The Planning Inspectorate

Appeal Decision

Site visit made on 15 May 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 22nd May 2017

Appeal Ref: APP/H0738/W/16/3165126
Livery Stables Homefield Farm, High Lane, Maltby TS8 0BE
Grid Ref Easting: 446624, Grid Ref Northing: 513330

- 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 planning permission.
- The appeal is made by Mr and Mrs Snowdon against Stockton-on-Tees Borough Council.
- The application Ref 16/2170/FUL is dated 19 August 2016.
- The development proposed is an equestrian workers dwelling.

Decision

1. The appeal is allowed and planning permission is granted for an equestrian workers dwelling at Livery Stables Homefield Farm, High Lane, Maltby TS8 0BE Grid Ref Easting: 446624, Grid Ref Northing: 513330 in accordance with the terms of the application, Ref 16/2170/FUL, dated 19 August 2016, subject to the conditions set out in the Schedule to this Decision.

Application for costs

2. An application for costs made by Mr and Mrs Snowdon against Stockton-on-Tees Borough Council is the subject of a separate Decision.

Background and Main Issue

3. This is an appeal against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission. Subsequent to the submission of this appeal, a second application was submitted to the Council (Ref 16/3149/REV) which, based upon the evidence before me, was identical to the application which is the subject of this appeal. On 7 February 2017, the Council granted planning permission for the second application subject to a number of conditions. Condition 4 of that permission withdraws permitted development rights under Schedule 2, Part 1, Classes A, B, C, D, E and F of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The appellants have confirmed that this is the sole matter of dispute between the parties.

4. Based on the above, I consider that the main issue is whether or not a condition withdrawing permitted development rights under Schedule 2, Part 1, Classes A, B, C, D, E and F of the GPDO in respect of development within the curtilage of the proposed dwelling is necessary, having regard to local and national policy.

Reasons

5. Paragraph 200 of the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance (the PPG) advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances.

6. Schedule 2, Part 1, Class A of the GPDO relates to the enlargement, improvement or other alteration of a dwellinghouse and would allow for a significant enlargement of the proposed development. The appeal site is located in open countryside and a substantial building could have a harmful effect upon the character and appearance of the area. I therefore consider that exceptional circumstances exist to restrict the future use of permitted development rights in relation to enlargements under Class A. This would not preclude the appellants seeking planning permission for any enlargements, but would allow the Council to consider the effect of such development upon the character and appearance of the area in the context of the design aims of Policy CS3 of the Stockton-on-Tees Core Strategy Development Plan Document (the CSDPD) and the Framework.

7. The Council refer to an appeal decision (APP/H078/A/13/2193698) in which the Inspector imposed a condition withdrawing permitted development rights for extensions and alterations to an agricultural workers' dwelling to ensure that the dwelling remained of a suitable size to serve the needs of the holding. I do not have full details of the circumstances of that case. Moreover, with regard to the case before me, I have not been referred to any guidance relating specifically to the size of rural workers' dwellings within development plan policy or the Framework. I therefore give this matter little weight.

8. The appellant has drawn my attention to an appeal decision in respect of the proposed erection of one dwelling house to support the equestrian business at Kirklevington Riding Centre, Yarm (APP/H0738/A/11/2159569). I do not have full details of the proposed development or site circumstances of that case, and can therefore attach little weight to the findings of the other Inspector. In any event, I must determine the appeal on its own merits.

9. Schedule 2, Part 1, Classes B and C of the GPDO relate to additions and other alterations to the roof of a dwellinghouse, Class D to the erection of a porch, Class E to the provision of buildings or enclosures within the curtilage and Class F to hard surfaces. The limitations of Classes B, C, D and E would prevent the disproportionate enlargement of the dwellinghouse or the provision of substantial outbuildings and enclosures. Having regard to the limitations set out in Class F, the provision of hard surfaces within the appeal site would not be likely to have a harmful effect upon the character and appearance of the area. There is nothing in the evidence before me which leads me to conclude that the withdrawal of permitted development rights under Classes B, C, D, E and F is necessary in the context of CSDPD Policy CS3 and the Framework.

10. For the reasons set out above, with regard to the design aims of Policy CS3 of the CSDPD and the Framework, I conclude that a condition withdrawing permitted development rights under Schedule 2, Part 1, Class A of the GPDO is necessary and that a condition withdrawing permitted development rights under Schedule 2, Part 1, Classes B, C, D, E and F is not necessary.

Other matters

11. I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of the neighbouring Grade II listed farmhouse. The significant distance between the existing farmhouse and the appeal site, and the presence of large barns between them, means that there would be a very limited spatial or visual interrelationship between the listed building and the proposed development. As a result, I conclude that the appeal proposal would preserve the setting of the listed building and would therefore accord with the heritage conservation and enhancement aims of Policy EN28 of the Stockton-on-Tees Local Plan and paragraph 132 of the Framework.

12. Local residents and the Parish Council have raised concerns relating to the location of the appeal site outside the village envelope, the need for an additional dwelling and the precedent which permitting such development would set. These matters were considered by the Council in relation to application Ref 16/3149/REV, for which permission was granted. I give the fallback position afforded by this extant permission substantial weight. In accordance with paragraph 55 of the Framework, new isolated homes in the countryside should be avoided unless there are special circumstances. In the case of application Ref 16/3149/REV, the Council accepted that there was an essential need for a rural worker to live permanently on site. Based upon the evidence before me, I have no reason to take a different view in respect of the appeal scheme and conclude that exceptional circumstances exist. With regard to concerns about precedent, no sites directly comparable to the appeal site have been brought to my attention. In any event, each application and appeal must be determined on its own merits and a generalised concern of this kind does not justify withholding permission.

Conditions

13. Although the Council has not suggested any conditions in the event that the appeal is allowed, I have been provided with a copy of the decision notice in respect of the identical application Ref 16/3149/REV and have therefore had regard to the conditions imposed upon that permission. I have imposed a condition specifying the relevant drawings in the interests of certainty. In order to ensure the suitable appearance of the development, I have imposed conditions relating to materials and landscaping. To prevent occupiers of the development being adversely affected by unacceptable levels of soil pollution, I have imposed a condition relating to land contamination. A condition limiting the occupancy of the dwelling is necessary because the appeal site is in the countryside where a new dwelling would not otherwise be permitted. I have imposed a condition withdrawing permitted development rights under Schedule 2, Part 1 Class A of the GPDO to enable the Council to consider the effects of such development upon the character and appearance of the area.

Conclusion

14. For the reasons set out above and having regard to all other matters raised I conclude that the appeal should be allowed and planning permission granted.

CL Humphrey

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: HFF-1, HFF-2A, HFF-3, HFF-4A.

3) Construction of the external walls and roofs of the development hereby permitted shall not commence until details of the materials to be used in the construction of the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter retained in accordance with the approved details.

4) Prior to the commencement of any superstructure works on site, a scheme of soft landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of existing or proposed utility services that may influence proposed tree planting, a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations and inter relationship of plants, stock size and type, grass, planting methods including construction techniques for pits in hard surfacing and root barriers, a schedule for implementation and details of landscape maintenance. Development shall be carried out and maintained in accordance with the approved details.

5) Any contamination that is found during the course of construction of the development hereby permitted 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.

6) Notwithstanding the provisions of Schedule 2, Part 1, Class A 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 enlargement, improvement or other alteration of the dwelling hereby permitted shall be carried out.

7) The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in the equestrian enterprise at Homefield Farm, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.