



Appeal Decision

Site visit made on 24 February 2020

by **S Hunt BA (Hons) MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 6 March 2020

Appeal Ref: APP/H0738/W/19/3242788

Follyfoot Banks, Calf Fallow Lane, Norton TS20 1PF

- 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 and Mrs Williams against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 19/01752/FUL, dated 7 August 2019, was refused by notice dated 10 October 2019.
 - The development proposed is a proposed new dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for a proposed new dwelling at Follyfoot Banks, Calf Fallow Lane, Norton TS20 1PF in accordance with the terms of the application, Ref 19/01752/FUL, dated 7 August 2019, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. A Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 has been submitted with the appeal, relating to removal of existing structures and restrictions on domestic paraphernalia within the curtilage of the new dwelling. I am satisfied that the UU would accord with the tests and have had regard to their provisions in the consideration of this appeal.

Main Issues

3. The main issues are:
 - Whether the proposed development would represent a suitable replacement dwelling in the countryside having regard to local and national planning policy; and
 - The effect of the proposed development on the character and appearance of the surrounding countryside.

Reasons

Replacement Dwelling

4. The site lies in the countryside. It comprises a range of timber structures, formerly used as an animal sanctuary, and two static caravans. One of the caravans benefits from a Lawful Development Certificate (LDC) for its'

- permanent siting and unrestricted residential use, granted in 2017¹. It is proposed to erect a single storey dwelling broadly central to the site, and the remainder of the land would form its garden (domestic curtilage).
5. The Council's decision cites conflict with part 4 of Policy SD3 of Stockton-on-Tees Local Plan (LP) 2019. It restricts new dwellings in the countryside unless they meet a number of exceptions which reflect the criteria set out in paragraph 79 of the National Planning Policy Framework (the Framework). However, I do not attempt to conclude whether the site is considered to be 'isolated'. Instead, I take the view that paragraph 79 is not of relevance in this case as the proposed development is a replacement dwelling.
 6. Part 8(b) of Policy SD3 is most relevant in this case. It supports replacement dwellings where the proposed dwelling is i) not materially larger than the existing dwelling, and ii) is located on the site of, or in close proximity to the existing dwelling.
 7. I do not have the dimensions of the existing caravan before me, nonetheless the proposed dwelling would clearly be larger in size. I have had regard to the UU obligations which oblige the removal of all other existing structures within the site, including the second static caravan and a range of timber structures. Overall the new dwelling would have a smaller footprint than the sum of the existing structures put together.
 8. As a result of the removal of the existing structures, the residential curtilage of the site would be larger in size than the garden area of the existing caravan. In my view it would be commensurate to the size of the dwelling in this rural location. Subject to its effects on the landscape (as addressed in the section below), the area of residential curtilage does not weigh heavily against the proposals.
 9. The Council are concerned that the dwelling would be outside of the red line boundary of the existing caravan. Be that as it may, even though the new dwelling may not be in exactly the same position as the existing lawful caravan, it is very close to it. The UU includes an obligation that the existing caravan should be removed within 3 months of completion of the new dwelling. This represents a reasonable course of action. In terms of practicality it would not be possible to locate the new dwelling in exactly the same location as the caravan, whilst enabling continued residence on the site during construction.
 10. The moveable and temporary type structure of the existing residential caravan has little bearing on my consideration. The principle of permanent residential use within the site has been established by the LDC, and its siting is not time restricted. It is essentially a permanent dwelling.
 11. In view of the above I am satisfied that the proposed development would comply with Policy SD3 part 8(b) and would represent a suitable replacement dwelling in the countryside. Moreover as a replacement dwelling it does not conflict with any part of the Framework, particularly insofar as paragraph 79 is not directly applicable to these proposals.

¹ Stockton-on-Tees Borough Council planning reference 17/1865/CPE

Character and Appearance

12. The site lies within a gently sloping valley accessed via a narrow track off Calf Fallow Lane which leads into the nearby settlement of Norton. The surroundings are distinctly rural in character, with a range of scattered farmsteads and other rural enterprises in the vicinity. Associated dwellings are mainly single storey in height.
13. The open land which surrounds the site comprises open grassed hills leading down to a stream alongside the track. The immediate area is well screened from longer distance views but the site is clearly visible from neighbouring land and the track itself. The range of partly disused and dilapidated former commercial structures are very close to the track and give the site a somewhat disorderly appearance.
14. I am not aware of any public rights of way nearby and the track terminates at the neighbouring farm, therefore there are not likely to be many passers by in the area other than those associated with the few surrounding properties. There are no specific landscape designations relating to the site or the locality, and there is no indication from the parties that the landscape is valued. Nonetheless, the Framework requires the intrinsic character and beauty of the countryside to be protected for its own sake.
15. The proposed dwelling would be a bungalow of simple design, similar to others I saw in the locality on my site visit. As previously noted the dwelling would be larger than the lawful caravan which it would replace. Nonetheless, it is not of such an excessive scale that it would dominate the site nor appear out of context with its surroundings.
16. In my view the replacement of the caravans and the timber structures with a single dwelling and a suitably landscaped curtilage would improve the appearance of the site, having a positive impact on the character and appearance of the countryside. I note that there are no specific objections from the landscape and visual consultee, and that they recommend a condition requiring an appropriate rural boundary treatment. I have also had regard to the restriction of domestic paraphernalia as specified in the UU, and this would provide assurances regarding further domestication of this area of the countryside.
17. Overall the proposed development would not result in significant harm to the character and appearance of the surrounding countryside. Rather, having regard to the removal of the existing structures as obliged by the UU, it would enhance the local environment. Consequently it is in accordance with Policy SD5 which seeks to conserve and enhance the natural environment in supporting development of an appropriate scale in the countryside, and ensure proposals are responsive to the landscape. In turn, it would also be in compliance with paragraph 170 of the Framework.

Other Matters

18. I acknowledge that the site is not in an accessible location. However I have already found the scale of the replacement dwelling to be acceptable and there is no evidence that a larger dwelling would result in additional vehicular trips over and above the existing.

19. The track leading to the site is narrow however there is no evidence before me that the construction of a single dwelling would result in any adverse impact on highway safety. I note that there are no objections from the Highways Transport and Design Manager in respect of construction traffic nor impacts on the local highway network.
20. There is no evidence before me that the construction of the proposals would have a direct impact on any wildlife habitat within the hedgerows and watercourses. Any damage to adjacent hedges would be a civil matter. Overall, any effects from the construction period would be short-term and could be mitigated by careful construction management.
21. In terms of flooding and drainage I note that there are no objections from the drainage authorities, and conditions can require full detail of surface water and sewage disposal arrangements. Rights to discharge into a watercourse maintained by another landowner and any potential pollution to the watercourse relate to separate legislation. Based on the available evidence I have no reason to reach a different conclusion.

Planning Obligation

22. The completed UU contains obligations relating to removal of the existing caravans and timber structures within the site within fixed time periods, and restrictions on domestic paraphernalia within the curtilage of the new dwelling.
23. In particular, the removal of the existing structures is necessary to make the development acceptable, as I have found that their replacement with a single new dwelling would enhance the character and appearance of the area.
24. The restrictions on garden structures and hardstandings as listed in the definition would ensure that the rural setting of the site is respected. I note that the definition of domestic paraphernalia also restricts vehicles. This would normally be unreasonable, however the evidence confirms that the existing surfaced area adjacent to the site would continue to be used for vehicle parking therefore I have no concerns in this regard.
25. The obligations are fairly and reasonably related in scale and kind to the development. Therefore, they would accord with the tests set out in paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Regulations 2010.

Conditions

26. The Council have only specified one condition, relating to landscaping. I have had also had regard to those recommended by the relevant consultees. I have amended some of the conditions for clarity and so that they meet the tests in the Framework. I have included a standard time limit condition and specified the approved plans for certainty.
27. I have included a materials condition as they are not specified on the submitted plans, to ensure that the type and colour of materials are sympathetic to the rural character of the area. A landscaping condition would ensure that species of hedge/trees and any boundary fences are appropriate to the rural area. It is also necessary to specify that the shrubs should be replaced if they die, are removed or are damaged to ensure that the plants are retained to provide adequate growth and screening.

28. Details of a foul and surface water drainage scheme are required to ensure satisfactory drainage of the site. The Council's contaminated land officer notes the risk of ground gas. No reports in relation to this are before me, however I attach a condition in the event that any unexpected land contamination is found as recommended by the officer.
29. The condition recommended by the Environmental Health Unit restricting construction/demolition operating hours is unnecessary and unreasonable. This is because good distances exist between the site and other nearby residential properties.

Conclusion

30. For the reasons above I conclude that the appeal should be allowed.

S Hunt

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 approved plans listed below:

L01	Location Plan
P110B	Proposed Site Plan
PERFECT 111E 02	Ground floor plan
PERFECT 111E 03	Section A-A
PERFECT 111E 04	Section B-B
PERFECT 111E 05	Elevations
PERFECT 111E 06	Elevations
- 3) No construction of the development above damp proof course level shall take place until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The works shall be carried out in accordance with the approved details.
- 4) No part of the development shall be occupied until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include :
 - i) planting proposals giving location, species, number, density and planting size;
 - ii) boundary treatments;
 - iii) hard surfacing materials; and
 - iv) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details in accordance with the agreed implementation programme.
- 5) If any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species.
- 6) No occupation of any part of the development shall take place until surface water and foul drainage works have been carried out in accordance with details which shall have previously been submitted to and approved in writing by the Local Planning Authority.
- 7) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 1 month of the report being completed and approved in writing by the local planning authority.

End of Schedule.