

Appendix 1

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Mr Colin Sharpe
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Your ref 3/09/364, 352, 351, 350
Our ref PG/LA/DE/3/5/7725, 7728, 7747/LK
Date: 29 June 2009

Dear Mr Sharpe

APPLICATION NUMBERS 03/2009/0350/351/352and 364
LOWER MONUBENT FARM, HELLIFIELD ROAD,
BOLTON-BY-BOWLAND, LANCASHIRE
GRID REFERENCE 794 516

I refer to your consultation letter concerning the above applications and have the following comments to make.

Introduction

A series of planning applications as listed below has been submitted by Alan Kinder Associates on behalf of the applicant, Mr H Berry. A site inspection was made in respect of all the applications on 2 June 2009, when the applicant, his wife, his land agent, Mr G Hoerty and planning agent, Mr A Kinder were present. The information provided at that meeting together with written submissions, forms the basis of this report.

Background Information and Planning Application

I was informed by the applicant that he bought Lower Monubent Cottage and 33 acre (13.35 hectares) of land in 2005. This included a dwelling house and an agricultural building.

At that time the applicant managed the land himself and also operated a full time agricultural contracting business.

I was informed a supplier defaulted on owed funds in excess of £80,000 and as a result the applicant was forced to sell Lower Monubent Farm Cottage and two acres of land. This sale took place in 2007. With the proceeds, the applicant was able to pay off the debt and purchase approximately 100 acres (40.47 hectares) of land

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adjoining the retained 31 acres and has continued his agricultural contracting business but on a reduced scale.

He keeps approximately 50 sheep and his wife breeds from four thoroughbred brood mares and two brood ponies.

It is, I understand, the applicant's intention is to expand the sheep numbers, rear heifers brought in from his brother's farm and for Mrs Berry to extend the equestrian business, and to foal 10 brood mares in addition to the 4 that she owns.

The proposed farming enterprise gives rise to the planning applications as listed below:

Application 03/2009/0350

An application for the erection of a cubicle building and an extension to the north of equine building to form a calf and lambing shed.

Application 03/2009/0351

A retrospective application for the erection of equine building and range of commercial stables and construction of ménage.

Application 03/2009/0352

Retention of agricultural worker's dwelling and residential curtilage for a temporary period of three years.

Application 03/2009/0364

Erection of open fronted portal framed storage building.

The applicant considers these applications are necessary to enable the establishment of the proposed farming enterprise.

Agricultural Land

I am informed that the land owned by the applicant is split into two areas approximately 31 acres (12.5 hectares), which includes the buildings at Lower Monubent Farm and a further 100 acres of land (40.47 hectare) which is accessed from a farm track from Lower Monubent Farm which was informed was purchased in April 2009

In addition, the applicant occupies 70 acres (28 hectares) of land at Burn Ridge near Grunsagill on a five year Farm Business Tenancy granted in April 2009.

Approximately 30 acres (12.14 hectares) of the land can be mown and the rest is only suitable for grazing.

Existing Agricultural Enterprise

The applicant informs me that at present he keeps approximately 50 sheep. The sheep are a mixture of mules, Texel and Charolais crosses and the lambs are sold as fat lambs in the autumn.

The lambing period is from December through to April.

In addition, the applicant's wife breeds from four thoroughbred brood mares and two ponies and over summers thoroughbred horses.

Foaling generally takes place from February through to May.

Proposed Agricultural Enterprise

Sheep Enterprise

The applicant informs me that he proposes to increase the existing sheep numbers over the next three year period to a flock of 250 breeding ewes. I am informed that the breeds will continue to be mixed and lambing will take place, predominantly outside from December through to April. The lambs will be fattened and sold as fat lambs in the autumn.

Heifer Enterprise

The applicant informed me that he has an informal arrangement with his brother to contract rear dairy heifers. The brother's farm, which is run with his father, is at Horton-in-Craven and comprises of a dairy unit of 100 milking cows, which is expected to expand to 140 over a three year period.

At least 40 heifers would be kept at Lower Monubent Farm for approximately 12 months, returning to the main dairy herd after calving which will take place Lower Monubent Farm throughout the year.

Equestrian Enterprise

The applicant's wife, I was told is an experienced horse breeder.

It is the applicant's wife's intention to full livery 10 brood mares in addition to the 4 that she owns. The mares will foal between January and June after which the foals will be returned to their owners and the mares will stay at Lower Monubent Farm for another breeding season.

Agricultural Contracting Enterprise

It is the applicant's intention to continue with his agricultural contracting business, Berrys of Bolton-by-Bowland Limited, as a small scale activity.

Existing Farm Buildings

The existing farm buildings at Lower Monubent Farm comprise:

- Building No. 1 A steel portal frame building, measuring 13.5m x 8.5m (44ft 3ins x 28ft) having concrete block walls with corrugated cement fibre sheeting over, a roof clad in corrugated cement fibre sheeting and having a concrete floor. The building has a roller shutter door to the north gable. The building is used as a workshop, machinery and equipment store. The south end of this building provides residential accommodation for the applicant and his family. (See below).
- Building No. 2 This building adjoins building 1 on the west elevation, measures 11.9m x 6.4m (39ft 9ins x 21ft 0ins) and is of the same construction as building 1. This building, at the time of inspection was used for stabling and had three demountable steel framed stables erected within it.
- Building No. 3 This is a three bay open fronted steel framed building adjoining building 1 on the east elevation. Is clad in corrugated cement fibre sheeting to the end gables and the single pitched roof is clad in corrugated cement fibre sheets. The building has a concrete floor and is used for housing brood mares.
- Building No. 4 A three ring circular metal slurry store, having approximately capacity of 80,000 gallons (303,000 litres).
- Building No. 5 Seven timber built stables under an onduline roof and having a concrete floor. Two stables measures 4.8m x 3.6m (16ft x 12ft) and five stables measure 3.6m x 3.6m (12ft x 12ft). The larger stables are used as foaling stables. In addition to the stables there is a tack and rug stores.
- Building No. 6 An outdoor ménage measuring 40m x 20m (131ft x 65ft 6ins) constructed of timber post and rail fencing to the perimeter and having a sand and rubber granule surface. Access to the ménage is from the yard area behind building number 3. The ménage is used for the exercising of the owner's horses.

Existing Dwelling and Labour

The applicant, his wife and family live in the converted south end of building No: 1 in late 2007. All rooms are plastered internally, asphalt floors surfaces have been laid to the ground floor and a central heating system has been installed. The accommodation comprises:

Ground Floor

Tack room, bathroom with shower and w.c. office, living room and fully fitted kitchen combined.

First Floor

Two bedrooms and a store room.

The applicant and his wife work on the holding, although the applicant undertakes contracting work through this agricultural contracting business. I am informed as the farming enterprise grows the contracting business will reduce in size.

Proposed Development

Application 03/2009/0350 – Erection of cubicle building and extension to north of equine building to form calf and lambing shed.

Cubicle building

The proposal is to erect a cubicle building measuring 18.7m x 12.9m (61ft 4ins x 42ft 4ins).

I am informed that this building would be constructed with concrete panelled walls, with timber space boarding above and under a cement fibre corrugated double pitched roof. The building would provide 43 cubicles for dairy heifers on a part slatted floor having underground channels. There would be an open feed face along the south elevation of the building with a 1.5m (5ft) overhang. The building would be used to house the dairy heifers brought from the applicant's brother's farm.

Extension to Equine Building

It is proposed to extend the existing equine building (building number 3) with a building measuring 9.3m (30ft 6ins) x 7.8m (25ft 6ins). This building will be in two bays and would be of the same construction as building number 3. The building would house the increased sheep numbers and would also be used for housing calves.

Application 03/2009/0351 – Retrospective application for erection of equine building and range of commercial stables and construction of ménage.

These buildings have been erected and form buildings numbers 3, 5 and 6.

Application 03/2009/0352 – Retrospective application for the retention of agricultural worker's dwelling and residential curtilage for a temporary period of three years.

This accommodation is provided in the south gable of building number 1 as described above.

Application 03/2009/0364 – Open fronted portal frame storage building.

It is proposed this building would be erected to the east gable of the proposed cubicle building and would measure 18.6m x 12.9m (61ft x 42ft4ins). This building would be constructed of a steel frame and have concrete panel walls with timber space boarding above and corrugated cement fibre double pitch roof. This building would provide undercover storage for feed, hay, straw and the applicant's agricultural equipment.

A hardstanding to the rear of the cubicle building and of this building would be used for the storage of wrapped silage bales.

Assessment

Application 03/2009/0350

This application is to provide a modern purpose built cubicle building which will enable the applicant to provide accommodation for heifers brought onto the farm.

In addition, the application is for an extension to the north of the equine building to form a calf and lambing shed.

The proposed development is within an area shown on the Ribble Valley District Wide Local Plan as being an area of outstanding natural beauty. Policy ENV1 provides guidance for development within this area.

Policy G5 also provides guidance on developments outside the main settlement boundaries and village boundaries where planning consent will only be granted for small scale development which are' ii) needed for the purposes of agriculture or forestry

At the present time the holding does not have livestock accommodation for heifer rearing, or for the accommodation of calves or a lambing shed. The applicant has sufficient land to support proposed stock that would be accommodated in the buildings although please be aware that at the time of inspection only a limited number of animals were being kept on the holding.

On the assumption that stocking numbers are increased to the level proposed, I consider that the cubicle building and the calf and lambing building to be necessary for the purposes of agriculture on this unit.

The design of the buildings is in accordance with the intended agricultural use. The cubicle building would be open fronted with a feed fence to the south elevation allowing for easy feeding and providing good ventilation. Internally, this building would be divided into moveable cubicles to accommodate different ages of animals.

The extension to the north side of the equine building would be in two bays which would be fitted with calf and lambing pens.

Both buildings would be well related to the existing building number 1 and the proposed cubicle house, being on the north side of the existing building would form a partially enclosed yard area.

Application 03/2009/0351

This is a retrospective planning application for the erection of an equine building, a range of commercial stables and the construction of a ménage.

The applicant considers that these buildings are necessary for the continuance of the equestrian operations that are at present being undertaken on the holding, namely of the keeping of four thoroughbred brood mares and two pony brood mares.

The intention of the applicant is to increase the number of horses on the holding to 10 full livery breed mares, which would foal on the farm and which would require accommodation.

The proposed development is within an area shown on the Ribble Valley District Wide Local Plan as being in an area of outstanding natural beauty. Policy RT16 provides guidance for development involving the keeping or riding of horses. The Policy states 'planning permission will be granted for the development involving the keeping or riding of horses unless it would materially worsen the impact on nearby housing or landscape in terms of noise, smell or appearance, or traffic generation'.

The Policy acknowledges that the rearing of horses (i.e. a stud farm) is akin to agriculture and therefore I propose to consider this application on whether or not there is a justifiable need for the buildings for the purposes of breeding horses.

At the time of my inspection there had been constructed a stable block, comprising seven stables together with tack store and rug store.

In addition, a lean-to equine building had been constructed adjoining the east elevation of the main building number 1 on the holding, which was divided into three bays and used for housing brood mares.

At present the applicant had four brood mares and two pony brood mares on the holding which are owned by the applicant. In addition, 17 welsh Dutch thoroughbreds were being summered at the farm. Five of the thoroughbreds are to foal this year.

Given that it is necessary that brood mares are kept indoors before foaling, then I consider it is necessary that some equine accommodation is provided.

Whilst the accommodation at the present time is in excess of that which is needed, the proposal is to increase stock numbers and the existing accommodation will enable the increased numbers to be accommodated.

I also consider that whilst the horses have the facility to graze on the holding, a ménage is beneficial for the exercising and training of the horses.

The design of the stable building is traditional having timber clad elevations and a corrugated onduline roof. The lean-to equine building is steel framed, open fronted and of traditional construction, and the ménage is of traditional construction.

The buildings are well related to building number 1 with the stables forming an open fronted courtyard and having access from the existing yard area. The ménage area is conveniently located to the east of the existing building number 1.

Taking into consideration the existing use and the proposed use of these buildings I consider that they are reasonably necessary for the purposes of equine use on the unit.

Application 03/2009/0364

This is an application for an open fronted portal frame storage building to be constructed to the east side of the proposed cubicle house. The applicant informed me that the building is required for the storage of agricultural machinery, storage of straw, feed, hay and fertiliser.

The proposed development is within an area shown on the Ribble Valley District Wide Local Plan as being in an area of outstanding natural beauty. Policy ENV 1 provides guidance on development within the area of outstanding natural beauty and Policy G5 provides guidance on development outside the main settlement boundaries, which are ii) needed for the purposes of agriculture or forestry ...

The holding is in total approximately 201 acres (81.34 hectares) and will require machinery and implements to carry out the necessary husbandry work. In addition with the number of livestock proposed it will be necessary to store hay and straw. Therefore taking into consideration the size of the holding, the machinery that the applicant will use on the holding, and the livestock numbers envisaged there is in my view a need for undercover agricultural storage building.

The building would be a purpose built steel frame building of standard agricultural design and would be open fronted. The building would be constructed to the east side of the proposed cubicle building and would be well related to the existing building number 1 on the holding.

Application 03/2009/0252

This is a retrospective application for the retention of an agricultural worker's dwelling and residential curtilage for a temporary period of three years, to support the proposed farming activity on the holding.

Paragraph 12 of PPS 7 sets out the criteria by which an application for temporary agricultural dwellings is to be judged.

I therefore intend to consider this application against the criteria set out in Paragraph 12 of Annex A of PPS 7 which states:

'If a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation. It should satisfy the following criteria:

- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);**
 - (ii) functional need;**
 - (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;**
 - (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and**
 - (v) other normal planning requirements, e.g. on siting and access, are satisfied'.**
- i) Clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions).**

The existing horse enterprise and the proposed livestock enterprise indicate the applicant's intention to establish a mixed agricultural/equine business. At present, however, stock numbers are limited.

The applicant has already invested in a stable block, a ménage and an equine building and is proposing to erect a cubicle house for 40, an extension to the existing equine building and a general purpose building.

In addition, the applicant has converted the south end of the existing building number 1 into accommodation.

Further, I was informed by the applicant that he has bought 100 acres (40.47 hectares) of land adjoining this holding at a cost of £170,000.

Taking into account the cost of the buildings already erected and, on the assumption that the land purchase is completed and the proposed buildings are constructed, I am of the opinion that there is a firm intention to develop the enterprise, given the applicant's experience in farming activities, I consider he also has the ability to develop the enterprise.

ii) Functional Need

The functional test which is explained in Paragraph 4 of Annex A of PPS 7 is an assessment of 'whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:

- i) in case animals or agricultural processes require essential care at short notice;
- ii) to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example by frost damage or failure of automatic systems.'

Whenever breeding livestock are kept there will be times when greater supervision is required, e.g. at times of birth. When considering livestock operations in relation to the functional test, it is therefore necessary to consider the nature of the enterprise together with the scale of activity.

In this instance, the operations involve three livestock enterprises, i.e. the breeding and rearing of sheep, and horses and the rearing of cattle, all of which will require increased supervision at various times.

However, the present stock and equine numbers would not, in themselves, support the functional need test. It is proposed to increase the scale of activities over the next three years. Provided that number of animals increase to those proposed then, in year three, there will in my view be a need for a walker to be readily available.

On the basis that the proposed numbers of animals envisaged at the end of year three is achieved, then I consider on balance that a functional need exists.

iii) Clear evidence that the proposed enterprise has been planned on a sound financial basis.

The forecast budget submitted by the applicant defines the gross margin for each enterprise. I am concerned with regard to some of these figures, as they tend to be optimistic against present day gross margins.

The fixed costs of the enterprise, are in my view, understated when compared with the costs set out in the standard agricultural costing books or from the knowledge that Lancashire County Council, Property Group have accumulated from similar enterprises.

Furthermore, if the budget is tested against benchmarking techniques the gross margin as a percentage of gross output is high whereas the variable and fixed costs are low.

On an adjusted budget, to take account of the optimistic gross margins and the understatement of the fixed costs, the enterprise would show a small profit before rent and loan repayment. However, after rent and loan repayment had been financed the budget would show a loss.

From the information provided, therefore the budget for 2012 looks optimistic and on this basis I am of the view that there is no clear evidence that the proposed enterprise has been planned on a sound financial basis.

iv) The functional need could not be fulfilled by an existing dwelling.

Paragraph 5 of Annex A of PPS7 states:

'local planning authorities should investigate the history of the holding to establish the recent pattern of use of land and buildings, and whether, for example, any dwellings have recently been sold separately from the farmland concerned.....'

As you are aware, there has previously been a dwelling associated with the land at Lower Monubent called Lower Monubent Cottage. This property was owned by the applicant, but was sold by him in 2007. I was informed that the property was sold due to the fact that the applicant was facing financial difficulties.

I am aware that there is a property on the market close to the holding which is available at an asking price of £574,950. However I am of the opinion that this asking price is beyond the means of the enterprise proposed.

Conclusion

The Buildings

With regard to the proposals for the livestock and equine buildings I consider that, in order for the proposed farming system to become established, the proposals for the agricultural and equine buildings are reasonably necessary.

Temporary dwelling

Whilst the criteria set out in Paragraph 12 (i), (ii) and (iv) of Annex A of PPS 7, it does not, in my opinion, meet the criteria set out in Paragraph 12 (iii). Therefore, in these circumstances the proposal cannot be justified.

I would be obliged to receive a copy of the Decision Notices in respect of all the applications in due course.

Yours sincerely

David Ensor

Senior Assistant Land Agent

On behalf of the Director of Property

Appendix 2



Appeal Decisions

Hearing held and site visit made on
4 May 2010

by **David Pinner** BSc (Hons) DipTP MRTPI

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

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Decision date:
11 May 2010

Appeal Ref: APP/T2350/C/09/2115475

Lower Monubent Farm, Hellifield Road, Bolton-by-Bowland, Clitheroe, BB7 4LY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Howard John Berry against an enforcement notice issued by Ribbles Valley Borough Council.
- The notice was issued on 1 October 2009.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the agricultural building from agricultural use to a mixed use of agricultural and residential use as a permanent dwelling.
- The requirements of the notice are to cease using the building for residential purposes and remove all domestic furniture and fittings to allow for the whole building to be used for its authorised agricultural purposes.
- The period for compliance with the requirements is one year from the date when the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
- An application for planning permission is deemed to have been made under section 177(5) of the Act as amended.

Appeal Ref: APP/T2350/A/09/2115328

Lower Monubent Farm, Hellifield Road, Bolton-by-Bowland, Clitheroe, BB7 4LY

- 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 Howard John Berry against the decision of Ribbles Valley Borough Council.
- The application Ref: 3/2009/0352, dated 27 April 2009, was refused by notice dated 10 September 2009.
- The development proposed is retention of agricultural workers dwelling and residential curtilage for a temporary period of three years.

Summary of decisions

1. I allow the appeals, quash the enforcement notice (as varied) and grant planning permission subject to conditions as set out in the Formal Decision below.

Preliminary matters

2. It was agreed by the parties at the hearing that the enforcement notice and the planning application that led to the s78 appeal both relate to the same

development. The use of the word "permanent" in the enforcement notice was intended to refer to the fact that the dwelling is the appellant's only residence and should not be regarded as conflicting with the word "temporary" in the planning application. The reference to the retention of the development in the s78 appeal is incorrect, since "retention" is not an act of development as defined in s55 of the Act, hence s63 of the Act (which refers to retention of works etc and continuation of uses) was repealed and replaced with s73A. The proposal therefore needs to be expressed in terms that make it clear that permission is being sought for development that has already been carried out.

3. A further point of discussion was whether the use of the building was correctly described as a mixed agricultural and residential use given that an identifiable part of the building was in use for residential purposes as a separate planning unit. It was agreed that the enforcement notice should be varied to refer to the change of use of part of the agricultural building to a separate residential use, rather than the use of the building as a whole having been changed to a mixed use. I am satisfied that I can make the necessary corrections, variations and redescriptions without causing injustice to either party.

Background

4. The appellant and his wife are both from farming families although the appellant has been involved in agricultural contracting for the last 20 years. His wife has considerable experience in breeding and rearing horses.
5. In 2005, they purchased Lower Monubent Farm, which comprised a house subject to an agricultural workers' condition and a relatively small amount of land. They ran it as a hobby farm, with the agricultural contracting remaining the main source of income.
6. In 2007, because of a large debt owed to them that had been defaulted on, they had no option other than to sell Lower Monubent Farm Cottage to avoid bankruptcy. They first applied to have the agricultural occupancy condition lifted, but the application was unsuccessful because they had not marketed it as an agricultural dwelling for a sufficient period. They did not have time to market it any longer, so it was sold as an agricultural workers' dwelling.
7. Nevertheless, the funds raised were enough for them to clear their debts and also to invest further in the proposed agricultural/equestrian business by the purchase of additional land. After the sale of their house, they converted part of the portal frame agricultural building on the land to provide living accommodation. It is this living accommodation that is the subject of these appeals.

Reasons

8. The appellant and his wife wish to develop a mixed rural enterprise based on sheep rearing, contract rearing of cattle, horse keeping and breeding and agricultural contracting. It is intended that the agricultural contracting element would diminish as the other elements grow. The Council accepts that the appellants have the necessary experience and expertise to develop the business, that the proposed livestock elements of the business would require more than one full time agricultural worker, that there is a functional need for

someone to live on site and that there is no other suitable residential accommodation that would meet that need.

9. Relevant local policies reflect national policy regarding occupational dwellings in the countryside and in this respect, the Council has two areas of concern. First, the fact that the appellants previously sold a dwelling that would have met their needs and second, that the enterprise has not been planned on a sound financial footing.
10. The projected income and expenditure from the livestock based elements of the enterprise were discussed fully at the hearing and I was able to gauge the extent of disagreement between the parties. The Council's view is that the agricultural contracting element of the business should not be taken into account at all because it does not meet the definition of agriculture, does not necessarily require a rural location and does not contribute to any functional need for a dwelling. In his financial projections, the appellant had made no allowance for repairs and renewals of tractors and machinery because these would be freely available to him from the agricultural contracting arm of the business. Any notional costs of agricultural contracting services would be offset by the notional rent that would be charged to the agricultural contracting business for the use of the land and buildings for storage and as workshop space. The Council did not agree that such notional non-agricultural income should be factored into the agricultural aspects of the enterprise and that it could only be those agricultural aspects (including the horse related business) that would provide any justification for a dwelling. Thus, on the appellant's figures, the agricultural aspects of the business would provide an overall profit a little short of the average wage for a full time worker, whereas on the Council's figures, the profit would be only a little more than half of the average wage for a full time worker. The agricultural contracting side of the overall business would provide sufficient additional income for the appellant and his family to enjoy a reasonable standard of living.
11. The advice in Annex A of Planning Policy Statement 7 *Sustainable Development in Rural Areas* (PPS7) effectively provides the policy background for this proposal. However, it is not to be taken out of context with the thrust of the PPS as a whole. Amongst other things, this recognises that diversification into non-agricultural activities is vital to the continuing viability of many farm enterprises (paragraph 30) and that equine related activities can fit in well with farming activities and help to diversify rural economies (paragraph 32). Paragraph 2 of Annex A says that the aim of scrutinising applications for occupational dwellings in the countryside is to detect attempts to abuse the concession that the planning system makes for such dwellings. Paragraph 15 applies the same stringent levels of assessment that apply to agricultural workers' dwellings to other occupational dwellings in the countryside. Paragraph 5 advises that the recent sale of a dwelling could constitute evidence of lack of agricultural need.
12. Starting with the Council's concern about the relatively recent sale of the agricultural workers' dwelling, I am satisfied that this was brought about by force of circumstances and was undertaken as a last resort by the appellant. After the sale, the appellant was able to rent the dwelling back off the new purchaser for a while before he moved into the dwelling now enforced against. The proceeds from the sale were ploughed back into the enterprise through the

purchase of additional land. In these particular circumstances, there is nothing about the sale of the previous dwelling that suggests a lack of need for a dwelling to serve the enterprise, especially as the appellant has continued to live on the holding following the sale. The Council accepts that the sale of the former dwelling was not done in an attempt to abuse the concession made by the planning system for occupational dwellings. They also accept that there is a functional need for a dwelling that could not be met by any existing dwelling. I conclude that the sale of the dwelling does not suggest a lack of need for a dwelling and should therefore not be a factor that weighs against the granting of planning permission for a dwelling to serve the needs of this enterprise.

13. The second of the Council's concerns is that the enterprise has not been planned on a sound financial basis. In this regard, they are not prepared to accept that the appellant's agricultural contracting activities can contribute to the overall viability of the enterprise and that it is only the agricultural and equestrian activities that can justify a need for a dwelling. I would agree insofar as the functional test is concerned that agricultural contracting does not justify an occupational dwelling. However, in this case the agricultural contracting forms no part of the accepted functional need for a dwelling.
14. The financial test has to be met because otherwise the enterprise would be unsustainable. If a dwelling had been permitted under such circumstances, the likelihood is that the enterprise would fail and a dwelling in the open countryside would then exist with no enterprise to justify it. There would be pressure to lift any occupancy condition and the end result would be an unrestricted new dwelling in a location where none should have been permitted.
15. Whilst the tests set out in Annex A of PPS7 are specifically aimed at agricultural enterprises, paragraph 15 applies similar considerations to other occupational dwellings. It seems to me that a mixed enterprise based on agriculture, equestrian activities and agricultural contracting as we have in this case, can be regarded as an appropriate rural enterprise and still falls within the ambit of Annex A. The agricultural contracting aspect of the enterprise uses the same sort of equipment as would be expected to be found on a farm and it is very common for such businesses to be run from working farms. Nothing in PPS7 appears to discourage this sort of diversification and the Council has made no suggestion to the effect that the appellant's agricultural contracting activities are unacceptable in this location. I consider that it would be legitimate to take it into account as part of the financial appraisal of a mixed rural enterprise, particularly where, as here, at least one full time worker is required for the livestock elements of the enterprise and the functional need for a dwelling is entirely related to the agricultural and equine related activities. I am supported in this stance by the advice in PPS7 that non-agricultural activities can be vital to the sustainability of many farm enterprises.
16. With the income from the agricultural contracting taken into account, it is clear that the mixed enterprise which the appellant wishes to establish would provide sufficient income to be sustainable. The appellant and his wife clearly have the expertise and experience to develop the enterprise and their current level of investment in it is a clear sign of their commitment to developing an enterprise that has agriculture and equine related activities at its heart. The dwelling they have created is functional and so integrated into a modern agricultural building

that I doubt that it could be regarded as having independent existence. That is further evidence that this is a genuine scheme for a viable rural enterprise and in no way an attempt to abuse the concession made by the planning system for occupational dwellings in the open countryside.

17. If the appellant and his family could not live on site, they could not develop the agricultural and equine elements of the enterprise. I see no good reason to deny the appellant at least an opportunity of developing the business as he has set out. To do so would mean that his investment in additional land would have been wasted, since it is accepted that the proposed livestock elements of the enterprise require the permanent on-site presence of a full-time worker. I therefore conclude that the proposals are acceptable, on a temporary basis initially, and do not conflict with national policy for temporary occupational dwellings as set out in Annex A of PPS7.

Conditions

18. As the functional need for a dwelling is prospective rather than existing, it is necessary to make the planning permission temporary to see whether the proposed agricultural and equestrian aspects of the enterprise can be developed as intended. The three-year period requested is in accordance with the advice in Annex A of PPS7. It is also necessary to impose an occupancy condition because a new dwelling in this location can only be justified by an occupational need. I have worded the conditions as necessary to reflect the fact that the residential use could not end instantly upon expiry of the three year period and that it would not be necessary to re-instate the agricultural use of the part of the barn involved (it could be left vacant). I have worded the occupational condition to reflect the specific nature of the proposed enterprise.

Conclusions

19. I conclude that the scheme is acceptable for a temporary period and planning permission will be granted and the enforcement notice quashed. There is therefore no need for me to consider the s174 appeal on grounds (f) and (g).

Formal decisions

Appeal ref: APP/T2350/C/09/2115475

20. I direct that the enforcement notice be varied by the deletion of the alleged breach of planning control (Paragraph 3) and its substitution by the following allegation:

"Without planning permission, the change of use of part of the agricultural building on the land to form a dwelling with residential curtilage"

21. Subject to that variation, I allow the appeal and quash the enforcement notice. I grant planning permission on the application deemed to have been made for the development already carried out, namely the change of use of part of the agricultural building on the land to form a workers' dwelling with residential curtilage at Lower Monubent Farm, Hellifield Road, Bolton-by-Bowland, Clitheroe BB7 4LY, subject to the following conditions:

- 1) the permission hereby granted shall be for a limited period of three years from the date of this decision. The residential use shall be discontinued

and the building restored to its former condition (or such condition as may have been previously agreed in writing with the local planning authority) on or before the end of a three month period after the expiry of this three-year temporary period;

- 2) the occupation of the dwelling shall be limited to a person solely or mainly working, or last working, at Lower Monubent Farm in the mixed agricultural, equestrian and agricultural contracting enterprise, or to a person solely or mainly working in the locality in agriculture or forestry, including, as the case may be, a widow or widower of such a person, and to any resident dependants.

Appeal Ref: APP/T2350/A/09/2115328

22. I allow the appeal, and grant planning permission for the development already carried out, namely the change of use of part of the agricultural building on the land to form a workers' dwelling with residential curtilage at Lower Monubent Farm, Hellifield Road, Bolton-by-Bowland, Clitheroe BB7 4LY, in accordance with the terms of the application, Ref: 3/2009/0352, dated 27 April 2009 and the plans submitted with it, subject to the same conditions 1) and 2) as set out above in respect of the s174 appeal.

David C Pinner
Inspector

APPEARANCES

FOR THE APPELLANT:

Alan Kinder	Appellant's agent
Howard Berry	Appellant
Philippa Berry	Appellant's wife

FOR THE LOCAL PLANNING AUTHORITY:

Colin Sharpe	Senior Planning Officer, Ribble Valley Borough Council
David Ensor	Senior Assistant Land Agent, Lancashire County Council

DOCUMENTS

- 1 List of those present at the hearing
- 2 Council's letter of notification of the appeal and list of those notified