

PLANNING COMMITTEE AGENDA



Friday 18 May, 2012

at 10.00 a.m.

in the Council Chamber,
Civic Centre, Hartlepool.

MEMBERS OF PLANNING COMMITTEE:

Councillors Brash, Cook, James, A Lilley, G Lilley, Morris, Richardson, Robinson, Shields, Simmons, Sirs, P Thompson and Wells.

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. TO CONFIRM THE MINUTES OF THE MEETING HELD ON 27 APRIL 2012 (To Follow)

4. ITEMS REQUIRING DECISION

4.1 Planning Applications – *Assistant Director (Regeneration and Planning)*

- 1 H/2010/0679 Crookfoot Farm, Coal Lane, Elwick, Hartlepool (*page 1*)
- 2 H/2011/0196 Crookfoot Farm, Coal Lane, Elwick, Hartlepool (*page 22*)
- 3 H/2011/0350 Nelson Farm, Nelson Farm Lane, Hartlepool (*page 31*)

4.2 Update on Current Complaints – *Assistant Director (Regeneration and Planning)*

4.3 Update on Seaton Carew Masterplan – *Assistant Director (Regeneration and Planning)* (To Follow)

5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

6. LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006

EXEMPT ITEMS

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006

7 ITEMS REQUIRING DECISION

- 7.1 Enforcement Action, Station Hotel, Seaton Lane, Hartlepool – *Assistant Director (Regeneration and Planning)*
- 7.2 Annual Enforcement Update Report – *Assistant Director (Regeneration and Planning)*

8. ANY OTHER CONFIDENTIAL ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

9. FOR INFORMATION

Site Visits – Any site visits requested by the Committee at this meeting will take place on the morning of the Next Scheduled Meeting the date of which will be confirmed at the meeting.

PLANNING COMMITTEE

MINUTES AND DECISION RECORD

27 April 2012

The meeting commenced at 10.00 a.m. in the Civic Centre, Hartlepool

Present:

Councillor Rob Cook (In the Chair)

Councillors Allan Barclay, Mick Fenwick, Marjorie James, Trisha Lawton, Alison Lilley, Geoff Lilley, Dr George Morris, Jean Robinson, Linda Shields, Chris Simmons, Paul Thompson, and Ray Wells.

Officers: Chris Pipe, Planning Services Manager
Jim Ferguson, Principal Planning Officer
Kate Watchorn, Commercial Solicitor
David Cosgrove, Democratic Services Team

161. Apologies for Absence

Councillors Brash, Richardson, Sirs, H Thompson and Wright.

162. Declarations of interest by members

Councillor Wells declared a personal interest in minute no. 167 “Enforcement Action – Land on the West Side of Tees Road (South Of Mayfair Centre) Seaton Carew, Hartlepool”. Councillor Cook declared a personal interest during the consideration of the same item.

163. Confirmation of the minutes of the meeting held on 30 March 2012

Confirmed.

164. Planning Applications (*Director of Regeneration and Neighbourhoods*)

The Planning Services Manager submitted the following planning applications for the Committee’s determination.

Number: H/2010/0679

Applicant: Mr & Mrs J Shadforth
Crookfoot Fam, Elwick, HARTLEPOOL

Agent: David Stovell & Millwater, Mr David Stovell 5
Brentnall Centre, Brentnall Street,
MIDDLESBROUGH

Date received: 11/02/2011

Development: Erection of dwellinghouse

Location: Crookfoot Fam, Coal Lane, Elwick, HARTLEPOOL

Decision: **Deferred for a Members site visit**

Number: H/2011/0196

Applicant: Mrs Diane Shadforth
Crookfoot Fam, Elwick, Hartlepool

Agent: Mrs Diane Shadforth, Crookfoot Farm, Elwick,
Hartlepool

Date received: 02/06/2011

Development: Retention of mobile home, stable block and
container used for agricultural purposes for a
temporary period of 3 years (original approval
H/2005/5633)

Location: CROOKFOOT FARM, COAL LANE, ELWICK,
HARTLEPOOL

Decision: **Deferred for a Members site visit**

165. Local Government (Access to Information) (Variation Order) 2006

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraphs 5 and 6 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006, namely, information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(para 5) and, Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment (para 6).

Minute 166 – Enforcement Action – Land South of the Mayfair Centre, Tees Road, Hartlepool.

Minute 167 – Enforcement Action – Land on the West Side of Tees Road (South Of Mayfair Centre) Seaton Carew, Hartlepool

166. Enforcement Action – Land South of the Mayfair Centre, Tees Road, Hartlepool (*Assistant Director (Regeneration and Planning)*) (Para 5 & 6)

Authorisation was sought to issue an enforcement notice, as deemed necessary, in respect of the creation of a car park and erection of a steel palisade fence on land south of The Mayfair Centre, Tees Road, Hartlepool.

Decision

That no enforcement action be taken and that planning applications be sought in relation to the developments a time limit of 1 month was given for this to be submitted if an application was not forthcoming within this timescale then the item shall be referred back to the Planning Committee.

Councillors A Lilley and G Lilley requested that their votes against the above decision be recorded.

167. Enforcement Action – Land on the West Side of Tees Road (South Of Mayfair Centre) Seaton Carew, Hartlepool (*Assistant Director (Regeneration and Planning)*) (Para 5 & 6)

Authorisation was sought for enforcement action, should this be required, in respect of non-compliance with conditions 2, 3, 4, 6 and 8 of planning approval H/2006/0028 by way of issuing a Breach of Condition Notice.

Decision

1. That the Planning Services Manager, in consultation with the Chief Solicitor, be authorised to issue a Breach of Condition Notice under Section 187A of the Town and Country Planning Act (as amended), to secure full compliance with conditions 2, 3, 6 and 8 of planning permission H/2006/0028
2. That a period of one month from the date of the notice be given for the compliance specified.

168. Local Government (Access to Information) (Variation Order) 2006

The meeting returned to open session.

169. Update on Current Complaints (*Assistant Director (Regeneration and Planning)*)

The Committee's attention was drawn to twenty-six current ongoing issues which were being investigated. Any developments would be reported to a future meeting if necessary.

Councillor James sought further details of issue 3.

Councillor P Thompson sought further details of issue 7.

Decision

That the report be noted.

170. Appeal At 16 Hutton Avenue Hartlepool (APP/H0724/A/12/2173439/NWF) Alterations and Change of Use from Nursing Home to 28 No Bed Students Accommodation (Hall Of Residence) (C1 Use) Including Alterations to Windows, Doors and Roof Lights (H/2011/0598) (*Assistant Director (Regeneration and Planning)*)

The Planning Services Manager reported that an appeal against the council's refusal of planning permission for the above development and to sought authority for officers to contest the appeal. Members refused permission at Planning Committee on 3 February 2012, against officer recommendation. The application had been refused for the following reasons:

- “1. It is considered by the Local Planning Authority that the proposed student accommodation would have an adverse effect on the character of the Grange Conservation Area contrary to policies GEP1 and HE1 of the adopted Hartlepool Local Plan 2006.
2. It is considered by the Local Planning Authority that the proposed student accommodation would have an adverse effect on the amenities of the neighbouring residential properties by virtue of noise and disturbance contrary to Policy GEP1 of the adopted Hartlepool Local Plan 2006.
3. It is considered by the Local Planning Authority that adequate on site parking facilities cannot be provided and that parking by the occupants of the proposed student accommodation and/or any visitors would of necessity have to take place on the road, away from the application site to the detriment of highway safety and the amenities of the occupiers of housing in this predominantly residential area, contrary to policy GEP1 of

the adopted Hartlepool Local Plan 2006.”

The appeal was to be decided by the written representation procedure.

Decision

That the Assistant Director, Regeneration and Planning be authorised to contest the appeal.

171. National Planning Policy Framework Briefing (*Assistant Director (Regeneration and Planning)*)

The Planning Services Manager submitted a report updating the Committee on the recent changes to planning guidance in terms of the publication of the National Planning Policy Framework (NPPF) and associated documents. The National Planning Policy Framework, published on 27th March 2012, proposes to dramatically simplify the planning system. Last year, the Government announced its intention to simplify the planning system by creating a single document encompassing all planning guidance. The policies in the document take immediate effect although a period of twelve months is given for local planning authorities to revise Development Plans which may not be in accordance with the NPPF.

The report highlighted that local plans were the key to delivering the sustainable development that reflected the vision and aspirations of local communities. The report went on to outline the key aspects of the NPPF and the key presumption in favour of ‘sustainable’ development. There was at this time no definition of what this meant and it was likely that appeals and court cases would lead to a definition.

Decision

That the report be noted.

172. Any Other Items which the Chairman Considers are Urgent

The Chairman ruled that the following items of business should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B) (4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay.

173. Longscar Hall, Seaton Carew

Members raised concerns in relation to the current situation at the Longscar Hall, the condition of the building and its effect on the sea front at Seaton Carew. Members were concerned that the Compulsory Purchasing Order for the building would not identify a way forward for the building quickly enough. New health concerns were becoming apparent as the building was now infested with rats and Members were concerned at the extreme proximity to the paddling pool.

Members were informed that the future of the building was being dealt with as part of the redevelopment proposals for Seaton Carew. Members indicated that they considered that direction had been given to pursue CPO for the building and requested that an update report be submitted to the next meeting clarifying the current situation.

Decision

That an update report on Longscar Hall be submitted to the next meeting.

The meeting concluded at 11.15 a.m.

CHAIR

No: 1
Number: H/2010/0679
Applicant: Mr & Mrs J Shadforth Crookfoot Farm Elwick
HARTLEPOOL TS27 3HA
Agent: David Stovell & Millwater Mr David Stovell 5 Brentnall
Centre Brentnall Street MIDDLESBROUGH TS1 5AP
Date valid: 11/02/2011
Development: Erection of dwellinghouse
Location: Crookfoot Farm Coal Lane Elwick HARTLEPOOL

Background

1.1 This application was considered at the April meeting of the Planning Committee when it was deferred to allow members to visit the site.

The Application and Site

1.2 The application site is part of an existing agricultural holding located on the western edges of the Borough. The site lies within a Special Landscape Area and some 450m to the south west of the Crookfoot reservoir Site of Nature Conservation Importance. The land is currently in agricultural use and is located to the north east of a complex of agricultural buildings including three large barns which also serve the applicant's holding. To the north and west are fields. To the east is an access track, which is a public right of way, beyond which are agricultural fields. The land is relatively low lying rising generally to the north. Located on higher ground some 420m to the north are two dwellinghouses (Crookfoot View and Crookfoot House) and the applicant's existing mobile and associated buildings. (These are subject to a separate application which is also on this agenda H/2011/0196). Some 480m to the east beyond fields is Amerston Hill another dwellinghouse. Some 240m to the south west is Amerston Hall. Access to the site is from the track to the east connecting to Coal Lane. This is a narrow track which serves the above dwellings, as well as a farm at Stodtfold Moor, Primrose Cottage a fire damaged property, as well as the reservoir/water company plant.

1.3 Planning permission is sought for the erection of a permanent dwellinghouse to serve the agricultural holding. This will replace the mobile home located to the north. The proposed dwellinghouse will be located adjacent to the holding's agricultural buildings. The siting allows space for further agricultural buildings to be sited between the existing buildings and the dwellinghouse should they be required, and be permitted, in future. The dwellinghouse will be two and a half storey and accommodate a living room, dining room, bathroom, office, boot room and double garage at ground floor. Three bedrooms and a bathroom at first floor and an observation area within the roof space. The house will be constructed with a clay pantile roof and brick walls. The proposed dwelling house has been amended during the course of the consideration of the application following concerns in relation to the design and scale of the dwellinghouse.

1.4 In support of the application the applicant has provided a statement and financial details briefly these advise that:

- a) The farm extends to 120ha (300 acres), with 32ha (80 acres) in cereal crops, 16 ha (40 acres) in woodland with the remainder 72 ha (180 acres) used for grazing and hay for the livestock enterprise.
- b) The farm currently has 89 head of cattle, including 45 breeding stock and 265 sheep.
- c) The applicant has invested significantly in the farm, in terms of stock and buildings and improvements to the ground conditions and tree planting.
- d) The house is essential to the efficient functioning of the holding and is sited to meet the functional need of the unit and is well related to existing farm buildings.
- e) The house will replace the existing temporary cabins.
- f) It will sit well in the undulating landscape and will not be prominent.
- g) There is a functional need for the dwellinghouse particularly to ensure a worker is on hand day and night to care for animals.
- h) The functional need relates to a full time worker.
- i) The applicant (Mrs Shadforth) is employed as the farm manager, supported by an agricultural contractor.
- j) The operation is financially viable, it has operated for a period in excess of three years, and returned a profit.
- k) The proposed dwellinghouse is commensurate with the requirements of the holding.
- l) There is no alternative existing accommodation.
- m) The design of the dwellinghouse is considered suitable in terms of its scale, massing and materials.

1.5 A legal firm (Wardhadaway) acting on behalf of the applicant has also made representations in support of the application. This representation is attached to the background papers and was received in light of Hartlepool Borough Council's decision to seek independent advice on the need for the dwellinghouse to serve the holding. The writer advises that the Council considered the functional need when the application for the temporary accommodation was considered in 2005 (H/2005/5633). That their client has a legitimate expectation that the Council will respect and be consistent with that decision. That their client has invested considerably in the enterprise and it would be detrimental to the business if the Council were to resile the earlier decision. The writer concludes "Indeed we would argue that this would be an abuse of power on the part of the Authority if the present application were to be refused on the basis of the functional test. We trust therefore that you will proceed very carefully when determining the application bearing in mind our comments and the risk of further action and associated costs applications on behalf of our client".

Related Applications

1.6 H/2011/0679 Retention of mobile home, stable block and container used for agricultural purposes for a temporary period of 3 years. An application to retain the mobile home which currently serves the holding and an unauthorised stable block and container is also before members on this agenda.

Relevant planning history

1.7 H/2009/0235 Erection of a detached dwelling. This application for the erection of a large dwellinghouse on the site of the existing mobile home was withdrawn in December 2009 after concerns were raised in relation to the size/design of the proposed dwellinghouse and its location relative to the agricultural buildings serving the holding.

1.8 H/2005/5633 Siting of 2 mobile cabins with central glazed link to form a single dwelling. Approved November 2005. This application for the existing temporary residential accommodation was approved by Committee against officer recommendation. Conditions required the removal of the accommodation and the restoration of the site on or before 31/10/2008 and restricted the occupation of the accommodation to a person(s) currently or last employed in agriculture or forestry in the vicinity and their dependents.

1.9 H/FUL/0145/03 Erection of two log cabins for residential use in connection with agricultural use. This application for the erection of two cabins on the site which is now occupied by the applicant's mobile home was refused on 15 July 2003 for the following reasons:

- a) The proposed development does not conform with Policy Ru8 of the adopted Hartlepool Local Plan (1994) by virtue of the fact that the two residential units are not considered to be essential for the efficient functioning of agricultural, forestry or other countryside activities. In addition to guidance contained in the Local Plan, consideration has also been given to national planning guidance contained in PPG7: The Countryside. The proposal does not conform with the guidance set out in Annex F of this document in terms of the functional need for 24 hour supervision and the lack of evidence supplied relating to alternative accommodation within the area.
- b) The proposed development by virtue of its location would have a detrimental impact on the setting of the open countryside and a site of nature conservation importance. The proposal is therefore in conflict with policies Ru14 and Co17 of the adopted Hartlepool Local Plan (1994).

1.10 The applicant appealed against this refusal and the appeal was dismissed. In her decision letter (**attached**) the Inspector addressed two key issues the justification for the development on agricultural grounds and the effect on the surrounding countryside. In terms of the issue of agricultural justification at that time the enterprise had 200 ewes and whilst cattle were proposed none had been purchased. Similarly plans for lammas and racehorse respite had not been implemented. The Inspector acknowledged that, whilst lambing time would be a demanding time requiring prolonged attendance, for the remainder of the time the animals needs could be tended to as part of the normal working day. The Inspector concluded at that time that it would not be essential for care of the livestock for a worker to be on hand at most times of the day or night. She also raised concerns in relation to the applicant's previous interest in Amerston Hall stating "The Appellant confirms that until October 2003 he was the owner of Amerston Hall, a large house

together with a range of outbuildings located close to the south western boundary of the appeal site. Whilst the appellant states that he has sold Amerston Hall and now has no control over the use of the buildings, it seems that no consideration was given to its potential use in relation to the farm holding. To my mind this serves to cast further doubt on the question of the need for a full time presence on the farm". The Inspector advised that in her consideration there was insufficient justification on agricultural grounds to allow the temporary dwellings. The Inspector noted that the proposed site, given its distance from a recently erected barn, where livestock requiring attention would be located, failed to address the need for which the accommodation was proposed. She also pointed out that the site of the cabins was prominent and that this could only increase as a result of vehicles, storage and other requirements associated with an active farm. She concluded that "the proposal would represent an unacceptable visual intrusion into the open countryside which would have a serious adverse impact on the surrounding landscape."

Publicity

1.11 The application was originally advertised by neighbour notification, site notice and in the press. One letter of no objection, four letters of objection and three letters of support were received.

The objectors raise the following issues:

- The proposal is contrary to PPS7 and policies Rur 7, Rur 12 and Rur 20 of the Hartlepool Local Plan.
- The financial accounts require clarification. The proposed development is not financially sound as there are discrepancies within the accounts. It is questionable whether the agricultural activity is profit making as the business has required large amounts of capital to be introduced and relies on subsidies. The applicant has therefore failed to satisfy the requirements of PPS7 and the application should be refused.
- The applicant gave up his ownership of Amerston Hall in 2003 with two dwellinghouses which could have provided accommodation for a full time worker. We request the council investigate whether there may be a more suitable location for the dwelling (such as an existing building suitable for conversion) and whether there have been additional properties sold separately from the farm which could indicate the lack of agricultural need.
- It is understood the applicant only moved into the cabins in 2008 indicating there were managing the farm adequately from an alternative location.
- A previous application for temporary accommodation was refused (H/2003/0145) when the Inspector found it not essential for a worker providing care to livestock to be present at most times of the night and day. Unfortunately a subsequent application was approved by members against officer recommendation.

- Question whether the provision of full time care for the animals would be achieved by one dwelling as assistance is required in the form of an agricultural hand and off site help is required in emergency situation. It is understood the off site contractor lives off site, which suggest the farm can be maintained from an off site location and that properties are available for agricultural workers.
- No new evidence has been provided by the applicant to indicate whether there are any vacant properties currently available or properties for sale which could serve the holding.
- Design and massing of the building is not sympathetic, the proposal does not reflect the character of the area and will have a detrimental visual impact on the surrounding area.
- The proposed dwellinghouse appears to be required to meet the managerial requirements of the holding rather than the requirements of a full time worker and so would not require a full time presence on the site.
- The scale of the dwellinghouse is not commensurate with the functional need.
- Materials of the dwellinghouse should be submitted for consideration.
- Permitted development rights for extensions to the dwellinghouse should be removed.
- A legal agreement should be entered into securing the removal of the temporary units and securing the restoration of the land to agricultural use following occupation of the new dwellinghouse.
- A planning agent acting for objectors has advised that their client has instructed his legal advisors to examine the soundness of the planning application, and processes, and to advise on whether there is scope for judicial review if the application is approved.

Those writing in support of the application raise the following issues:

- The applicant's have shown a true commitment turning a rundown tenanted farm into a thriving established farming enterprise.
- The development is supported by central and local government policy and should be supported.
- There are no reasonably defensible objections to the proposal.
- There is no right to a view.
- The planning system exists to protect the public interest not private interests.

- If the applicant is required to live off site, and commute, it is difficult to see how the aims of policies relating to sustainability and climate change could be achieved and this would impose burdens on the business.
- The applicants have invested a great deal enhancing biodiversity on the farm planting tens of thousands of trees and hedges.
- The proposal would provide the applicant with a high quality affordable home in the community they want to live and increase the supply of housing.
- The proposal satisfies the requirements and functional tests for new permanent agricultural dwellings.
- The care of livestock (24/7) and general security require a presence on site.
- It is in everyone's interest for the dwelling to be built and the log cabins to go.

One writer advises that they have no objections, as long as the cabins, steel container and stable block are removed.

Amended plans have been advertised by neighbour notification. The time period for representations has expired. A single letter of objection has been received from an agent representing "Crookfoot residents".

The agent raises the following issues:

- The principle of the development remains contrary to planning policy. The site is in open countryside. The dwellinghouses is not for use by farmworkers. At the time of the application there were other properties on the market which could have provided the accommodation required.
- The site is located in a special landscape area. The design, scale and massing of the proposed building is unacceptable and will have a detrimental impact on the exceptional countryside in this area.
- No details of the proposed materials have been submitted.
- Double Garage unnecessary.
- Proposed agricultural buildings are identified on the plans which have not been the subject of applications, request to be notified of any applications.
- Re-iterates objections to related application for the mobile home and calls for enforcement action. If mobile home is approved ask permission restricted to 12 months and ask that its removal and the restoration of the site is secured through a section 106 agreement.
- The management and maintenance of the access road by the applicant should be secured by a section 106 agreement.

- Request Permitted Development Rights are removed for extensions or the erection of agricultural buildings adjacent to the curtilage, if permission is allowed.

Copy Letters A

Consultations

1.12 The following consultation replies have been received:

Tees Archaeology : There are no known archaeological sites in the area indicated. I therefore have no objection to the proposal and have no further comments to make.

Parks & Countryside : I have no objection to this application. There is a public footpath that runs along the approach lane, to the south. Its designation is Public Footpath No.20, Elwick Parish.

It forms part of an important and well used part of the public right of way network and as such should not be obstructed, by any vehicle or materials at any time should the application gain approval and development commence.

If there is need to consider use of this highway during development then I should be contacted and any proposal would then be discussed.

Ramblers Association : If the council is minded to grant permission we ask that the consent be conditioned to the effect that no interference with use of the access road (FP Elwick 20) shall occur. Otherwise we have no comments.

Public Protection : No objection

Engineering Consultancy : With regard to the above application I note that the foul and surface water are proposed to be disposed to septic tank and soakaway respectively. Presumably verification and acceptance of the design of the soakaway and septic tank would be undertaken through the Building Regulations.

Northumbrian Water : No Objections

Traffic & Transportation : There are no highway or traffic concerns

Environment Agency : No objection subject to condition relating to the disposal of foul drainage.

Elwick Parish Council : We have concerns about the development. You may recall that the Parish Council objected to the original development of the lodges, although we recognise that these objections were overturned on appeal. Nevertheless, we have concerns about both the size and scale of the proposed dwelling in an agricultural setting.

However, should you be minded to grant planning permission we ask as a minimum that conditions relating to an agricultural occupancy apply and that steps should be taken to restrict any further development of the premises.

We also understand that the local residents are concerned that this house may be the forerunner to further non agricultural development which would be inappropriate in such a rural environment.

Group Accountant : I've had a look through, and the details provided confirm what I suspected in that capital introduced was being used to support capital investment. The letter states that this is funded by the sale of the previous home which does not seem unreasonable. If what the letter states about the terms of the grant funding are correct this seems sustainable. However, it is difficult to be certain about this unless it can be confirmed independently that the grants are guaranteed for the 10 and 15 years stated. On the face of it I would say that the accounts look reasonable and they seem financially sound.

(Comments on 2011 accounts) If their accounts had been prepared on accruals basis (like ours are) then they would have accrued for the grant and their accounts would not have shown a loss. As long as they are due the payments and will continue to be due such payments, the timing of these payments should not affect their viability assuming they can get credit in the short term to manage this.

Hartlepool Water : No comments received.

Planning Policy (Local)

The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP2: States that provision will be required to enable access for all (in particular for people with disabilities, the elderly and people with children) in new developments where there is public access, places of employment, public transport and car parking schemes and where practical in alterations to existing developments.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

Hsg5: A Plan, Monitor and Manage approach will be used to monitor housing supply. Planning permission will not be granted for proposals that would lead to the strategic housing requirement being significantly exceeded or the recycling targets not being

met. The policy sets out the criteria that will be taken into account in considering applications for housing developments including regeneration benefits, accessibility, range and choice of housing provided and the balance of housing supply and demand. Developer contributions towards demolitions and improvements may be sought.

Hsg9: Sets out the considerations for assessing residential development including design and effect on new and existing development, the provision of private amenity space, casual and formal play and safe and accessible open space, the retention of trees and other features of interest, provision of pedestrian and cycle routes and accessibility to public transport. The policy also provides general guidelines on densities.

Rur12: States that isolated new dwellings in the countryside will not be permitted unless essential for the efficient functioning of viable agricultural, forestry, or other approved or established uses in the countryside and subject to appropriate siting, design, scale and materials in relation to the functional requirement and the rural environment. Replacement dwellings will only be permitted where existing accommodation no longer meets modern standards and the scale of the development is similar to the original. Infrastructure including sewage disposal must be adequate.

Rur20: States that development in this special landscape area will not be permitted unless it is sympathetic to the local rural character in terms of design, size and siting and building materials and it incorporates appropriate planting schemes.

Rur7: Sets out the criteria for the approval of planning permissions in the open countryside including the development's relationship to other buildings, its visual impact, its design and use of traditional or sympathetic materials, the operational requirements agriculture and forestry and viability of a farm enterprise, proximity of intensive livestock units, and the adequacy of the road network and of sewage disposal. Within the Tees Forest area, planning conditions and obligations may be used to ensure planting of trees and hedgerows where appropriate.

Planning Considerations

1.13 The main planning considerations are considered to be policy, design/impact on the visual amenity of the area, impact on the amenity of neighbouring residents, drainage and highway safety.

POLICY

1.14 The site lies within open countryside where policies in relation to the provision of new dwellings are restrictive. One exception is to provide accommodation which is essential to the efficient functioning of economically viable agricultural uses.

1.15 The recently published National Planning Policy Framework (2012) advises that policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. It advises that amongst other things local plans should promote the development and

diversification of agricultural and other land-based rural business (28).

1.16 In relation to the provision of new housing in rural areas the NPPF states “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as: the essential need for a rural worker to live permanently at or near their place of work in the countryside...”(55)

1.17 No additional guidance has been provided as to how any “essential need” should be assessed however previous advice on assessing need was contained in Annex A of the now superseded guidance PPS7- Sustainable Development in Rural Areas. This guidance is also reflected in the relevant policy of the extant Hartlepool Local Plan (2006) which advises that isolated new dwellings will not be permitted in the open countryside unless it can be demonstrated that:-

- a) THEY ARE ESSENTIAL FOR THE EFFICIENT FUNCTIONING OF AGRICULTURAL, FORESTRY OR OTHER APPROVED OR ESTABLISHED USES IN THE COUNTRYSIDE,
- b) THE ENTERPRISE FOR WHICH THEY ARE REQUIRED IS ECONOMICALLY VIABLE,
- c) THEY ARE OF A SIZE COMMENSURATE WITH THE ESTABLISHED FUNCTIONAL REQUIREMENT,
- d) THE SITING, DESIGN, SCALE AND MATERIALS WILL NOT BE SIGNIFICANTLY DETRIMENTAL TO THE RURAL ENVIRONMENT.

Functional need

1.18 The applicant’s holding extends to some 120ha (300 acres), with 32ha (80acres) in cereal crops, 16 ha (40 acres) in woodland with the remainder 72 ha (180 acres) used for grazing and hay for the livestock enterprise. The farm currently carries a herd of cattle and sheep. The applicant (Mrs Shadforth) states that she is employed full time on the holding and a specialist agricultural contractor is also employed on the farm.

1.19 The applicant advises that the proposed dwellinghouse is essential to the efficient functioning of the holding and is sited to meet its functional needs particularly with regards to the need for a worker to be on hand day and night to care for animals. The proposed house will be located close to the existing farm buildings allowing any occupier to be within sight and sound of any animals requiring care held within the buildings.

1.20 Notwithstanding the comments of the applicant’s solicitor that the functional need was considered in respect to the earlier application for the mobile home in 2005 it is considered that the functional need for the dwellinghouse must fall to be reconsidered given the application is for the permanent dwellinghouse and in light of the current needs of the holding. Given the correspondence from the planning agent acting for objectors, which advised that their client has instructed legal advisors to

examine the soundness of the planning application, and processes, and to advise on the case for judicial review should the application be approved, it was considered prudent to seek independent advice in the form of a technical appraisal.

1.21 The functional need and financial case for the dwelling house has therefore been assessed on behalf of Hartlepool Borough Council by an independent surveyor. The surveyor's report advises that the unit has a labour requirement of 1 standard unit, that there is a clearly established functional need and that the need relates to a full time worker. It also advises that the farm is successful in the current agricultural financial climate has shown a profit in each of the past 3 years. (The financial case is considered below). In terms of whether the functional need could be met by another dwellinghouse, either on the holding or in the area, the report acknowledges that Crookfoot View was at the time available for sale, however the surveyor considers that it is not suitable to meet the need (given its location) and therefore that there is no other suitable dwelling available capable of fulfilling the agricultural need generated by the unit. The report overall concludes "In light of the foregoing I am of the opinion that there is a justified need for a permanent dwelling to serve this holding".

1.22 Objectors have raised the issue that the applicant manages the unit and employs an agricultural contractor and therefore question whether there is truly a need for the dwellinghouse, as they argue a farm manger could live off site. It is not unusual for farms to employ agricultural contractors and this does not mean in itself that there is not a functional need for an employee, manager or other worker, to live on the holding to be on hand day and night for example in case animals require essential care at short notice or to deal with emergencies. The surveyors report considered this issue and concluded "I am aware that comment has been made concerning the use of contractors on this holding. I am informed by Ms Shadforth that she undertakes all of the cultivations required on the holding along with topping and baling, and that contractors are used for combining, spraying spreading fertiliser, and making silage. The provisions of Paragraph 1 of Annexe A of Planning Policy Statement 7 made it clear that: "there will be some cases where the nature and demands of the work concerned make it essential for one or more people engaged in the enterprise to live at, or very close to, the site of their work. Whether this is essential in any particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved." It is the applicant's choice – their "personal preference" to use contractors on the holding, but it is the needs of the farming enterprise at Crookfoot Farm that fall to be considered and if it is the applicant's choice to employ contractors to undertake work on the holding that fact has no impact on the needs of the enterprise".

1.23 Objectors to the application have also raised concerns that the applicant gave up his "ownership" of Amerston Hall in 2003 which could have provided accommodation for a full time worker to serve the holding. They have requested the council investigate whether there may be a more suitable location for the dwelling (such as an existing building suitable for conversion) and whether there have been additional properties sold separately from the farm which could indicate the lack of need. The applicant has advised that whilst they did have an interest in a company which acquired Amerston Hall in 2002 that interest ended in October 2003 and they

have had no financial interest in Amerston Hall since then. The property is being retained as an investment by the current owner, who it is understood is the brother of the applicant. The applicant has confirmed that it is not therefore available as a dwelling to serve Crookfoot Farm. (The current land registry information has been reviewed and indicates that the site is owned by Hedley Davis Property & Development Company Ltd, the principal shareholder of which is the applicant's brother and would therefore appear to support the applicant's position).

1.24 This matter was raised when the application for the temporary accommodation (H/2005/5633) was considered and was discussed in the relevant report to the Planning Committee in October 2005. Members nonetheless approved the application, against officer recommendation.

1.25 The applicant has invested considerably in the unit since this decision and has confirmed that he has no financial interest in Amerston Hall. Given that previous decision, the passage of time, and the fact that the applicant no longer has an interest in the property it is considered that it would be difficult now to sustain an argument that the applicant's previous interest in the Amerston Hall property, demonstrated there was not a need for a dwelling house on the holding.

Financial justification

1.26 The site is located in open countryside outside the limits to development. National Guidance (NPPF) and local plan policies in relation to new housing development are restrictive unless, amongst other things, they are essential for the efficient functioning of agricultural, forestry or other approved established uses in the countryside and the enterprise for which they are required is economically viable.

1.27 In support of the application the applicant has provided details of accounts for a number of years. The information submitted indicates that the applicant has made considerable investments in establishing the unit in terms of buildings and machinery. The accounting information indicates that over this period the business has made the following returns 2004 - 2005 (net profit £13,416), 2005-2006 (net profit £20,346), 2006-2007 (net profit £9,499), 2007- 2008 (net profit £36,728), 2008-2009 (net profit £18,206), 2009-2010 (net profit £19,728), and for 2010- 2011 (net loss £10,217). In terms of the loss in 2010/11 the applicant has explained that this was due to the late payment by the rural payments agency of the applicant's 2010 Single Farm Payment claim. Had this been received the applicant has indicated that the in 2011 the unit would have returned a net profit of some £7,734.93.

1.28 It is considered that whilst returns from the business have been variable over the seven years between 2005 and 2011 the business has been in profit over this period and it is considered that on the basis of the information provided the business does appear to be economically viable.

Conclusion

1.29 It is considered that there is a justified need for a dwellinghouse to serve the holding and that the proposed location of the dwellinghouse adjacent to the existing farm buildings would be suitable to meet this need. In policy terms therefore the

proposed dwellinghouse is in principle acceptable. An appropriate planning condition is proposed to control the occupancy of the dwellinghouse. Other relevant detailed planning considerations are discussed below.

DESIGN/IMPACT ON THE VISUAL AMENITY OF THE AREA

1.30 The application site is located in an area designated as a special landscape area within the Hartlepool Local Plan 2006 (Policy Rur 20). In such locations policy advises that development will not be permitted unless it is sympathetic in terms of the design, size and siting and building materials and it incorporates appropriate planting schemes.

1.31 The proposed design of the house has been amended in order to address concerns raised regarding its scale and detailed design. The outcome is a three bedroom two and a half storey house with garaging of a relatively modest scale which incorporates traditional features and will be constructed in traditional materials of brick with a clay pantile roof. The design of the dwellinghouse is considered acceptable. It is also considered commensurate with the needs of the holding. The applicant has asked that landscaping be conditioned and it is considered an appropriate scheme can be achieved.

1.32 The site is located in a relatively low lying area with rising land to the north. It is located in close proximity to the existing farm building on the site, to meet the functional needs of the holding, and it is not considered that the house will be unduly prominent or obtrusive.

1.33 In terms of its design and impact on the visual amenity of the area the proposed dwellinghouse is considered acceptable.

IMPACT ON THE AMENITY OF NEIGHBOURING RESIDENTS

1.34 The house is located well away from any neighbouring residents and it is not considered that the proposal will affect the amenity of residents in terms of loss of light, outlook, privacy or in terms of any overbearing effect.

DRAINAGE

1.35 The site has no mains drainage and foul sewage will be disposed of to a sewage treatment plant with surface water disposed of to Amerston Beck. The Environment Agency and HBC Engineering Consultancy have raised no objections to the proposal. An appropriate condition is proposed.

HIGHWAY SAFETY

1.36 The site is accessed by an existing access road which already serves the holding and several other properties. Traffic & Transportation have raised no objections to the proposal and in highway terms it is considered acceptable.

1.37 A public right of way passes the site along the access track. No objections have been raised by the Ramblers Association or the Countryside Access Officer. It

is not anticipated that the development will impact directly on the adjacent public right of way and any issues which might arise will be dealt with under separate legislation. It is proposed to add a relevant informative to any decision notice.

1.38 An objector has requested that the management and maintenance of the access road by the applicant should be subject of a section 106 agreement. The concern here appears to be from farm vehicles relating to the existing use of the land rather than any traffic arising from the dwellinghouse itself. It is considered that the maintenance of the access road is a private legal matter between the relevant parties and the suggested legal agreement is not considered appropriate.

CONCLUSION

1.39 The proposal is considered acceptable and is recommended for approval subject to conditions.

1.40 It is acknowledged that negotiations to reach this stage have been protracted however in terms of design, visual impact and in terms of meeting the functional needs of the holding the proposal now before members is considered to be a significant improvement on previously proposed schemes.

RECOMMENDATION - APPROVE – subject to the following conditions

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. The development hereby permitted shall be carried out in accordance with the details and plans (Map showing farm boundary 1:10000), received at the Local Planning Authority at the time the application was made valid on 11th February 2011 as amended in respect of the proposed non-mains drainage scheme by the details received at the Local Planning Authority on 21st March 2011, in respect of the proposed plans and elevations by the drawings proposed floor plans (HL/10/001/), proposed elevations (HL/10/001/) received at the Local Planning Authority on 13th May 2011 and as amended in respect of the proposed site layout by the drawing proposed site plan (HL/10/001/003/C) received at the Local Planning Authority on 24th August 2011, unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt.
3. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any resident dependants.
The site of the proposed dwelling(s) is in an area where the Local Planning Authority considers that new housing should only be allowed in exceptional circumstances where it is essential in the interests of agriculture or forestry.
4. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose. Thereafter the development shall be carried out in accordance with the approved details.
In the interests of visual amenity.

5. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced. Thereafter the development shall be carried out in accordance with the approved details.
In the interests of visual amenity.
6. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.
In the interests of visual amenity.
7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development within Classes A, B or E of Schedule 2 Part 1 or Class A of Schedule 2 Part 2 shall be carried out other than that expressly authorised by this permission.
In order to ensure that the dwellinghouse remains commensurate with the needs of the enterprise and in the in the interests of the visual amenity of the area.
9. The development permitted by this planning permission shall only be carried out in accordance with the non-mains drainage scheme received at the Local Planning Authority on 21st March 2011 showing a package treatment scheme discharging via pipe(s) to the Amerston Beck. The non-mains drainage scheme shall adhere to the following mitigation measures:
 1. No connection to a soakaway or land drainage system, including land drains/ditches.
 2. No siting of the package sewage treatment plant within 50 metres or upslope of any well, spring or borehole used for private water supply (including the nearby public water supply boreholes).
 3. Any pipeline transferring the discharge from the package treatment plant to the watercourse shall be suitably lined to prevent leakage, particularly where the pipes cross Hartlepool Water's water main.
The proposed development site is located in an area of high environmental sensitivity as it lies in close proximity to one of Hartlepool Water's main public water supply abstractions.

In addition, the route of the proposed pipeline, transferring the treated discharge from the non-mains drainage scheme (package treatment plant) to the adjacent Amerston Beck crosses directly over Hartlepool's water main. As such, we request the inclusion of the above condition to any subsequent

planning permission to ensure protection of sensitive and important water resources.

10. This permission relates only to the provision a dwellinghouse and ancillary development. It does not authorise the erection of any agricultural buildings shown as proposed on the approved site plan (Drawing HL/10/001/003/C). For the avoidance of doubt.
11. Within 18 months of the date of this decision or within six months of the first occupation of the dwelling house hereby approved, whichever date is sooner, the existing mobile home, cabin and stable block including any ancillary structures (including sewage/sewage treatment plant) and hardstandings, for which planning permission has been sought under the provisions of planning application H/2011/0196 shall be removed from that site and the land restored to agricultural use in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.
In order to ensure that the existing residential accommodation, and related structures, serving the unit are removed in the interests of the visual amenity of the area.



Appeal Decision

Hearing held on 14 April 2004

by **Kathleen Woodling BA, MPhil, MRTPI**

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
 409 Kite Wing
 Temple Quay House
 2 The Square
 Temple Quay
 Bristol BS1 6PN
 ☎ 0117 372 6372
 e-mail: enquiries@planning-
 inspectorate.gov.uk

Date

29 APR 2004

Appeal Ref: APP/H0724/A/03/1125036

Plot 18, Wynyard Estate, Wynyard, Billingham TS22 5NT

- 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 J Shadforth against the decision of Hartlepool Borough Council.
- The application Ref. H/FUL/0145/03 dated 1 March 2003, was refused by notice dated 15 July 2003.
- The development proposed is two temporary log cabins for use by D&J Shadforth for residence, to carry out agricultural work associated with:- mixed arable farming and livestock i.e pedigree cows and sheep, chickens and llamas.

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. Prior to the determination of the original application, Plan Shad 2 showing details of the siting and access to the proposed dwellings was withdrawn and minor modifications were made. I have taken these into account in making my decision.
2. The initial proposal identified one agricultural unit with two cabins but plan Shad 5, which divided the holding into two roughly equal portions, was submitted during the period the application was under consideration. At the Hearing, the Appellant contended that the proposal should thus be considered on the basis of two independent, but closely linked, agricultural units. However, the description of development does not specify that more than one unit is proposed and the reports to the Council's Planning Committee indicate the proposal was considered as one unit. Furthermore, the Business Plan gives the legal framework as being a joint partnership and clearly assumes that the enterprise will operate as a single unit. I have therefore determined the appeal on the basis of a proposal for two temporary dwellings in relation to one agricultural unit.
3. At the time of the Hearing, the two cabins had been brought onto the holding but did not appear to be in use.

Main Issues

4. I consider that the two main issues in this appeal are firstly whether there is sufficient justification on agricultural grounds to allow these temporary dwellings and secondly the effect of the proposal on the character and appearance of the surrounding countryside.

Planning Policy

5. The development plan includes the Hartlepool Local Plan 1994. Policy Ru8 states that new housing will not normally be permitted in the open countryside unless it is essential for the efficient functioning of agricultural activities and the siting will not be significantly

Appeal Decision APP/H0724/A/03/1125036

detrimental to the rural environment. The appeal site lies within the Crookfoot Reservoir Special Landscape Area (SLA) and adjacent to the Crookfoot Reservoir site of nature conservation importance (SNCI). Under policy Ru14, development in an SLA will not normally be permitted unless it is sympathetic to the local rural character. In addition, policy Co17 states that proposals for developments likely to have a significant detrimental effect on an SNCI will not normally be permitted.

6. The provisions of these policies have largely been carried forward into the Hartlepool Local Plan Deposit 2001. However, given that this is still at a relatively early stage of preparation, I have attached little weight to the emerging policies in accordance with the advice in paragraph 48 of Planning Policy Guidance note 1: *General Policy and Principles*.
7. Planning Policy Guidance note 7: *The Countryside – Environmental Quality and Economic and Social Development* (PPG7) advises that isolated new houses in the countryside require special justification. Annex I sets out several criteria in relation to the assessment of proposals for new agricultural dwellings.

Reasons

8. The appeal site is some 120ha in size and consists mainly of open fields together with some areas of woodland. The Business Plan identifies seven products and services for the enterprise: lambs, cattle, llama, combinable crops, environmental conservation, woodland and a respite care facility for race horses.

Issue 1 - Justification on agricultural grounds

9. At the Hearing, it was confirmed that the dwellings were required on the basis of the need to provide essential care for livestock. Although the Business Plan is based on 150 breeding ewes and 35 suckler cows, the farm presently has some 200 ewes. The cattle have not yet been purchased but the herd could amount to 75 breeding cattle. Care of the sheep is carried out by the Appellant and it is intended that his son, Mr K Shadforth, will be responsible for care of the cattle.
10. The animals would require particular attention during the period from about March to June in order to deal with emergencies arising from lambing or calving. I recognise that this could be an extremely demanding time, requiring extended periods of attendance from one or both men. However, for the remainder of the year the animals' needs would be those of regular feeding and tending which could be carried out as part of a normal working day. There are also plans to provide respite care for up to 10 race horses but the Appellant confirmed that he would provide only general supervision and would not bear the main responsibility for their care. In addition it is intended to breed llamas but on the information put forward at the Hearing this would appear to be as a bobby rather than as part of the business. On the evidence before me therefore, I consider that it would not be essential for care of the livestock for a worker to be on hand at most times of the day and night.
11. I note that there were particular security concerns related to the two public footpaths which cross the land and the incomplete field boundaries on the unit. However, these factors do not, in my opinion, represent such an additional level of need as to justify a worker to be readily available at most times.
12. Furthermore, PPG 7 advises that the recent sale of dwellings or buildings suitable for conversion could constitute evidence of lack of agricultural need. The Appellant confirms

Appeal Decision APP/H0724/A/03/1125036

that until October 2003 he was the owner of Amerston Hall, a large house together with a range of outbuildings located close to the south western boundary of the appeal site. Whilst the Appellant states that he has sold Amerston Hall and now has no control over the use of the buildings, it seems that no consideration was given to its potential use in relation to the farm holding. To my mind, this serves to cast further doubt on the question of the need for a full time presence on the farm.

13. Paragraph 14 of Annex I sets out a number of other criteria with regard to the assessment of temporary agricultural dwellings. However, since I have found that a functional requirement has not been established, it is not necessary to consider these matters.
14. On my first issue therefore, I conclude that there is insufficient justification on agricultural grounds to allow these temporary dwellings. As such, the proposal would fail to satisfy the requirements of Local Plan policy Ru8 and PPG 7.

Issue 2 - effect on the surrounding countryside

15. The appeal site lies within a Special Landscape Area. The surrounding countryside is gently undulating and is characterised by open fields and areas of woodland, particularly along watercourses. There are sporadic groups of buildings, mainly relating to agriculture but there are also some related to the presence of the nearby reservoir.
16. The land which comprises the agricultural unit generally falls away to the south. The two cabins have been sited at the northern edge of the holding, at the highest point and to the side of an open field. I note that their location reflects considerations relating to the operation of the holding, the need for security and the cost of providing connections to utility services. However, the intended location for livestock in need of attention is a recently constructed barn situated near Amerston Hall. The location thus appears to fail to address the basis on which the accommodation has been proposed.
17. Although the proposal is for temporary dwellings, PPG 7 advises that these should not be permitted in locations where a permanent dwelling would not be permitted. At present, the cabins form an intrusive feature in the surrounding open landscape. Their prominence could be expected to increase as a result of vehicles, storage and other requirements associated with an active farm. Although landscaping might provide longer term screening in views from the north, any dwellings would continue to be clearly visible from other directions, particularly the public footpaths, due to the stated need to maintain views across the holding.
18. I am not aware of the circumstances under which alterations to the nearby Crookfoot Cottages were permitted but these works did not appear to be directly comparable to the appeal proposal which I have considered on its own merits. On my second issue, I conclude that the proposal would represent an unacceptable intrusion into the open countryside which would have a serious adverse impact on the surrounding landscape. It would thereby be contrary to policy Ru14 of the Local Plan.

Other Matters

19. The Council also argued that the proposal would adversely affect the SNCI based on the adjacent Crookfoot Reservoir. However, this was not supported by any evidence as to the nature conservation value of the site or the manner in which it could be affected by the appeal proposal.

Appeal Decision APP/H0724/A/03/1125036

Conclusions

20. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

21. I dismiss the appeal.

Information

22. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.



Inspector



CROOKFOOT FARM



THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

COPYRIGHT RESERVED LICENCE 1000233902011

HARTLEPOOL BOROUGH COUNCIL

Department of Regeneration and planning
Bryan Hanson House, Hanson Square, Hartlepool, TS24 7BT

Scale: 1:5000
Date : 16/4/12
Drg No: H/2010/0679
Drawn: GS

No: 2
Number: H/2011/0196
Applicant: Mrs Diane Shadforth Crookfoot Farm Elwick Hartlepool
 County Durham TS27 3HA
Agent: Mrs Diane Shadforth Crookfoot Farm Elwick Hartlepool
 TS27 3HA
Date valid: 02/06/2011
Development: Retention of mobile home, stable block and container
 used for agricultural purposes for a temporary period of 3
 years (original approval H/2005/5633)
Location: CROOKFOOT FARM COAL LANE ELWICK
 HARTLEPOOL

Background

2.1 This application was considered at the April meeting of the Planning Committee when it was deferred to allow members to visit the site.

The Application and Site

2.2 The application site is located in the rural area to the west of Hartlepool. It lies within a Special Landscape Area and close to the south eastern corner of Crookfoot Reservoir which is a Site of Nature Conservation Importance. It is occupied by a mobile home for which temporary approval was obtained in November 2005 (H/2005/5633), a small stable block and a small steel container. The temporary planning permission for the mobile home has expired and permission has not previously been granted for the other buildings/structures on site. The site is located in an elevated position on a rise with agricultural fields to the north and east. It forms part of an agricultural holding. The farm buildings associated with the holding are located some 570m (as the crow flies) to the South West at the bottom of the rise. To the west is an access track beyond which are a pair of dwellinghouses Crook Foot House and Crookfoot View which are gable ended onto the site. The track also serves a farm at Stodfold Moor and other residential properties at Amerston Hill, Amerston Hall, Primrose Cottage (a fire damaged property) as well as the reservoir and water company plant. A public footpath crosses fields to the south of the site before joining the access track.

2.3 Planning permission is sought for the retention of the mobile home and the stable block and container. Initially the applicant sought permission to retain these buildings/structures for a three year period but has confirmed that an eighteen month period would be satisfactory.

2.4 In support of the application the applicant has provided a statement and financial details briefly these advise that:

- n) The farm extends to 120ha (300 acres), with 32ha (80 acres) in cereal crops, 16 ha (40 acres) in woodland with the remainder 72ha (180 acres) used for grazing and hay for the livestock enterprise.
- o) The farm currently has 89 head of cattle, including 45 breeding stock and 265 sheep.
- p) The temporary permission for the accommodation has expired and the application for a permanent dwelling house has taken longer than expected.
- q) The mobile home is in the same location as given approval in 2005.
- r) The applicant has invested significantly in the farm, in terms of stock and buildings and improvements to the ground conditions.
- s) There is an essential need for an agricultural worker to be on site and readily available at most times particularly to provide care for livestock. In approving the original application the Council accepted the enterprise satisfied the functional test.
- t) The functional need relates to a full time worker.
- u) The applicant is employed as the farm manager supported by an agricultural contractor
- v) The unit has been established for in excess of three years is stable, well established and financially sound.
- w) The proposed dwellinghouse is commensurate with the size of the holding.
- x) There is no alternative existing accommodation.
- y) The mobile home is essential for the efficient functioning of the Farm.

Related applications

2.5 H/2010/0679 Erection of dwellinghouse. An application for a permanent dwellinghouse, on a different site close to the agricultural buildings, to replace the mobile home is also before members on this agenda.

Relevant planning history

2.6 H/2009/0235 Erection of a detached dwelling. This application for the erection of a dwellinghouse on the site of the existing mobile home was withdrawn in December 2009 after concerns were raised in relation to the size/design of the proposed dwellinghouse and its location relative to the agricultural buildings serving the holding.

2.7 H/2005/5633 Siting of 2 mobile cabins with central glazed link to form a single dwelling. Approved November 2005. This application for the existing temporary residential accommodation was approved by Committee against officer recommendation. Conditions require the removal of the accommodation and the restoration of the site on or before 31/10/2008 and restricted the occupation of the accommodation to a person(s) currently or last employed in agriculture or forestry in the vicinity and their dependents.

2.8 H/FUL/0145/03 Erection of two log cabins for residential use in connection with agricultural use. This application for the erection of two cabins on the site which is now occupied by the mobile home was refused on 15 July 2003 for the following reasons:

- a) The proposed development does not conform with Policy Ru8 of the adopted Hartlepool Local Plan (1994) by virtue of the fact that the two residential units are not considered to be essential for the efficient functioning of agricultural, forestry or other countryside activities. In addition to guidance contained in the Local Plan, consideration has also been given to national planning guidance contained in PPG7: The Countryside. The proposal does not conform with the guidance set out in Annex F of this document in terms of the functional need for 24 hour supervision and the lack of evidence supplied relating to alternative accommodation within the area.
- b) The proposed development by virtue of its location would have a detrimental impact on the setting of the open countryside and a site of nature conservation importance. The proposal is therefore in conflict with policies Ru14 and Co17 of the adopted Hartlepool Local Plan (1994).

2.9 The applicant appealed against this refusal and the appeal was dismissed. In her decision letter (attached to related application H/2010/0679) the Inspector addressed two key issues the justification for the development on agricultural grounds and the effect on the surrounding countryside. In terms of the issue of agricultural justification at that time the enterprise had 200 ewes and whilst cattle were proposed none had been purchased. Similarly plans for lammas and racehorse respite had not been implemented. The Inspector acknowledged that, whilst lambing time would be a demanding time requiring prolonged attendance, for the remainder of the time the animals needs could be tended to as part of the normal working day. The Inspector concluded that it would not be essential for care of the livestock for a worker to be on hand at most times of the day or night. She also raised concerns in relation to the applicant's previous interest in Amerston Hall stating "The Appellant confirms that until October 2003 he was the owner of Amerston Hall, a large house together with a range of outbuildings located close to the south western boundary of the appeal site. Whilst the appellant states that he has sold Amerston Hall and now has no control over the use of the buildings, it seems that no consideration was given to its potential use in relation to the farm holding. To my mind this serves to cast further doubt on the question of the need for a full time presence on the farm". The Inspector advised that in her consideration there was insufficient justification on agricultural grounds to allow the temporary dwellings. The Inspector noted that the proposed site, given its distance from a recently erected barn, where livestock requiring attention would be located, failed to address the need for which the accommodation was proposed. She also pointed out that the site of the cabins was prominent and that this could only increase as a result of vehicles, storage and other requirements associated with an active farm. She concluded that "the proposal would represent an unacceptable visual intrusion into the open countryside which would have a serious adverse impact on the surrounding landscape."

Publicity

2.10 The application was originally advertised by neighbour notification, site notice and in the press. The time period for representations has expired. Four letters of objection have been received. Including three from an agent representing residents.

The objectors raise the following issues.

- The stable block and container have never had permission, they should be removed from the application and an enforcement notice served to secure their removal.
- The applicant has had sufficient time to obtain permission for a permanent dwellinghouse. The application should be treated as an application for permanent occupation.
- An additional three year extension is excessive if approved 18 months would be more suitable. (A later letter suggest only 12 months).
- The council should take enforcement action if the application is refused.
- The accommodation was granted as a temporary measure for a temporary period, the applicant has not subsequently obtained permission for a permanent dwellinghouse, therefore there is no need for a temporary or permanent dwellinghouse.
- The original temporary permission has expired. Successive temporary approvals would be contrary to policy (PPS7).
- There is no justification or requirement for 24 hour accommodation.
- Questions the labour requirements of the unit.
- The applicant is supported by an Agricultural Contractor. The objector suggests that he is used more than has been indicated. He lives off site suggesting that the farm could be managed from off site accommodation.
- There are houses available close to the temporary accommodation, and in the area that could meet the farms needs.
- Asks for additional information to demonstrate the economic stability of the holding.
- A previous application was refused.
- In light of the applicant's previous interest in Amerston Hall the Local Planning Authority should investigate the history of the holding to establish the recent pattern of use of land and buildings to ensure there has been no abuse of the system.
- The development is in a prominent location and has a detrimental impact on the visual amenity of the area. If permission is granted the units should be re-sited.

- If permission is granted a section 106 agreement should be completed securing the removal of the temporary units within 12 months of the commencement of works on the permanent dwellinghouse and to secure a contribution towards the upkeep of the access.
- The original permission was granted before the farm buildings were erected the temporary buildings should be relocated close to them to allow for stock care.
- The financial accounts require clarification. The proposed development is not financially sound as there are discrepancies within the accounts. It is questionable whether the agricultural activity is profit making as the business has required large amounts of capital to be introduced and relies on subsidies. The applicant has therefore failed to satisfy the requirements of PPS7 and the application should be refused.

Copy Letters **B**

Consultations

2.11 The following consultation replies have been received:

Public Protection : No objection

The Ramblers Association : No comments

Ecologist : No objection

Parks & Countryside : No objection

Tees Archaeology : The proposal will not effect archaeological deposits. I therefore have no objections and have no further comments to make.

Elwick Parish Council : Elwick Parish Council Planning Group are aware that there were issues around the original planning permission, which it is believed was given as a temporary measure only. Members are aware that many local people are concerned about the extension. Cllr. Hutchinson declared an interest and was not therefore party to the following response:

'We have no objection to the extension, but believe that it should be time limited to when the permanent planning permission issues are resolved.'

Northumbrian Water : No objections

Traffic & Transportation : No objections

Environment Agency : No objections.

Planning Policy

2.12 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

Rur1: States that the spread of the urban area into the surrounding countryside beyond the urban fence will be strictly controlled. Proposals for development in the countryside will only be permitted where they meet the criteria set out in policies Rur7, Rur11, Rur12, Rur13 or where they are required in conjunction with the development of natural resources or transport links.

Rur12: States that isolated new dwellings in the countryside will not be permitted unless essential for the efficient functioning of viable agricultural, forestry, or other approved or established uses in the countryside and subject to appropriate siting, design, scale and materials in relation to the functional requirement and the rural environment. Replacement dwellings will only be permitted where existing accommodation no longer meets modern standards and the scale of the development is similar to the original. Infrastructure including sewage disposal must be adequate.

Rur20: States that development in this special landscape area will not be permitted unless it is sympathetic to the local rural character in terms of design, size and siting and building materials and it incorporates appropriate planting schemes.

Rur7: Sets out the criteria for the approval of planning permissions in the open countryside including the development's relationship to other buildings, its visual impact, its design and use of traditional or sympathetic materials, the operational requirements of agriculture and forestry and viability of a farm enterprise, proximity of intensive livestock units, and the adequacy of the road network and of sewage disposal. Within the Tees Forest area, planning conditions and obligations may be used to ensure planting of trees and hedgerows where appropriate.

Planning Considerations

2.13 The main planning considerations are policy, impact on the visual amenity of the area and impact on the amenity of neighbours.

Policy

The site lies within open countryside where policies in relation to the provision of new dwellings are restrictive. One exception is to provide accommodation which is essential to the efficient functioning of economically viable agricultural uses.

The mobile home was originally approved in 2005 to serve the agricultural holding. The relevant national and local policy is set out in the related report also on this agenda (H/2010/0679) which deals with a proposal for a permanent dwellinghouse which will replace the mobile home though not on the current site.

The report concludes that there is a justified need for a dwelling house to serve the business and that it appears economically viable.

Impact on the visual amenity of the area

The site is prominently located and it remains the Officer view that it is not a suitable location for a dwellinghouse to serve the holding. However the mobile home, stable block and container are present on site and a further 18 month temporary permission only is sought.

Impact on the amenity of neighbours

The residential accommodation is sited well away from the closest neighbours located to the west and it is not considered that it has any significant impact on the neighbours in terms of loss of light, privacy, outlook or in terms of any issues relating to dominance.

The stable block and container are closer to the neighbouring properties however they are still separated by the access track and are single storey structures. Again it is not considered that they have any significant impact on the neighbours in terms of loss of light, privacy, outlook or in terms of any issues relating to dominance. The stable structure is used to house a small number of animals however it is not considered its use would adversely affect the amenity of the neighbours and no objections have been received from the Head of Public Protection in this respect.

Other matters

It is acknowledged that the original permission for the temporary accommodation expired some time ago and this has been a cause of considerable concern for objectors. The applicant was originally reminded of this in a letter of October 2008 and repeatedly in subsequent correspondence. Unfortunately an application to renew the temporary permission was not received until the middle of 2011.

It is evident that the situation has been complicated by the fact that negotiations in relation to the provision of a permanent dwellinghouse, to replace the temporary accommodation, have been extremely protracted and have been ongoing for much of this period. (An application was submitted in 2009 for a large house on the site of the mobile home, but was withdrawn when concerns were expressed particularly in relation to the siting and design of the house). Whilst negotiations have been difficult

and protracted ultimately they have resulted in the applicant bringing forward a proposal for a dwellinghouse of an appropriate design in an appropriate location which officer's have been able to support. The need to seek specialist advice given the detailed concerns raised by the objectors, and the various threats of legal challenge, have also not assisted matters in terms of expediency.

In practice whilst objectors have pressed for enforcement action to secure the removal of the temporary accommodation, stable block and container it is considered such an approach would have been difficult to sustain in light of the previous approval, the ongoing negotiations in relation to the provision of a permanent dwellinghouse, in light of the fact that their appeared to be a prima facie case supporting the need for a dwellinghouse on the holding and the applicant's obvious investment in the unit, and the potential impact such a course of action would have had on the business and animal welfare.

Conclusion

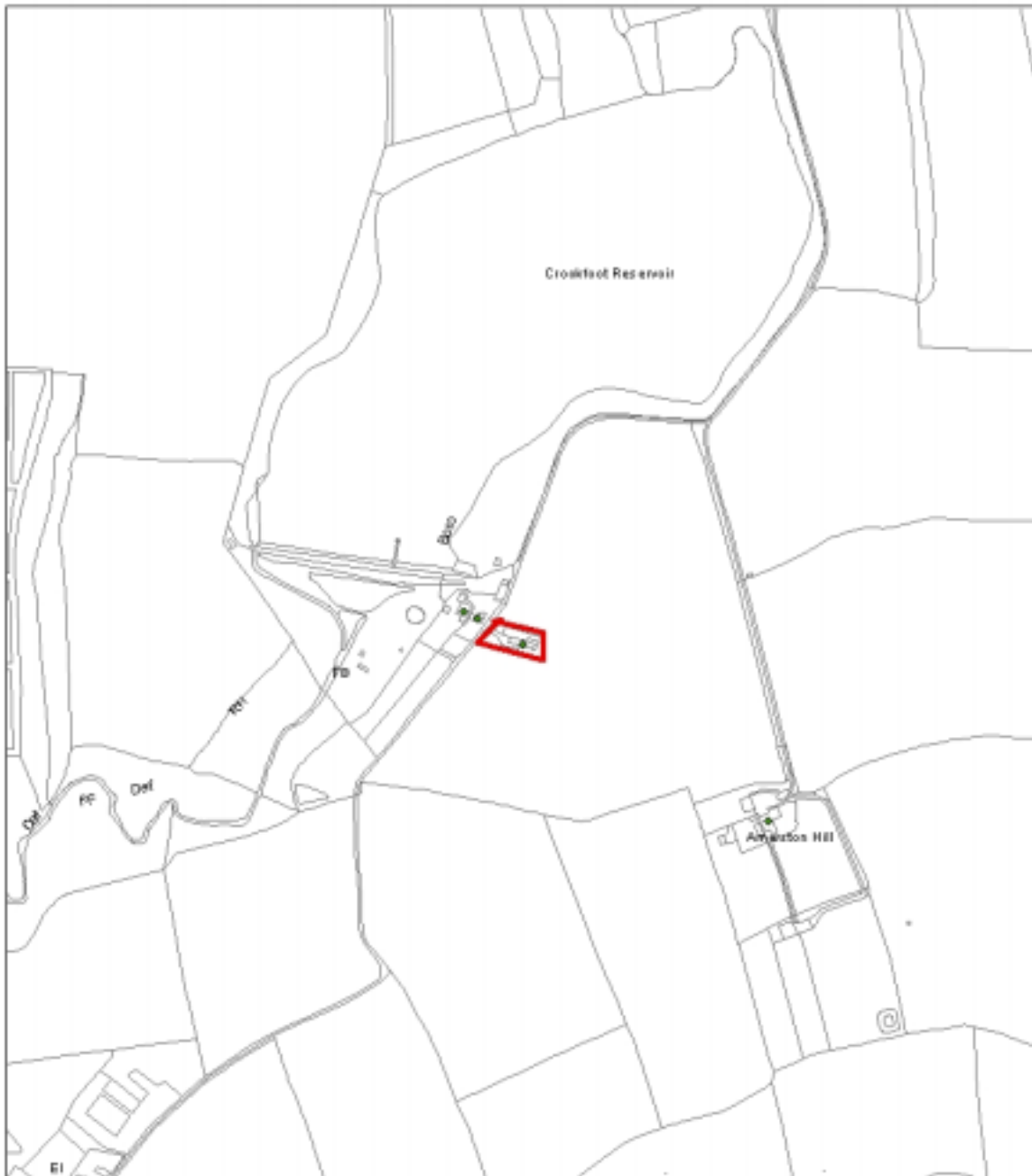
2.14 The mobile home in its current location was originally approved by Committee in 2005 against Officer recommendation. It remains the Officer view that the mobile home is in an inappropriate location both in terms of its ability to support the functional needs of the farm and in terms of its impact on the visual amenity of the area. It is some 570m away from the buildings which serve the holding, where one would expect livestock requiring attention to be kept, and it is prominent in the landscape. However, notwithstanding these concerns the mobile home is on site and the applicant is seeking a further temporary permission of eighteen months to allow for the building of the permanent dwellinghouse should the related application also be approved by members. The permanent dwellinghouse will be located in a much less prominent location close to the holding's agricultural buildings where it will more conveniently meet the functional needs of the unit particularly the need to be on hand when animals are in need of care. The concerns of the objectors are acknowledged however in the circumstances, it is considered that a further temporary permission of 18 months only, to allow the applicant to complete the permanent dwellinghouse on the other site would be acceptable. A similar view is taken in relation to the retention of the small stable block and container.

RECOMMENDATION – APPROVE subject to the following condition

1. The mobile home, stable block, and container, including any ancillary structures (including sewage/sewage treatment plant) and hardstandings, shall be removed from the site and the land restored to agricultural use in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority within 18 months of the date of this decision notice.
The buildings/structures are not considered suitable for permanent retention on the site and to ensure the site is restored in an appropriate manner and returned to an appropriate use.



CROOKFOOT FARM



THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

COPYRIGHT RESERVED LICENCE 1000233902011

HARTLEPOOL BOROUGH COUNCIL

Department of Regeneration and planning
Bryan Hanson House, Hanson Square, Hartlepool, TS24 7BT

Scale: 1:5000
Date : 16/4/12
Drg No: H/2011/0196
Drawn: GS

| | |
|---------------------|---|
| No: | 3 |
| Number: | H/2011/0350 |
| Applicant: | Mr M Ford c/o Agent |
| Agent: | WYG Planning & Design Miss Liz Wells Arndale Court Otley Road Headingley LEEDS LS6 2UJ |
| Date valid: | 19/09/2011 |
| Development: | Erection of dwellinghouse (retrospective application) |
| Location: | Nelson Farm Nelson Farm Lane HARTLEPOOL |

The Application and Site

3.1 The application site forms part of an existing agricultural holding located to the north-west of Hartlepool accessed from the A179 close to the northern boundary of the Borough. The land is currently in agricultural use. The dwelling is located east of the main farm house and associated agricultural buildings and storage.

3.2 To the north, south and west of the site are fields. To the east is Ash Vale Caravan Park. The access runs from the A179, adjacent to the rear gardens of Redwood Close. The site is located 400m north-west of the properties of Applewood Close.

3.3 Planning permission is sought on a retrospective basis for the retention of a single storey dwellinghouse to serve the agricultural holding. The house is fully complete and occupied. It is indicated that it is used in conjunction with the main dwelling on Nelson Farm to provide accommodation on-site for an agricultural worker. The house is located to the east of the main farm house, sited on the former location of a cattle shed and close to the main agricultural buildings of the holding. The property is surrounded on three sides by mature planting and is screened from the access to the holding.

3.4 The dwellinghouse is single storey and comprises lounge, kitchen/diner, bathroom and three bedrooms. The house is constructed of red brick with slate tiled roof. The original farm house on Nelson Farm is a substantial, two-storey detached property.

3.5 The applicant has provided an Agricultural Assessment in support of the application. The holding comprises the following:

- The holding extends to 263 hectares (650 acres) and is owned entirely by the applicant;
- Nelson Farm forms the main nucleus of the holding, however, it is also comprises land in Brierton, Thornley, Seaham and Washington;
- The holding comprises 242 hectares (598 acres) of arable land, 9.7 hectares (24 acres) of woodland and 11.3 hectares (28 acres) of grass for suckler cows;
- The labour at the farm is provided by the applicant and his two sons;
- The enterprise comprises 20 suckler cows, that calve all year round;

- There are around 30 of the suckler cows progeny on the farm at any one time;
- The is accommodation for 140 Friesian bulls, bought in at two-three weeks old and took to finishing at 14-16 months;
- Three-four batches of Friesian bull calves are bought in per year, with around 30 calves per batch;
- It is essential that two workers are on site day and night in case animals require care at short notice;
- The business has a labour requirement for two full time workers;
- The applicant has been farming at Nelson Farm for 41 years and the business has been profitable for the last 3 years;
- There is no other accommodation that meets the requirements of the holding.

Planning History

3.6 An application was submitted in 2007 (H/2007/0499) for the erection of a temporary mobile home on land to the east of the application site. However, the application was not made valid and closed on 29 January 2008

Publicity

3.7 The application has been advertised by way of neighbour letters (2) and site notice. To date, there have been no objections and one letter of support.

The period for publicity has expired.

Consultations

3.8 The following consultation replies have been received:

HBC Engineering Consultancy – No objections in respect of contamination. Comments in respect of drainage awaited.

HBC Traffic and Transportation – No highway or traffic concerns.

HBC Group Accountant – As the loans described in the accounts as short term are actually long term mortgages, then the applicant is in a stable financial position and there does not appear to be any financial issues with the business.

Cleveland Police – No objections received.

Environment Agency – Comments awaited.

Hart Parish Council – Hart Parish Council is opposed in principle to retrospective planning applications. Application indicates that Nelson Farm extends to 650 acres but it is run over split and divorced sites. This would then raise the question of the number of beasts held at Nelson Farm and the staffing level required to support the activity. The stocking levels are disputed and do not have a bearing on the need for 24 hour cover. What standing orders are in place to ensure that such a

(retrospective build) situation meets fully with the requirements of a new build? Is it a requirement that the existing building is examined to confirm that it meets the same standards such as would apply during a new build?

Northumbrian Water – No objections.

Ramblers – Extra traffic along Nelson Lane will result from the development. If the Council are minded to grant permission, precautions to prevent harm to users of the bridleway should be specified as a condition in the grant.

Planning Policy

3.9 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP2: States that provision will be required to enable access for all (in particular for people with disabilities, the elderly and people with children) in new developments where there is public access, places of employment, public transport and car parking schemes and where practical in alterations to existing developments.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

Hsg5: A Plan, Monitor and Manage approach will be used to monitor housing supply. Planning permission will not be granted for proposals that would lead to the strategic housing requirement being significantly exceeded or the recycling targets not being met. The policy sets out the criteria that will be taken into account in considering applications for housing developments including regeneration benefits, accessibility, range and choice of housing provided and the balance of housing supply and demand. Developer contributions towards demolitions and improvements may be sought.

Hsg9: Sets out the considerations for assessing residential development including design and effect on new and existing development, the provision of private amenity space, casual and formal play and safe and accessible open space, the retention of trees and other features of interest, provision of pedestrian and cycle routes and accessibility to public transport. The policy also provides general guidelines on densities.

Rur12: States that isolated new dwellings in the countryside will not be permitted unless essential for the efficient functioning of viable agricultural, forestry, or other approved or established uses in the countryside and subject to appropriate siting, design, scale and materials in relation to the functional requirement and the rural environment. Replacement dwellings will only be permitted where existing accommodation no longer meets modern standards and the scale of the development is similar to the original. Infrastructure including sewage disposal must be adequate.

Rur20: States that development in this special landscape area will not be permitted unless it is sympathetic to the local rural character in terms of design, size and siting and building materials and it incorporates appropriate planting schemes.

Rur7: Sets out the criteria for the approval of planning permissions in the open countryside including the development's relationship to other buildings, its visual impact, its design and use of traditional or sympathetic materials, the operational requirements of agriculture and forestry and viability of a farm enterprise, proximity of intensive livestock units, and the adequacy of the road network and of sewage disposal. Within the Tees Forest area, planning conditions and obligations may be used to ensure planting of trees and hedgerows where appropriate.

Planning Considerations

3.10 The main planning consideration in this instance are the appropriateness of the proposals in relation to the relevant Hartlepool Local Plan (2006) policies and the guidance set out in national planning policy, design and impact on the visual amenity of the area, impact on residential amenity, drainage and highway safety.

Policy

3.11 The application site is in open countryside, outside the limits to development. Policies in relation to new dwellings beyond the development limits are particularly restrictive. This is designed to ensure urban sprawl is adequately controlled in the interests of protecting the intrinsic value of the open countryside. One exception, however, is to provide accommodation which is essential to the efficient functioning of economically viable agricultural uses to support the rural economy.

3.12 The National Planning Policy Framework (2012) advises that policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

3.13 It goes on to state that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as: *“the essential need for a rural worker to live permanently at or near their place of work in the countryside.”*

3.14 No additional guidance has been provided to determine how “essential need” should be assessed. Previously, guidance for assessing need was set out within Annex A of PPS7- Sustainable Development in Rural Areas which is now defunct.

This guidance is also reflected in the relevant policy of the Hartlepool Local Plan (2006). Policy Rur7 states that that isolated new dwellings will not be permitted in the open countryside unless it can be demonstrated that:

- They are essential for the efficient functioning of agricultural, forestry or other approved or established uses in the countryside;
- The enterprise for which they are required is economically viable;
- They are of a size commensurate with the established functional requirement;
- The siting, design, scale and materials will not be significantly detrimental to the rural environment.

3.15 Whilst the guidance in Annex A is superseded, it provides the most up-to-date basis for determining “essential need” in respect of agricultural workers dwellings. Through its absence of guidance, the NPPF essentially allows LPA's to individually assess proposals and determined how need is demonstrated. The guidance set out in Annex A PPS7 is in line with policy Rur7 and the NPPF and offers best practice in determining applications.

Functional Need

3.16 The holding extends to some 263 hectares. Grass for the suckler cows comprises 11.3ha (4.3% of the total holding), woodland comprises 9.7ha (3.7% of the holding) and there is 242ha of arable land for wheat, oilseed, rape and barley (92% of the total holding). It is indicated that the applicant and his two sons work full-time on the holding and the accommodation is required on site accordingly.

3.17 In terms of livestock, at present the holding has 20 suckler cows. Up until 2005 the holding also reared cattle. The applicant proposed to re-introduce cattle fattening into the business in 2012. This will comprise batches of approximately 30 beasts to fatten to around 18 months of age. At any one time it is estimated that there will be an average of three groups of 45 cattle of even ages between 0 and 18 months on the holding. Members will wish to note that the cattle fattening enterprise has yet to commence.

3.18 The functional need has been assessed by an independent surveyor on behalf of Hartlepool Borough Council. The assessment has concluded that the unit has a labour requirement of 2 standard labour units, potentially increasing to 3 units on the premise that the beef fattening is established.

3.19 The applicant indicates that the proposed dwellinghouse is essential to the efficient functioning of the holding and is sited to meet its functional needs particularly with regards to the need for a worker to be on hand day and night to care for animals. The house will be located close to the existing farm buildings allowing any occupier to be within sight and sound of any animals requiring care held within the buildings. The applicant references DEFRA guidance on the care of ill or injured animals to be immediate and HSE guidance that a lone person should never handle bull beef animals.

3.20 Currently on site there is the original farm house which is occupied by the applicant and will also provide accommodation for one full time worker on the farm.

There are no other properties located on Nelson Farm. The applicant recently disposed of a property on the holding in Seaham. However, it is not considered that this would not be suitable to fulfil any agricultural need generated by the livestock at Nelson Farm. Whilst, the application site is located less than 0.5km from a residential estate, it is not considered that those properties would be suitable in terms of providing an agricultural need for a worker to be on site full time to administer care to animals. The independent surveyor concludes that there are no other dwellings in the vicinity that are capable of fulfilling the agricultural need generated at Nelson Farm.

3.21 The report ultimately concludes that based on the current arable practices, the holding does not currently have an established functional need for a second dwelling. However, it is considered that once the proposed beef fattening enterprise is established, on the basis of the information provided in support of the application, there will be a functional need for a second dwelling on site.

3.22 Under normal circumstances, Members would be minded to grant a temporary permission over a three year period for the siting of a mobile home. This would allow the applicant to live on site and demonstrate a functional need and financial stability as a pre-cursor to the provision of a dwelling. In this instance such a course of action would have allowed the applicant the opportunity to begin the cattle fattening enterprise and work to establish the enterprise over a three year period, which in turn would justify the second dwelling. This application is on a retrospective basis and circumstances are such that the dwelling is built and occupied and therefore the option for a temporary mobile home is not considered viable.

3.23 Notwithstanding that, it is considered that it would be difficult to sustain a refusal on that basis given that the cattle fattening enterprise is proposed to be started this calendar year and the level of activity associated with the cattle fattening would be sufficient to justify the need for a second dwelling.

3.24 As such the following approach is recommended. In the first instance, in order to justify the dwelling, it is necessary for the cattle fattening enterprise to actually begin. On that basis the applicant has agreed to enter a legal agreement to begin the cattle fattening enterprise no later than 31 December 2012. This will offer the LPA control over ensuring the justifying enterprise commences.

3.25 Secondly, it is thereafter necessary to ensure that once the cattle fattening has started, it is established for three years, is profitable for one of those years, is financially sound and has a clear prospect of remaining so. It is considered appropriate therefore to grant a temporary permission, restricting the period for the permission of the dwelling to three years. Thereafter the dwelling will need to be removed unless a further permission is granted for its permanent retention, having regard to the outcomes of the business practices over the proposed three year period.

3.26 It is considered that above approach would be acceptable in accordance with the National Planning Policy Framework and Policy Rur7 of the Hartlepool Local Plan (2006). Following the guidance set out in Annex A of the now defunct PPS7 in order to ascertain whether there is a functional requirement in accordance with the

NPPF and Rur7, it is considered that, providing the cattle fattening enterprise is established in accordance with the details provided and subject to the safeguards set out above, there will be a functional need for a second dwelling on the site.

Financial Test

3.27 Policy Rur7 states that in order to justify a dwelling, the business must be “*economically viable*”. Best practice set out in Annex A of the defunct PPS7 stated that the business should be “*established for three years, been profitable for at least one of them and currently financially sound and have a clear prospect of remaining so.*”

3.28 The applicant has provided verified accounts for the last three years in support of the application. The accounts show that the business has made returns over those three years as follows:

- 2007-2008: Net profit - £17785
- 2008-2009: Net profit - £29258
- 2009-2010: Net profit - £33900

3.29 The Council's Group Accountant has assessed the accounts. Following confirmation that the loans shown on the balance sheet are long term mortgages rather than short term loans, the Group Accountant has concluded that the accounts show the business is in a stable financial position and there does not appear to be any financial issues with the business. As such it is considered that the three years profits show that the business is economically viable. However, it is noted that the applicant will be required to demonstrate that the business is economically viable once the cattle fattening is introduced into the enterprise following the three year temporary period as discussed above.

3.30 It is considered that the proposal meets the requirements of policy Rur7 in terms of there being a functional need for the dwelling and the business is financially viable, subject to the caveats set out above. A condition is proposed to ensure that the dwelling is occupied by a person solely or mainly working in the locality in agriculture.

Design/Visual Amenity

3.31 The dwelling is a modestly size, three bedroom single storey property. It provides lounge, kitchen/diner, bathroom and three bedrooms totalling a floor space of 116m². It has an eaves height of 2.3m and an overall height of 4.3m. When viewed within the context of the much larger, two storey farm house the property appears subservient to the main property. The design is relatively straightforward, and does not appear unduly incongruous or out of keeping within the setting of Nelson Farm. Importantly, it is considered that the size of the dwelling is commensurate with the needs of the holding.

3.32 The property is relatively well screened on three sides by mature planting. As such it is not widely visible from the access to the site, Nelson Lane or the wider

vicinity. The dwelling is located close to the main farm house and the main farm buildings.

3.33 It is considered that in terms of its design and impact on the visual amenity of the area the proposed dwellinghouse is considered acceptable.

Residential Amenity

3.34 The application is sited considerable distance from the closest residential property, Nelson Lodge, and therefore is unlikely to have a significant impact on residential amenity by way of overlooking, overshadowing, dominance or outlook.

Highway Safety

3.35 The site is accessed by an existing road (Nelson Lane) which already serves the holding and the nearby property of Nelson Lodge. The Council's Traffic & Transportation section have raised no objections to the proposal and in highway terms it is considered acceptable.

3.36 The Ramblers have raised concerns regarding extra traffic on Nelson Lane and has requested that precautions to prevent harm to users of the bridleway be specified as a condition of the grant.

3.37 It is considered that the property is unlikely to give rise to levels of additional traffic which would be considered significant. The farm currently has three full time workers with additional seasonal part time support. It is not considered that a significant increase in the levels of traffic along Nelson Lane could be attributed to the provision of the dwelling house. As such it is considered that the provision of a condition for precautions to users of the bridleway would not meet the tests of Circular 11/95 "The Use of Conditions in Planning Permissions".

Drainage

3.38 The site does not benefit from mains drainage. Foul sewage and surface water are proposed to be disposed of to soakaway via package treatment plant. The comments of the Council's Engineering Consultancy and Environment Agency are awaited.

Contamination

3.39 The applicant has provided a Phase 1 Desk Study Report in respect of contamination. The Council's Engineering Consultancy have indicated that the site has a low contamination and have therefore raised no objection and have not requested the standard contamination condition.

Other Issues

3.40 Hart Parish Council indicates in its response that it is opposed to retrospective applications. Members will note that the retrospective nature of applications is immaterial and would not justify a reason for refusal. It is acknowledged that the

holding is split across various sites. However, the independent surveyor concludes that there is sufficient activity at Nelson Farm to support the dwelling. The matter of the number of beasts at Nelson Farm is dealt with previously in the report. Matters in respect of build requirements are a matter for the building regulations and are not material in the determination of this application.

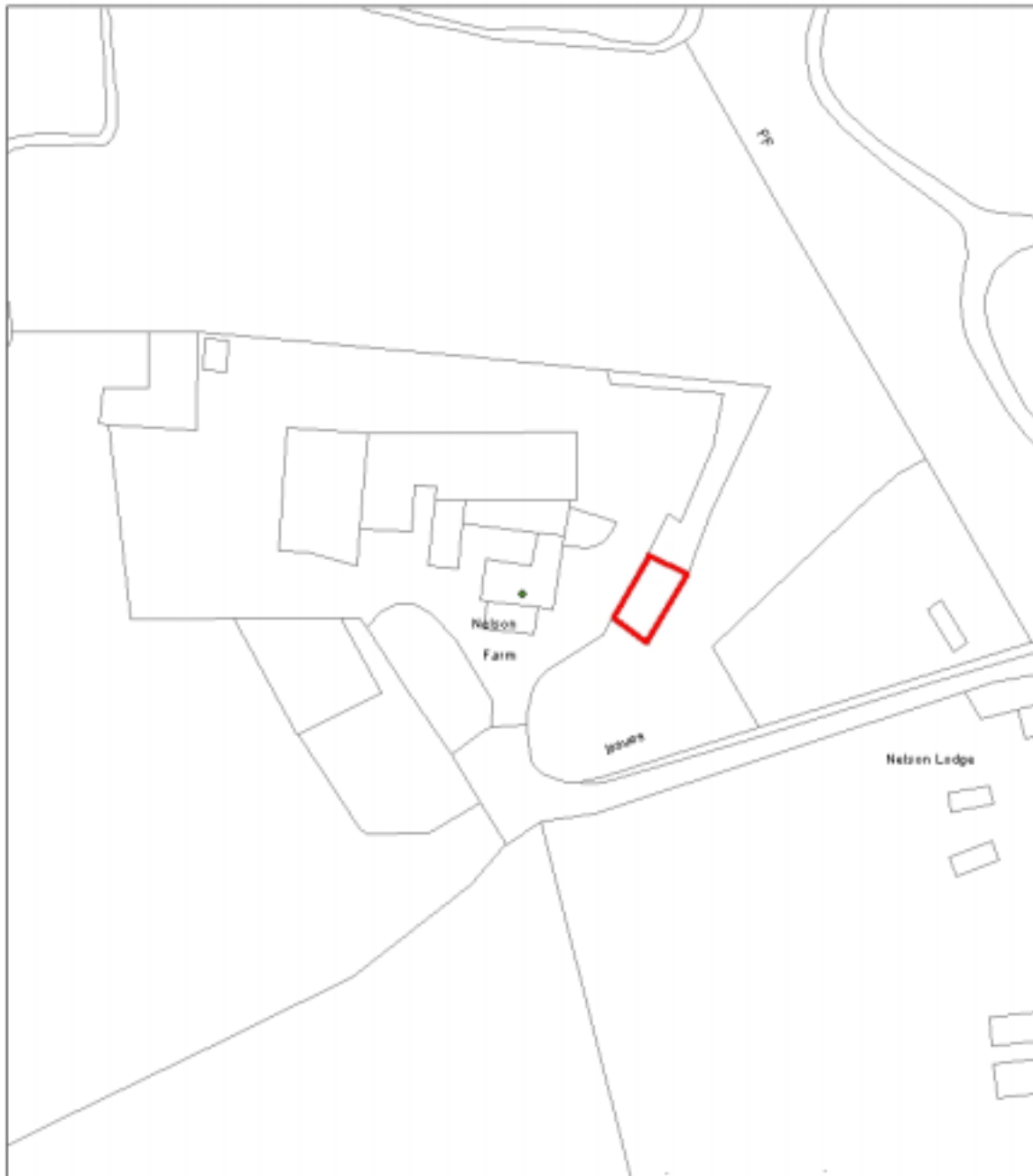
Conclusions

3.41 It is considered that in policy terms, the application is considered acceptable subject to the provision of a Section 106 agreement and a condition restricting the permission to a three year period. The comments of the Environment Agency are awaited in respect of drainage and therefore a recommendation will be provided to Members in an update report to follow.

RECOMMENDATION – UPDATE TO FOLLOW



NELSON FARM



THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

COPYRIGHT RESERVED LICENCE 1000233902011

HARTLEPOOL BOROUGH COUNCIL

Department of Regeneration and planning

Bryan Hanson House, Hanson Square, Hartlepool, TS24 7BT

Scale: 1:1000

Date: 1/5/12

Drg No: H/2011/0350

Drawn: GS

No: 3
Number: H/2011/0350
Applicant: Mr M Ford c/o Agent
Agent: WYG Planning & Design Miss Liz Wells Arndale Court
Otley Road Headingley LEEDS LS6 2UJ
Date valid: 19/09/2011
Development: Erection of dwellinghouse (retrospective application)
Location: Nelson Farm Nelson Farm Lane HARTLEPOOL

Update

3.1 This application appears as item 3 on the main agenda. The recommendation was left open as the comments of the Environment Agency and the Council's Engineering Consultancy were awaited in respect of drainage.

3.2 The Environment Agency have raised no objections to the proposals. The Council's Engineering Consultancy have also raised no objections in respect of drainage. As such it is considered the drainage system serving the dwelling is acceptable.

Conclusions

3.3 With regard to the relevant Hartlepool Local Plan (2006) policies, the National Planning Policy Framework and the material planning considerations discussed in above and in the main report, the proposal is considered acceptable subject to the conditions below and subject to a legal agreement for the commencement of cattle fattening enterprise.

RECOMMENDATION – MINDED TO APPROVE subject to completion of a legal agreement to ensure commencement of the proposed cattle fattening enterprise no later than 31 December 2012.

1. The dwelling and its curtilage (as agreed by condition 6) hereby approved shall be removed from the site in its entirety and the land restored to its former condition on or before 31 December 2015 in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority unless prior consent has been obtained to an extension of this period.
To assess the functional need and viability of the enterprise in accordance with Policy Rur7 of the adopted Hartlepool Local Plan.
2. The development hereby permitted shall be carried out in accordance with the plans 'A069734' and 'Agricultural Appraisal' received by the Local Planning Authority on 11 07 11, the Phase 1 Desk Study received by the Local Planning Authority on 11 08 11, 'Location Plan' received by the Local Planning Authority on 26 08 11, and the drainage details received by the Local Planning Authority on 21 09 11.
For the avoidance of doubt.

UPDATE

3. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any resident dependants.
The site of the proposed dwelling(s) is in an area where the Local Planning Authority considers that new housing should only be allowed in exceptional circumstances where it is essential in the interests of agriculture or forestry.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), the dwelling(s) hereby approved shall not be extended in any way without the prior written consent of the Local Planning Authority.
To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other revoking or re-enacting that Order with or without modification), no garage(s) or outbuildings shall be erected without the prior written consent of the Local Planning Authority.
To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
6. Notwithstanding the approved details the final extent of the curtilage associated with the hereby approved dwelling shall be submitted to and agreed in writing by the Local Planning Authority.
For the avoidance of doubt.

PLANNING COMMITTEE

18 May 2012



Report of: Assistant Director (Regeneration and Planning)

Subject: UPDATE ON CURRENT COMPLAINTS

1. PURPOSE OF REPORT

1.1 Your attention is drawn to the following current ongoing issues, which are being investigated. Developments will be reported to a future meeting if necessary:

- 1 A Councillor complaint regarding advertisements posted on BT Boxes located at Cairnston Road & Dunston Road.
- 2 An anonymous complaint regarding the erection of a porch to the front of a property on Hillcrest Grove.
- 3 A neighbour complaint regarding the erection of a detached garage to the side of a property on Voltigeur Drive has been investigated. The works in question benefit from formal planning approval.
- 4 Officer monitoring recorded the display of an illuminated sign on a commercial unit on West View Road.
- 5 Officer monitoring recorded the display of an illuminated sign on a commercial unit on Whitby Street South.
- 6 A neighbour complaint regarding the erection of an outbuilding in the rear garden of a property on Reedston Road has been investigated. The works in question are 'permitted development' not requiring planning permission.
- 7 A neighbour complaint regarding car repairs at a residential property on Kinterbury Close.
- 8 Officer monitoring recorded the display of an advertisement sign on the façade of a takeaway establishment on Andrew Street.
- 9 A neighbour complaint regarding the demolition of an outbuilding and cutting down trees in the garden of the former vicarage on Westbourne Road has been investigated. The demolition works in question did not require planning permission. No trees covered on a Tree Preservation Order had been affected

and all the work was limited to removing unprotected trees and tidying up the garden as the vicarage has been unoccupied for a considerable time.

- 10 A neighbour complaint regarding a commercial use and related issues of a garage in a block of garages on Bright Street.

2. RECOMMENDATION

- 2.1 Members note this report.