
Appeal Decisions

Hearing held on 29 June 2016

Site visit made on 29 June 2016

by Gareth W Thomas BSc(Hons), MSc(Dist), PgDip, MRTPI

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

Decision date: 26 July 2016

Appeal A: Ref: APP/H0738/W/16/3143709

Manor House Farm, Cowpen Bewley, Billingham, Stockton-on-Tees TS23 4HS

- 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 K Barry against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 15/1895/FUL, dated 29 July 2015, was refused by notice dated 21 December 2015.
 - The development proposed is for the conversion of former barn to a dwelling.
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Appeal B: Ref: APP/H0738/W/16/3143718

Manor House Farm, Cowpen Bewley, Billingham, Stockton-on-Tees TS23 4HS

- 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 K Barry against the decision of Stockton-on-Tees Borough Council.
- The application Ref 15/1930/FUL, dated 3 August 2015, was refused by notice dated 23 November 2015.
- The development proposed is for the conversion of garage to a dwelling.

Procedural Matters

1. A revision to the numbering of one of the drawings relating to the proposal in Appeal B was made at the Hearing. I have proceeded to determine Appeal B on this basis.
 2. The descriptions of both proposals detailed in the respective planning applications differ to that shown on the Council's decision notices. I favour the Council's descriptions of each case as they more accurately describe the developments that are proposed. I have determined the appeals on the basis of the descriptions shown on the decision notices.
 3. A Statement of Common Ground (SoCG) signed by both parties was submitted at the Hearing (Document 7).
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Decision:

Appeal A

4. The appeal is allowed and planning permission is granted for the conversion of former barn to a dwelling, erection of attached stable block and new vehicular access at Manor House Farm, Cowpen Bewley, Billingham, Stockton-on-Tees TS23 4HS in accordance with the terms of the application, Ref 15/1895/FUL, dated 29 July 2015, subject to the conditions set out in the Schedule of Conditions at Appendix 1 to this decision.

Appeal B

5. The appeal is allowed and planning permission is granted for conversion of garage to a dwelling and erection of a 1.2 metre high timber boundary fencing at Manor House Farm, Cowpen Bewley, Billingham, Stockton-on-Tees TS23 4HS in accordance with the terms of the application, Ref 15/1930/FUL, dated 3 August 2015, subject to the conditions set out in the Schedule of Conditions at Appendix 2 to this decision.

Main Issue

6. The main issue in both appeals is whether the proposed development would provide suitable sites for housing, having regard to the principles of sustainable development and planning policy.

Reasons

Planning policy background

7. The single storey barn is attached to Manor House thereby forming part of this listed building, whilst the garage is detached and located to the side of the host property. Both appeal sites are located within the designated Cowpen Bewley Conservation Area (CA). A new access would be formed to the barn while the access to the garage structure is already provided as a shared access to Manor House.
8. At the heart of national policy, as stated in paragraph 14 of the National Planning Policy Framework (the 'Framework') is a presumption in favour of sustainable development. Notwithstanding that presumption, paragraph 2 of the Framework reiterates the statutory provision that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
9. The development plan covering the appeal sites includes Saved Policies of the Stockton-on-Tees Local Plan and Stockton-on-Tees Core Strategy. At the Hearing, the appellant submitted a copy of a report that had been considered just the day before by the Council's Cabinet (Document 1) relating to the Council's emerging Regeneration and Environment Local Plan (RELP). Effectively the Council acknowledged that the evidence base together with changing national policy meant that the RELP should not be taken forward. As a consequence, the Cabinet resolved to begin the process of preparing a new Local Plan to replace all extant planning policy and all work undertaken to date on the RELP. The Council conceded that the RELP could no longer be material

to these appeals. It also follows therefore that the evidence base to the RELP carries limited weight.

10. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The parties agreed that the Council does not have a 5 year housing land supply and I have been given no information that would lead me to a different view.
11. My attention was drawn by the appellant to two recent appeals involving housing developments within the Rural Area of Stockton-on-Tees (Documents 5 and 6). Both Inspectors found that Policies CS7 and CS8 of the Stockton-on-Tees Core Strategy Development Plan Document (Core Strategy) and saved Policy HO3 of the Stockton-on-Tees Local Plan (1997) (Local Plan) are relevant policies for the supply of housing and should not be treated as being up-to-date. I agree with them that none of these policies are up-to-date and therefore the proposal should be considered in the context of the fourth bullet point of paragraph 14 of the Framework.
12. That said however, Local Plan Policy EN13 in so far as identifying settlement boundaries still carries significant weight as the stated purpose is to define the break between urban and rural land uses and landscapes and to help protect the countryside from all forms of inappropriate development. Both the current appeal sites before me are located within the development limits of Cowpen Bewley as currently defined.
13. This is therefore the policy background against which these appeals must be determined.

Suitability of location for housing

14. On the basis of paragraph 7 of the Framework it is necessary to assess whether the proposed developments would have sufficient local facilities and services to address the community's needs and whether it would address the economic, social and environmental roles of sustainable development. The corollary to the objective of Core Strategy Policy CS2 is to locate development where access to day-to-day needs for employment, shopping, education, recreation and other services and facilities is available by walking, cycling and public transport. This objective is consistent with paragraph 37 of the Framework.
15. The evidence presented by the parties was consistent in terms of identifying the range of services and facilities within Cowpen Bewley and what could be found in the outlying district. Whilst there were minor variations as to the value descriptors of what might be termed reasonable walking distances in particular, there was agreement between the parties that the main differences is the quality of the experience that people would find walking to services and facilities along the existing network of roads and footpaths.
16. The Council's assertion that Cowpen Bewley, comprising a Tier 4 settlement in its settlement hierarchy, is not sustainable in terms of its accessibility is based on the assessment set out in 'Planning the Future of Rural Villages Study 2014' (PFRVS) forming part of the evidence base for the RELP. With the demise of the RELP and the intention to produce entirely new evidence in support of a future Local Plan, by the Council's own admission at the Hearing, other than the factual information contained therein, this document can no longer be

relied upon in terms of supporting the Council's housing strategy approach. The parties agreed that the sustainability of the proposals would need to be assessed against the policies in the Framework taken as a whole.

17. Based upon the factual evidence of the parties and what I saw during my site visit, whilst in terms of services there is only the village pub, a phone box and post box within the village of Cowpen Bewley, there are strong and very obvious ties between the village and Billingham, with the axis firmly directed along Wolviston Back Lane towards the higher order settlement. Billingham contains many of the services and facilities that are commensurate with day to day needs.
18. Along Wolviston Back Lane is the Bewley Primary School and its main car park and rear entrance, situated some ten minutes' walk from the edge of the village. There is a footway along one side of the lane and although the Council was critical of people having to pass through an automated railway crossing, the lane is lit along its entire length. To the side of the school entrance off this Lane is a lit paved pathway leading to a parade of local shops at Low Grange Avenue, which provides basic day to day shopping needs. These facilities are within reasonable walking and cycling distances from the appeal sites. Two large supermarkets together with a railway station and the centre of Billingham are located within reasonable cycling distances.
19. The village is 500 metres from the Cowpen Industrial Estate, which according to the appellant contains upwards of over a hundred units and one of the largest industrial estates in the Stockton area. I accept the appellant's point that employment can be the single most important factor in terms of people's need to travel on a daily basis. Although the footway along Cowpen Bewley Road stops at the village entrance, the walk to the industrial estate is less than five minutes from the village and no more than ten minutes from the appeal sites themselves. Unlike the appeal case cited by the Council at Elton¹ I find that Cowpen Bewley has good access to a wide range of employment opportunities within short walking and cycling distances.
20. I note that the bus services through the village and serving the industrial estate have recently stopped operating. However, there is a bus stop walkable from the sites in about fifteen minutes, along Wolviston Back Lane. The railway station is also accessible for cycling at about 2.5km from the appeal sites, which provides connection to larger towns and cities in the region. The town centre of Billingham is also some 2.7km away. Whilst there will be some degree of reliance on the private car, for instance, for weekly shopping trips, I am satisfied that there are reasonable opportunities for use of alternative modes of travel.
21. I find that on balance, in terms of the Core Strategy objective that is consistent with paragraph 7 of the Framework, the appeal sites would provide a reasonably sustainable location for development.
22. It is also necessary to consider sustainability in terms of the Framework as a whole. Three roles of sustainable development are identified in the Framework. The proposed development would contribute to the economic role as both conversions would promote economic growth through construction

¹ APP/H0738/A/2222448 – Glebe Farm, Darlington Road, Elton, Stockton-on-Tees

- activity and future occupiers of the two houses providing custom for existing shops and services.
23. The social role of sustainable development includes widening the choice of high quality homes and ensuring that sufficient housing is provided to meet the needs of present and future generations. On the basis of the acknowledged shortfall in housing supply in this Borough and despite the modest numbers involved in these cases, there would be moderate benefit arising from the two schemes in line with paragraph 47 of the Framework which identifies the need to boost significantly the supply of housing in an area of market stress and economic growth.
24. I find that both appeal proposals subject to a number of conditions would comply with the environmental role of sustainable development in terms of the requirement for good design, meeting the challenge of climate change and conserving the character and appearance of the CA, including the avoidance of harm to notable trees on site. The Council has granted listed building consent for the works to the barn, which according to the Council's Heritage Advisor, forms part of the listed building and, in this regard, I am also satisfied that the works are in keeping with the character of this heritage asset. Moreover, the garage building structure, in essence, has already been granted planning permission and I agree with the Council that the proposed additional works associated with the proposed conversion would not be materially harmful to the setting of the Listed Building. In these regards, I have paid special attention to the desirability of preserving the setting of the listed building in accordance with section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and also to the desirability of preserving or enhancing the character or appearance of the CA in accordance with section 72 of the Act.
25. Paragraph 8 of the Framework states that the three roles should not be taken in isolation as they are mutually dependent and economic, social and environmental gains should be sought jointly and simultaneously through the planning system. On this basis, I find that both proposed developments would provide suitable sites for housing having regard to accessibility in particular and more widely, in terms of the principles of sustainable development and the supply of housing.

Other matters

26. Some time was spent at the Hearing discussing the relevance of Government's recent changes to permitted development rights under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO 2015). Schedule 2, Part 3, Class Q of the GPDO 2015 sets out that development is classed as permitted development if it consists of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class 3 (dwellinghouses) of the Schedule to the Use Classes Order; and building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of that Schedule. The Planning Practice Guidance (PPG) at paragraph 108 identified that the permitted development right does not apply a test of sustainability of location.
27. Although the appellant was clear that he did not seek to demonstrate that either appeal scheme constituted permitted development, nevertheless there was a point to be made in terms of the Government's direction of travel in terms of the widening of permitted development rights generally in the

interests of significantly boosting housing supply. My attention was drawn to two appeals² where this issue was addressed albeit in the context of conversion of office accommodation to dwelling houses. In both cases involving listed buildings, the Inspectors, in recognising the clear intentions of Government to allow this kind of change of use (office to dwelling), opined that this was sufficient justification to outweigh the development plan conflict in those cases.

28. The appellant argues that the Council has failed to take into consideration the Government's clear intent to bring existing buildings back into beneficial use and thereby helping to significantly boost the supply of housing. This was particularly pertinent in the case of the two appeal proposals for the conversion of existing under utilised buildings within the settlement limits.
29. Although there is a similar underlying justification within the permitted development regime in terms of boosting housing supply, the site context of barns as opposed to offices is often very different. Part Q buildings for instance, are more often than not located in countryside settings whilst offices are generally located within settlements. But in this instance I agree with the Council that the buildings are not functionally redundant in planning terms and they could continue to perform a useful purpose for current and successive occupiers of Manor House. However, I have also already concluded that the appeal sites are suitable and accessible sites for housing in any event and I need not give this matter any deeper consideration.

Conditions

30. A list of conditions was produced by the Council and the appellant commented on these at the Hearing. I have had regard to these in the light of the advice contained in the Planning Practice Guidance.

Conditions – Appeal A

31. In addition to the standard 3 year limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in order to provide certainty. A condition to secure appropriate finishing materials including details of hard landscaping that was proposed as a separate condition by the Council is necessary in the interests of the character and appearance of the area. Given that the barn forms part of the listed building, a condition requiring approval of window and door detailing is necessary to preserve the building's character. A condition limiting the hours of any building etc operations is necessary given the close proximity of neighbouring dwellings. Given the contribution that the trees along the frontage make towards the character of the CA, it is necessary to impose a condition requiring the works required to form the proposed access to be carried out in accordance with the relevant British Standard. A condition requiring further assessment and if necessary, subsequent mitigation and remediation of unexpected land contamination is necessary to prevent pollution risk to occupiers of the dwelling.
32. The Council withdrew its suggestion that a condition be included requiring an archaeological investigation to be undertaken as this had been adequately covered in the listed building consent that had been issued by the Council. I agree with that approach.

² APP/L1765/A/13/2202937 - 9 Parchment Street, Winchester and APP/L1765/W/3002206 - 1 St. Cross Road, Winchester.

Conditions – Appeal B

33. In addition to the standard 3 year limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in order to provide certainty. A condition to secure appropriate finishing materials including details of hard landscaping that was proposed as a separate condition by the Council is necessary in the interests of the character and appearance of the area. Given that the garage building is located adjoining a listed building within the CA, a condition requiring approval of window and door detailing is necessary to preserve the character and appearance of the area. A condition limiting the hours of any building etc operations is necessary given the close proximity of neighbouring dwellings. A condition withdrawing permitted development rights is also necessary to enable the control of future minor additions and other alterations by the local planning authority in order to preserve and enhance the character and appearance of the area. Given that the planning permission creates a separate dwelling, a condition requiring the provision of adequate off-street parking is necessary in the interests of highway safety.

Conclusion

34. In addressing the presumption in favour of sustainable development the Framework states that where relevant policies of the development plan are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or where there are specific policies in the Framework indicating that development should be restricted. No evidence of specific policies in the Framework has been presented that would justify permission being withheld and I have concluded that both appeal schemes represent sustainable development.
35. Accordingly for the reasons given above and, having regard to all other matters raised, both appeals are allowed.

Gareth W Thomas

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Hardy LL.B (Hons), B.C.L. (Hons)	Partner	Squire Patton Boggs LLP
Steve Barker BSc (Hons), MRTPI, DMS		Prism Planning Ltd
Jonathan Helmn BSc (Hons) MSc		Prism Planning Ltd

FOR THE LOCAL PLANNING AUTHORITY (Stockton Borough Council):

Fiona Bage, BSc (Hons), Dip EUC, MRTPI	Historic Buildings Officer
Debra Moody BA (Hons) MSc	Planning Officer

DOCUMENTS

- 1 - Stockton Borough Council Cabinet Report dated 27 June 2016 – Stockton-on-Tees Borough Local Plan.
- 2 - Stockton Borough Council web site news report – Consultation about home to school transport across Stockton Borough (consultation period 20 May – 5 July 2016).
- 3 - Photographs (7 in no.) of Cowpen Bewley.
- 4 - Home to School Travel and Transport Policy – Stockton-on-Tees Borough Council (April 2007/Reviewed April 2011).
- 5 - Appeal Decision PINS Ref APP/H0738/15/3129660.
- 6 - Appeal Decision PINS Ref APP/H0738/15/3133384.
- 7 - Statement of Common Ground signed by the parties.

APPENDIX 1

SCHEDULE OF CONDITIONS

APPEAL A - APP/H0738/W/16/3143709

- 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:
 - Site Plan - Drawing No.114 Rev A
 - Existing and Proposed Plans and Elevations and Materials Spec. Drawing No.101 Rev A
 - Barn Conversion Site Access Plan - Drawing No.109 Rev A
- 3) All construction work including delivery of materials on site shall not take place outside the following times: 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 Saturdays. There shall be no construction work or delivery of materials at any time on Sundays, Bank or Public holidays.
- 4) Full details of all external finishing materials proposed for use both in the stables and tack room extension hereby approved and external hard landscaped works associated with the development shall be submitted to and agreed in writing by the local planning authority before the development commences. The works shall be carried out in accordance with the agreed details.
- 5) Notwithstanding the submitted information full details of the doors and windows to be installed in the building shall be approved in writing by the local planning authority before the conversion works commence. The works shall be carried out in accordance with the agreed details.
- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction – Recommendations (or in an equivalent British Standard if replaced) together with cross sections of the proposed driveway, including levels and details of surface construction shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed details.
- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- END OF SCHEDULE -

APPENDIX 2

SCHEDULE OF CONDITIONS

APPEAL B - APP/H0738/W/16/3143718

- 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:
 - Site Plan – Drawing No.113 REV-B
 - Existing and proposed plans and elevations section and materials spec. – Drawing No.100 REV-B.
- 3) All construction work including delivery of materials on site shall not take place outside the following times: 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 Saturdays. There shall be no construction work or delivery of materials at any time on Sundays, Bank or Public holidays.
- 4) Notwithstanding the submitted information full details of all external finishing materials proposed for both the conversion hereby permitted and external hard landscaped works associated with the development shall be submitted to and agreed in writing by the local planning authority before the development commences. The works shall be carried out in accordance with the agreed details.
- 5) Notwithstanding the submitted information full details of the doors and windows to be installed in the building shall be approved in writing with the local planning authority before the conversion works commence. The works shall be carried out in accordance with the agreed details.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions, garages or outbuildings shall be constructed or erected on the site other than those expressly authorised by this permission.
- 7) Notwithstanding the submitted details, prior to the occupation of the dwelling hereby approved a scheme for the provision of 3 off street car parking spaces within the site shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the agreed details prior to the occupation of the dwelling.

- END OF SCHEDULE -