



# Appeal Decision

Site visit made on 30 January 2024

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 1 March 2024**

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**Appeal Ref: APP/H0738/W/23/3330760**

**Grove Stables, Forest Lane, Kirklevington, Stockton-on-Tees TS15 9PY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Peter Hodgson against Stockton-on-Tees Borough Council.
  - The application Ref is 23/0403/OUT.
  - The development proposed is to demolish stable block, relocate and convert into two residential units.
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## Decision

1. The appeal is dismissed and planning permission to demolish stable block, relocate and convert into two residential units is refused.

## Application for Costs

2. An application for costs was made by Mr Peter Hodgson against Stockton-on-Tees Borough Council. This application is the subject of a separate decision.

## Preliminary Matters

3. Site ownership certificate A has been completed on the application and appeal forms certifying that the applicant/appellant is the sole owner of the site. The Council validated the application however subsequently suggested that a section of land within the red line area is not owned by the applicant, and therefore the incorrect certificate was completed. Thereby in their view, failing to comply with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Council raised this matter with the applicant who confirmed they were content that the correct ownership certificate had been completed.
4. I note the difference in opinion between the Council and the appellant and acknowledge the submissions made by an interested party. Notwithstanding this, dispute about land ownership is a civil matter to be resolved between the relevant parties and does not alter the planning merits of the proposal. An ownership certificate has been completed and the proposal is before me, which I have assessed against the information submitted by the parties and observations from my site visit.
5. The Council have drawn my attention to an appeal decision<sup>1</sup> where the Inspector declined to determine an appeal which was found to be invalid. While the Council seek to draw comparisons, in that case it was not disputed that

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<sup>1</sup> APP/K2230/W/21/3274192

there were procedural shortcomings owing to a number of discrepancies, not least because the incorrect ownership certificate had been completed. Moreover, the inconsistencies were so large they were not readily capable of any reasonable remedy and would result in a different proposal to that originally submitted, incurring a risk of serious prejudice to interested parties. As such the context differs, the appeal decision is not directly comparable and does not lead me away from my above findings on this matter.

6. The application was made in outline with all matters reserved for future consideration. I have had regard to the indicative plans which I have treated as providing illustrative detail only. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. As the Framework's policy content insofar as it relates to the main issues has not been significantly changed there is no requirement for me to seek further comments on this latest version. I am satisfied no party would be prejudiced by my taking this approach.

### **Background and Main Issues**

7. Following the submission of the appeal against non-determination, the Council has confirmed that it would have recommended refusal if it had had the opportunity to make a decision. From the evidence I have before me, together with observations from my site visit I consider the main issues to be:
  - whether the proposal would provide a suitable location for housing outside the limits to development, having regard to the accessibility of services and facilities; and
  - the effect of the proposal on the character and appearance of the area.

### **Reasons**

#### *Development outside the limits to development*

8. The appeal site falls outside of the limits to development and is within the open countryside, as identified in the Stockton-on-Tees Borough Council Local Plan (2019) (LP). Policy SD3 of the LP forms part of the Council's development strategy and sets out the circumstances where development in the open countryside would be acceptable. For new dwellings in the countryside, one such circumstance is the re-use of redundant or disused buildings that lead to an enhancement of the immediate setting.
9. Much of the appellant's submissions make reference to the re-use of a stable block for housing. However, I observed that the stable block has been demolished. It is not therefore the case that the proposal relates to the re-use of a redundant or disused building and it does not attract policy support as a consequence. The effects of the proposal on the immediate setting are discussed below as part of the second main issue.
10. My attention has been drawn to a lawful development certificate and accompanying plan<sup>2</sup> which established the state of affairs on the land known as Grove Stables at the date of the certificate application. The specified uses relate to the matters listed in schedule 1 of the certificate, not to the site in its entirety as shown on the accompanying plan. Notwithstanding the lawful

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<sup>2</sup> Ref: 96/0843/P

development certificate, and irrespective of the planning history of the wider site, further residential development at the appeal site must be assessed on its own planning merits.

11. It is suggested that the provisions of the Framework regarding brownfield land apply in support of the proposal. However, from my observations and the indicative location of the proposed dwellings the appeal site does not meet the definition of brownfield land. Given that the stable block has been demolished the use has ceased and, in any event, the presence of a stable block in one part of the site cannot be transferred to another part of the appeal site to justify the proposal.
12. Having regard to paragraph 84 of the Framework and whether the site is 'isolated', while the appeal site is in proximity to existing dwellings, these do not comprise a settlement. Furthermore, the appeal site is physically separated from the nearest settlement of Kirklevington and the connecting road is lacking of any footways. Taking these factors into account, the proposal would represent the development of isolated homes in the countryside which the Framework seeks to avoid. Moreover, none of the circumstances where isolated dwellings may be acceptable apply, including at paragraph 84c) for the reasons set out above.
13. The appeal site is located on a relatively narrow, winding country lane with poor visibility. It is subject to the national speed limit and does not benefit from footpaths or cycle paths and has no streetlights. In some places there are grass verges adjacent to the road, however these are of a narrow width. While the village of Kirklevington is a short distance away, future occupants of the proposal would have to walk on the highway which in the evenings would be unlit and would not be a particularly attractive route to take. As such, occupiers would be deterred from walking or cycling to the nearest settlement and would be reliant on the use of a car to access both services and facilities.
14. The LP development strategy seeks to deliver housing in the most sustainable way. Paragraph 83 of the Framework says that in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and Section 9 of the Framework promotes sustainable transport. Transport solutions will vary between urban and rural areas however the Framework advises that patterns of growth should be actively managed so that, amongst other things, opportunities to promote walking, cycling and public transport use are identified and pursued.
15. Irrespective of whether or not appropriate access can be achieved at the site with regard to visibility splays, given my findings on the site's accessibility and the reliance on the private car, it has not been shown that the proposal would support local services at Kirklevington. Owing to the relative proximity of larger settlements nearby, occupants may well choose to drive to these settlements which offer a full range of services and facilities were linked trips could be made in one location, rather than travelling to Kirklevington. The proposal would not therefore enhance or maintain the vitality of rural communities or provide an opportunity to promote walking, cycling and public transport as advised by the Framework.
16. Overall, the proposal would not provide a suitable location for housing outside the limits to development, having regard to the accessibility of services and facilities, in conflict with Policy SD3 of the LP which directs housing to be within

the settlement limits to ensure sustainable development. It would also be contrary to the provisions of the Framework in relation to rural housing and sustainable transport.

*Character and appearance*

17. The appeal site, located within a predominantly agricultural landscape and surrounded by open fields, accommodates a number of buildings to the rear of the site that are generously set back from Forest Road. The topography is such that the appeal site is on noticeably lower ground than the fields to the west. The section of the appeal site nearest to Forest Lane has open and verdant qualities owing to an absence of development and the presence of trees and vegetation and contributes positively to the intrinsic value of the countryside beyond the settlement limits.
18. The submitted plans indicate that the proposal would introduce two dwellings in a linear pattern onto the grassed area between the existing dwellings and the access with Forest Lane. It is suggested that the proposed dwellings would be of a low height, nevertheless, the proposal would increase the amount of built form in the area which would be readily apparent in views from Forest Lane, even in filtered views through existing vegetation. The urbanising effect would erode the current openness at the site and diminish the positive contribution the site makes to the prevailing character and appearance of the area.
19. The proposal may well be able to connect to existing services and would result in an improved private access track for the existing occupiers, thereby improving their living conditions. However, by bringing development closer to the road, the proposal would represent a marked visual change and would be a detrimental intrusion into the openness currently provided by the site. The existing dwellings are located to the rear of the site, away from the road, and so do not affect the character and appearance of the area in the same way that the proposal would.
20. While the appeal site is relatively small in comparison to recent housing development to the south of Kirklevington, and despite some natural screening owing to the topography and existing vegetation, the proposal would contribute to a small, but nevertheless detrimental effect on the character of the local landscape. I have considered the other examples of residential development in the surrounding area, however they relate to the reuse of existing buildings whereas the appeal scheme would result in additional built form in the countryside. The other examples do not therefore lead me away from my above findings.
21. As such, the proposal would harm the character and appearance of the area, in conflict with Policies SD3, SD5 and SD8 of the LP. These policies, amongst other things, require new dwellings within the countryside to significantly enhance the immediate setting, be sensitive to the defining characteristics of the local area and respond positively to landscape character.
22. The proposal would also be contrary to the provisions of the Framework with regard to achieving well-designed and beautiful places and conserving and enhancing the natural environment, including recognising the intrinsic character and beauty of the countryside.

### **Other Matters**

23. It is suggested that the Framework's presumption in favour of sustainable development is engaged. However, there is no substantive evidence to indicate that the approach set out in Paragraph 11d) should be applied in this particular case. The decision should be made in accordance with the development plan unless material considerations indicate otherwise. The appellant also suggests that the LP was not properly consulted upon and as such has little weight. However, it has been found sound at examination and has been adopted. As such, it forms part of the development plan for the area and the appeal has been determined on this basis.
24. The stable block has already been demolished which has removed any potential for pollution at the water course adjacent to the site. Any rebuilding of the stable block adjacent to the existing dwellings at the site would be subject to a planning application and consideration of any effects on the existing occupiers living conditions.

### **Conclusion**

25. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed, and planning permission is refused.

*F Harrison*

INSPECTOR