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PLANNING STATEMENT AND AGRICULTURAL APPRAISAL

**TO SUPPORT AN OUTLINE PLANNING APPLICATION
FOR THE CONSTRUCTION OF A PERMANENT FARM
WORKERS DWELLING AT HALL TREES FARM,
HOUGH CLOUGH LANE, CHIPPING, PR3 2NT.**

Applicants: Mr & Mrs R Dean
Prepared by: Robert C. Black BSc (Hons)
Date: July 2019
Our ref: Dean/794/2256/RCB



Chartered Surveyors ■■■ Planning & Development ■■■ Land Agents
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1. INTRODUCTION

- 1.1 This Planning Statement and Agricultural Appraisal has been prepared to support a planning application that we have submitted on behalf of Mr Robin and Mrs Eileen Dean of Hall Trees Farm, for the erection of a permanent agricultural workers dwelling on land situated at Hall Trees Farm. The proposed dwelling is required in order to provide accommodation at the farm for Mr and Mrs Dean's son, James, and his wife, Vicki. James is a self-employed land agent who also regularly assists on the farm and will be returning to work on the farm on a full-time basis to assist his parents with the operation of the business. As such he needs to live on site to fulfil the functional need of the existing farming enterprise which requires him to live on the holding.
- 1.2 Full details of the applicants' agricultural enterprises and activities are set out within this report. However, by way of a brief introduction the applicants currently farm approximately 200 acres of land and operate a sheep breeding enterprise which comprises of 800 breeding sheep, some of which are wintered away from home. In addition to this the enterprise produces around 1,000 lambs per annum. The applicants are also heavily involved in sheep dog training and selling which generates further income for the farm. Robin Dean is currently the English Vice President of the International Sheep Dog Society.
- 1.3 This application seeks outline permission for a single farm workers dwelling to accommodate James Dean and his wife at the farm, as his father has been forced to reduce the amount of active physical involvement on the farm due to health problems which significantly impact upon his ability to undertake the day to day operations of the farm. Robin Dean will remain a partner in the business and will still be involved in the management of it and he and his wife will remain in occupation in the farmhouse at Hall Trees Farm indefinitely. This application is therefore not for a dwelling to accommodate a second key worker but for a dwelling to accommodate the person who will be responsible for attending to the functional need for at least one full time farm worker to be readily available at all hours of day and night to attend to the welfare requirements of the enterprise.
- 1.4 We set out within this report full details of the agricultural enterprises undertaken by the applicant and demonstrate that the proposed development is justified and acceptable in terms of both local and national planning policy.

2. PLANNING HISTORY

- 2.1 We set out below details of the planning history shown on the council's website for Hall Trees Farm.
- 2.2 Application number 3/2012/1089 was a retrospective full planning application for the extension to an existing agricultural building and

associated hard standing. This application was granted consent on 1 February 2013, and built in the same year.

- 2.3 Application number 3/2001/0049 was a full planning application for the erection of a general purpose agricultural storage building and a sheep house. This was approved on 1 March 2001 and constructed in 2002.

3. PROPOSED DEVELOPMENT

- 3.1 The planning application is in outline and proposes the erection of a farm workers dwelling with access being the only issue to be approved at this stage; with the size of the proposed dwelling and its design being matters reserved for future determination. The dwelling will be sited to the east of the existing agricultural buildings and south east of the existing farmhouse, in close proximity to the farmstead where it will be well placed to meet the functional needs of the farming enterprise. It will also appear as part of a group of buildings rather than standing alone.

4. THE AGRICULTURAL HOLDING

4.1 Description

- 4.1.1 The application holding extends to approximately 200acres (81ha) or thereabouts of grassland which comprises 100acres (40.5ha) owner occupied and 100acres (40.5ha) rented. Full details of all of the land that is occupied by the applicants is set out in Section 4.3 below. See Appendix 1 an OS map extract which shows where the farm is situated in relation to its wider context.
- 4.1.2 The farm has one main group of farm buildings which are located at Hall Trees Farm which is where the applicant and his wife live in the existing farmhouse. The farm buildings at Hall Trees Farm are of modern portal frame construction and they are described in more detail in Section 4.2 below.
- 4.1.3 All of the land is down to grass and the applicants' farming enterprises comprise of 800 breeding sheep together with approximately 1,000 lambs which are produced per annum. Full information about the livestock enterprises is set out in Section 4.4 below. The applicants have farmed at Hall Trees Farm since January 2000, prior to this they were tenants at a farm near Broughton which Mr Dean's father occupied before him since 1964, in essence the applicants have been farming all their life and have a wealth of experience and knowledge of farming.

4.2 The Farm Buildings

4.2.1 We describe below the range of farm buildings located at Hall Trees Farm using number referencing which corresponds with the plan attached at Appendix 2 for identification purposes.

Farmhouse

4.2.4 The farmhouse is a detached two storey property with the following accommodation; four bedrooms, family bathroom, kitchen, open plan lounge and dining room, snug, large utility and downstairs toilet. It has mains electricity and water with oil heating and is on a private septic tank. The farmhouse is occupied by Robin and Eileen Dean.

Building 1 - 28m (90ft) x 32m (105ft)

4.2.2 This steel portal frame building provides general storage on the farm; this includes sheep housing, storage of fodder and bedding, it contains the workshop, houses the sheep dogs and also the tractors and machinery used on the farm. The building is clad with precast concrete panels with Yorkshire boarding above to the eaves and a natural grey fibre cement sheet roof.

Building 2 – Extension to Building 1;12.15m (40ft) x 22.7m (75ft)

4.2.3 This building is an extension to Building 1, wrapping around the south-east corner. It contains the sheep handling facilities and also provides storage for machinery and equipment. The steel portal frame building is clad with precast concrete panels with Yorkshire boarding above to the eaves and a fibre cement sheet roof in natural grey.

4.3 The Land

4.3.1 The applicants farm a total area of approximately 200acres (81ha) or thereabouts of land, all of which is down to grass. 100acres of this is at Hall Trees Farm and the remaining land is rented. 46acres of this is at Crossnapend and is let on an annual periodic Farm Business Tenancy; and a further 39acres is rented at Little Elmridge which is let on a grazing licence. The applicants also graze approximately 5acres at Shire Oaks, adjoining their owned land, on an informal basis. Plans of the land are attached at Appendix 3.

4.3.2 In an average year a first cut of haylage is made on 16.2ha (40acres), and a further 16.2ha (40acres) is cut and made into hay. The fodder is stored at the farmstead in the form of large square bales on the concrete apron around building 1. The land is otherwise grazed by the applicants' sheep.

4.3.3 Basic Payment Scheme (BPS) is claimed on all the land that the applicants own, but not the rented land as their Landlord claims for BPS

on the rented land. All the land is well fenced, well maintained and well fertilised. The land that is owner occupied is in a ring fence around Hall Trees Farm and land that is rented is in close proximity; only separated by Hough Clough Lane.

4.4 The Farming System

Sheep Enterprise

4.4.1 The applicants main farming enterprise is sheep breeding. They have approximately 550/600 breeding ewes on the farm which are, mainly, New Zealand Romneys. They try and maintain a pure bred flock. In an average year 550 ewes are put to the farm's 10 rams. They have a lambing percentage of between 175/180% resulting in approximately 1,000 lambs being produced. The farm also has around 200 gimmer lambs that become the replacements for the 200 (approx.) cast ewes which leave the farm each year, the gimmers are put to the to the tup when they are shearlings. The Romney lambs are sold at deadweight when they have reached their required grade, which is checked by regular weighing and grading of lambs prior to sale, this generally takes place between August and October. They retain around 150 store lambs over the winter period, the remainder going as stores as one consignment in November.

4.4.2 Lambing takes place predominantly outside between the months of April and May. The lambing takes place on land that surrounds Hall Trees Farm. This is a particularly labour intensive time of year with the sheep needing to be checked regularly throughout the day and night and assisted as necessary. This means that throughout the lambing period very long days are required to attend to all of the requirements of the livestock on the holding.

4.5 Labour Requirements

4.5.1 We have calculated the labour requirement at the holding using the two usual methods of standard man days (John Nix Farm Management Pocketbook 2019) and Standard Labour Requirement based on hours per annum (SAC Farm Management Handbook 2018/19). The calculation using both methods are detailed below.

4.5.2 We have calculated the labour requirements of the holding using standard figures from the Nix Farm Management book 2019 as follows:

550 breeding ewes	@ 0.45 days/head	=	247.5
200 gimmer lambs	@ 0.4 days/head	=	80
10 rams	@ 0.5 days/head	=	5
150 winter finished store lambs	@ 0.3 days/head	=	45
Grazing land 56.2 Ha	@ 0.4 days/Ha	=	22.48
Meadow Land 16.2 Ha	@ 1.6 days/Ha	=	25.92
Hay Land 16.2 Ha	@ 1.8 days/Ha	=	29.16

total 455.06 days

4.5.3 We have calculated the labour requirements of the holding using standard figures from the SAC Farm Management Handbook 2018/19 as follows:

550 breeding ewes @ 3.7 hours/head/annum	=	2,035
200 gimmer lambs @ 3.7 hours/head/annum	=	740
10 rams @ 3.7 hours/head/annum	=	37
150 store lambs (over winter) @ 3.1 hours/head/annum	=	465
Grazing land 56.2 Ha @ 3.1 hours/Ha	=	174.22
Meadow land (Haylage) 16.2 Ha @ 12 hours/Ha	=	194.40
Meadow (Hay) land 16.2 Ha @ 12 hours/Ha	=	194.40

**total 3,840.02 hrs/annum
@ 8 hours/day
equivalent to 480 days**

4.5.4 ADAS defines full time work as 275 days/year there is a clear labour requirement on the basis of employees working standard hours for 1.65 full time workers on the holding according to the Farm Management Pocketbook by John Nix and 1.75 full time workers according to the SAC Farm Management Handbook.

4.5.5 These figures are only a guide and will differ from holding to holding, often on family farms the family members involved in the farming enterprises work extremely long hours for six or seven days a week and take very few holidays. The figures above do not make any allowance for the sheep dog training element of the farming business, even though this is estimated to account for in the region of 15% of the farm's income.

4.5.6 The applicant's farming activities are currently undertaken by Mr Robin Dean who works full time on the farm, and his wife, Mrs Eileen Dean, who is part time. As mentioned previously, due to Mr Dean's health he will be standing down from the physical aspect of the farm and his son, James, who the proposed agricultural workers dwelling is for, will take over from him. The applicants undertake most of the silage and hay making work themselves although at certain times of the year seasonal workers are contracted in to help them.

4.5.7 Robin Dean's health problems are significantly impacting upon his ability to undertake day to day operations on the farm. He's had severe Osteoarthritis in both knees, which resulted in two separate operations undergoing total knee replacement of each knee and now faces a further requirement for hip replacement surgery. Mr Dean's current medical condition is clearly a very serious hindrance for him to be able to undertake many farming operations and James's involvement is essential for the continued operation of the business.

4.6 Functional Need

4.6.1 Livestock enterprises require a high level of supervision, often through a twenty-four-hour period to ensure that the welfare needs of the livestock are properly catered for and the business can continue functioning viably. A high standard of animal welfare, stockmanship and supervision is required to ensure that farming businesses operate effectively from both a financial viability perspective and in terms of health and safety. This is particularly the case where there are breeding livestock and there is a need for at least one full time worker to be readily available throughout a twenty-four-hour period to administer treatment to ill or injured animals, to deal with animals that are giving birth (in this case lambing) and to ensure proper management of livestock. Examples of the supervision that can be required are as follows:

- The sheep graze all the various land parcels across the holding, hence there is a significant management burden on the applicant each day inspecting all the animals, providing supplemental feed, and where necessary, medication. Sheep during the lambing period (April to May) need virtually constant monitoring and attention, this is to check on the wellbeing of the ewes and lambs and to help with delivery of the lambs should assistance be required, thus essential care can be and is often required at short notice. This creates a significant management and labour requirement.
- Prior to lambing the ewe's feed requirements almost double, but her appetite can fall. This is due to the pressure on the rumen from the growing lamb. This means the nutrient density of the diet must increase to meet her nutritional requirements and this requires the applicant to control and monitor the ewe's diet carefully. Outside of the lambing period, additional duties include foot-trimming, worming, drenching, and shearing, amongst others.
- Ill livestock often require isolating from other livestock to avoid the spread of disease. Once isolated the animal must be regularly monitored and many require treatment around-the-clock;
- Regular inspections need to be carried out to detect illness and provide essential care for the livestock. The importance of this has been highlighted with the foot and mouth and blue tongue outbreaks that have occurred in Britain in relatively recent years. Guidance provided by DEFRA states that vigilance and good stockmanship are vital in the fight against animal disease. This is reiterated by the legislation and regulations contained within the Animal Welfare Act 2006 and by the Farm Welfare Council;
- It is essential that 24-hour supervision is in place to protect livestock against theft, predators and intruders. Likewise, if livestock escape from the farm buildings or fields, someone needs to be on hand to gather the livestock up and return them to the buildings or fields;

- The animal's welfare in terms of the "five freedoms" is considered. The five freedoms as provided by the Farm Animal Welfare Council (FAWC) comprise:
 - Freedom from Hunger and Thirst – by ready access to fresh water and a diet to maintain full health and vigour.
 - Freedom from Discomfort – by providing an appropriate environment including shelter and a comfortable resting area.
 - Freedom from Pain, Injury or Disease – by prevention or rapid diagnosis and treatment.
 - Freedom to Express Normal Behaviour – by providing sufficient space, proper facilities and company of the animal's own kind.
 - Freedom from Fear and Distress – by ensuring conditions and treatment which avoid mental suffering.

4.6.2 The examples set out above of the type of things that give rise to a functional need to be present on site demonstrate just some of the reasons why it is essential for James Dean to reside at Hall Trees Farm and any one of the examples given above can occur during a 24-hour period.

4.6.3 The proper functioning of the livestock enterprises at Hall Trees Farm requires James Dean to reside on the farm so that he is able to provide the 24 hour, 7 days a week supervision that is essential to ensure that appropriate welfare standards are maintained.

5. REASONS FOR THE APPLICATION

5.1 The reason for the application is that a new dwelling is required at Hall Trees Farm to enable James Dean to reside on the holding in order for him to be able to meet the functional need for a full time worker to be readily available at all times of day and night to deal with any out of hours work.

5.2 The existing farmhouse is not available to James Dean because it is occupied by his mother and father and although his father is still involved with the business he is struggling to undertake the amount of manual work on the holding, as a consequence of ill health, but he remains both financially and managerially involved in the farming business. Mr and Mrs Dean senior have no intention of moving from the house either now or in the future and it cannot therefore be considered to be available. The case of *Keen v SSE and Aylesbury Vale District Council* (1996) confirms that the mere presence of a dwelling does not mean that it is available and that it is not reasonable to expect a member of an older generation to vacate their home in order to allow a member of the younger generation of their family to occupy it. The outcome of this case

was confirmed in the more recent case of J R Cussons & Son v SSE and North York Moors National Park Authority (2008).

6. PLANNING CONSIDERATIONS

6.1 General

6.1.1 Local planning authorities are required to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise. In order for this planning application to be approved it must satisfy as far as possible the guidance contained within the National Planning Policy Framework (NPPF) adopted February 2019 and the relevant policies of the Council's Core Strategy 2008/2028 - A Local Plan for Ribble Valley, which was adopted on 16 December 2014.

6.1.2 The Council's Core Strategy contains several key statements and policies of which the following are relevant to this application; DS1 Development Strategy; DS2 Sustainable Development; EN3 Sustainable Development and Climate Change; H1 Housing Provision; H2 Housing Balance; H3 Affordable Housing and DMG1 General Considerations.

6.1.3 We set out below extracts from the relevant documents to assess the planning application against all of the appropriate policies and guidance.

6.2 National Planning Policy

6.2.1 The main national planning policy guidance of relevance to the consideration of residential development proposals is set out in the National Planning Policy Framework (NPPF).

National Planning Policy Framework (NPPF)

6.2.2 The National Planning Policy Framework 2019 (The Framework) is now the main national planning policy guidance influencing planning decision making in England. It sets out the Government's planning policies for England and how these should be applied and provides a framework within which locally-prepared plans for housing and other development can be produced. Its predecessor the NPPF 2012 replaced a substantial number of documents previously in place, of particular relevance to this application, PPS7 - Sustainable Development in Rural Areas. "*The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied, it sets out the Government's environmental objectives (protecting and enhancing the natural and built environment) requirements.*"

6.2.3 Paragraph 11 says that proposals that accord with the development plan should be approved without delay. It states:

*Plans and decisions should apply a **presumption in favour of sustainable development**.*

*For **decision-taking** this means:*

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.2.4 Paragraph 11 - 14 of the NPPF highlight the presumption in favour of sustainable development. The presumption in favour of sustainable development does not change the statutory powers of the Development Plan as a starting point for decision making and therefore proposed development which accords with an up to date Development Plan should be approved. unless other material considerations indicate the Plan should not be followed.

6.2.5 Paragraph 83 says that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should promote the development and diversification of agricultural and other land-based rural businesses.

6.2.6 Section 5 of the NPPF contains policies for the delivery of a wide choice of high quality homes and paragraph 79 advises 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. It indicates that local planning authorities should avoid new isolated homes in the countryside unless there are very special circumstances such as the essential need for a rural worker, **including those taking majority control of a farm business**, to live permanently at or near their place of work in the countryside. Therefore, once an essential need has been established the principle of constructing a new dwelling in the countryside to meet that need is acceptable.

6.2.7 The policies of the NPPF clearly support the approval of the application that we have submitted on behalf of the applicants.

6.3 Local Planning Policy

Core Strategy Policy

6.3.1 The Council's Core Strategy 2008 – 2028 A Local Plan for Ribble Valley was adopted on 16 December 2014 and we set out below our assessment of the proposed development against the relevant adopted policies.

Key Statement: DS1 Development Strategy

6.3.2 Key Statement DS1 identifies where the majority of new housing, employment and retail development will be located within the Borough, which will be in the principal settlements, two enterprise zones and the Tier 1 Villages. There will inevitably be forms of development that can take place outside of these areas and exceptions to the general principle of locating development in them and the erection of a farm workers dwelling is such an exception that is covered by other policies of the Core Strategy.

Key Statement DS2: Presumption in favour of Sustainable Development.

6.3.3 Key Statement DS2 identifies:

“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework and it will always work proactively with applicant’s jointly to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area”.

6.3.4 Clearly the approval of the application that we have submitted on behalf of Mr and Mrs Dean will improve the economic and social conditions in the area by supporting the needs of a long established rural business.

6.3.5 The policy also states:

“Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.”

6.3.6 The proposed development does accord with the relevant policies of the Local Plan and therefore the application should be approved without delay.

Key Statement EN3: Sustainable Development and Climate Change.

6.3.7 Key Statement EN3 "sustainable development and climate change" identifies that construction methods and building design will address both the causes and consequences of climate change and contribute to reducing the Borough's carbon footprint. If the development is approved

then there will be an obligation on the development to provide a certain level of its power requirements through sustainable sources and the dwelling will be built to modern building regulation standard which will restrict heat loss and promote efficient heating sources within it. The development will adequately be able to satisfy the requirements of EN3.

Policy DMG1: General Considerations

- 6.3.8 Policy DMG1 sets out various criteria which all development must conform to under a series of headings which are design, access, amenity, environment, infrastructure and other. The current application is in outline only with all details other than access reserved and in this regard we consider that the access criteria of the policy can be satisfied and in the event that the application is approved we can see no reason why the detailed proposal will not satisfy all of the other criteria.

Policy DMH3: Dwellings in the Open Countryside & the AONB

- 6.3.9 Policy DMH3 sets out a limited number of circumstances under which residential development in the open countryside or the AONB will be allowed and the first of these is set out below:

1. Development essential for the purposes of agriculture or residential development which meets an identified local need. In assessing any proposal for an agricultural, forestry or other essential workers dwellings a functional and financial test will be applied.

- 6.3.10 We are firmly of the opinion that the proposed development is required to meet an identified local need and the proposal satisfies, as we have demonstrated already in this report, the functional test referred to above. The applicants require the Council to approve the application so that they can maintain their farming business.

- 6.3.11 It is important to note that the imposition of a financial test is not consistent with the NPPF which does not impose such a test. However, the applicants have operated a farming business all their working lives and during this time they have expanded their business through the occupation of additional land and the erection of modern agricultural buildings at Hall Trees Farm. We have provided the farm accounts for the last three years to the Council under separate correspondence on the basis that they are to be treated as confidential and not made available for inspection by members of the general public. The accounts show that the business operates profitably and while the profit level fluctuates as it does with all farming businesses it does generate a level of profit, which is sufficient to demonstrate that the business is financially sound and has every prospect of remaining so. The level of profit is sufficient to support the construction of the proposed farm workers dwelling.

- 6.3.12 It also has to be acknowledged that most farmers do not farm to make huge profits if they did then there would be a lot of abandoned land,

farming is a way of life and one that continues largely because of the support of the Government and the EU. Farming has to put up with volatility in the world market and the seasons and this results in profits in some years and losses in others which is also recognised by the Government in the concession that farmers have to average their profits and losses over several years.

7. RELEVANT APPEAL DECISIONS

- 7.1 We attach at Appendix 4 four planning appeal decisions which we consider support the approval of the planning application for a permanent agricultural workers dwelling at Hall Trees Farm and we set out below why we consider this to be the case.

Appeal Reference: APP/H0738/A/13/2193698

**Address: Town Farm, Old Stillington, Stockton-on-Tees,
TS21 1LX**

Appellant: S Thompson & Son

Local Authority: Stockton-on-Tees Borough Council

- 7.2 This appeal involved an application for a farm workers dwelling at Town Farm, Old Stillington the application was submitted by S Thompson and Sons whose farming business had been established for over sixty years. The farming enterprises involved arable farming, breeding sheep and an equine enterprise. The farm had an existing dwelling which was occupied by Mr and Mrs David Thompson and the application was for another dwelling to accommodate their daughter Ms Sally Thompson and her partner.

- 7.3 At paragraph 13 the Inspector states "*I consider there is an essential need for at least one worker to be readily available at most times in sight and sound of the farm buildings. etc*". At paragraph 14 the Inspector acknowledges that the majority of the farming duties are undertaken by Ms Sally Thompson and a stockman who lives in another village, however he confirms that Sally has a key role. The Inspector also acknowledges that due to his age and health Mr David Thompson is now no longer able to take a very active role in the practical and heavier farm duties, and that although he is still involved in all farm tasks, his role is essentially managerial and financial.

- 7.4 The Inspector at paragraph 15 states that he considers it unreasonable to deny Sally Thompson and her partner separate accommodation, and to expect Mr and Mrs David Thompson to move out of their family home, either now or after full retirement, referring to the case of *Keen v SSE and Aylesbury Vale District Council* where the court found that it was not reasonable to expect a farmer to leave his house and presumably buy another one elsewhere when a clear need had been established for a new dwelling.

Appeal Reference: APP/Q9495/A/13/2207717

**Address: Land north of Esthwaite View Caravan Park,
Roger Ground, Hawkshead, Ambleside, LA22
0QA.**

Appellant: Mr & Mrs M Woodhouse

Local Authority: Lake District National Park

- 7.5 There were a number of matters under consideration in the determination of this planning appeal; however the main one which is of concern in this case is the question of the suitability and availability of existing dwellings currently serving the agricultural holding.
- 7.6 The application was in effect for a third dwelling to support the agricultural enterprises undertaken from Howe Farm where there was an existing tenanted farmhouse and a holiday cottage and the farming business had in the past obtained permission for a second dwelling located in the small settlement Roger Ground a short distance from Howe Farm. The dwelling at Roger Ground was occupied by the appellants' mother at the time of the appeal whose deceased husband had previously been full time employed at Howe Farm meaning that she complied with the agricultural occupancy condition.
- 7.7 The Inspector had to consider the appropriateness of turning the holiday cottage into a farm workers dwelling instead of allowing it to continue to provide diversified income and the availability of the second farmhouse located at Roger Ground. Having considered the question of the requirement for two farm workers to be available at the holding the Inspector considered that there was a need for two farm workers to be readily available and at paragraph 17 he concluded that there was no other existing accommodation available nearby that would meet the essential need for the additional farm worker at How Farm to live at or near their place of work.
- 7.8 The Inspector did not consider it appropriate to force the cessation of use of the holiday cottage as a holiday cottage and he also did not consider it appropriate to suggest that the older members of the family living in the house at Roger Ground should be forced to vacate their property to make way for the younger family member who currently provides the functional role.
- 7.9 The Keen case would have supported the Inspector's decision although it was not referred to.

Appeal Reference: APP/W9500/A/08/2087370

Address: Rigg Hall, Stainsacre, Whitby, North Yorkshire

Appellant: Mr A Dixon

Local Authority: North York Moors National Park

- 7.10 This appeal was determined on 8 April 2009 and the appeal was primarily concerned with whether or not the agreed functional need for a

dwelling on the appeal holding could be met by other existing accommodation. The agricultural holding already had an existing dwelling which was occupied by the parents of the applicant and the local authority considered that the dwelling provided the accommodation needed for the enterprise and that the appellant's parents should vacate the property and make it available to him.

- 7.11 The appellants relied upon the findings of *Keen v Secretary of State for the Environment and Aylesbury Vale District Council (1996)* and referred to this approach having been confirmed in *J R Cussons & Son v Secretary of State for Communities and Local Government 2008*. The Council referred to *Ford and another v Secretary of State for Communities and Local Government (2007)*.
- 7.12 At paragraph 7 the Inspector states "in my opinion, these cases can be said to bear on the proposal before me as follows. Firstly, the *Keen* judgement, confirmed by *Cussons*, makes it clear that it is not sufficient for there to be some existing accommodation at the site. It is also necessary to examine whether the accommodation can reasonably be held to be available. With regard to *Ford*, I am not convinced of the authority's argument that its relevance lies in the finding that the existing dwelling was potentially available. In my view, that finding arose from the interpretation placed on a particular policy of the relevant local plan. No such policy is in force here." The Inspector goes on to say that what *Ford* clarified was that the existence of a functional need is not a simple absolute and it is necessary to have regard to other considerations where they are material.
- 7.13 The Inspector noted that Mr Richard Dixon currently lives at Rigg Hall with his wife and that they both have osteoarthritis which is expected to get worse. Together they have run the farm for many years and are no longer to carry out physically demanding tasks necessary to properly care for livestock as they had once been able to. As a consequence the farm is not functioning as effectively as it could and Mr Dixon now wishes to bring in his son, the appellant, to take care of the stock. Although there are/or reference to Mr R Dixon's retirement, it was stated at the hearing that he intends to retain overall responsibility for management of the farm. He expects to remain actively involved with it. These are very similar circumstances to the situation at Hall Trees Farm.
- 7.14 At paragraph 9 the Inspector stated that there were also personal reasons why Mr & Mrs Dixon wish to stay at Rigg Hall. The Dixon family has occupied the farm since about 1850 and, except for a handful of absences; this is where Mr Dixon has spent the greater part of his life. Furthermore I heard that, even if the farm business failed, Mr Dixon would consider various other options rather than leaving his home. From what I have seen and heard, it is clear to me that Mr & Mrs Dixon have no plans to vacate Rigg Hall in the foreseeable future. Given the length of time they have lived there and their plans for their continuing involvement with the business, I consider that, in accordance with *Keen*,

the current dwelling is not available since it would be unreasonable to require them to leave. This clearly supports the approval of the application that we have submitted on behalf of Mr & Mrs Dean to live at the farm in order to meet the functional need, as Mr Dean Senior is no longer physically able to do the majority of the physical activities.

Appeal Reference: T/APP/C/97/R2330/647276

Address: Browfield Farm, Back Lane, Baxenden, Lancs

Appellant: P M Ashburner Ltd

Local Authority: Hyndburn Borough Council

- 7.15 This appeal is one which Gary Hoerty Associates were involved with and it consisted of a large intensive broiler unit which was owned by P M Ashburner Holdings Ltd. The appeal was brought by P M Ashburner himself who lived nearby at the farm and was looking to lease the agricultural enterprise and the buildings to a company called Bolton Poultry Products who had taken a two year short term agreement for the site subject to taking a longer agreement if permission for onsite accommodation was granted. Linked to the application was an enforcement appeal in connection with the residential use of a series of caravans on site for residential purposes.
- 7.16 It was the Council's case that Mr Ashburner should make his own property either wholly or partly available to accommodate a farm worker who would be employed by Bolton Poultry Products. However the judge stated at paragraph 8 that in considering whether the functional needs of the poultry rearing enterprise can be met by the existing farmhouse I have had regard to the judgement in *Keen v Secretary of State for the Environment and Aylesbury Vale District Council* (1996) JPL 753 where it was held that the mere existence of existing accommodation does not suffice, it should be looked at in terms of availability and suitability. Although the circumstances of that case differ in some respects from those in the appeal before me it seems unreasonable that Mr & Mrs Dean senior should have to vacate his house and make it available for an agricultural worker.
- 7.17 The appeal was allowed and a new farm workers dwelling was permitted and again this confirms our opinion that the mere presence of a farmhouse at Hall Trees Farm is not in itself sufficient to refuse the application and the Council must have regard to whether or not the farmhouse is available to somebody who is physically capable of meeting the functional need that has been agreed to exist on the farm.
- 7.18 The outcome of these four appeal decisions clearly supports our firm opinion that the farmhouse at Hall Trees Farm can no longer be considered available to meet the identified and agreed functional need for a farm worker to be resident immediately adjacent to the farm buildings. The Council cannot expect or require Mr & Mrs Dean senior to vacate their property to make it available for their son James Dean to occupy in order for him to be able to meet the accepted functional need

for a full time worker to be resident on the farm in order to deal with out of hours work and to deal with emergencies at short notice.

8. SUMMARY & CONCLUSION

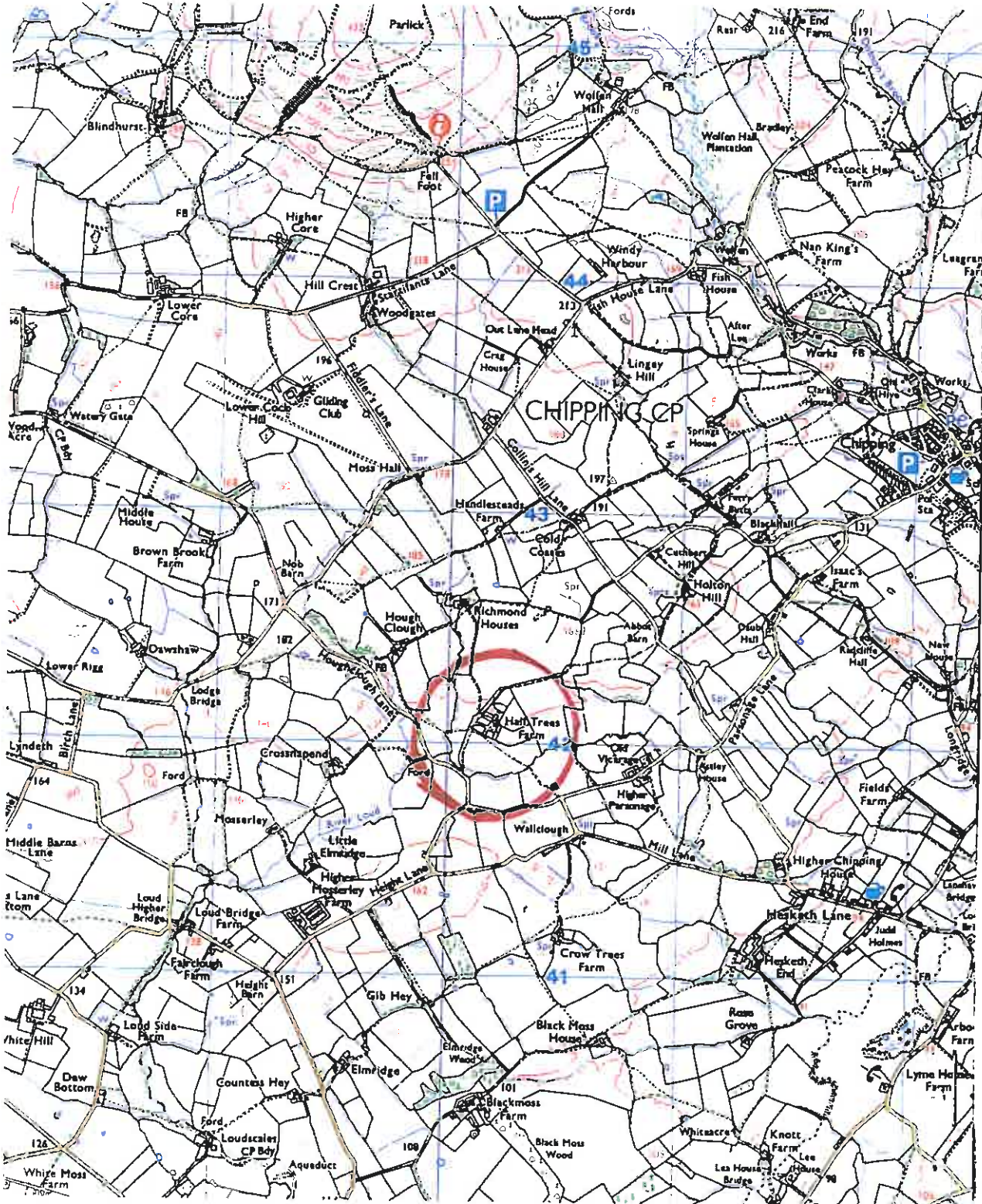
- 8.1 This report has been prepared to support an outline planning application for the erection of a permanent farm workers dwelling at Hall Trees Farm to accommodate the main key worker who will be taking majority control of the farm business.
- 8.2 We consider that the need for a full-time worker to reside on the holding to meet the functional needs of the farming enterprise undertaken at Hall Trees Farm is apparent.
- 8.3 Although there is an existing farmhouse at the holding its mere presence does not mean that it is available to meet the identified functional need for a full-time worker to reside on the holding. Mr & Mrs Dean will both remain involved in the business both financially and in a managerial capacity and they have no intention of leaving the farm or vacating this dwelling. Given Mr Dean's decline in health there is a need for their son James to return to the holding but they will have a continued presence on the farm and this is the best way for the need to be met.
- 8.4 We have referred to two legal cases; Keen v SSE & Aylesbury Vale District Council (1996) and J R Cussons v SSE & North York Moors National Park Authority (2008), both of which make clear that the Council cannot expect Mr & Mrs Dean senior to vacate their dwelling so that their son and his wife can move into it in order so that it can satisfy the functional need for him to be present on site. It is clear that the existing farmhouse at Hall Trees Farm cannot be considered to be available and there are no other dwellings on the holding that can meet the functional need.
- 8.5 We have, in support of the application, made reference to a number of planning appeal decisions which we consider provide compelling support for the approval of the application that we have submitted and follows the decision in the Keen v SSE & Aylesbury Vale District Council case.
- 8.6 This planning application arises out of a genuine requirement and is not a speculative application seeking to exploit the physical or financial advantages of a new house in the countryside.
- 8.7 We can see no reason why the Council should not support this application and approve it.

Signed..........Date..........

Robert C. Black BSc (Hons)

APPENDIX 1

Ordnance Survey Plan



Gary Hoerty Associates

Gary Hoerty Associates Chartered Surveyors
 Suite 9 - Grindleton Business Centre
 The Spinney
 Grindleton
 Clitheroe
 Lancashire BB7 4DH

T: 01200 449700
 Email: info@ghaonline.co.uk

Drawing No: Dea/794/2256/01

Project No: Dea/794/2256

Planning Application for a Farm
 Workers Dwelling at:
 Hall Trees Farm
 Hough Clough Lane
 Chipping
 PR3 2NT

Title: Ordnance Survey Plan



Notes:

All work is to be carried out to the latest current British standard Codes of Practice and recognised working practices. All work and materials should comply with Health and Safety legislation. All dimensions are in millimetres except where explicitly shown otherwise. The contractor should check and certify all dimensions as work proceeds and notify the architect of any discrepancies. Do not scale off the drawings, if in doubt ask

Client: Mr & Mrs Dean

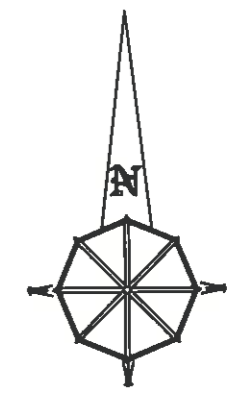
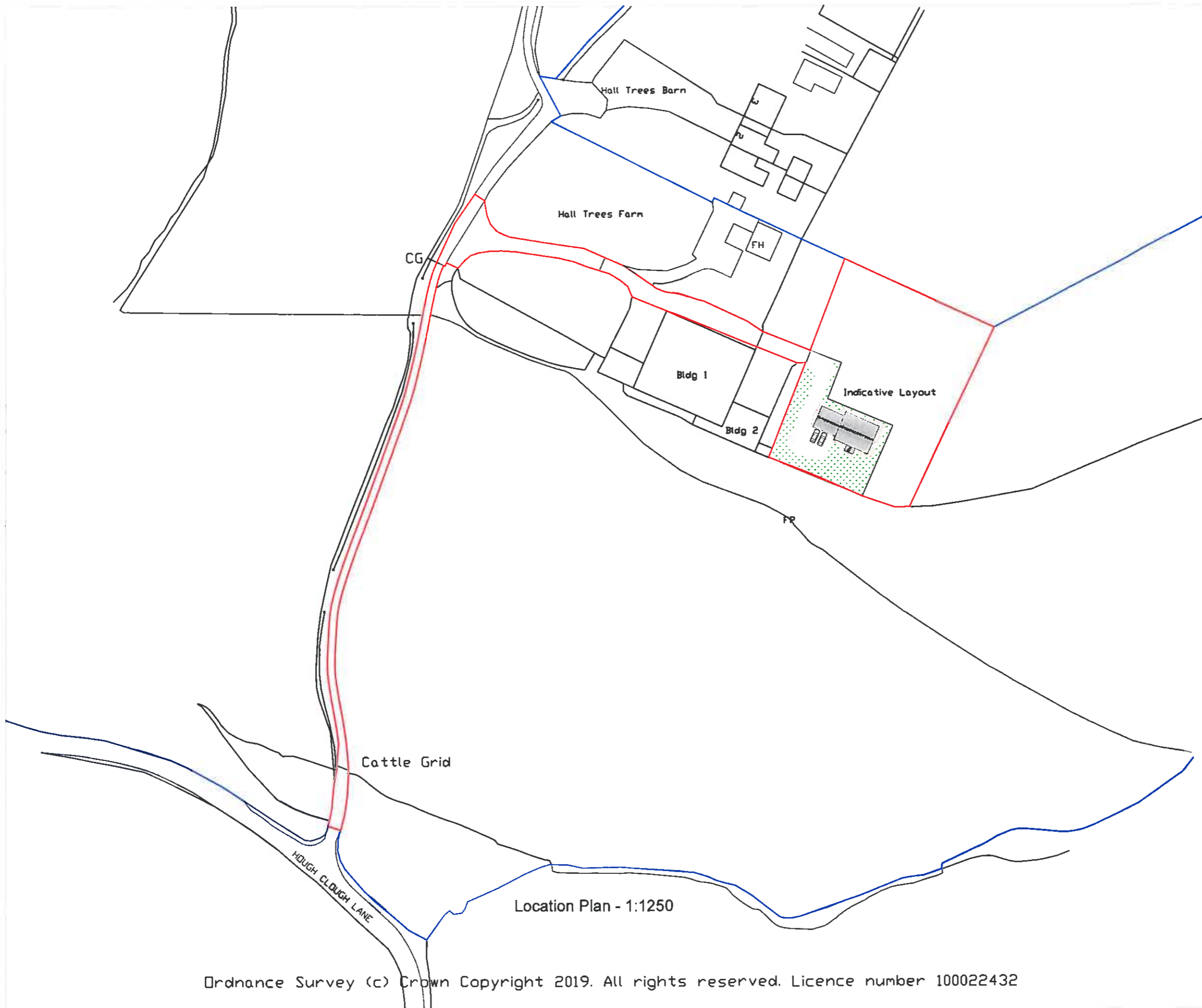
Drawn: RCB

Date: June 2019

Scale: NTS

Amendments:

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Notes:
 All work is to be carried out to the latest current British standards Codes of Practice and recognised working practices.
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Project: (Ref No: Dea/794/2256)
 Planning - Proposed Agricultural Workers Dwelling at:
 Hall Trees Farm
 Hough Clough Lane
 Chipping
 PR3 2NT

Title: Location Plan

Client: Mr & Mrs Dean **Drawn:** RCB

Drawing No: Dea/794/2256/01

Date: 16.07.2019 **Scale:** 1:1250 @ A3

Amendments:							
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APPENDIX 2

Plan of Farm Buildings

Hall Trees Farm

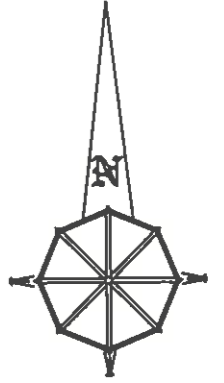
FH

Bldg 1

Bldg 2

Indicative Layout

FP



Notes:
All work is to be carried out to the latest current British standards Codes of Practice and recognised working practices.
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Project: (Ref No: Dea/794/2256)

Planning - Proposed Agricultural Workers Dwelling at:

Hall Trees Farm
Hough Clough Lane
Chipping
PR3 2NT

Title: Location Plan

Client: Mr & Mrs Dean

Drawn: RCB

Drawing No: Dea/794/2256/01

Date: 16.07.2019

Scale: 1:1250 @ A3

Amendments:

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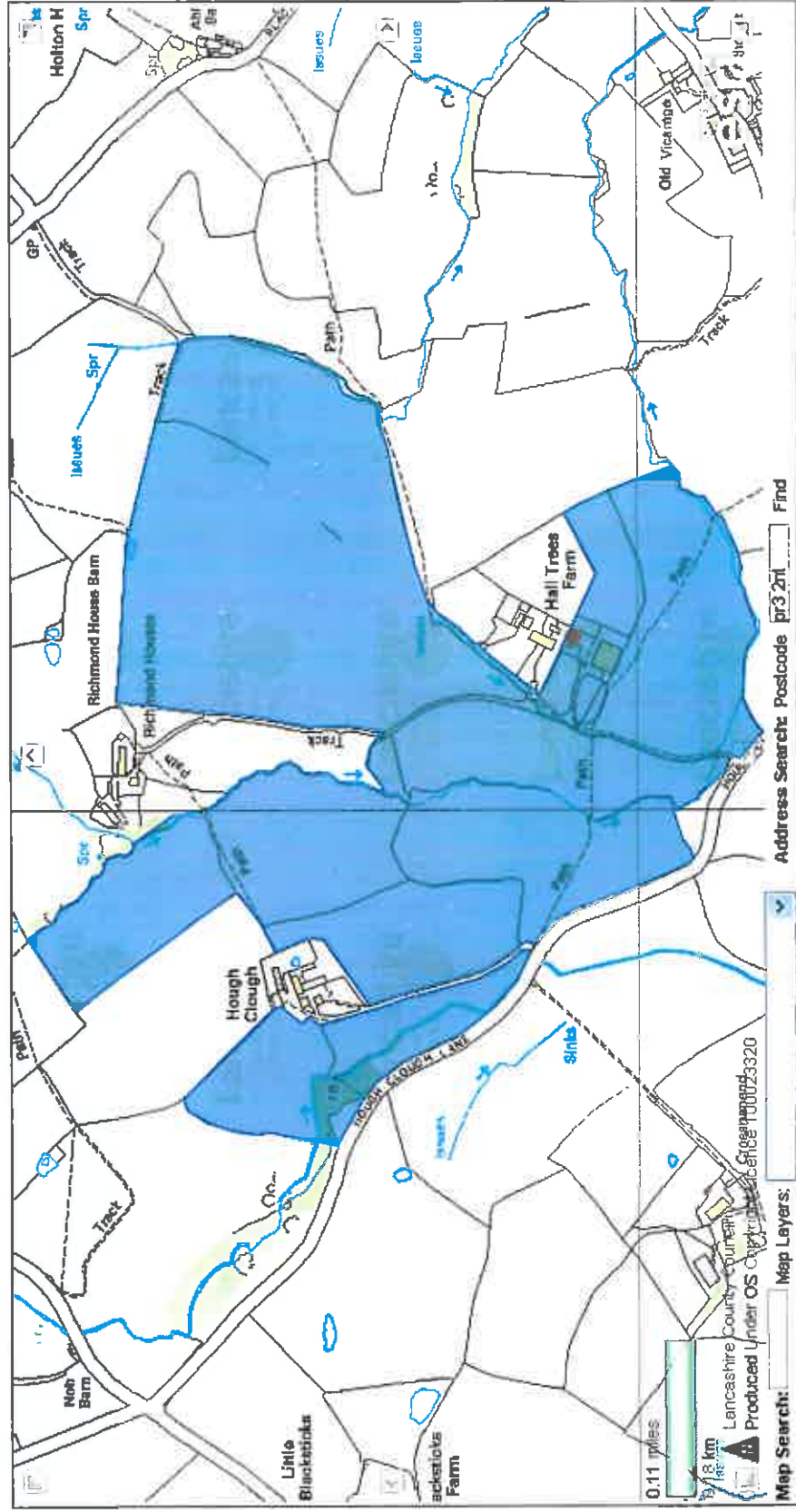
Site Plan - 1:500

APPENDIX 3

Maps of Land

LAND HOLDING PLAN- (Freehold)

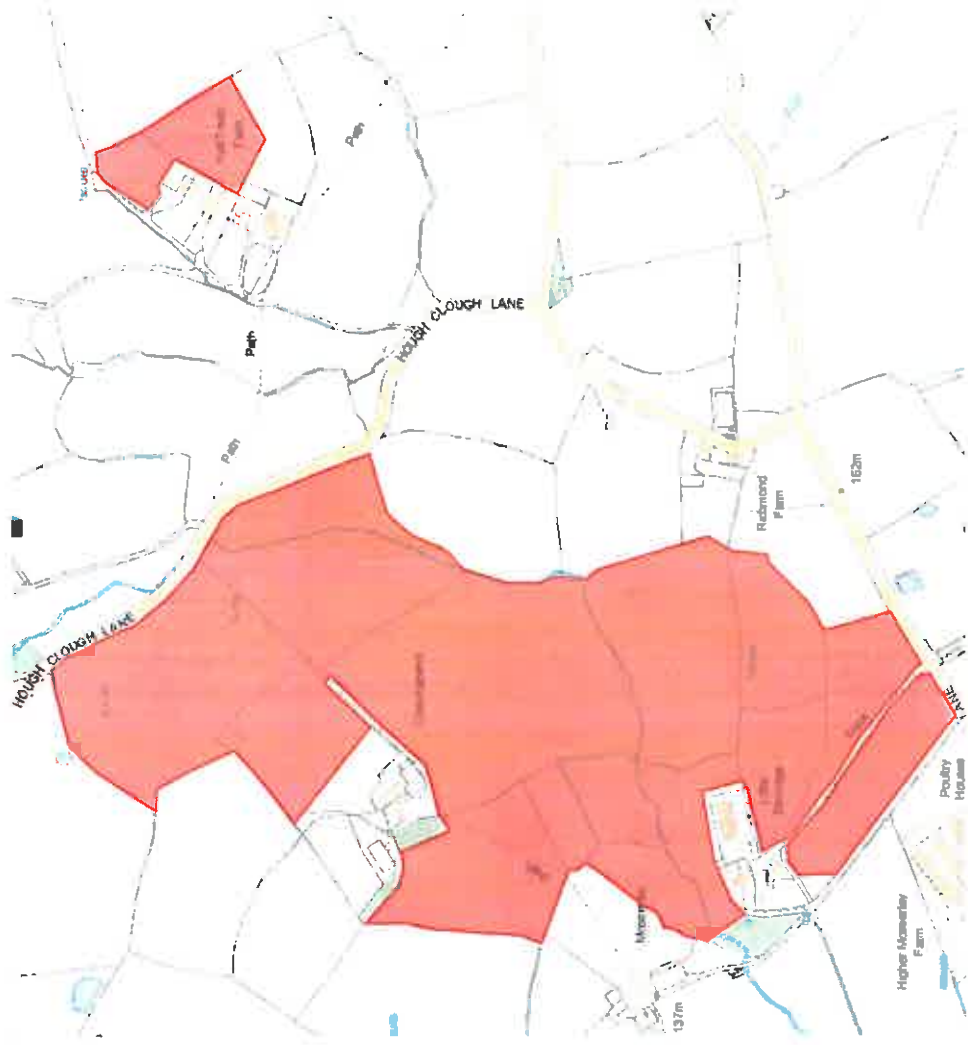
Planning Application: R & E DEAN, HALL TREES FARM,
HOUGH CLOUGH LANE, CHIPPING, PRESTON,
PR3 2NT



Key: Land highlighted Blue is owned and occupied by R & E Dean.

Source: <http://mapio.lancashire.gov.uk/ags/mario/default.aspx>

R & E DEAN; Land Holding Plan- (Tenanted)



Key: Land highlighted Red is occupied by R & E Dean

Source: <http://mario.lancashire.gov.uk/agsmario/default.aspx>

APPENDIX 4

Planning Appeal Decisions



Appeal Decision

Hearing held on 30 July 2013

Site visit made on 30 July 2013

by **Nigel Harrison BA (Hons) MRTPI**

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

Decision date: 4 September 2013

Appeal Ref: APP/H0738/A/13/2193698

Town Farm, Old Stillington, Stockton-on-Tees, TS21 1LX

- 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 S Thompson & Son against the decision of Stockton-on-Tees Borough Council.
 - The application Ref: 12/2168/FUL dated 7 September 2012, was refused by notice dated 9 January 2013.
 - The development proposed is the erection of an agricultural worker's dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for an agricultural worker's dwelling at Town Farm, Old Stillington, Stockton-on-Tees, TS21 1LX in accordance with the terms of the application Ref: 12/2168/FUL dated 7 September 2012, subject to the conditions set out in the Schedule attached to this decision.

Main Issue

2. At the Hearing the Council said it did not wish to pursue its second reason for refusal relating the sustainability of the location, and I find no reason to disagree. I therefore consider the one main issue in this case is whether there is an exceptional need for the proposed dwelling which is likely to be sustained, so as to amount to exceptional circumstances in the context of local and national policies which seek to restrict new development in the countryside.

Reasons

3. The proposed dwelling would be sited on part of the former garden to the west of the farmhouse, with a frontage to the road. Adjacent to the western boundary of the appeal site is a two-story modern dwelling "Blaid House", with East Farm beyond it. Although part of the small settlement of Old Stillington, the site is outside any defined development limits and is thus classed as open countryside for policy interpretation purposes.

Background

4. S Thompson & Sons has been established for over 60 years and the farm business operates across two sites: Town Farm, Old Stillington, and Southfields Farm, Great Stillington. The combined holding comprises about 215ha of owned and rented land, and the main base has always been Town Farm, where the buildings and land are in the partnership's ownership.

5. The mainstay of the business is the long-established arable and sheep operations, and livestock activity takes place mainly at Town Farm with the arable land spread across both farms. At the Hearing I was informed that the sheep flock now comprises 422 breeding ewes, 10 tups and around 580 store lambs. However, the recently introduced equine enterprise has increasing significance as part of the farm business, and comprises 3 Clydesdale mares, 4 brood mares, 3 Clydesdale thoroughbreds, a Dales brood mare and gelding, and 2 livery horses. Its main focus is the heavy hunter breeding programme.
6. Since the sale of the rented farmhouse at Southfields Farm, Town End Farm is the only dwelling on the combined holding. It is occupied by Mr and Mrs David Thompson, and is not subject to an agricultural occupancy condition. The only other accommodation is the static caravan to the rear of the farmhouse which is occupied by Ms Sally Thompson and her partner Mr Nick Gordon. However, this is now unauthorised following the expiry of a temporary permission relating to its original (non agricultural) function.

Agricultural need

7. The consideration of functional and financial tests was a key component of former national policy set out in Annex A of PPS 7: *Sustainable Development in Rural Areas*. However, it has been superseded by new National policy in the National Planning Policy Framework (*the Framework*). This no longer refers to functional and financial tests *per se*, but says (at paragraph 55) that isolated homes in the countryside should be avoided unless there are special circumstances, such as an essential need for a rural worker to live permanently at or near their place of work. Whether this need is essential in any case will depend on the needs of the enterprise rather than the personal preferences or circumstances of any individuals. A similar requirement is set out in saved Policy ENV5 of the *Stockton-on-Tees Local Plan (LP)*, which says such dwellings will be permitted only where they are necessary for a farming operation. I afford this policy substantial weight as it is consistent with the Framework.
8. The Council do not accept that that the submitted evidence adequately demonstrates that another dwelling on the farm is essential, or that the equine enterprise could operate as a viable business.
9. Based on guidance in the ABC handbook,¹ the appellant's agent says there is a current labour requirement for 1.59 equivalent full-time workers for the sheep operation, and 3.28 for the horses (giving a total 4.87 equivalent full-time workers for livestock management). The consultants appointed by the Council, who based their calculations on the ABC handbook, calculated the labour requirement to be between 1.69 and 1.89 workers for the entire livestock activity. This reduced to between 1.48 and 1.58 by factoring in an allowance for general management duties which might be expected on any farm. The calculations exclude the arable operation, as it was agreed by both parties that this has no bearing on the functional need for a permanent dwelling.
10. The two approaches in interpretation differ widely in terms of labour calculations, and this is partly explained by different inputs being applied to the standard formulae including factors such as length of the working day, allowance for management time, and (in the Council's case) absence of a labour allowance for the care of lambs over 6 months old. Notwithstanding the

¹ Agricultural Budgeting and Costing Handbook 74th edition May 2012

many variables and different approaches of interpretation, it is nonetheless clear to me that the nature and scale of the farming business as a whole gives rise to a labour requirement well in excess of one full-time worker (even based on the Council's lowest estimate).

11. With regard to the sheep enterprise; lambing is a seasonal rather than a year-round operation, with the main activity taking place in spring. However, on this holding it was explained that lambing takes place over a fairly prolonged period, with separate tugging arrangements for two sections of the flock. Whilst it may be possible to alert a farm worker when a problem occurs during lambing, it would take an external worker some time to respond. Whilst the Council suggested the use of temporary mobile accommodation during lambing, this would not cater for the out-of-hours and year-round care of young or sick animals, the extended care of store lambs up to 6 months old, and other welfare issues that can arise at any time. It would be an impractical alternative in my view.
12. With regard to the equine enterprise, there are peaks of activity throughout the year when more labour input is required, not just at foaling times. Factors including the value of the stock, the vulnerability of foals and young horses, the effort required in training them, and the year round activity all make the care of horses more labour intensive per unit of stock than the sheep enterprise. I heard no evidence to question the considerable financial investment and labour input going into this growing business, and it is clearly far more than just a hobby or ancillary activity.
13. Therefore, taking into consideration the large number of animals on the farm, both sheep and horses, the out-of-hours requirement arising from lambing and foaling, the necessity to care for newly born and sick animals, and ongoing welfare issues, I consider there is an essential need for at least one worker to be readily available at most times in sight and sound of the farm buildings. The protection afforded by the presence of a key worker who could respond quickly, would also help to protect against the risk of poaching and help reduce incidents of vandalism. This adds weight in support of the proposal.
14. A very significant material consideration is that the key workers who now undertake the majority of the farming duties are Ms Sally Thompson and a stockman employee who lives in another village. As well as taking almost all responsibility for the equine enterprise, Sally Thompson is now actively involved in lambing and sheep welfare generally. Indeed, her key role has been recognised by her being included in the family partnership agreement. Due to his age and health Mr David Thompson is now no longer able to take a very active role in the practical and heavier farm duties, and although he is still involved in all farm tasks, his role is essentially managerial and financial.
15. Consequently, I consider it would be unreasonable to deny Sally Thompson and her partner separate accommodation, and to expect Mr and Mrs David Thompson to move out of their family home, either now or after full retirement. In this regard I am aware of the judgement in the Keen² case, where the court found it was not reasonable to expect the farmer to leave his house and presumably buy another one elsewhere when a clear need had been established for a new dwelling.

² HC/280 Keen v SSE and Aylesbury Vale District Council

16. I therefore conclude that the essential need for a new dwelling has been justified. Whilst there is a house for sale next to the appeal site, I accept that the asking price is unaffordable to the partnership, and its size excessive for the needs of the farm. Nor are there any suitable buildings that might be suitable for conversion to residential use.

Whether the need can be sustained

17. The Council has referred to the 'financial test' in the former PPS7 whereby the agricultural unit and activity had to be established for three years, profitable for at least one of them, and be financially sound and capable of remaining so. Although there is no longer such a test enshrined in National policy, it is still necessary to assess whether the need for a dwelling is likely to be sustained in the medium to long term. In this case, the sheep and arable farming business has continued for many years, and there is no reason to doubt its continued viability on the basis of the submitted evidence.
18. It is true that the equine business has not shown a working profit to date. However it is anticipated that a profit will be returned from the next financial year onwards when foals begin to be sold. The business has been funded by the partnership and occupies a significant resource in terms of buildings on the farm. Investment in stock has been very significant indeed, and the Business Plan indicates firm commitment to future growth. In any event, I have to consider the need of the farm business as a whole, of which the equine enterprise comprises one part. On the basis of all these factors, I am satisfied that the need for the proposed dwelling is likely to be sustained.

Other matters

19. The size of the proposed dwelling was discussed at the Hearing. It would have a footprint of about 118sqm and a floor area of about 180sqm. Although no guidance is offered in the *Framework* or in LP policy, it is appropriate to ensure that the dwelling is of suitable size to serve the needs of the holding. Although the floor area might be said to be at the 'upper end' of the range, the amount of accommodation is not excessive (three bedrooms, two bathrooms, living room, dining room, kitchen, utility room, and farm office). Therefore, on balance, I do not consider its size is at odds with the particular agricultural circumstances of the case and the need to provide family accommodation.
20. I am aware of the previous 2009 appeal³ by the same appellant concerning the erection of an agricultural worker's dwelling and farm buildings at Southfields Farm. This split decision was dismissed insofar as it related to the dwelling, and allowed in relation to the buildings. The Inspector on that occasion was not convinced there was a need for one or more workers to be readily available at most times, or that the nature and demands of the farm work made it essential for a worker to live at or close to the farm. Significantly however, the National policy background and the farm circumstances have now changed. Furthermore, Mr David Thompson is about to retire from active farm work meaning that the existing farmhouse will no longer be available for the key worker; and Ms Sally Thompson has developed the equine enterprise and is more heavily involved in other farm activities. These are new matters to be weighed in my consideration of the appeal, and Inspectors must make their

³ Ref: APP/N1350/A/2105733

decision based on the evidence before them, with reference to up-to-date policy and other material considerations.

21. I have been referred to many other appeal decisions concerning proposed farm dwellings (permanent and temporary), and related to various sheep, cattle, equine, arable and horticultural enterprises throughout the country. However, the circumstances differ widely in each case, and these decisions have not influenced my reasoning. Each application and appeal falls to be considered on its own merits, and in any event, all these examples pre-date the introduction of the Framework.

Conditions

22. I have considered the conditions put forward by the Council in the light of the advice in *Circular 11/95*. A condition requiring the development to take place in accordance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. However, further details are needed to show the access widened to a minimum of 3.7m in the interests of highway safety. Conditions requiring the submission of full landscaping details and future planting and maintenance are needed in the interests of the appearance of the area, as is a condition to clarify that the external materials shall be as stated on the approved plans.
23. A 'bespoke' agricultural occupancy condition is necessary in view of the mixed nature of the business, and this would not unreasonably constrain future occupancy should a particular component fail or circumstances change. I shall therefore impose a condition to include a person working in either agriculture or the commercial breeding of horses. As discussed at the Hearing, a further condition is necessary to secure the removal of the existing mobile home.
24. The Council has suggested a condition withdrawing permitted development rights for extensions and alterations to the dwelling, the erection of garages, car ports, curtilage buildings, vehicle hard standings, gates, walls, and fences. Circular 11/95 says such conditions should only be imposed where they would serve a clear planning purpose. The purpose here is to ensure that the dwelling remains of a suitable size to serve the needs of the holding and to be affordable to a rural worker. I shall therefore impose a condition withdrawing permitted development rights, but only insofar as it relates to extensions and alterations to the dwelling. A condition requiring the dwelling to achieve Lifetime Homes Standards and minimum Level 4 of the Code for Sustainable Homes is reasonable, to accord with *Core Strategy* Policy 3.

Conclusion

25. Drawing all these aspects together, I conclude that the nature and scale of the farming operation is tantamount to requiring at least one full-time worker, and that there are clear and genuine farming reasons for the key worker to live at the farm on a permanent basis. This farming need is likely to be sustained in the long term. As such, I find that the proposal accords with the requirements of LP Policy ENV5 and National policy in the *Framework*. Therefore, for the reasons given above, and taking into account all other matters raised in the representations, I conclude that the appeal should be allowed.

Nigel Harrison INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 120307/001; 120307/002; 120307/003; and 120307/004.
- 3) Notwithstanding condition 2 (i.e. the condition requiring the development to be carried out in accordance with the approved plans) no development shall take place until details showing the vehicular access widened to a minimum of 3.7m have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall be in accordance with the materials specified on the approved plan No.120307/003, unless otherwise agreed in writing with the local planning authority.
- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include proposed finished levels or contours; means of enclosure; the car parking layout; vehicle and pedestrian access; hard surfacing materials; minor artefacts and structures; and proposed and existing functional services above and below ground.
- 6) All hard and soft landscape works agreed in accordance with condition 5) above shall be carried out in accordance with a programme agreed in writing by the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next season by others of similar size and species.
- 7) The dwelling shall be built to Lifetime Homes Standards and achieve a minimum Code Level 4 of the Code for Sustainable Homes. The dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.
- 8) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working in the locality in either agriculture, forestry, or in the commercial breeding of horses, or a widow or widower of such a person, and to any resident dependants.
- 9) The existing mobile home on the appeal site shall be removed from the site within three months of the first occupation of the dwelling hereby permitted.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying that Order), the provisions of Schedule 2 Part 1 Class A relating to the enlargement, improvement, or other alteration to a dwelling-house, shall not apply to the dwelling to which this permission relates.

(End of conditions)

APPEARANCES

FOR THE APPELLANT:

Stephen Graham Barker	Prism Planning
David Thompson	
Sally Thomson	
Nick Gordon	
Ian Cartwright	Hanby & Co

FOR THE LOCAL PLANNING AUTHORITY:

Simon Grundy	Stockton-on-Tees Borough Council
Tom Whitehead	Carter Jonas
David Boulton	Carter Jonas

INTERESTED PERSONS:

Gary Watchman	Lakeside Stables
---------------	------------------

DOCUMENTS

- 1 Unaudited financial statements and business forecasts 1 August 2012 to 30 June 2013
- 2 Out of Hours Farming Incidents 15 March 2012 to 24 July 2013
- 3 Letter in support from Robin and Julie Anderson: East Farm, Old Stillington

Appeal Decision

Hearing held on 25 February 2014

Site visit made on 25 February 2014

by Beverley Doward BSc BTP MRTPI

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

Decision date: 21 March 2014

Appeal Ref: APP/Q9495/A/13/2207717

Land north of Esthwaite View Caravan Park, Roger Ground, Hawkshead, Ambleside, LA22 0QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs M Woodhouse against the decision of the Lake District National Park Authority.
 - The application Ref 7/2013/5435, dated 26 July 2013, was refused by notice dated 18 September 2013.
 - The development proposed is an agricultural worker's dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for an agricultural worker's dwelling at land north of Esthwaite View Caravan Park, Roger Ground, Hawkshead, Ambleside, LA22 0QA in accordance with the terms of the application, Ref 7/2013/5435, dated 26 July 2013, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The National Planning Practice Guidance was issued on 6 March 2014. The content of the Guidance has been considered but in the light of the facts of this case it does not alter my conclusions.
3. The application was made in the terms set out in the heading above. However, the appellant suggests that the proposed dwelling could equally be described as a rural worker's dwelling or a local needs dwelling as both of these would serve the purpose of providing accommodation to help sustain the existing rural business at Howe Farm. Nevertheless, the Authority considered the proposal on the basis of an agricultural worker's dwelling and, given that the dwelling is sought to provide accommodation for an agricultural worker at Howe Farm, I have also considered the proposal on this basis.
4. The planning application was submitted in outline with all matters reserved. A layout plan was submitted with the planning application. However, I have taken this into account as being for indicative purposes only. Accordingly, I have considered the appeal on this basis.

Main Issues

5. The substance of the Authority's reason for refusal is whether there is an essential need for a new agricultural worker's dwelling in the open countryside.

However, the appellant questions whether the appeal site is within open countryside. Accordingly, as discussed at the Hearing I consider the main issue in this case is whether the proposal would comply with relevant national and local planning policy with regard to the location of new housing.

Reasons

6. The appeal site is part of a small field to the north of an existing caravan/holiday lodge park to the south east of the hamlet of Roger Ground and about 500 metres to the south of Hawkshead within the Lake District National Park. It is about 158 metres to the north of Howe Farm which is a traditional Lakeland farm tenanted by the appellant.
7. The National Planning Policy Framework (the Framework) advises, at paragraph 55, 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. It indicates that 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.
8. Policy CS02 of the Lake District National Park Core Strategy (Core Strategy) seeks to achieve vibrant and sustainable communities. It identifies a settlement hierarchy and indicates that the level of development will be proportionate to the size and population of the settlement and its capacity to accommodate further development.
9. It was agreed at the Hearing that Roger Ground could be considered to constitute a Cluster Community where, in the terms of policy CS02, only limited small-scale development to meet local needs will be acceptable, provided certain criteria are met. Any such development should firstly, reinforce the distinctive settlement pattern of the area and then, demonstrate an efficient use of previously developed land, buildings and domestic gardens, or help sustain an existing business. In this case the settlement pattern of Roger Ground is clustered around the adjacent roads. The appeal proposal however would be outside and separate from the existing settlement. It would be located on the other side of How Beck to the nearest dwellings in Roger Ground and would have no direct access from Roger Ground, being accessible only through the caravan/lodge park to the south east. Consequently, it would fail the first test of reinforcing the settlement pattern of Roger Ground. Accordingly, there is no need to consider the further criteria of this part of policy CS02 and the proposal falls to be considered by the next part of the policy as development in the open countryside.
10. In such circumstances, policy CS02 of the Core Strategy indicates that development will only be supported where it demonstrates that any one of several circumstances exists. In relation to housing development it indicates that it should provide for a proven and essential housing need. This is broadly consistent with the advice in paragraph 55 of the Framework, as referred to above.
11. The Authority has produced practice guidance¹ which sets out its approach to the consideration of whether there is an essential need for a rural worker to

¹ Practice guidance: Agricultural, forestry and other essential dwellings in the open countryside January 2013

live permanently at or near their place of work in the countryside, as referred to in the Framework and policy CS02 of the Core Strategy. This is useful in the detailed application of the tests in the Framework and Core Strategy policy CS02 to specific proposals.

12. In its assessment of the appeal proposal the Authority commissioned an independent agricultural assessment which found that there is a clearly established existing functional need on the landholdings that make up Howe Farm for a full time worker actively involved in the management of the holding to be resident on or immediately adjacent to it. It also found that the farm is financially viable and has a clear prospect of remaining so. However, there is disagreement between the parties as to whether the labour requirement of the holding is such as to require more than one full time worker to live permanently at or near to it.
13. From the evidence, the labour requirement is somewhere between 2.5 and 2.9 full time workers, depending upon whether the labour required to support the Bed and Breakfast and Holiday Cottage rental, which currently contributes towards the diversification of the farming business, is included. However, it seems to me that, even if the lower figure of 2.5 were to be taken, the labour requirement is clearly approaching the level of around 3 full time workers, suggested by the Authority's adviser as normally being requisite to trigger the need for 2 full time workers to be resident on the holding. Furthermore, whilst I note that the landlords of Howe Farm (The Graythwaite Estate) consider that its size does not justify two dwellings, I am mindful that in this particular case the appellant not only farms the land which is tenanted from the Graythwaite Estate but also additional land to the north of the main farmstead, some of which is in his ownership and some which is separately rented. Accordingly, the land holding farmed by the appellant is somewhat disparate and extensive. In my view this would be likely to increase the requirement for an additional agricultural worker to live permanently at or near their place of work due to the need for skilled workers to be on hand to deal with separate emergencies on different parts of the holding. Therefore, I am satisfied that in this case there is an essential need for 2 full time agricultural workers to live at or near their place of work.
14. The existing farmhouse at Howe Farm meets the accommodation needs of one of those workers and the Authority suggests that in this case, if there was found to be an essential need for another such worker to live permanently at or near their place of work, there are two other dwellings which could serve to meet that need. It suggests that these are the existing holiday cottage at Howe Farm and an agricultural worker's dwelling at Roger Ground which is owned and occupied by the appellant's mother.
15. The scale of the proposed dwelling is a reserved matter. However, from the evidence it would seem reasonable to suggest that the annualised cost of providing it would be similar or slightly more than the rental income which would be foregone from the existing holiday cottage, if it was to be used to provide accommodation for a second worker. However, the holiday cottage and the farmhouse bed and breakfast accommodation provided at Howe Farm are inextricably linked in their operation and to lose the income from one element would be likely to harm the remaining part. In this respect I note that the income from the tourism element of the business provides an important aspect of cashflow for the farm by supplementing the farm income at particular

times of the year. Accordingly, the loss of the holiday cottage would be likely to undermine the viability of the core farm business. This would be contrary to the objectives of policy CS23 of the Core Strategy which supports farm diversification. Therefore, I am satisfied that in this case it would not be appropriate to consider that the holiday cottage should be used as residential accommodation to fulfil the essential need for an additional agricultural worker at Howe Farm to live at or near their place of work.

16. The planning permission for the agricultural worker's dwelling at Roger Ground was granted to the appellant's father, the previous tenant at Howe Farm. However, it is not currently available being occupied by the appellant's mother. The dwelling is not in the ownership of the appellant and the occupancy condition on it does not tie it to Howe Farm. Furthermore, the appellant has a number of siblings one of whom would also qualify to occupy the dwelling under the provisions of the condition. Consequently, there can be no guarantee that on vacation it would become available to meet the need identified above, even in the longer term.
17. From the evidence I am satisfied that there is no other existing accommodation available nearby that would meet the essential need for an additional agricultural worker at Howe Farm to live at or near their place of work. It would not be appropriate, as has been suggested, to expect that the second worker should be accommodated either within the existing farmhouse or the agricultural worker's dwelling at Roger Ground merely because it is a younger family member that currently provides that role. It is the requirements of the enterprise that are relevant in the consideration of the appeal proposal. Therefore, taking all of the above factors into account I am satisfied that in this case there is an essential need for an additional agricultural worker to live permanently at or near their place of work in the countryside.
18. To conclude on the main issue therefore, the proposal would comply with policy CS02 of the Core Strategy in so far as it indicates that development in the open countryside will only be supported where there is a proven and essential housing need. It would accord with the Authority's practice guidance on its approach to proposals for the construction of agricultural, forestry and other essential worker's dwelling in the open countryside. It would also comply with the advice contained in the Framework on promoting sustainable development in rural areas (paragraph 55) and in supporting a prosperous rural economy (paragraph 28). Furthermore, it would not conflict with the advice at paragraph 115 of the Framework in respect of conserving landscape and scenic beauty in National Parks.

Other matters

19. The Authority has referred to a number of other appeal decisions it considers relevant to this case. However, whilst there may be some similarities I have considered the appeal proposal on its own merits and have concluded that there is no conflict with either the Framework or the relevant local planning policies.
20. The details of the proposed dwelling in terms of its scale, appearance and layout will be considered at the reserved matters stage and there is no technical evidence to suggest that another dwelling would adversely affect the water supply system in the locality.

Conditions

21. The Authority has suggested a number of conditions that it considers would be appropriate were I minded to allow the appeal. Where necessary, I have amended or replaced some of the suggested wording for clarity, to more closely reflect the circumstances of the appeal proposal and to ensure consistency with national policy and guidance².
22. The application was made in outline and it is, therefore, necessary to impose conditions relating to the submission of reserved matters. In the interests of good planning it is necessary to impose a condition requiring development to be carried out in accordance with the approved site location plan. However, I have not included the layout plan titled proposed site plan in this condition because layout is a reserved matter. A condition is necessary to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources. The appeal proposal is justified on the basis that there is an essential need for an agricultural worker to live permanently at or near their place of work. Therefore, it is necessary to impose an agricultural occupancy condition in order to ensure that it remains available in the future to meet that need.
23. A condition requiring the submission of further details in respect of boundary treatment is necessary in the interests of the character and appearance of the area. The Authority has suggested conditions relating to the materials to be used. However, these matters relate to the reserved matters which will be determined at a later date. Conditions restricting permitted development should only be imposed in exceptional circumstances and given that the scale and appearance of the dwelling are reserved for future approval, I do not consider it necessary at this stage to remove permitted development rights for external alterations or extensions. This is a matter which could be dealt with at reserved matters stage if the Authority considers it necessary to withdraw such rights. However, in order to preserve the character and appearance of the countryside, I consider that in this case it would be both necessary and reasonable to impose the conditions suggested by the Council to remove permitted development rights relating to buildings, enclosures, pools or hardstandings within the curtilage of the dwellinghouse and also to preclude the positioning of a caravan within its curtilage.
24. Although not included in the Authority's list of suggested conditions I have also had regard to the consultation response from the utility company regarding drainage and consider that a condition would be required to secure the disposal of surface water and foul sewage.

Conclusion

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

Beverley Doward

INSPECTOR

² National Planning Policy Framework (2012) paragraphs 203 and 206, and National Planning Practice Guidance (2014): Use of Planning Conditions.

CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the approved site location plan.
- 5) Before the development begins a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.
- 6) 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.
- 7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied. Development shall be carried out in accordance with the approved details.
- 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 building, enclosure, container, pool or hardstanding shall be constructed within the the curtilage of the dwellinghouse hereby permitted.
- 9) Notwithstanding the provisions of Section 55 (2)(d) of the Town and Country Planning Act 1990 no caravan shall be positioned within the curtilage of the dwellinghouse hereby permitted.
- 10) No building hereby permitted shall be occupied until surface water and foul drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority.

APPEARANCES

FOR THE APPELLANT:

Christopher Garner BA (Hons); BTP; MRTPI	Garner Planning Associates
Susan Whittingham MRICS; FAAV	John Pallister Ltd
Michael & Lisa Woodhouse	Appellants

FOR THE LOCAL PLANNING AUTHORITY:

Mairi Lock BSc (Hons); DipTP; MRTPI	Planner Lake District National Park Authority
Alan Jackson BSc; FRICS; FAAV	AG & P Jackson Chartered Surveyors and Land Agents

INTERESTED PERSONS:

Malcolm Maclennan	Local Resident
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DOCUMENTS

- 1 Notification letter
- 2 E mail correspondence between appellant's agent and Lake District National Park Authority dated 3 December 2013 and 6 December 2013 regarding agricultural dwellings, affordable and local occupancy dwellings
- 3 E mail correspondence between appellant's agent and Lake District National Park Authority dated 28 January 2013 and 30 January 2013 regarding local need housing
- 4 Lake District National Park Annual Monitoring Report of Planning Performance April 2011- March 2012
- 5 Lake District National Park Annual Monitoring Report of Planning Performance April 2012 - March 2013
- 6 Lake District National Park Authority: Affordable housing
- 7 Extracts from website – Howe Farm and Shepherds Cottage
- 8 AG & P Jackson 6 September 2013: Shepherds Cottage, Howe Farm, Hawkshead - comparison of net rental income with cost of providing new build farm worker's accommodation

availability of dwelling

3



Appeal Decision

Hearing held on 10 March 2009

by Mrs K.A. Ellison BA, MPhil, MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

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email: enquires@pns.gov.uk

Decision date:
8 April 2009

Appeal Ref: APP/W9500/A/08/2087370

Rigg Hall, Stainsacre, Whitby, North Yorkshire YO22 4LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr A Dixon against the decision of North York Moors National Park.
- The application Ref NYM/2008/0598/OU dated 23 July 2008 was refused by notice dated 29 September 2008.
- The development proposed is an agricultural worker's dwelling.

Decision

1. I allow the appeal, and grant planning permission for an agricultural worker's dwelling at Rigg Hall, Stainsacre, Whitby in accordance with the terms of the application Ref NYM/2008/0598/OU dated 23 July 2008 and the plans submitted with it, as amended, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 4) 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.

Preliminary Matters

2. The proposal is made in outline with all matters reserved. The Design and Access Statement describes the proposed dwelling as a bungalow, constructed of natural stone with a slate roof. However, the Authority points out that bungalows are not traditional in the National Park and that the buildings at Rigg Hall have pantile roofs. At the Hearing, the Appellant confirmed that the proposal should be amended to one for a two storey dwelling with pantile roof.

I consider that no interests would be prejudiced by this amendment and I have taken it into account in determining the appeal.

Main issue

3. The main issue in this appeal is whether the agricultural justification is sufficient to override the presumption against an isolated dwelling in the countryside.

Reasons

4. Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS 7) Annex A states that applications for new occupational dwellings should be scrutinised thoroughly and, in paragraph 3, sets out a number of requirements which such proposals should meet. It was common ground that the proposal meets the first three of these, namely that a functional need exists, it relates to a full time worker and the agricultural activity is financially sound. Given the amendment to the type and form of dwelling, I consider that the proposal would not conflict with the fifth requirement, that other planning requirements are satisfied.
5. The appeal therefore turns on whether the existing dwelling on the holding can be held to be available. According to the Authority, this dwelling provides for the accommodation needs of the enterprise. For the Appellant, it is argued that it is the family home of Mr & Mrs Dixon and it is unreasonable to expect them to vacate it to make way for an incoming worker.
6. The Appellant's position reflects the findings in *Keen v Secretary of State for the Environment and Aylesbury Vale District Council* ([1996] JPL), an approach which was more recently confirmed in *JR Cussons and Son v Secretary of State for Communities and Local Government* ([2008] EWHC 443). On the other hand, the Authority refers to *Ford and another v Secretary of State for Communities and Local Government* ([2007] EWHC 252). In that instance, even though there was a need for a worker to live on site and the existing dwelling was occupied, a new dwelling was not permitted because the current one was potentially available in the future. The Authority has also referred to the appeal decision which followed on from *Cussons* where planning permission for accommodation for an agricultural worker was not granted, even though the existing dwelling was occupied (APP/W9500/A/06/2029811).
7. In my opinion, these cases can be said to bear on the proposal before me as follows. Firstly, the *Keen* judgement, confirmed by *Cussons*, makes it clear that it is not sufficient for there to be some existing accommodation on site. It is also necessary to examine whether that accommodation can reasonably be held to be available. With regard to *Ford*, I am not convinced of the Authority's argument that its relevance lies in the finding that the existing dwelling was potentially available. In my view, that finding arose from the interpretation placed on a particular policy of the relevant Local Plan. No such policy is in force here. However, what *Ford* does clarify is that the existence of a functional need is not a simple absolute – it is also necessary to have regard to other considerations, where they are material. This would accord with the approach taken by the Inspector in APP/W9500/A/06/2029811.

8. Currently, the situation is that Mr Richard Dixon lives in Rigg Hall with his wife. According to their doctor, both have osteoarthritis which is expected to get worse with time. Together they have run the farm for many years but, with the passage of time, neither is as able as they once were to carry out the physically demanding tasks necessary to properly care for livestock. The farm is not functioning as effectively as it could and Mr Dixon now wishes to bring in his son, the Appellant, to take care of the stock. Although there are references to Mr R Dixon's retirement, it was stated at the Hearing that he intends to retain overall responsibility for management of the farm and expects to remain actively involved with it.
9. There are also personal reasons why Mr & Mrs Dixon wish to stay at Rigg Hall. The Dixon family has occupied the farm since about 1850 and, except for a handful of absences, this is where Mr Dixon has spent the greater part of his life. Furthermore, I heard that, even if the farm business failed, Mr Dixon would consider various other options rather than leaving his home. From what I have seen and heard, it is clear to me that Mr & Mrs Dixon have no plans to vacate Rigg Hall in the foreseeable future. Given the length of time they have lived there and their plans for continuing involvement with the business, I consider that, in accordance with *Keen*, the current dwelling is not available since it would be unreasonable to require them to leave.
10. However, the Authority makes two points. Firstly, it is implicit in the approach set out in PPS 7 that the close scrutiny of a proposed agricultural dwelling should include consideration of whether the need is long term. This is particularly so in view of the permanent effect which a dwelling would have on the landscape of the National Park, which is subject to the highest status of protection. Secondly, the need relates only to one worker yet this proposal would create a situation where two dwellings were in existence. In Annex A paragraph 1, PPS 7 states that whether a need is essential in any particular case will depend on the needs of the enterprise not the personal preferences or circumstances of any of the individuals involved. People in many walks of life can be faced with difficult choices about where they live, often in connection with their employment, so that the suggestion that Mr & Mrs Dixon should make way for the essential worker is not unreasonable.
11. On the first point I accept that, although there is no specific requirement in PPS 7 to demonstrate that the need for a permanent dwelling is long term, there is an implicit expectation that the need should be enduring, as evidenced, for example, in relation to the test of financial soundness and the prospects of the enterprise. However in this regard, I have already noted that Mr & Mrs Dixon do not appear to have any plans to leave Rigg Hall. In these circumstances, the clear indications are that the need for accommodation will persist for some time to come.
12. On the second point however, I do not accept the Authority's argument. The reference in PPS 7 to personal preferences or circumstances is made with regard to establishing whether the need for a worker to be readily available is essential. The Authority accepts that the need has been established. Paragraph 3(iv), which deals with meeting that need, requires consideration only of whether any other accommodation is suitable and available. In my view, personal preferences or circumstances have no role to play in assessing

whether this particular requirement is met. This would be consistent with the judgements in *Keen and Cussons*.

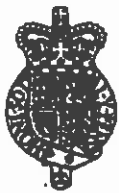
13. In summary therefore, I have found that there is no existing dwelling which can reasonably be said to be available to fulfil the functional need for a dwelling at Rigg Hall. Given that the proposal meets all other relevant requirements in Annex A of PPS 7, I conclude on my main issue that the agricultural justification is sufficient to override the presumption against an isolated dwelling in the countryside. On that basis, I also conclude that the proposal would not conflict with Core Policy A of the recently adopted Core Strategy which, among other things, gives priority to conserving the landscape of the National Park.

Conditions

14. In addition to the standard conditions relating to the submission of reserved matters, I have imposed an occupancy condition to ensure that the dwelling is kept available to meet agricultural need. The conditions are worded in accordance with the advice in Circular 11/95, *The Use of Conditions in Planning Permissions*. A further condition was suggested which related to the materials to be used but would, in my opinion, be unnecessary since this would form part of the reserved matters.
15. For the reasons given above I conclude that the appeal should be allowed.

K.A. Ellison

Inspector

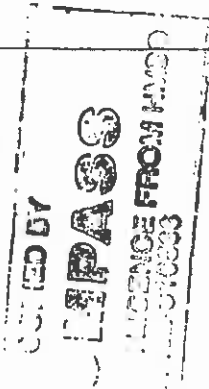


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Your Reference:
PC646/GH
Council Reference:
DMC/HC307/3/448
Our Reference:
T/APP/C/97/R2330/647276
T/APP/R2330/A/97/283405
T/APP/R2330/A/98/291659
Date:

21 MAY 1998

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 78, 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEALS BY MR P M ASHBURNER AND BOLTON POULTRY PRODUCTS
LAND AT BROWFIELD FARM, BACK LANE, BAXENDEN**

1. I have been appointed by the Secretary of State for the Environment, Transport and the Regions to determine your clients' appeals against an enforcement notice issued by the Hyndburn Borough Council and against two refusals of planning permission by the same Council, all concerning the above mentioned land. I opened an inquiry into the appeals on 28 April 1998. At the inquiry the Council informed me that the enforcement notice which was the subject of one of your client's appeals had been withdrawn. This was confirmed in writing. I was also told that your client wished to withdraw one of the appeals made under Section 78 (Ref: T/APP/R2330/A/97/283405). This was also confirmed in writing. Therefore I intend to take no further action in respect of the appeal against the enforcement notice and the withdrawn appeal against the refusal of planning permission. This leaves one valid appeal under Section 78 for determination. Also, at the inquiry an application for an award of costs against the Council was made on behalf of Bolton Poultry Products. This is the subject of a separate letter.
2. The development for which the Council has refused planning permission is the erection of an agricultural worker's dwelling. This was in respect of a full application with no matters reserved for subsequent approval.
3. The appeal site lies on the east side of Back Lane, above the level of the road. It stands to the north of a roadway which gives access to a group of six large poultry houses, ancillary sheds, structures and hardstandings. Immediately beyond the poultry houses a hardcore track has been laid and an area cleared and prepared for the erection of a further poultry building. Between the site and the poultry unit is a residential caravan, stationed within an enclosed garden area.



4. The site is within the Green Belt, where advice in Planning Policy Guidance note (PPG) 2 and the relevant policies of the approved Lancashire Structure Plan (policy 4(a)) and the adopted Hyndburn Borough Local Plan (policy S1) set out a strong presumption against inappropriate development in other than very special circumstances. Specific provision is made for buildings required for agricultural purposes, and at Appendix 1 of the local plan and Annex I of PPG7 the particular circumstances under which new permanent dwellings should be allowed in the countryside to support agricultural activities are set out.

5. Bearing in mind the policy framework, and from what I have seen and heard, I consider the main issue in this case to be whether the proposed development is justified on agricultural grounds or by other very special circumstances.

6. The Council does not dispute that the poultry enterprise at Browfield Farm is an established, viable enterprise which requires a full time worker to be on hand day and night to deal with problems concerning the welfare of the birds and other emergencies which might arise. In the Council's view the existing farmhouse, which stands on the west side of Back Lane, immediately opposite the entrance to the poultry unit, provides the necessary accommodation. My site visit confirmed that poultry rearing at Browfield Farm is carried out on a significant scale in purpose-built houses with a total capacity of about 100,000 chickens and an annual throughput of some 500,000. These figures will increase with the completion of a further building, for which site works have begun. From 1963 the poultry unit was operated in conjunction with other agricultural land totalling some 24ha by Mr Ashburner until August 1996, when its management was transferred to Bolton Poultry Products. I was told that this company has a two year agreement, to be replaced by a ten year contract if permission for the erection of a worker's dwelling is granted. Mr Ashburner has retired but has retained the other agricultural land and continues to live in the farmhouse. The residential caravan which is sited close to the poultry houses is occupied by the manager employed by Bolton Poultry Products, who runs the unit with help from other workers employed at busy times. The caravan has a radio alarm link to the buildings.

7. There is no dispute about the need for a resident agricultural worker but the main difference between the parties is whether or not that need can be met by existing accommodation at the farm. In dismissing Mr Ashburner's appeal for a farm manager's dwelling in 1994 (ref T/APP/R2330/A/93/228089/P2) my colleague considered that the existing farmhouse provided the opportunity for close supervision of the stock. Since that time the situation has changed in that Mr Ashburner has retired and the management of the poultry enterprise has passed to Bolton Poultry Products. Also, the Council now takes the view that the stationing of a residential caravan on the land is a use immune from enforcement action, consequently that residential use can continue.

8. In considering whether the functional needs of the poultry rearing enterprise can be met by the existing farmhouse I have had regard to the judgement in *Keen v Secretary of State for the Environment and Aylesbury Vale District Council* [1996] JPL 753 where it was held that the mere existence of existing accommodation does not suffice, it should be looked at in terms of availability and suitability. Although the circumstances of that case differ in some respects from those in the appeal before me it seems unreasonable that Mr Ashburner should have to vacate his house and make it available for an agricultural worker. Even if that were done questions must be raised about the suitability of a very large house with 4/5 bedrooms and a granny annex, for

occupation by an agricultural worker. A house such as this would command a high market price or rent and I doubt whether there would be any realistic prospect of it being bought or rented by an agricultural worker. Consequently, I am not satisfied that the existing farmhouse is available or suitable for occupation by an agricultural worker.

9. However, the status of the residential caravan located adjacent to the poultry houses cannot be ignored in considering the suitability and availability of existing accommodation. Because this residential use is immune from enforcement action the caravan represents a second existing unit of accommodation connected with Browfield Farm. It is now under the control of Bolton Poultry Products and has been occupied by their manager for some time. PPG7 refers to the use of caravans as temporary accommodation in circumstances where new agricultural activities do not satisfy the criteria for permanent dwellings. Whilst acceptable on this temporary basis caravans cannot be seen as suitable permanent dwellings for agricultural workers. But the long term viability of the poultry enterprise at Browfield Farm is not in dispute, therefore the circumstances outlined in PPG7 regarding temporary dwellings do not apply.

10. I am concerned that, although the residential caravan is not suitable permanent accommodation for an agricultural worker, its stationing is a use which could continue, with the possibility that the caravan could be moved to another part of the unit. In view of these circumstances a grant of planning permission for an agricultural worker's dwelling would in effect result in there being three units of accommodation at Browfield Farm. However, at the inquiry it was said for the appellant that there was no intention of continuing the use of the land for the stationing of a residential caravan if the appeal were upheld, and a unilateral undertaking to that effect was offered. A completed undertaking was submitted after the close of the inquiry, in accordance with the timetable I set out. In my view this undertaking is necessary to secure the removal of the caravan and the cessation of the use. Because the caravan is outside the appeal site and part of the holding is not in the appellant's ownership or control the same ends could not be achieved by a Grampian type planning condition.

11. I conclude that there is a functional requirement for an agricultural worker to be on hand to meet the needs of the poultry enterprise, a requirement which is not met by the existing farmhouse. Whilst residential caravans are not considered to be suitable permanent accommodation for agricultural workers the circumstances at Browfield Farm are somewhat unusual in that the existing residential caravan is immune from enforcement action and could lawfully remain on the land even if planning permission were granted for a permanent dwelling. In order to avoid this undesirable situation I consider that the unilateral undertaking prepared under S106 of the Act by the appellant and landowner is a necessary prerequisite to the grant of planning permission.

12. I now turn to consider the need for planning conditions along the lines of those suggested by the Council and discussed at the inquiry. The grant of planning permission for a dwelling in the Green Belt is only appropriate because of the agricultural justification, consequently it is necessary to impose an agricultural occupancy condition. I share the Council's view that there are no objections to the siting and design of the dwelling or the means of access, but the submitted plans do not indicate landscaping proposals or the materials to be used for the external faces of the building. Accordingly materials and landscaping are matters which should be the subject of conditions. Also, because of the site's rural location it is appropriate that details of boundary fencing or walls be approved.

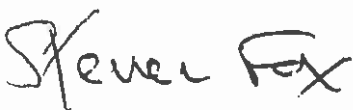
13. I have taken into account all other matters raised, including the appeal decision letters submitted, but find nothing to alter my conclusion the conditional planning permission should be granted.

14. For the above reasons and in exercise of powers transferred to me, I hereby allow your client's appeal and grant planning permission for the erection of an agricultural worker's dwelling at Browfield Farm, Back Lane, Baxenden in accordance with the terms of the application (No 11/97/0409) dated 6 August 1997 and the plans submitted therewith, subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this letter.
2. 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.
3. Development shall not commence until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first landscaping and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five 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 similar size and species, unless the local planning authority gives written consent to any variation.
4. Development shall not commence until samples of the external roofing and facing materials have been submitted to and approved in writing by the local planning authority.
5. 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) details of any boundary fencing or boundary walling to be erected on the site shall be submitted to and approved in writing by the local planning authority prior to its erection.

15. This decision does not convey any approval or consent required under any enactment, byelaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully



STEVEN FOX BA MA MRTPI
Inspector

APPEARANCES

FOR THE APPELLANT

Mr P Hosker - Solicitor, of Messrs Napthen,
Houghton and Craven

He called:

Mr G Hoerty BSc ARICS FAAV - Associate, J S Atherton & Co

FOR THE LOCAL PLANNING AUTHORITY

Mr G McMillan - Solicitor with the Council

He called:

Mr M D Evans BA MRTPI - Senior Planner

Mr P D W Llewellyn AMSST - Land Agent, Lancashire County
Council

INTERESTED PERSON

Clr J Dickinson BSc - Ward Councillor, of 4 Burns
Drive, Baxenden, Accrington

DOCUMENTS

Document 1 - List of persons present at the inquiry

Document 2 - Mr Hoerty's Proof and Appendices

Document 3 - Copy of decision letter App/L6425/A/94/507883 submitted by
the appellant

Document 4 - Extract from JPL (Keen v SSE)

Document 5 - Mr Evans's Proof and Appendices

Document 6 - Mr Llewellyn's Proof

Document 7 - Copy of decision letter T/APP/P2365/A/96/269876/P8 submitted
by the Council

Document 8 - Conditions suggested by the Council.

PLANS

Plans A-C - Application plans



The Planning Inspectorate

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Your Ref:
PC646/GH
Our Ref:
T/APP/R2330/A/98/291659

Date:

21 MAY 1998

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPEAL BY BOLTON POULTRY PRODUCTS
APPLICATION FOR COSTS BY BOLTON POULTRY PRODUCTS**

1. I refer to your application for an award of costs against the Hyndburn Borough Council which was made at the inquiry held at Accrington on 28 April 1998. The inquiry was in connection with an appeal by Bolton Poultry Products against a refusal of planning permission on an application for the erection of an agricultural worker's dwelling at Browfield Farm, Back Lane, Baxenden. A copy of my appeal decision letter is enclosed.
2. In support of your application, it was said that the Council failed to take account of relevant policy statements and judicial authority. In particular, paragraph I5(d) of Annex I to Planning Policy Guidance note 7 (PPG7) refers to the suitability and availability of other existing accommodation as a consideration in assessing the need for a new dwelling. In this respect the Council should have examined whether or not the existing farmhouse was suitable and available, and visited the house to establish its nature and size. It was not enough to rely on the previous appeal decision, circumstances have altered since then, through Mr Ashburner's retirement and changes to the management of the poultry unit. These factors were not considered.
3. In response, the Council maintained that its evidence demonstrates that paragraph I5(d) was considered in some detail. Mr Llewellyn's evidence looked at all the criteria set out in paragraph I5 and all relevant matters were taken into account, including the present situation with regard to the farmhouse and the management of the poultry unit. The conclusion reached was that an agricultural worker's dwelling was not needed. This approach was not unreasonable.
4. The application for costs falls to be determined in accordance with the advice



contained in Circular 8/93 and all the relevant circumstances of the appeal, irrespective of its outcome. Costs may only be awarded against a party who has behaved unreasonably, and thereby caused another party to incur or waste expense unnecessarily.

5. In my opinion both parties recognised that the tests set out in paragraph 15 were the relevant considerations in assessing the need for a new dwelling. In respect of 15(d) the Council's evidence, particularly that of Mr Llewellyn, substantiated the view that the existing farmhouse could meet the functional need. It was also clear at the inquiry that the Council was aware that the farmhouse was a large dwelling with a granny annex. The Council recognised that there had been changes since the 1994 appeal decision, but these were not considered significant enough to justify a new dwelling. Consequently, I do not consider there to have been unreasonable behaviour on the part of the Council.

I therefore conclude that your client's application for an award of costs is not justified.

FORMAL DECISION

6. For the above reasons, and in exercise of the powers transferred to me, I hereby refuse the application by Bolton Poultry Products for an award of costs against the Hyndburn Borough Council.

Yours faithfully

A handwritten signature in black ink that reads "Steven Fox". The signature is written in a cursive, slightly slanted style.

STEVEN FOX BA MA MRTPI
Inspector

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