to be more in keeping with the rest of the property.

Additional comments received based relating to additional information submitted by applicant.

I agree with the additional comments made by Cllr Cherrett and add the following points:

1. Our objections and comments on this application have been solely on planning considerations and the impact on the local area and nothing whatsoever to do with the status or not of the owner, Mr Farook, as a property developer.
2. At no point when the original planning application was made with conditions that there needed to be a hedge along the boundary with the farmland was a point made that there was not a hedge in the first place. It was accepted by the applicant then as a condition so should remain one.
3. The original application for the garage was accepted by the applicant as of being for the right size, and it was his application. If it has not met his particular needs in the future that is not a planning reason for altering the plans as approved.
4. I have not heard any evidence that the original farm workers had any sort of car, and given the size of the original dwellings would have been very surprised if it was a large car.
5. Any fence needed to the front of the property must be on the house side of the hedge, and not in any way impede the growth of the hedge. The hedge remaining was one of the original comments I made and has never been refuted. Also this condition was asked for by Council experts. The hedge is set back from the road and I have not heard any evidence that a runaway car is less likely to be stopped by a hedge than a fence. There is more space at the rear of the property for children to play than at the front.
6. Surely the works on the site were halted for 18 months as the properties were not being built to plan, and it took that length of time for all the proper plans and documents to be submitted?

### Councillor J M Cherrett

Following the amendment of the site ownership certificate, my original objections dated 12/1/09 to this application still stand:

I wish to object to this latest planning application re Bishopsgarth Cottages.

Last year we met with the applicant and his agent and agreed certain changes to be made to the building which had been built. There was a mutual agreement to these changes and planning approval was given based on that.

Now the applicant has basically reneged on those promises and wishes to leave the building as it has been built, outside of the planning approvals.

This includes 1.8m close boarded fences at side and rear of the property

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Dwelling one was to have a mock doorway added between the utility and garden store this no longer appears. Also, the garages have been built much larger than approved plans and it was agreed that the ridge height would be reduced. The balcony on North elevation was to be removed and the doors replaced with windows again this is not reflected in current plans. The windows on the East elevation were to be re-instated with a timber boarded door and heights reduced.

On dwelling two it was agreed that the ridge height of the garages would be lowered and that the windows in East elevation would be arched. The doors in the North elevation were to have a stone step and horizontal bar added to be more in keeping with the rest of the property.

Additional comments received based relating to additional information submitted by applicant.

I have read the additional information submitted by the applicant and can see nothing which is a material planning consideration that should allow this development to go ahead as built.

I am concerned re point 3 which refers to the sun room on east elevation and states "the sun room was deleted from the submission. However it was agreed with officers that this can be resurrected at a later date. There seems therefore little need for a curved brick arch when it will eventually be covered by another structure and not visible on that elevation".

My understanding is that permitted development rights were specifically removed on this development so that the sun room could not be built without consent. This statement seems to imply that the sun room will be built regardless and so this is a reason to ignore the planning conditions.

Mr Farooq sat around a table with officers, members and his agent and we all agreed on various changes to be made to this development. This meeting was convened at the request of the chair of planning committee. Mr Farooq has now gone back on his word.

I urge that this application be refused

### Urban Design Highways Comments

There is no highway objection to this application as the parking arrangements remain unchanged from the previous approved application.

### Urban Design Landscape & Visual Comments

Our comments made in respect of previous applications for this site have been consistent in requiring planting to enhance the north and west boundaries. Equally, site plans which have been

approved for previous planning applications have specified new planting along these boundaries along with a 1.2m high timber post and rail fence.

This current application indicates a 1.8m high close boarded fence along the north and west boundaries with no planting. This is an inappropriate treatment abutting open fields and is out of character for the area.

The proposal along the front south boundary is to plant a new hedge with a 1.2m high close board fence. It is not clear on the site plan drawing if the hedge is proposed to be located to the front or the rear of the fence. Planting of the hedge to the rear of the fence is not acceptable for this boundary.

In addition, it has been previously requested to plant trees along the frontage of the site. These should now be planted within the front grass verge to enhance the existing roadside vegetation along Darlington Back Lane.

Overall, I object to the application on landscape and visual grounds due to inappropriate boundary treatment. However, if consent is granted conditions should be applied relating to  
Enclosure and street furniture  
Soft landscaping and maintenance  
Retention of trees, shrubs and hedges

## **PUBLICITY**

Neighbours were notified although no formal comments have been received.

## **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.

**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.

**PPS3:** Housing - November 2006

**PPS 7:** Sustainable development in rural areas - August 2004

**SITE AND SURROUNDINGS**

6. The site is located on the north western edge of the built area of Stockton, having an existing housing estate on the opposing side of the adjacent highway, open fields to the north and west and a single large dwelling house to the east which is set within extensive mature grounds.
7. The site was formerly characterised by the cottages and associated outbuildings which have now been demolished. The former buildings on the site were a mix of single and two storeys, having relatively low roof heights and forming a grouped arrangement. There was a hedge to the southern boundary and a dilapidated post and wire fence to the northern and western boundaries adjacent to the open fields. These elements and its surroundings gave the development a semi rural character.
8. The site has been developed, having buildings of an increased scale and footprint to those previously on site, having close boarded boundary treatments adjacent to the open fields to the north and west, whilst the hedge to the south has now been removed. The site is considered to have an urban character.

**MATERIAL PLANNING CONSIDERATIONS**

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

9. This application has been submitted in order to regularise the development undertaken on site without carrying out the remedial works which would have been required by the form of development approved under 07/2319/ARC. Although some of the earlier approvals are no longer able to be implemented, as they were approved under the current planning policy guidance for such development, it is considered that these determinations are material to the considerations of this proposal and that the development of 2no. Dwellings on the site have already been established.

### ***Scale and Mass***

10. The original application determination for development on the site considered that, although the site was outside of the defined 'Limits of Development', the replacement of the former buildings with 2 no. dwellings would not be contrary to the principle of restrictive policies relating to new dwellings in the countryside, subject to them being justified as replacements and having similar impacts in respect to their footprint, layout, scale and massing and being appropriate in design and appearance for the location. Attempts were made to prevent an excessive and uncharacteristic development being created on a site which at the time of considering application 05/2424/FUL was home to a dilapidated group of buildings of a relatively traditional character and appearance, albeit being unsympathetically modified in parts, and which were limited in scale. (See appendix ref. 1 photos of former site illustrating scale and mass of buildings).
11. In determining the original approval for 2 no. dwellings on the site (05/2424/FUL), it was considered that what was being approved represented the limit as to what could be reasonably justified as replacement dwellings. Since that original application a further two applications were approved (06/2771/VARY and 06/0461/REV) allowing additional development, which although limited in their own right, added to the overall impact and dominance of the development on site.
12. Since the approval of applications 05/2424/FUL, 06/2771/VARY and 06/0461/REV the development continued on site although outwith the approved plans. The areas of unauthorised development were as follows;

#### Dwelling 1

- Ridge height increased of main section from the approved 10m to 10.2m.
- Brickwork being provided above first floor window level.
- Reduction in step within building line of southern elevation from 1m to 0.6m
- Increase in eaves and ridge height of lower section from 2.4m to 3.9m and from 6.1 to 7.4m respectively as viewed from the northern elevation.
- Increased depth and width of lower section from 8.9m x 8.6m to 9.9m x 9.6m. (I.e. 1m wider and 1m deeper).
- Additional 3 roof lights in north elevation.
- Change from two small windows to single picture window on north elevation (1<sup>st</sup> floor).
- Introduction of three new windows within the west elevation (side)
- Insertion of new windows in east elevation (1 no. ground floor, 1 no. 2<sup>nd</sup> floor)
- Insertion of French Doors and Juliet Balcony in northern elevation instead of the approved twin windows
- Replacement of arched boarded door with French doors in east elevation.
- First floor staircase leading to 6 attic rooms previously not indicated on any plans.

#### Dwelling 2

- Increase in ridge height and eaves height of main section of building. Ridge being increased from the approved ridge height of 8.6m to 9.4m. Eaves increased from the approved 5.1m to 5.6m.
- Provision of brickwork above first floor windows,
- Introduction of an additional small window in the south elevation (ground floor),
- Introduction of two small windows on north elevation (1<sup>st</sup> floor),
- Replacement of window with French doors on north elevation,
- Substitution of arched opening with square opening in east elevation,
- 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.

#### Site Curtilage

- Erection of 1.8m high close boarded fencing to the northern and western site boundaries.

13. Following these deviations from the approved plans being noted by officers, application 07/2319/ARC was submitted to regularise the development. In considering application 07/2319/ARC there was an acceptance of some of the unauthorised amendments, as listed in para.9 above, considering them to have a limited impact on scale, massing, design and character considerations. However, these were accepted providing that the more significant unauthorised amendments which resulted in unacceptable impacts on scale, massing, design and character of the development were remediated.
14. Approval under application 07/2319/ARC therefore established the greater level of development out of all the previously approved schemes, although required remedial works to be undertaken in order to reduce impacts of excessive scale and mass of the buildings. These remedial works were required to ensure development was closer to that of the previously approved scheme, taking into account the need to restrict development in view of them being approved as replacement dwellings outside of the defined limits of development and replacing buildings of a limited scale.
15. The remedial works required by approval 07/2319/ARC would have achieved the following;
  - Reduction in the eaves height of the stepped 2 storey section of the southern elevation of dwelling no. 1
  - Reduction in width and depth of lower section of dwelling no. 1
  - Reduction in the eaves and ridge heights of the lower section of dwelling no. 1 and remove water table detailing accordingly.
  - The lowering of the eaves and ridge height of the stepped 2 storey section of dwelling no. 1.
  - Replace French doors within the first floor elevation of the northern elevation of dwelling no.1 with a picture window and remove the Juliet balcony.
  - Replace French doors within eastern side elevation of dwelling 1 with arched boarded doors.
  - Introduce a door detail on the single storey section of the southern elevation of dwelling no. 1.
  - Lower ridge height of garage block of dwelling no. 2.
  - Add stone cill below French doors within northern elevation of dwelling no. 2 and amend door style.
  - Introduce arch detail above picture window in east elevation of dwelling no. 2.
16. These remedial works are no longer being proposed by the applicant and as such this application needs to consider not only the works above those approved under 07/2319/ARC but the cumulative impact of these with other changes beyond what was

approved prior to 07/2319/ARC as the acceptance of development under 07/2319/ARC was based on the remedial works.

17. It is considered that the unapproved additional mass of both dwelling 1 and dwelling 2, including increased ridge and eaves heights of both dwellings, increased footprint of dwelling no. 1 and a reduced step in the main elevation of dwelling no. 1 result in the buildings having a greater dominance and scale and no longer representing the farm cottage design principle on which they had been based. These changes have resulted in both buildings being closer to one another and with a greater height at this point, therefore having a reduced separation between building masses. Whilst it was considered appropriate to achieve some visual grouping between the two dwellings through the provision of a wall between their side elevations, it is considered the additional bulk of the buildings does not assist in this regard, and results in the buildings being overly dominant on the street scene, contrary to Policy GP1, HO3 and HO11 of the Stockton on Tees Local Plan.
18. The roadside elevation of dwelling 2 was built with an increased ridge height of 0.8m and brick courses above the first floor windows resulting in a more dominant and less cottage like appearance. In determining application 07/2319/ARC it was considered that, taking into account other changes and reductions being proposed, that this additional height would be acceptable. However, the remedial works are not being proposed as part of this scheme and as such, the additional height of dwelling no. 2 remains to be considered to be a significant change to the scheme, which when grouped with other changes, specifically the additional height and footprint of the lower section of dwelling no. 1, is considered to have an adverse cumulative impact on the character and appearance of the site and its surroundings, resulting in an over dominance of built form, thereby being contrary to Policies GP1, HO3 and HO11 of the Stockton on Tees Local Plan.

### ***Design and Appearance (dwellings)***

19. 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 traditional design concept which had been attempted to be achieved through the earlier approvals. Design detail changes which have not been previously approved (excluding those of massing and bulk already discussed) are;
  - Several brick courses above first floor windows; and
  - A reduced step in the elevation detail of dwelling no. 1, and
  - The proliferation of windows, and
  - Changes from boarded doors to French doors, and
  - Substitution of opening types, and
  - The erection of close board fencing around the site.

It is considered that these elements result in both dwellings 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. The overall appearance of the dwellings is therefore considered to have been unsympathetic to its surroundings, being contrary to Policies GP1, HO3 and HO11 of the Stockton on Tees Local Plan.

### ***External Appearance (site)***

20. The initial approval and some of the subsequent approvals were conditioned in relation to various elements including a scheme of landscaping and boundary enclosures and the retention of the hedge forming the southern site boundary. It was envisaged that the northern, western and southern boundaries would be defined by post and rail fences with

associated hedge planting being undertaken in view of the urban fringe / semi rural character of the site, attempting to prevent an urbanising character becoming dominant.

21. The hedge forming the southern site boundary has been significantly affected during the construction phase of the development (see appendix ref. 2 showing former appearance of northern, southern and western site boundaries) and as such, the more recent approval (07/2319/ARC) required a replacement hedge in this position as against the retention of the existing hedge which was in a particularly poor state. The applicant has indicated that he wishes a close boarded fence to be erected along this boundary (1.2m high) with a hedge being planted adjacent to achieve adequate safety for users of the garden area. 1.8m high close boarded fences have been erected to the northern and western boundaries of the site. (See appendix reference 2).
22. The Councils Landscape Architect considers that 1.8m high close boarded fencing abutting open fields to the north and western boundaries of the site is out of character. Close boarded fences are not considered to be an acceptable detail in this semi rural location as they are more normally associated with urban forms of development. The 1.2m high close boarded fence being proposed to the southern boundary of the site is considered similarly and the proposed scheme of boundary treatments is therefore considered contrary to Policies GP1, HO3 and HO11 of the Stockton on Tees Local Plan which requires development to be appropriate to the character and appearance of their surroundings.
23. The applicant has submitted photographs which show other properties in urban fringe and similar locations where walls and fences have been provided along roadside boundaries. Each application has to be determined on its own merits and whilst these other boundary enclosures on other sites are noted, they are not considered to justify the fences being proposed as part of this scheme, taking into account differences in site locations, what may have been erected under permitted development rights and what may have been historical development over which the Local Planning Authority would have limited control.
24. The applicant has advised that he does not own the fence to the northern boundary of the site and although he has erected it, it was a legal requirement of the persons whom sold the application site. Whilst these comments are noted, the legal agreement submitted by the applicant states that a stock proof fence shall be erected and does not specifically require a 1.8m high close boarded fence and as such, it would appear that there was no requirement for the type of fence that has been erected. A post and rail fence, which is considered to be a suitable treatment along this boundary, is generally considered to be a stock proof fence.
25. A field gate has been inserted within the northern site boundary to give access into the adjacent field. The applicant has previously advised this is a requirement of the former owner of the site who has retained ownership of the field. The design of this on site is considered to be appropriate for its location (5 bar gate), although this has not been detailed on the plans submitted.
26. There has been a recent appeal decision relating to a replacement dwelling on a site known as 'Longfield Service Station' on Darlington Back Lane. The proposal related to the replacement of an existing modest dormer bungalow which was considered by the Planning Inspector as a relatively unobtrusive component of the site, with a dwelling which offered 2 storey accommodation across the full width of the footprint, being significantly higher. The eastern elevation had the appearance of a large house. The Planning Inspector considered that what would be a very substantial dwelling would have an urbanising effect on the character of the site and the and be out of keeping with the surrounding open countryside, harming the open character and appearance of the surrounding countryside, contrary to both national and local policies.

27. Whilst this site is located further away from the urban area of Stockton, it is considered to have similar issues of consideration as both sites lie outside of the defined limits of development. Furthermore, the application site of Bishopsgarth Cottages is on the opposing side of the highway to the urban area of Stockton, adjacent to open fields, creating its character. It is considered that similarly to this appeal decision, the development for which permission is being sought is not sympathetic to its surroundings and has an urbanising impact on a site outwith the defined limits of development of Stockton. (See appendix Ref: 15)

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

28. The two dwellings are located approximately 38m from the nearest residential properties on the opposing side of the highway which is considered to be sufficient to prevent any undue impacts on privacy or amenity of the occupiers of these properties. The adjacent property to the west (Bishopsgarth House) is set in extensive grounds whilst the dwellings associated with this application are set approximately 27m from the western site boundary which is again considered adequate to prevent any undue impacts on privacy or amenity.

### ***Other Matters***

29. The applicant's agent has submitted additional information in respect to reasoning behind the variations and other matters. It is advised that the applicant is not a developer but a self builder and the additional garage sizes were carried out in order to house the applicant's car which is longer than average and that increased roof heights to the lower section of dwelling 1 were a mistake. These are not considered to be material planning considerations that can be taken into account in determining this application against established Planning Policies.
30. The base of a garden room has been constructed to the eastern side of dwelling no.2. The applicant has previously submitted plans showing the addition of a garden room, although this was removed following concerns of the case officer that this extent of development could not be justified. The applicant was advised that a future submission could be made to erect a garden room and this would be considered accordingly at the time of submission.

### **CONCLUSION**

31. The development carried out on site is considered to result in a site which is unacceptably dominated by built form, without adequate separation and with unsympathetic detailing in part. It is considered that the two dwellings, as built, could not be justified at this location, beyond the defined 'limits of development' where it is considered the scale of replacement dwellings needs to be controlled against established policies of restraint for new residential development under Policy EN13 of the Stockton on Tees Local Plan and the principles of PPS7 – Development in the countryside. It is considered the proposal is contrary to Policies EN13, GP1, HO3 and HO11 of the Stockton on Tees Local Plan.
32. The development site has only one legally implementable approval (07/2319/ARC) which requires remedial works to be undertaken by the 20<sup>th</sup> April 2009. Failure to meet this deadline without approved variation will result in application 07/2319/ARC being unimplementable. As such, in view of the protracted planning history of the site and the development being in breach of approved details it is considered necessary to recommend enforcement action against the development as built. In order to ensure any requirements

of enforcement action are not excessive it is considered appropriate for the enforcement notice to only require steps to be taken to result in the development being in accordance with the approved details and intended condition outcomes of planning approval 07/2319/ARC, apart from the changes which were requested by the Local Councillors but which were not previously specific requirements of officers, these being the introduction of a false door within the lower height southern elevation of dwelling no. 1 and the change to the style of door and cill detail within the ground floor northern elevation of dwelling no. 2. It is considered that these changes would not result in a reduction in the mass or bulk of the development as built or result in a significant impact on the character of the development which are considered to be the matters of issue.

### **HUMAN RIGHTS IMPLICATIONS**

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

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### **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 & Councillor J M Cherrett