



Appeal Decision

Site visit made on 19 June 2013

by John L Gray DipArch MSc Registered Architect

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 July 2013

Appeal Ref. APP/H0738/A/13/2190479

The Stables, Kirk Hill, Redmarshall, Stockton-on-Tees, TS21 1FE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Holmes against the decision of Stockton-on-Tees Borough Council.
 - The application, ref. 12/1938/FUL, dated 9 July 2012, was refused by notice dated 18 December 2012.
 - The development proposed is the "change of use of 1.63 acres of agricultural land to:
1) An ecology scheme on 1.5 acres (approx) of land to the rear of the Stables.
2) COU to residential land of 0.13 acres (approx), and the construction of an extension on that part of the land, to The Stables".
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Decision

1. The appeal is dismissed in so far as it relates to the ecology scheme on approximately 830sqm of land within the paddock to the south of The Stables.
2. The appeal is allowed in so far as it relates to the land immediately east of The Stables. Planning permission is granted for the change to residential use of approximately 830sqm of land immediately east of the existing dwelling at The Stables, Kirk Hill, Redmarshall, Stockton-on-Tees, TS21 1FE, and the erection thereon of an extension to the existing dwelling, in accordance with the terms of the application, ref. 12/1938/FUL, dated 9 July 2012, subject to the following conditions.
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings nos. 1 of 9 and 8 of 9, both date-stamped as received by the Council on 31 Oct 2012, drawing no. 2 of 9, date-stamped as received on 20 August 2012, and drawings nos. 4 of 9, 6 of 9 and 7 of 9, all date-stamped as received on 10 August 2012.
 - 3) No development shall take place until details and/or samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) Construction works shall not take place outside 08:00 hours to 18:00 hours on Mondays to Fridays and 09:00 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

Clarification

3. The application description is given in the heading above. The 'red line' application (now appeal) site boundary is shown on revised drawings nos. 1 and 8, at 1:500 and 1:200 scale respectively. The dimensions vary slightly – but not critically. The land to the east of the dwelling, which already has the appearance of a residential curtilage, has an area of around 830sqm. So too does the area of the paddock proposed for residential use, comprising the pond in the south-east corner of the paddock and a link between it and the main residential curtilage. The rest of the paddock is still proposed for a biodiversity scheme – but not as part of the application/appeal.
4. Accordingly, I have dealt with the appeal as being for the change to residential of use of a total of around 1,660sqm (0.166 hectares, 0.41 acres) of land and the erection of an extension to the dwelling thereon.
5. In relation to the drawings on which permission is granted, the officer delegated report notes that drawings nos. 3 and 9 were withdrawn by agreement with the (then) applicant on 24 October 2012 and that drawing no. 5 was withdrawn on 26 October. None of the drawings have revision numbers on them; all, therefore, are identified by the date on which they were stamped as received by the Council.

Main Issue

6. The main issue is the impact the proposal would have, both visually and in policy terms.

Reasons

7. There is a long history of development proposals on the site – and a long history of local opposition to them. This appeal proposal falls to be considered against the policies of the National Planning Policy Framework, the adopted Stockton-on-Tees Core Strategy and saved policies from the 1997 Local Plan, though the site history also provides a context.
8. In summary, part of the land now occupied by the dwelling and what appears to be its domestic curtilage is within the limits to development of Redmarshall in the 1997 Local Plan; part is beyond the limits and classified as agricultural land. The existing dwelling has been built on the land within the limits to development. Its east-facing façade stands along the boundary. The front door and four ground floor windows face directly on to the land outside the limits. In principle, if limits to development have been drawn to provide a boundary for built development, there is not necessarily a problem in having a residential curtilage falling partly within and partly beyond the boundary. That appears, in effect, to be what has happened here. The Stables has been built directly on the limits to development boundary, presumably in accordance with planning permissions ref. 00/0629/P and 3/2705/REV, and it seems inescapable that the land immediately to its east, bounded to the south by the 4-rail fence with the paddock, should be seen as residential curtilage rather than agricultural land.

Change to residential use

9. That does not mean that the limits to development should automatically be extended to include the land. It suggests, however, that classification as agricultural land, simply because it is outside the limits to development defined by the 1997 Local Plan, is more historical than realistic. The date of

construction of the dwelling is not given in the representations but it seems it must have been some time after April 2004, the date of reserved matters approval, and thus at least seven years after adoption of the Local Plan.

10. Put simply, circumstances have changed since 1997. Visually, what one presently sees on the ground seems entirely logical – a detached dwelling can generally be expected to have a curtilage around it and one would not normally anticipate a front door opening on to agricultural land, or main windows facing directly on to such land.

The proposed extension

11. The question that next arises is whether it might be appropriate to extend the dwelling on to that land, agricultural by classification but domestic curtilage in practice. That is something better assessed in visual terms than by relying uncritically on a designation from some sixteen years ago which predates the house now standing there. The Council offers no explanation of why the boundary should have been drawn to follow the line it did; the plan itself, however, shows that a building used to stand on that part of the land within the limits and the boundary was apparently drawn to include its curtilage. The situation at that time appears to have been overtaken the permission to erect the dwelling now standing.
12. The Council considers that the proposed extension, which is apparently different to and smaller than that previously refused, complies with the requirements of saved Local Plan Policy HO12 – in other words, it would be in keeping with the existing property and the street scene and have no harmful impact on the residential amenity enjoyed by the occupiers of neighbouring properties. I see no reason to disagree with that assessment. Accordingly, on the basis of the representations, the only thing that might militate against the proposed extension is whether intrusion on to what is classified as agricultural land would be harmful.
13. Part of reason for refusal no. 2 is that the proposed extension would erode the gap between Redmarshall and Carlton. Looked at on the ground, it would not materially reduce that gap. On the south-easterly side of the road between the two villages (the most prominent area from which to assess the matter), the gap is essentially a densely treed roadside rather than open land. The planting at the appeal site extends that but may be discerned as the boundary to a residential curtilage rather than to farmland. Even if it were to be removed, what would be visible would be that residential curtilage, with an obvious boundary on its eastern side. Put another way, the edge of the curtilage would define the boundary between village and countryside, not the dwelling. If there were no boundary planting, then the extension would largely prevent views from the road towards the open land to the south – but that is not a view of such quality that the potential for it (with no planting along the roadside boundary) should be protected. Accordingly, there is no clear-cut reason to refuse an appropriately-designed extension, albeit outside the defined limits to development, on the grounds of maintaining separation or views; and there is no conflict with the objective underlying saved Local Plan Policy EN13.

The proposed ecology scheme

14. The paddock to the south of The Stables is not only outside the limits to development, it is visually agricultural land and has clearly been used recently for the grazing of sheep. It may be in the appellant's ownership but, physically, there is nothing to prevent it being used for agricultural purposes in

association with the fields to the east or along part of the southerly boundary. There is no access from those fields but no physical reason why there should not be. On that basis, it is entirely possible that the paddock could be used for agricultural purposes unconnected with The Stables; put another way, it is entirely logical for the paddock to remain as land beyond the limits to development for Redmarshall.

15. The appeal scheme, however, proposes bringing into the residential curtilage of The Stables the area of the pond, which extends along the whole of the boundary with the field to the south, and a narrow strip of land along the full length of the field to the east. All of that land is unambiguously outside the limits to development. As reasoned above, there may be circumstances when a residential curtilage outside limits to development might be entirely appropriate; the position here, however, is that the rest of the paddock would, in effect, become contained by residential curtilages on all four sides. That could too easily render vulnerable the existing classification as agricultural land when the paddock is plainly just that, and part of the countryside around the village.
16. The landscape and ecological enhancements that would be brought about by this part of the appeal scheme are argued as a material consideration in favour of the overall proposal. Nowhere, however, is it suggested that they are an essential component of the proposal for an extension to the dwelling. They might well bring the enhancement claimed but there is nothing in what is a typical rural scene, or in the extension proposal, that demands such an ecology scheme. It is neither necessary to enable the proposed extension nor a justification for allowing it.

Conclusion

17. The designation of the land to the east of The Stables appears to flow from the limits to development defined by the 1997 Local Plan and not from any reassessment of the position as it is today. The Council, in granting planning permission for a house on land at the very edge of the defined limits, with the orientation it has, might reasonably have recognised that the curtilage of the house should extend on to land beyond the limits to development. Accepting that would not have set a precedent for further development, because the limits to development could have remained unaltered. Accordingly, change to residential use of the land to the east of The Stables is not inappropriate.
18. A conclusion on the acceptability of the proposed extension stems not simply from that but also from additional visual considerations. The residential curtilage is physically well established and, looked at on a map, entirely logical. If the boundary planting were not there, the edge of the village, as seen from the road, would be defined by a logical residential curtilage, irrespective of its designation as agricultural land by way of the 1997 Local Plan. The land to the east is clearly different in character and the gap between Redmarshall and Carlton would not be prejudiced – the edge of Redmarshall would be at the eastern edge of The Stables' curtilage, whether or not there was an extension. The proposed extension is entirely acceptable in design and amenity terms. Accordingly, there is no cogent reason why it should not be allowed.
19. Different considerations apply to the proposed ecology scheme. It is very clearly on land beyond the limits to development and the nature of the proposal could too easily jeopardise the agricultural use classification of the paddock to the south of The Stables, potentially rendering it vulnerable to non-

agricultural, and perhaps inappropriate, use. Any proposal for that land should be judged on its merits as and when it is made rather than the existing use being undermined by adjacent development.

20. Core Strategy Policies CS3 and Cs10 are referred to in the delegated officer report but not cited in the reasons for refusal; there is nothing in those two policies that could affect the above conclusions. Nor, taken as a whole, do the provisions of the National Planning Policy Framework suggest different conclusions. All other matters raised in the representations have been taken into account but there is nothing to outweigh the conclusions that the proposed extension is acceptable but the ecology scheme is not. I realise that previous Inspectors have come to different conclusions on the appeals they have dealt with; the reasoning above, however, flows from the merits of the representations on this particular appeal and the circumstances as they presently exist on the ground.

Conditions

21. In addition to the statutory time-limiting condition and a condition identifying the approved plans, the Council also suggested, were the appeal to be allowed, conditions relating to construction hours, facing materials and permitted development allowances. The first two of those are appropriate in principle but it is not suggested that the allowances at neighbouring properties are constrained and it is wholly unclear why the use of them here should have any different an impact on the character or appearance of the surrounding area than those available elsewhere.

John L Gray

Inspector