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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 THORNLEY HALL FARM, UP
BELLAM ROAD, THORNLEY, LONGRIDGE, PR3 2TN.**

Applicants: G E Airey & Sons
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Date: April 2025
Our ref: Air/1164/3545/GH



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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 G E Airey and Sons of Thornley Hall Farm, for the erection of a permanent agricultural workers dwelling at Thornley Hall Farm. The partners of G E Airey and Sons are Graham Airey his wife Gill and their two sons Christopher and Daniel.
- 1.2 This planning application follows an outline planning application for similar development which was submitted under application number 3/2022/0265, which was approved and established the principle of developing a second dwelling on the holding. Following this a full planning application was submitted, application number 3/2023/0549, which was approved, and the development of the approved dwelling is now nearing completion. This dwelling when completed will be lived in by Christopher Airey and his family as planned, they are currently living in Longridge and the move back to the farm will enable Christopher to play a full part in the out of hours work that the farm generates and as a consequence to contribute to meeting the functional need that the agricultural enterprise generates.
- 1.3 This planning application also follows the submission of a request for pre-application advice in respect of the principle of the erection of an additional farm workers dwelling and the cessation of the sharing of the existing farmhouse by two families which was submitted on 2 October 2024. A site meeting with the case officer appointed to deal with the pre-app, Maya Cullen, took place at the farm on 11 November 2024 and the officer's written advice, a copy of which is attached at Appendix 6, was provided on 18 November 2024.
- 1.4 As we outlined in the Planning Statement and Agricultural Appraisal that accompanied application number 3/2022/0265 Graham Airey used to farm with his brother, and they traded as H E Airey & Sons, however they decided that they wanted to go their separate ways and in advance of this taking place the partnership sought and obtained planning permission for a range of modern agricultural buildings suitable for dairy farming which when erected would enable each of the partners to continue dairy farming after they dissolved their partnership, the application for farm buildings between 2017 and 2020 listed in Section 4 below all relate to the part of the farm that was taken on by Graham's brother Derek. Prior to the partnership split the brothers milked about 300 cows between them and owned approximately 568 acres of agricultural land in the immediate vicinity of the farmstead.
- 1.5 When the partnership between Graham and Derek was dissolved, approximately five years ago, they split the owner-occupied property between them which resulted in Graham having 270 acres of the owner-occupied land, a range of farm buildings suitable for housing 250 cows and followers and a farmhouse and the machinery and livestock were also split and each brother then set up a new business. Initially the dairy enterprise that G E Airey and Sons started with comprised about 150 dairy cows and followers, this had increased to 170 dairy cows and followers by 2022, and it is now 200 dairy cows and 190 followers.
- 1.6 Prior to the split Graham and Derek both lived on site and were working in the same business and between them they met the functional need to be present on site at all hours of day and night to deal with the welfare requirements of the livestock. Graham's two sons both lived in Longridge and prior to the partnership

splitting there was no need for them to deal with out of hours work as their father and uncle dealt with it.

- 1.7 When the decision was made by Graham and Derek to split the farm and separate, as a short-term solution to meet the need to have two full time farm workers present on the farm to deal with the out of hours work generated by the enterprise Graham and Gill made the decision to share their house with their son Daniel and his family. This involved Graham and Gill giving up occupation of over half of their house so that Daniel, his wife and two children could occupy the larger part of it. While the house is a reasonable size it is not a mansion house, and sharing occupation of it has resulted in both parts of the family having compromised living conditions and Graham and Gill effectively being downsized from a comfortable home into a cramped two up two down.
- 1.8 There would have been some financial pressure on the new business when it was first established, and a need to focus finances on ensuring its viability and success, there certainly wouldn't have been the capital available at that time to consider building a new dwelling on the holding, also this would have taken time to implement and sharing the farmhouse was the obvious short-term solution. It was only ever intended that sharing the farmhouse would be temporary and when the family first started sharing the house Daniels children were quiet young, but they are now 14 and 11 years of age and are boisterous noisy teenagers and this change has resulted in more noise being transmitted from one part of the house to the other. The sharing of the farmhouse has in a way fulfilled the role that a static caravan or other temporary accommodation would have provided while the viability of a newly formed farming business became established.
- 1.9 Thornley Hall is a listed property and it was designed and built as a single dwelling not two, some parts of the dwelling which are occupied by Graham and Gill are above parts of the dwelling occupied by Daniel and his family and there is no sound proofing between these rooms, there are doors between the two parts of the property and simple stud walls and the consequence of this is that there is no real separation between the two properties. As Gill and Graham get older, they are getting more disturbance as their grandchildren also get older and both generations of the family have reached the point where what was acceptable as a temporary solution to an immediate housing need is no longer suitable or sustainable. It has reached a point where Daniel and his family will not remain at the farm unless an appropriate dwelling can be built for them at the farm. If this isn't achieved, they will move back to Longridge which will leave only Chris to deal with the out of hours work because Graham is no longer able to undertake this work.
- 1.10 Graham and Gill no longer have any usable spare bedrooms to enable them to have their grandchildren or other visitors to stay with them overnight, their one spare bedroom is situated above the kitchen that is used by Daniel and his family and there is a lot of noise generated in the kitchen, which makes this room unusable other than for storage purposes. The noise has even resulted in Graham and Gill having to move their bed into a room above their garage to provide enough separation for them to get a peaceful night's sleep. They don't have a dining room as they only have a kitchen and lounge at ground floor and after working hard all of their lives, I am firmly of the opinion that they deserve better accommodation than they have.
- 1.11 The issue of forcing the owners of a farm to share their dwelling or to vacate it in order to accommodate a farm worker to meet an identified functional need was

considered in the case of John Keen v Secretary of State for the Environment and Aylesbury Vale District Council in 1995, a copy of the decision in that case is attached at Appendix 4 enclosed, and this concluded that not only must accommodation be available, but it must also be suitable, and we are firmly of the opinion that the accommodation that is provided by Thornley Hall is not suitable to accommodate three generations living in one dwelling and that alternative arrangements are required, which has given rise to this application.

- 1.12 The family have made a success of the new dairy business and the inclusion of their sons in the partnership with their energy and enthusiasm has been a significant driving factor in that success. The success of the business has enabled them to make further investment in the farm and to this end they have recently obtained planning permission for additional buildings and facilities at the farm.
- 1.13 We set out within this report, details of the application site and the proposed development, details of relevant planning history, full details of the agricultural enterprises undertaken by the applicant and set out the justification for the development and set out why it is acceptable in terms of both local and national planning policy. We will also refer to relevant planning appeals and case law which supports the approval of the application and comment on the pre-app advice that was received.

2. THE APPLICATION SITE AND SURROUNDINGS

- 2.1 The application site is a parcel of agricultural land which is situated in very close proximity to the farmstead at Thornley Hall Farm, it is located on the opposite side of Up Bedlam Road immediately to the south of the traditional buildings on the northern side of the road.
- 2.2 There are limited locations at the farm where the proposed dwelling could be sited, and we will comment in more detail in Section 9 of this Statement about the constraints which have resulted in the location that has been chosen.
- 2.3 The chosen application site is situated at the northern side of a small field parcel which adjoins the main road and there is an existing mature hedgerow along the field boundary adjacent to the road and to the east and west of the proposed site there are mature trees which together with the hedgerow will provide screening for the proposed development from views from the road. A walk along the public footpath which runs north up the boundary of the field to the east provides the opportunity to look at the site from higher ground to the south. It is clear from these views that the proposed dwelling would be seen as part of the large group of buildings that are located at Thornley Hall Farm which includes a clear view of both Thornley Hall and Thornley Hall Cottage. While the proposed dwelling will be separated from the buildings by the public highway this does not mean that it will appear visually separate from the existing farmstead rather it will be seen as part of a very extensive group of buildings.
- 2.4 Further screening of the proposed site in views from the south is provided by a gappy hedge along the field parcel's eastern and western boundaries which join at the southern corner of the field as can be seen in the photographs attached at Appendix 7. We have shown on the site plan these boundary hedges being gapped up and improved which will improve the existing screening.

- 2.5 The proposed siting avoids any impact on nearby trees as can be seen from the site plan that accompanies the application which has the tree root protection zones of nearby trees marked on it.

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. However, it is anticipated that the dwelling will be a two-storey property similar to that approved under application 3/2023/0549.
- 3.2 The dwelling will be sited to the south of the existing group of agricultural buildings, and it will be accessed by a proposed improved access off the main road as shown on the plans that accompany the application. The proposed dwelling will be sited in very close proximity to the farmstead where it will be well placed to meet the functional needs of the farming enterprise. It will also be seen as part of a group of buildings and not in isolation.

4. PLANNING HISTORY

- 4.1 We set out below details of the planning history shown on the Council's website for Thornley Hall Farm.
- 4.2 Planning application number 3/2024/0877 was an application for a proposed access track and a covered storage facility. The application was submitted on 20 November 2024 and was approved with conditions on the 15 January 2025.
- 4.3 Planning application number 3/2024/0661 was an application for a proposed agricultural building for livestock including concrete yard and access track. The application was submitted on 6 August 2024 and was approved with conditions on the 1 October 2024.
- 4.4 Planning application number 3/2023/0129 was an application for the discharge of conditions in respect of the erection of a farm worker's dwelling. The application was submitted on 16 February 2024 and was approved with conditions on the 15 April 2024.
- 4.5 Planning application number 3/2023/0549 was a full application for a farm worker's dwelling. The application was submitted on 7 July 2023 and was approved with conditions on the 18 December 2023.
- 4.6 Planning application number 3/2022/0265 was an outline application for a farm worker's dwelling. The application was submitted on 14 March 2022 and was approved with conditions on the 6 April 2023.
- 4.7 Planning application number 3/2020/0108 was an application for an extension to a previously approved general-purpose store to adjoin an existing agricultural building. The application was submitted on 7 February 2020 and was approved with conditions on the 6 April 2020.

- 4.8 Planning application number 3/2019/1073 was an application to construct an agricultural general-purpose storage building to adjoin existing farm building. The application was submitted on 20 November 2019 and was approved with conditions on the 13 January 2021.
- 4.9 Planning application number 3/2019/0118 was an application for extensions to an agricultural building to house livestock. The application was submitted on 11 February 2019 and was approved with conditions on the 19 March 2019.
- 4.10 Planning application number 3/2019/0096 was an application for a new agricultural building for livestock and storage. The application was submitted on 25 January 2019 and was approved with conditions on the 19 March 2019.
- 4.11 Planning application number 3/2019/0095 was an application to construct a further extension to an approved agricultural building to provide storage and livestock housing. The application was submitted on 24 January 2019 and was approved with conditions on the 19 March 2019.
- 4.12 Planning application number 3/2018/0879 was an application to construct an extension (lean-to) to an approved agricultural building. The application was submitted on 1 October 2018 and was approved with conditions on the 7 November 2018.
- 4.13 Planning application number 3/2018/0620 was an application for a new storage facility for surface water, wash water and diluted liquid manure from agricultural buildings. The application was submitted on 13 July 2018 and was approved with conditions on the 31 August 2018.
- 4.14 Planning application number 3/2018/0412 was an application for a discharge of condition number 3 (roof materials) from planning permission 3/2017/0874. The application was submitted on 9 May 2018 and was approved with conditions on the 6 June 2018.
- 4.15 Planning application number 3/2018/0338 was an application for extensions to approved agricultural livestock buildings. The application was submitted on 16 April 2018 and was approved with conditions on the 8 June 2018.
- 4.16 Planning application number 3/2018/0146 was an application for an agricultural livestock building. The application was submitted on 20 February 2018 and was approved with conditions on the 11 April 2018.
- 4.17 Application number 3/2017/1218 was an application for an extension to an agricultural building approved under ref 3/2017/0874. The application was submitted on 22 December 2017 and was approved with conditions on the 29 January 2018.
- 4.18 Planning application number 3/2017/0874 was an application for an agricultural building. The application was submitted on 18 September 2017 and was approved with conditions on the 9 November 2017.
- 4.19 Planning application number 3/2017/0584 was a prior notification application for an agricultural field track 140m long, 3.85 wide, surfaced with crushed limestone. The application was submitted on 26 June 2017 and it was determined that it did not require permission on the 20 July 2017.

- 4.20 Planning application number 3/2008/0022 was an application for a replacement agricultural livestock building to house a new milking parlour and collecting/handling facilities. The application was submitted on 7 January 2008 and was approved with conditions on 14 March 2008.
- 4.21 Planning application number 3/2004/0594 was an application for a two-storey side extension on Thornley Hall Cottage. The application was submitted on 17 June 2004 and was approved with conditions on 22 July 2004.
- 4.22 Planning application number 3/2002/0067 was an application for a building for livestock housing. The application was submitted on 22 January 2002 and was approved with conditions on the 7 March 2002.
- 4.23 Planning application number 3/1997/031N was a prior notification application for the erection of sheep/machinery shed. The application was submitted on 16 September 1997 was approved with no conditions on the 14 October 1997.
- 4.24 Planning application number 3/1995/0347 was an application for the erection of an agricultural feed store. The application was submitted on 7 June 1995 and was approved with conditions on the 10 August 1995.
- 4.25 Planning application number 3/1991/0735 was an application for the erection of a feed building for dairy cattle. The application was submitted on 14 November 1991 and was approved with conditions on the 24 January 1992.
- 4.26 Planning application number 3/1990/0214 was an application for the erection of lean-to for housing young stock and dry cows. The application was submitted on 16 March 1990 and was approved with conditions on the 1 May 1990.

5. THE AGRICULTURAL HOLDING

5.1 Description

- 5.1.1 The application holding extends to approximately 340 acres (137.6ha) or thereabouts of grassland which comprises 270 acres (109ha) owner occupied land, 50 acres (20.22ha) rented on an annual basis and 20 acres (8.09Ha) which is available for summer grazing only. Full details of all of the land that is occupied by the applicants is set out in Section 4.3 below. We attach at Appendix 1 an OS map extract which shows the farms general location.
- 5.1.2 The farm has one main group of farm buildings which are located at Thornley Hall Farm. There is a traditional listed farmhouse at the farm which is occupied by Graham and Gill Airey and their son Daniel and his family and another dwelling under construction which will be lived in by Christopher Airey and his family. The farm buildings at Thornley Hall Farm are described in more detail in Section 5.2 below.
- 5.1.3 All of the land is down to grass and the applicants' farming enterprises comprises of 200 Holstein milking cows, together with approximately 190 followers at various ages. In addition to this they also keep 280 store lambs. Full information about the livestock enterprises is set out in Section 5.4 below.
- 5.1.4 The original farmhouse, Thornley Hall, is a detached two storey property with the following accommodation: five bedrooms, two kitchens, three living rooms and

two bathrooms. It has mains electricity and water with oil heating and foul drainage is to a septic tank. The farmhouse is occupied by Graham and Gill Airey who have been sharing the house with their eldest son Daniel and his family, which includes his wife and two children since the new business was formed.

5.2 The Farm Buildings

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

Building 1 – A traditional stone barn 9.8m x 26.7m

- 5.2.2 This two storey height barn is constructed of stone with a grey slate roof, part of the building is used as a brew room and rest. The rest is used for general agricultural storage and for housing calves.

Building 2 – Lean-to off building 1 13.7m x 33.3m

- 5.2.3 This building which has stone walls and a corrugated asbestos cement sheet roof houses youngstock.

Building 3 – cubicle shed 17.4m x 33.3m

- 5.2.4 This building which is a lean-to off Building 4 has stone walls and a corrugated asbestos cement sheet roof and has cubicles for 110 cows.

Building 4 – covered silage clamp 9.3m x 33.3m

- 5.2.5 This building is a steel portal frame building with 2.5m high shuttered concrete walls with corrugated fibre cement cladding above and to the roof.

Building 5 – feed store 8m x 30m

- 5.2.6 A steel portal frame building

Building 6 – silage clamp 15m x 30m

- 5.2.7 This silage clamp does not have a roof over it

Building 7 – calf shed 11m x 35m

- 5.2.8 This is a modern steel portal frame building which has concrete block walls with timber space boarding over and a corrugated fibre cement sheet roof. The building is used to house calves and young cattle.

Building 8 – stone barn 6.6m x 10m

- 5.2.9 This small traditional two storey height stone building which is used for storage.

Building 9 – youngstock building 13m x 19m

- 5.2.10 This building is constructed from a timber frame with a corrugated tin sheet roof.

Building 10 – Dutch Barn 7.2m x 17.4m

5.2.11 This building has a steel frame and tin cladding to the end elevations and the roof and is used for storing straw.

Building 11 – Feed Passage 5m x 20m

5.2.12 This building is a lean-to off the Dutch Barn and provides a feeding area for the cattle housed in the nearby buildings.

Building 12 – Cubicles 11.4m x 22.3m

5.2.13 A brick-built building with a corrugated asbestos cement sheet roof which provides cubicles for 40 cattle.

Building 13 – A traditional stone barn 5.5m x 19.7m

5.2.14 This two-storey height barn is constructed of stone with a blue slate roof, part of the building is used for storage and as a workshop.

Building 14 – collecting yard, parlour & calving area 15m x 60m

5.2.15 This is a modern steel portal frame building which was built in 2008, the building has concrete block walls with a small area of timber space boarding above on the dairy part of the building and is open fronted with feed barriers on the part of the building used for calving cows. In the dairy part of the building there is a bull pen next to the parlour, a race with a roll over crush and individual pens for cows that need attention.

Building 15 – cubicle shed 12m x 54m

5.2.16 This is a modern steel portal frame building with part concrete walls with timber space boarding over and a corrugated fibre cement sheet roof. The building has cubicles for 60 cows and a calving area.

Building 16 – cubicle shed 16m x 45m

5.2.17 This is a modern steel portal frame building with part concrete walls with timber space boarding over and a corrugated fibre cement sheet roof. The building has cubicles for 100 cows.

Building 17 – youngstock building 9.5m x 13.8m

5.2.18 This is a modern steel portal frame building which is open fronted and has shuttered concrete walls to a height of approximately 1.5m with timber space boarding over and a corrugated fibre cement sheet roof. The building is used to house calves and youngstock.

Building 18 – youngstock building 11m x 18m

5.2.19 This is a modern steel portal frame building which is open fronted and has shuttered concrete walls to a height of approximately 1.5m with timber space boarding over and a corrugated fibre cement sheet roof. The building is used to house calves and youngstock.

Building 19 - Thornley Hall – the farmhouse

- 5.2.20 The farmhouse at Thornley Hall Farm is a grade II listed building with two kitchens three reception rooms, five bedrooms and two bathrooms. It is a stone-built dwelling with a slate roof. The building now listed as Thornley Hall was previously listed as Thornley Hall, Garden Wall in front of Thornley Hall and Gateposts at Thornley Hall. There is a large garden to the front of the property which is enclosed by a tall garden wall which is clearly of significance to the listing of the property.

Building 20 - New build dwelling

- 5.2.21 The dwelling approved under application 3/2023/0549 is nearing completion and this provides an open plan dining, living, kitchen, a lounge, farm office and boot area at ground floor and four bedrooms and three bathrooms at first floor.

5.3 The Land

- 5.3.1 The applicants farm a total area of approximately 340acres (137.6ha) or thereabouts of land, all of which is down to grass. Approximately 270acres (109ha) is owner occupied, 50acres (20.22ha) is rented on an annual basis (and has been for the last 15 years) and 20acres (8.09Ha) is available for summer grazing only. Of the 270acres (109ha) of owner-occupied land approximately 78acres (31.6ha) comprise the applicants half share in a block of moorland. Plans of the land are attached at Appendix 3.

- 5.3.2 In an average year three cuts of silage are made on 156acres (63ha) and in a better year a fourth cut can also be taken. The fodder is ensiled at the farmstead in the two silage clamps. The land is otherwise grazed by the applicant's livestock.

- 5.3.3 All the land is well fenced and well maintained and the applicants claim Basic Payment on the majority of the land that they farm.

5.4 The Farming System

Dairy

- 5.4.1 The applicant's main farming enterprise is the production of milk from their herd of 200 Holstein dairy cows with all of the milk produced being sold off the farm, by contract, to 'Tesco'. The applicants are increasing their herd to 200 cows and have sufficient cubicles to enable them to do this without the need for any more buildings. The herd increase will be delivered in part by buying in cows and also by using sexed semen to ensure a high number of heifer calves. The heifers calve at 24-26 months of age.
- 5.4.2 In addition to the 200 head of dairy cows the applicant's rear their own replacements and will have in the region of 190 head of youngstock on the farm at any given time 95 0 – 12 months of age and 95 12 -24 months of age. The bull calves are sold at two months of age and the heifer calves are retained as replacements and to expand the herd.
- 5.4.3 The cows need close and effective management and supervision to maintain their health and productivity. The cows calve all year round to provide a constant

supply of milk. Cows can calve at any time of the day or night and often need assistance to calve safely and to prevent problems that might result in the death of the calf and/or the cow. Assisting cows calve is a physical activity that requires someone with experience and physical strength.

5.4.4 The cows are predominantly served by AI straws using sexed semen to produce female replacements for the dairy herd, but as well as this naturally serviced by the two on-farm Holstein dairy bulls. The keeping of dairy stock bulls requires two stockmen to be present on site when handling the animals as per Health & Safety Executive guidelines set out in "Handling and Housing Cattle" a copy of which is attached at Appendix 5. It is also recommended that two stockmen are present on the farm in terms of animal welfare requirements.

5.4.5 The cows are currently milked twice a day in the 20/40 herringbone parlour with each milking taking approximately two hours to complete. The cows were milked three times a day a couple of years ago but due to the difficulty in employing staff to do the night milking the applicant's reduced the frequency of milking. However, with Christopher moving to the farm and with appropriate accommodation being provided for Daniel and his family, so that he stays at the farm, they will be able to review the milking frequency and look to move to three times a day milking again which will further improve output and profitability.

Sheep

5.4.4 The applicant's other enterprise is a sheep enterprise, they purchase approximately 280 store lambs each year which graze the land through the winter months keeping the sward tidy and producing another source of income.

5.5 Labour Requirements

5.5.1 We have calculated the labour requirement at the holding using the two usual methods of standard man days (Nix Farm Management Pocketbook 2022) and Standard Labour Requirement based on hours per annum (SAC Farm Management Handbook 2020/21). The calculation using both methods are detailed below.

5.5.2 We have calculated the labour requirements of the holding using standard figures from the Farm Management Pocketbook 2022 by John Nix as follows:

200 dairy cows @ 4 days/head	=	800
95 dairy cattle 12-24 months @ 1.9 days/head	=	180.5
95 dairy cattle 0-12 months @ 1.2 days/head	=	114
2 Bulls @ 3.5 days/head	=	7
280 store lambs @ 0.3 days/head	=	84
Meadow Land 63ha @ 1.6 days/Ha 1 cut	=	100.8
Meadow Land 63ha @ 2.8 days/Ha 2 cuts	=	176.4
Grazing land 42.71ha @ 0.4 days/Ha	=	17.08
Rough grazing 31.65ha @ 0.2 days/Ha	=	6.33
total =		1,486 days

5.5.3 We have calculated the labour requirements of the holding using standard figures from the SAC Farm Management Handbook 2020/21 as follows:

200 dairy cows @ 28 hours/head	=	5,600
95 dairy cattle 0 -12 months @ 12 hours/head	=	1,140

95 dairy cattle 12 - 24 months @ 12 hours/head	=	1,140
2 Bull @ 12 hours/head	=	24
280 lambs @ 2.9 hours/head/annum	=	812
Meadow Land 63ha @ 12 hours/Ha 1st cut	=	756
Meadow Land 63ha @ 10 hours/Ha 2nd cut	=	630
Meadow Land 63ha @ 8 hours/Ha 3rd cut	=	504
Grazing land 42.71ha @ 3.1 hours/Ha	=	132
Rough grazing 31.65ha @ 1.5 hours/Ha	=	47
total		10,785 hrs/annum
@ 8hrs/day =		1,348 days

5.5.4 ADAS defines full time work as 275 days/year there is a clear labour requirement on the basis of employees working standard hours for 5.4 full time workers on the holding according to the Farm Management Pocketbook by John Nix and 4.9 full time workers according to the SAC Farm Management Handbook.

5.5.5 These figures are only a guide and will differ from holding to holding, part of the labour requirement can in some instances be met by the use of contractors and modern buildings are generally less labour intensive than older buildings. 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 and as a consequence the actual number of full-time workers is in practice often less than these calculations suggest.

5.5.6 The applicants farming activities are currently undertaken by three full time workers Graham, Daniel and Christopher Airey. Although at certain times of the year, seasonal workers are contracted in to help with silage making and they have had apprentice's in the past.

5.5.7 The labour requirement will increase as the size of the dairy herd increases.

5.6 Functional Need

5.6.1 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 that 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 calving/lambing and to ensure proper management of livestock. Examples of the supervision that can be required are as follows:

- Supervision and monitoring of breeding cattle leading up to and during calving. It is vital that the cattle are regularly inspected during this time. Failure to do so may result in the cows and first-time calving heifers having difficulties giving birth and essential human intervention may be required to avoid unnecessary loss of the calf and/or the cow/heifer. The applicant calves all year round;
- After giving birth dairy cattle require very close supervision as they have the tendency to suffer from "milk fever" (calcium deficiency) which can result in

death unless the symptoms are recognised early and treatment administered quickly. It is also essential to ensure that the calf has milk which will contain colostrum which contains high concentrations of leukocytes, protective white cells which can destroy disease-causing bacteria and viruses;

- The sheep graze all the various land parcels across the holding, hence there is a significant management burden on the applicant each day in inspecting all the animals, providing supplemental feed, and where necessary, medication.
- Unwell 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.

5.6.2 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 both Christopher and Daniel to reside at Thornley Hall Farm and any one of the examples given above can occur during a 24-hour period. Furthermore, it is essential for the health and safety of those looking after the livestock to be kept safe and we attach at Appendix 5 guidance from the Health and Safety Executive regarding the handling and housing of cattle.

5.6.3 The proper functioning of the livestock enterprise at Thornley Hall Farm requires both Christopher and his brother Daniel to reside on the farm so that they are able to provide the 24 hour, 7 days a week supervision that is essential to ensure that appropriate welfare standards are maintained. This has been possible on a temporary basis since the farming partnership between Graham and Derek ended by Daniel and his family sharing the farmhouse with his parents, however

as Graham has now partly retired and is working towards full retirement and sharing the main farmhouse was only suitable on a short-term basis a dwelling to accommodate Daniel and his family is now required.

6. REASONS FOR THE APPLICATION

- 6.1 The reason for the application is that there is a functional need for two full time workers to reside at Thornley Hall Farm, this was the case before the partnership between Graham and Derek Airey ended and it remains the case for that part of the farm that is now operated by Graham, Gill and their two sons. Since the split of the partnership the need has been fulfilled by Graham and Gill Airey sharing their house with their son Daniel and his family, however Graham is now sixty six years old and he is not as physically able as he used to be to carry out the physical tasks required on the farm which includes calving cows and he has now semi-retired in the next year or two intends to fully retire which means that Christopher and Daniel both need to live on site to meet the functional need generated by the dairy enterprise.
- 6.2 In approving the planning application for a dwelling at the farm for Christopher the Council agreed that there was a need for two able-bodied full-time workers to be available at most times of day or night at the farm to meet an identified functional need. In approving the last application, the Council accepted that as Graham was going to be retiring it was more appropriate for his two sons Daniel and Christopher to be dealing with the out of hours work and therefore for both of them to be resident on the farm. It is acknowledged that at the time of the last application because Daniel and his family were living in the farmhouse with Daniel's parents that both he and Christopher would be available on site once the approved dwelling was constructed.
- 6.3 The reason for this planning application is that the applicant's only intended to share the occupation of the farmhouse on a temporary basis while they established the new business and for the reasons set out in Section 1 of this report the farmhouse is not large enough or appropriately constructed for it to offer a suitable long-term solution to the applicant's housing requirements. Daniel and his family want to vacate the part of the farmhouse that they occupy to enable Graham and Gill to have an appropriate level of accommodation for their needs which they can live in peacefully without the disturbance that they currently experience as a consequence of Daniel and his family living in part of the property.
- 6.4 It is our opinion that the only practical way of resolving this situation is for a second new build dwelling to be erected at the farm to accommodate Daniel and his family. It has already been accepted by the Council that there are no other suitable dwellings nearby that could meet the functional need that exists at Thornley Hall Farm. We do not believe that it would be possible or practical to make alterations to the farmhouse, which is a Grade II Listed Building, the farmhouse is in our opinion not suitable to accommodate two families and there are no other suitable and available dwellings which could meet the functional need.

7. PLANNING CONSIDERATIONS

7.1 General

- 7.1.1 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 20 July 2021 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.
- 7.1.2 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.
- 7.1.3 We set out below extracts from the relevant documents to assess the planning application against all of the appropriate policies and guidance.

7.2 National Planning Policy

- 7.2.1 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)

- 7.2.2 The National Planning Policy Framework 2024 (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. The NPPF 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."*
- 7.2.3 The National Planning Policy Framework (The Framework) says, in Paragraph 8, that there are 3 overarching objectives which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). These are an economic role (contributing to the economy), a social role (supporting communities) and an environmental role (protecting and enhancing the natural and built environment).
- 7.2.3 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

7.2.4 Paragraph 12 - 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.

7.2.5 Paragraph 88 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.

7.2.6 Section 5 of the NPPF contains policies for the delivery of a wide choice of high-quality homes and paragraphs 83 and 84 advise 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.

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

7.3 Local Planning Policy

Core Strategy Policy

7.3.1 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

7.3.2 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.

7.3.3 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”.

7.3.4 Clearly the approval of the application that we have submitted on behalf of G E Airey and Sons will improve the economic and social conditions in the area by supporting the needs of a long established rural business.

7.3.5 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.”

7.3.6 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.

7.3.7 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, 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

7.3.8 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

7.3.10 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.

- 7.3.11 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 and as a consequence of the approval of the previous application for a dwelling by the Council, the functional test referred to above. The applicants require the Council to approve the application so that they can maintain and grow their farming business and meet the welfare standards required of people keeping livestock.
- 7.3.12 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 until recently this was through a partnership, between Graham Airey and his brother Derek, now with his wife and sons. The previous partnership was financially strong enough to be able to provide one of the partners with a new extensive range of farm buildings so that both partners could continue dairy farming independently of each other.
- 7.3.13 We are able to provide accounts for three completed years for the new business, however we are firmly of the opinion that this demonstrates that the new business is viable, profitable and has every prospect of remaining so, the new business has been planned on a sound financial basis.

8. RELEVANT APPEAL DECISIONS AND LEGAL CASES

- 8.1 When we submitted the last application we included a number of planning appeal decisions that demonstrated that there was a requirement for two full time workers to reside at Thornley Hall Farm and that this need could not be satisfied by any other dwellings nearby, this position was accepted by the Council and therefore we do not consider it relevant as part of this application to provide these appeal decisions.
- 8.2 The main issue that is relevant to this application is whether the applicants' having for a period of time shared the occupation of the farmhouse without any assessment as to its suitability to be lived in as two dwellings, for which permission does not exist, should be forced to continue doing so when they do not believe that it is suitable for such use in the long term.
- 8.3 We have provided at Appendix 4 copies of a number of planning appeal decisions which demonstrate that it is not appropriate to propose that Graham and Gill Airey be required to vacate their dwelling now that Graham is no longer the person dealing with the out of hours work on the farm in order to make it available in full for their son Daniel and his family to occupy. Furthermore, the appeal decision in respect of Browfield Farm and the legal case of John Keen v Secretary of State for the Environment and Aylesbury Vale District Council in 1995, a copy of the decision in that case is attached at Appendix 4 identify that in determining whether there is other accommodation that could be used that this has to be both suitable and available.

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

- 8.4 This appeal involved an application for a farm worker's 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.
- 8.5 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.
- 8.6 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.
- 8.7 This appeal decision offers clear support for the continued occupation of Thornley Hall Farm by Graham and Gill Airey.
- 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
- 8.8 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.
- 8.9 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.

- 8.10 The Inspector had to consider the appropriateness of turning the holiday cottage into a farm worker's 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 Howe Farm to live at or near their place of work.
- 8.11 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.
- 8.12 This appeal decision offers clear support for the continued occupation of Thornley Hall Farm by Graham and Gill Airey.
- 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
- 8.13 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.
- 8.14 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).
- 8.15 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.
- 8.16 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.

- 8.17 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.
- 8.18 This appeal decision offers clear support for the continued occupation of Thornley Hall Farm by Graham and Gill Airey.

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

- 8.19 This appeal is one which Gary Hoerty of Gary Hoerty Associates was personally 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 use of a series of caravans on site for residential purposes.

- 8.20 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 Inspector 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.

- 8.21 The appeal was allowed, and a new farm workers dwelling was permitted and again this confirms our opinion that although the farmhouse at Thornley Hall Farm is currently occupied by two families this does not mean that it is suitable for such occupation. This appeal also confirms that Graham and Gill Airey cannot be required to vacate the farmhouse.

Appeal Reference: APP/H2733/W/17/3186812
Address: Rye Topping Farm, Ings Lane, Brompton by Sawdon, Scarborough, YO13 9DS
Appellant: Mr J Mudd

Local Authority: Scarborough Borough Council

- 8.22 This appeal has been included because it involved the need for an additional dwelling to accommodate a rural worker and the existing dwelling which was listed was assessed to establish whether it was available and suitable. In this case the applicant's mother lived in the listed farmhouse although she is still actively involved in the management of the business but at 77 years of age, she was no longer involved in providing manual labour.
- 8.23 The inspector mentions that the applicant's mother has a large family who visit regularly and that she was at the time of the appeal caring for one of her brothers who was living with her at the farmhouse. She was said to require all of the space that was available in the farmhouse and did not wish to downsize or move.
- 8.24 The Council did not argue that she should leave the farm altogether but thought that the existing farmhouse could be altered to meet the needs of the farm. It suggested that an annex could be provided to accommodate the appellant's mother such that the appellant and his family could also live in the farmhouse thereby avoiding the need for a new dwelling. The appellant considered the house to be too small to be suitable for alteration to create two dwellings. It was agreed between the appellant and the Council that extensions to the front and sides of the farmhouse would be unlikely to be acceptable and the property had already been extended at the rear.
- 8.25 It is important to note that in this case the person occupying the farmhouse had sufficient room to accommodate members of her family whereas in the case of Thornley Hall Graham and Gill have been left by the current temporary arrangement with very limited accommodation and with no room to accommodate their family within the property.
- 8.26 We consider that this case demonstrates that if we ignore the existing temporary arrangement that has seen the house being lived in by two families that it would be completely unreasonable for the Council to insist that such an arrangement was a suitable long-term solution to the identified and functional need for two workers to be resident on the holding.

John Keen v Secretary of State for the Environment and Aylesbury Vale District Council in 1995

- 8.27 We have, as already stated, attached, at Appendix ??, a copy of the judgement in the case of John Keen v Secretary of State for the Environment and Aylesbury Vale District Council in 1995. This is a very important case when assessing the need for the erection of a farm workers dwelling at a farm where there is already a dwelling that has been occupied in connection with the farm and whether or not that dwelling can be considered suitable and available to meet the identified functional needs of the holding. The applicant/appellant Mr Keen occupied an imposing spacious four bedroom family home with further accommodation in the roof space, a former integral garage had been converted into additional living accommodation and a new garage had been added. There was no information as to the number of bathrooms or the kitchen facilities. In this case an application for a farm workers dwelling was refused and the appeal against the refusal was dismissed because the Inspector observed that it would be possible for the applicant to meet the requirements of the farming enterprise by making all, or part of the dwelling available to the agricultural worker.

- 8.28 The result of the legal case was that the application was granted, and the Inspector's decision was quashed on the basis that the Inspector had inadequately applied the test of availability and suitability and had rejected the need for the dwelling on a number of unjustifiable and inconsistent hypotheses.
- 8.29 This case demonstrates that it is not acceptable simply to say that the farmhouse should be shared by two families, regardless of the fact that two families have for a period of time shared the dwelling. It is necessary having clearly established that the functional needs of the agricultural enterprise operated at the farm generates a need for two full time workers to reside at the farm, and in this case those workers are clearly Christopher and his brother Daniel, to then consider what accommodation is available and suitable. It is not enough to simply say that because the farmhouse has been shared on a temporary basis that it should be shared on a permanent basis. In some ways the sharing of the farmhouse has enabled the viability of the newly formed business to be established in a similar way to the provision of accommodation for a temporary period through the use of a static caravan. We would not expect an application for a permanent dwelling to be refused because the applicant had made do with a caravan for three or four years and should therefore continue to do so and it is no different with this application.

9. COMMENTS AND OBSERVATIONS IN RESPECT OF THE PRE-APP

- 9.1 Prior to the submission of this application we sought pre-application advice from the Council about the proposed application and we provided an explanation as to why the proposed dwelling was required and where it was proposed to be located if it was considered acceptable. We considered it important for the officer providing the advice to inspect the farmhouse so that they could see what accommodation was available, how it was laid out and could understand the issues that have resulted in living conditions which are not acceptable to the two families that are sharing one dwelling, with the result that alternative accommodation is required for one of the families.
- 9.2 The planning officer attended a site visit on 15 November 2024 and during her site visit she was able to hear the noise transmission between the two parts of the property, see that there was no clear physical separation due to the presence of interconnecting doors, see that the spare bedroom of the part of the property occupied by Graham and Gill was above the kitchen used by Daniel and his family, see that Graham and Gill had had to move their bed out of their bedroom to a room above the garage in order to be able to get an undisturbed night's sleep and to see that Graham and Gill do not have a dining room.
- 9.3 During the site visit the officer expressed concern about the proposed location because it was on the other side of Up Bedlam Road to the farmstead, we explained the reason for the proposed siting of the dwelling which was based on practical constraints of siting it elsewhere on the farm.
- 9.4 We received the officer's written advice in response to the pre-app, a copy of which is attached at Appendix 6, on the 18 November 2024 and we will comment on it and provide additional information explaining in more detail why a separate dwelling is required and why the proposed location is the most appropriate one.

- 9.5 The advice confirmed that there was a need for two full time workers to be readily available at all times of day and night at the farm to meet the functional needs of the agricultural enterprise undertaken on the farm. It acknowledged that Graham Airey was nearing retirement and that it would be his two sons Christopher and Daniel who would need to be resident on the farm to meet the functional need. The advice also acknowledged that the Council cannot require Graham and Gill Airey to vacate their dwelling to make it available to a worker to meet the functional need.
- 9.6 The officer identifies that before the erection of a new farm workers dwelling is considered as assessment as to whether the existing farmhouse is suitable and available must be made as *"the Council are of the opinion that the existing farmhouse still could be suitable and available and all alternative options should be fully explored to subdivide the existing property to allow for independent living for Graham and Gill and Daniel and his family, separately from each other. This could be through making internal alterations or exploring the possibility of extending the farmhouse."*
- 9.7 The officer also commented on the proposed siting of the dwelling if the case were made that one was required stating that *"if the principle of a new build dwelling is acceptable then the applicant should explore siting the dwelling within the farmstead to the northern side of the road, as this would likely have less visual impact."*
- 9.8 There are therefore two key issues which have been identified by the pre-app response which need to be addressed the first is whether or not the farmhouse is or can be made suitable for permanently accommodating three generations of the same family and the second is whether or not there are any alternative locations for the dwelling which are more suitable than the location that has been proposed. We will comment on each issue below.
- 9.9 It is important to consider properly the suitability of the farmhouse to accommodate three generations of the same family and not to simply assume that because the applicants are currently making use of it to do so this means that it is suitable to do so in the long term. As we have already set out above, when the previous farm partnership ended, and the property was split between Graham and his brother, Graham had a dwelling, and his brother had a dwelling but there was a requirement for two workers to be resident at Thornley Hall Farm to meet its functional need. At that time there was an immediate need for someone in addition to Graham to be resident at the farm and sharing their dwelling was the only alternative to accommodating Daniel and his family in a caravan. Now that the business has become established and profitable and having provided an additional dwelling for Christopher to return to the farm the applicants want to regain the use of their dwelling and to provide suitable accommodation for Daniel and his family.
- 9.10 A planning officer from the Council has had the benefit of seeing the accommodation that is provided by Thornley Hall and has seen the shortcomings it has in terms of it being used as two dwellings. Starting from the position that assumes the dwelling is not already used by two families, which is of course a situation that has no planning permission and is currently unlawful, it is necessary to ask the question is it suitable for use as two dwellings. Whether or not the current application is approved or refused Daniel and his wife are unwilling to continue sharing the house with Daniel's parents and intend to move out of the

dwelling when Christopher is resident in his new dwelling, this will place a significant and unacceptable burden on Christopher.

- 9.11 It is our professional opinion that Thornley Hall is not suitable for use as two dwellings because simply blocking up a few interconnecting doorways would not provide both families with a reasonable amount of living accommodation or enough privacy given the transmission of noise between the two parts of the dwelling. Although the property is quite large it is not so large that without extensions it could provide enough accommodation to form two dwellings that would be suitable for two families on anything other than a temporary basis.
- 9.12 The property is a listed building, and this creates additional constraints in respect of alterations that could be made to it to make it suitable, a change to how it is split would not offer any discernible advantage and it is difficult to see how it could be split differently given the location of the staircases and kitchens. We have been asked to consider whether it would be possible to extend the building to make it suitable for occupation by two families, having done this and bearing in mind that the building is listed we do not consider it possible to extend to the front or the rear of the property, the front of the building faces Up Bedlam Road and is a very attractive elevation and is described in some detail in the listing description. There is no room for an extension at the rear of the property due to an access passing the rear elevation to the garage and additional parking and an open fronted storage/garage building to the east of the dwelling. The access past the rear leads to a garage on the eastern side of the property and there are a number of windows in this elevation which serve living accommodation in the dwelling which need to be retained, it would therefore not be possible to erect an extension on this elevation. This leaves only the western elevation, and it would only be possible to extend on this elevation by demolishing a range of traditional single storey buildings which although not specifically listed will fall to be treated as curtilage listed. We consider that it is completely impractical to extend the farmhouse in order to make it suitable for use as two dwellings.
- 9.13 One of the appeal cases referred to in Section 8 above, Rye Toppings Farm, involved a listed farmhouse where the appropriateness of extending the farmhouse in order for it to be suitable to accommodate two dwellings was considered and it was agreed between the parties in that case that extensions to its front or sides would be unlikely to be acceptable and it had already been extended to the rear.
- 9.14 Having established that the existing dwelling is not suitable for conversion into two dwellings it is necessary to consider whether there are any buildings that would be suitable for conversion, and this was addressed when the last application was dealt with, if there were buildings suitable for conversion then permission for that dwelling would not have been approved and the circumstances haven't changed. The traditional buildings are still in use for agricultural purposes and are not available for conversion, if they were not in use, they are too close to large modern buildings which are used for livestock accommodation to be appropriate for conversion to residential use.
- 9.15 Having established that a new dwelling is appropriate it is then necessary to consider whether there are any suitable alternative locations to that chosen in the pre-app.
- 9.16 The choices of location for the proposed dwelling are limited for a variety of genuine and practical reasons. One reason is that the extensive range of farm

buildings at Thornley Hall Farm are situated along the eastern boundary of the applicant's land with the land to the east and north of the applicant's farmstead having been retained by Graham's brother when the farm was split, and their farm buildings are situated to the north of the applicant's farm buildings. This only leaves land to the west or the south of the farmstead and in this regard, it must be borne in mind that this is a large dairy unit which has cattle housed in cubicle sheds which means that large volumes of slurry are produced which is stored in slurry lagoons at the farmstead.

- 9.17 It is not appropriate to erect dwellings, even if they are to house a farmworker, in very close proximity to slurry stores or livestock accommodation, the Council's environmental health officer will no doubt have some thoughts on this. However, the slurry from the cattle is stored in lagoons which are situated along the western side of the farmstead, as can be seen on the buildings plan attached at Appendix 2 of this Statement, and an additional store has recently been approved which is to be erected along this side of the farmstead. These are clearly a constraint to the erection of a dwelling along the western boundary of the farm.
- 9.18 The access tracks in and around the farm buildings are not clean, as livestock regularly move between the housing buildings and the milking parlour which means that they are gated and have to be scraped to remove cattle muck from them. Therefore, there is no suitable means of access through the farmstead to an alternative location in this direction for the required dwelling. These constraints are what has resulted in the dwelling that is currently being constructed being located where it is.
- 9.19 The pre-app assumes that because the proposed dwelling might be seen from the public highway this would cause visual harm, we do not agree that just because a development can be seen this equates to visual harm. The dwelling under construction now can be seen from the public highway as can various other dwellings in the area, there is an expectation that development will exist in rural areas and farmsteads and farmhouses are an expected form of development in the open countryside and the AONB.
- 9.20 The proposed location for the dwelling is within very close proximity of the farm buildings closer than the dwelling that Christopher is currently building, and it will undoubtedly meet the functional need. We do not agree that the dwelling will result in significant adverse landscape impact, it will be a traditional stone-built property with a blue slate roof, and it will be afforded significant screening by an existing roadside hedge to the north and groups of mature trees to the east and the west of the site.
- 9.21 Having walked the footpath which is situated to the east of the application site up the hill heading south away from the site it is clear that the proposed dwelling will be seen against the backdrop of the existing extensive group of farm buildings and the field boundaries around the field where the proposed dwelling will be sited will provide screening of the building which can be improved as result of the approval of the application. In the absence of a more suitable location for the proposed dwelling the application has been submitted on the basis of the location being that which was promoted in the pre-app enquiry.

10. SUMMARY & CONCLUSION

- 10.1 This report has been prepared to support a planning application for a second new build permanent farm worker dwelling on land at Thornley Hall Farm to accommodate Daniel Airey and his family who have in recent years shared the farmhouse with Daniel's parents.
- 10.2 We have already demonstrated to the Council's satisfaction with the information submitted with the application for the last new build dwelling that there is a functional need for two full time farm workers to be resident at Thornley Hall Farm to attend to the requirements of the agricultural enterprise operated at the farm. Furthermore, it was accepted that Graham Airey who was at the time approaching retirement, he is now partly retires, would not be available to deal with the physical work generated by the enterprise and that this work would be the responsibility of his sons Daniel and Christopher.
- 10.3 The applicants have farmed at Thornley Hall Farm for decades and they are experienced farmers and although the structure of their farming business has changed recently this is not a situation where a completely new business has been established from scratch and a temporary dwelling to prove viability would be appropriate. However, in order to meet the requirement for two workers to be available to meet the functional needs of the holding following the establishment of the new business in the short term the applicants provided additional temporary accommodation by accommodating two families in one dwelling.
- 10.4 We have set out clearly in this report why the continued sharing of the farmhouse at Thornley Hall Farm is not appropriate or acceptable and it is therefore not reasonable to consider the continued unlawful use of the dwelling as two dwellings to be suitable. The fact that the farmhouse is not suitable to meet the agreed and identified need for two workers to be resident at the farm means that it is appropriate to allow the construction of a second new build farm workers dwelling at the farm. A decision which is consistent with the approval of the dwelling for Christopher.
- 10.5 We have in support of the application referred to a number of planning appeal decisions and a legal case which we consider provide compelling support for the approval of the application that we have submitted.
- 10.6 The planning application arises out of a genuine requirement, and we believe the Council should support this application and approve it.

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

Gary Hoerty Associates Ltd

APPENDIX 1

Ordnance Survey Plan



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: Air/1164/3545/04

Project:
 Farm Workers Dwelling at
 Thornley Hall Farm
 Thornley
 Longridge
 PR3 2TN

Title: Location 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: GE Airey & Sons **Drawn:**

Date: 3/4/2025 **Scale:** 1:2,500 @ A4

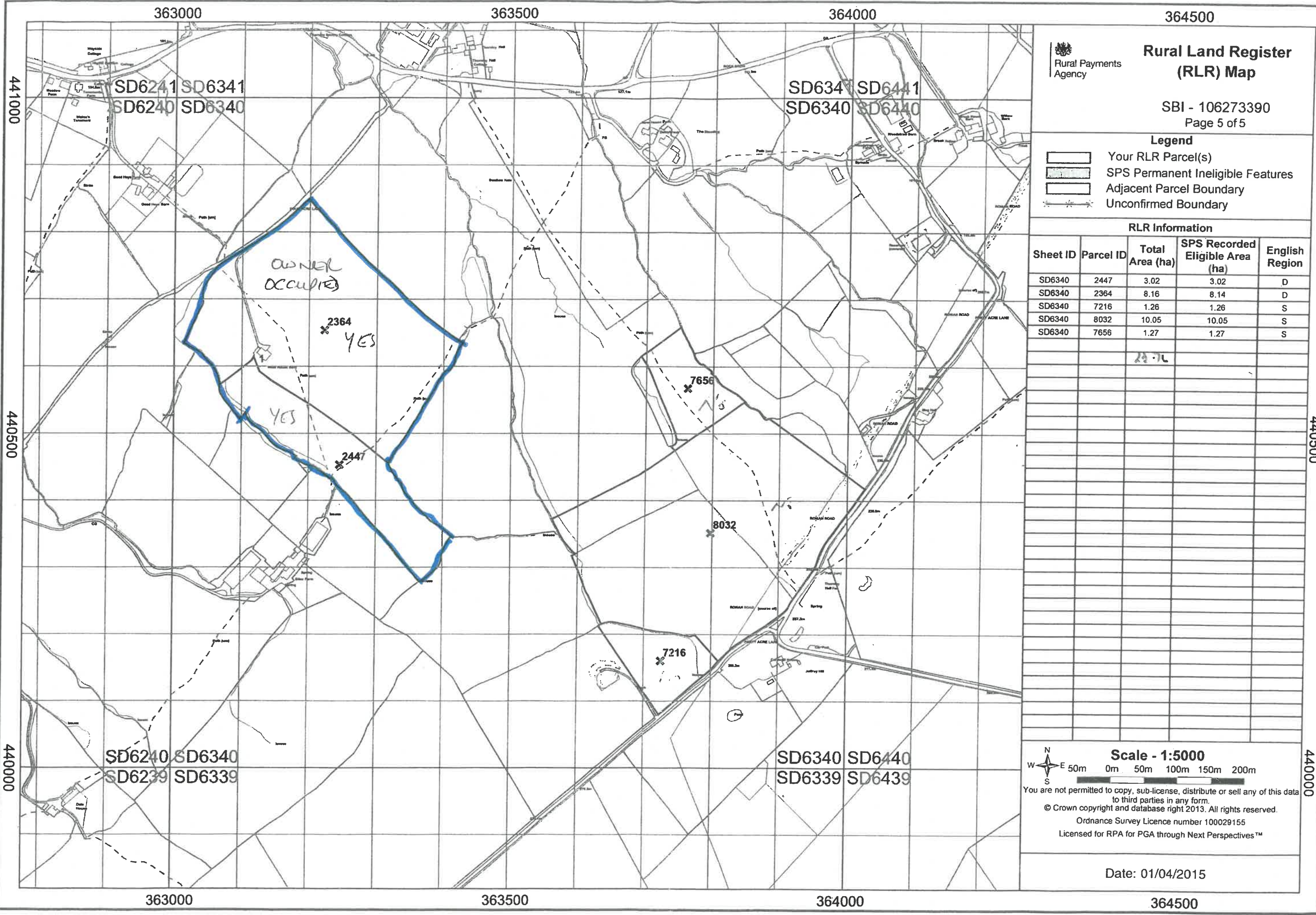
Amendments:					
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APPENDIX 2

Plan of Farm Buildings

APPENDIX 3

Maps of Land



Rural Land Register (RLR) Map

SBI - 106273390
Page 5 of 5

Legend

- Your RLR Parcel(s)
- SPS Permanent Ineligible Features
- Adjacent Parcel Boundary
- Unconfirmed Boundary

RLR Information

Sheet ID	Parcel ID	Total Area (ha)	SPS Recorded Eligible Area (ha)	English Region
SD6340	2447	3.02	3.02	D
SD6340	2364	8.16	8.14	D
SD6340	7216	1.26	1.26	S
SD6340	8032	10.05	10.05	S
SD6340	7656	1.27	1.27	S

Scale - 1:5000

W N E 50m 0m 50m 100m 150m 200m S

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Date: 01/04/2015

363500

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Rural Land Register (RLR) Map

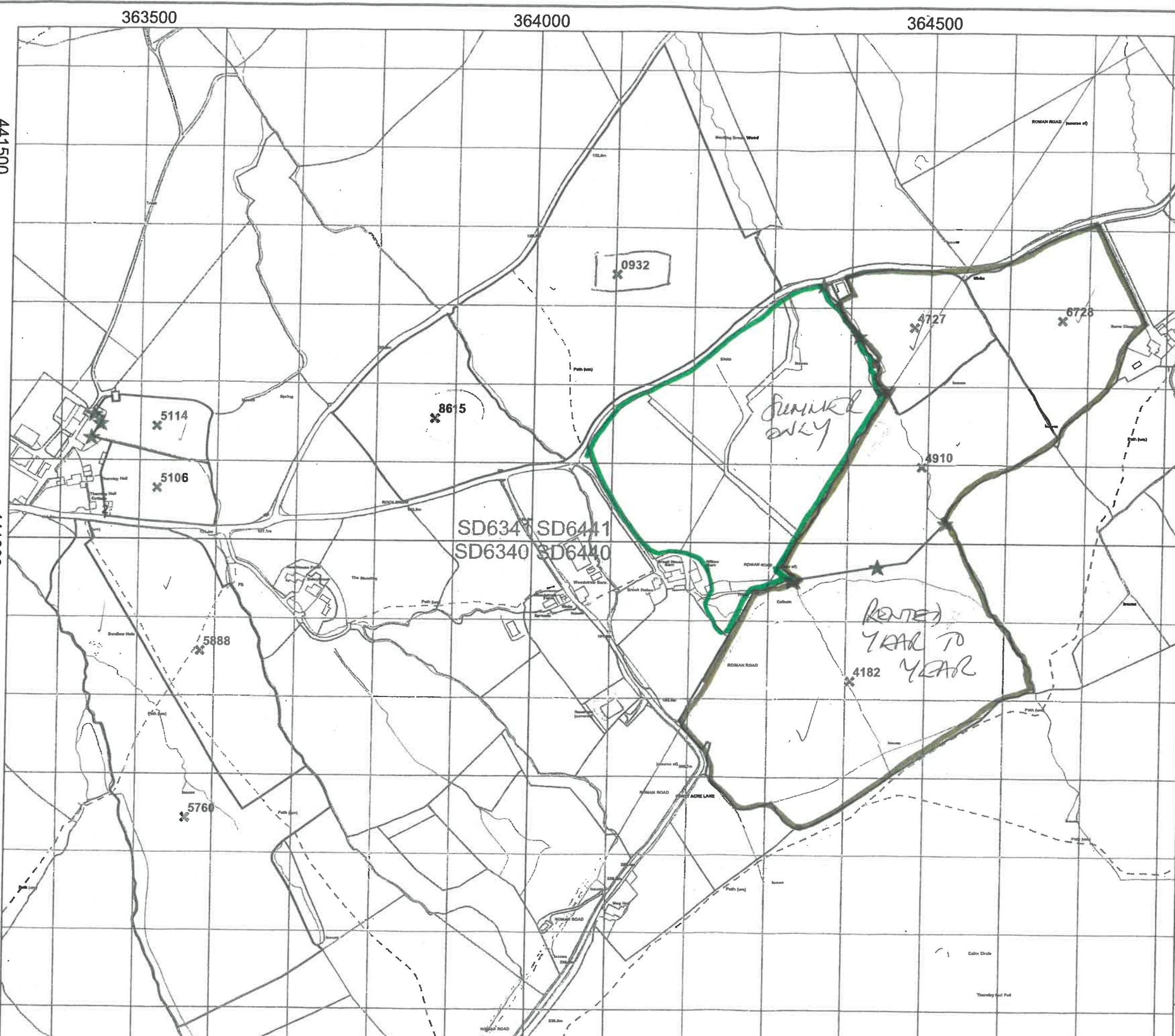
SBI - 106273390
Page 2 of 5

Legend

- Your RLR Parcel(s)
- SPS Permanent Ineligible Features
- Adjacent Parcel Boundary
- Unconfirmed Boundary

RLR Information

Sheet ID	Parcel ID	Total Area (ha)	SPS Recorded Eligible Area (ha)	English Region
SD6340	5888	4.49	4.49	D
SD6341	5106	1.22	1.21	N
SD6341	5114	0.96	0.96	N
SD6341	8615	3.43	3.43	N
SD6441	0932	10.24	10.24	N
SD6440	4182	10.07	10.07	S
SD6441	4910	4.81	4.81	D
SD6441	4727	2.26	2.26	D
SD6441	6728	3.41	3.41	D
SD6340	5760	8.80	8.80	D



Scale - 1:5000

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Date: 01/04/2015

APPENDIX 4

Planning Appeal Decisions & Legal Case



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

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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

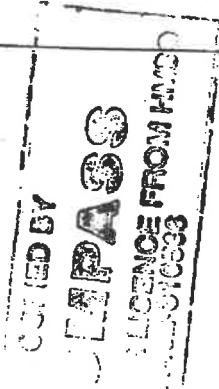


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Your Reference:
PC646/GH
Council Reference:
DMC/HC307/3/448
Our Reference:
T/APP/C/97/R2330/647276
T/APP/R2330/A/97/283405
T/APP/R2330/A/98/291659
Date:

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.

100%



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.

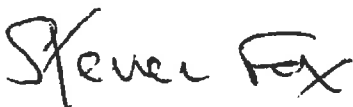
13. I have taken into account all other matters raised, including the appeal decision letters submitted, but find nothing to alter my conclusion the conditional planning permission should be granted.

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 ARIGS 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



Appeal Decision

Hearing Held on 30 January 2018

Site visit made on 30 January 2018

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2018

Appeal Ref: APP/H2733/W/17/3186812

Rye Topping Farm, Ings Lane, Brompton by Sawdon, Scarborough, YO13 9DS

- 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 Jonathan Mudd against the decision of Scarborough Borough Council.
 - The application Ref 17/00360/OL, dated 17 February 2017, was refused by notice dated 31 May 2017.
 - The development proposed is the erection of an agricultural worker's dwelling to support the existing farm business at Rye Topping Farm.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of an agricultural worker's dwelling to support the existing farm business at Rye Topping Farm at Rye Topping Farm, Ings Lane, Brompton by Sawdon, Scarborough, YO13 9DS in accordance with the terms of the application, Ref 17/00360/OL, dated 17 February 2017, subject to the conditions in Annex A.

Application for Costs

2. An application for costs was made by Mr Jonathan Mudd against Scarborough Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was submitted in outline with all matters reserved for future consideration.
4. I have taken the correct spelling of the appellant's forename from the planning appeal form in the banner heading above.
5. Policy E1 of the Scarborough Borough Local Plan referred to on the decision notice has now been superseded by the adoption of the new Scarborough Borough Local Plan (Local Plan) in 2017.

Main Issue

6. The main issue in this case is whether there is an essential need for an additional dwelling to accommodate a rural worker.

Reasons

7. To promote sustainable development in rural areas Paragraph 55 of the National Planning Policy Framework (the Framework) indicates that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. These include the essential need for a rural worker to live permanently at or near their place of work in the countryside. Paragraph 28 of the Framework outlines support for sustainable growth and expansion of all types of businesses in rural areas.
8. Local Plan Policy ENV6 seeks to protect and maintain the character of the open countryside and limits new development to those for which an open countryside location is essential including development that relates to the functional needs of, or consolidates or diversifies, an established rural business (criterion b).
9. Rye Topping Farm comprises around 410 acres of arable land (of which the appellant owns 270 acres) along with a farmhouse and number of agricultural buildings. The appellant fattens around 6750 pigs a year in three to four batches with up to 1800 pigs being reared at the farm at any one time.
10. The submitted Agricultural Appraisal calculates a labour requirement for three full time workers at the farm. It also concludes that the enterprise needs a full time worker to be accommodated on site for essential short notice animal husbandry purposes and security. Both parties are agreed on these matters and also concur that the existing business is financially sound. Based on the evidence before me I see no reason to disagree with these findings.
11. The Mudd family has worked Rye Topping Farm for four generations and over a period of some 400 years. The appellant bought the farm about 20 years ago and has now paid it off. The appellant's father died around 11 years ago but his mother retains an active role in the business and resides at the farmhouse. The appellant grew up in the farmhouse, left there when he married and has lived for a number of years with his wife and son in rented accommodation at Wydale around three miles away (where he undertakes some seasonal game keeping work). He commutes to the farm from there each day. The farm also employs contractor workers at peak times.
12. Whilst the appellant has lived away from the appeal site for some time he explained at the hearing that this arrangement has now become untenable. The business has expanded over the last 10/12 years and the farm has seen the addition of a number of new buildings and an increase in the number of animals being reared there. This has been so particularly in the last 4/5 years with the consolidation of the practice of farming pigs on a B&B basis. The Council recognises that the farm is a well-established business of substantial and expanding scale. At the moment the appellant regularly works very long hours, with early starts and numerous journeys back and forth from his home to the appeal site (a journey which takes 15 minutes despite the relatively short distance). He is struggling with the current arrangement and feels that the business is not doing as well as it could.
13. The appeal proposal would provide a new dwelling for the appellant and his family to manage the business from. However, in refusing planning permission the Council considers that the functional need at Rye Topping Farm could be met by the existing four bedroom farmhouse there.

14. The main area of disagreement is therefore whether or not the farmhouse can reasonably be considered to be available. The appellant refers to the high court judgement in the case of *Keen v Secretary of State for the Environment and Aylesbury Vale District Council*¹. This found that it was insufficient for accommodation to merely exist, rather it is necessary to determine whether or not it can reasonably be held to be available. This approach is also reflected in an appeal decision² relating to Rigg Hall at Stainacre as referred to by the appellant.
15. In response, the Council considers that the Keen judgement and the appeal decision at Rigg Hall were taken against a different policy backdrop prior to the introduction of the Framework. Additionally, the Council cites another high court judgement in the case of *Ford and Another v Secretary of State for Communities and Local Government*³. In that case, although 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. This is also considered by the Inspector in the Rigg Hall appeal decision.
16. The Council confirmed at the hearing that it does not argue that the circumstances in the Ford case are the same as those in this appeal. Rather that judgment is referred to as an example of an alternative point of view to the one expressed in the Keen case. I am also conscious of the findings of the Inspector in the Rigg Hall appeal who considered that the view taken in the Ford case (that the house was potentially available) arose from the interpretation of a particular policy of the relevant development plan in that instance. As in the Rigg Hall appeal, no such policy is in force in this appeal. In any event, I am conscious that functional need is not a simple absolute and it is also necessary to have regard to other material considerations.
17. In this case, the existing farmhouse is occupied by the appellant's 77 year old mother. She remains a partner in the business who is actively involved in the management of the farm. Amongst other things she supervises work, administers and records medication, helps with tagging the pigs, deals with feed and other deliveries, liaises with pig fieldsmen, and acts as a banksman during harvest. She has a large family who visit regularly and is currently caring for one of her brothers who is living with her at the farmhouse. She requires all the space that is available in the farmhouse and does not wish to downsize or to move. She is also attached to the property and wants to remain there for sentimental reasons.
18. The Council does not argue that the appellant's mother should leave the farm altogether, but thinks that the existing farmhouse could be altered to meet the needs of the farm. It suggests that an annex could be provided to accommodate the appellant's mother such that the appellant and his family could also live in the farmhouse (thereby avoiding the need for a new dwelling). The appellant has considered dividing the existing house internally to provide separate accommodation for the appellant (and his family) and for his mother. However, he considers that the modest nature of the house and its small room sizes mean that in practical terms it would be unlikely to be large enough to meet their requirements.

¹ [1996] JPL 753

² APP/W9500/A/08/2087370

³ [2007] EWHC 252

19. The farmhouse is a Grade II listed building and the parties are agreed that extensions to its front or sides would be unlikely to be acceptable. The house appears to already have a two storey extension to the rear. It also incorporates a single storey rear offshoot which currently accommodates the farm office and utility room/bathroom that is used for washing down boots and clothing. Both are accessed from the yard independently from the main part of the house and are in regular use. The appellant considers that the resultant layout of the house does not lend itself to being readily extended to the rear to provide additional and separate living accommodation.
20. Furthermore, any extension or annex to the rear of the farmhouse would lead to the loss of the office and utility room/bathroom which would have to be re-provided as part of any alterations to the farmhouse. Whilst I note the Council's point that these could be accommodated elsewhere on the farm, no alternative location has been identified. I am also aware that that the other buildings on the farm are currently being utilised and that their alternative use has the potential to compromise the operation of the business.
21. The Council is sympathetic to the personal circumstances of the appellant and his mother and would look favourably on a proposal to alter or extend the farmhouse. Even so, given its relatively modest size and its status as a listed building along with the requirement to retain an office and utility/bathroom, based on the evidence before me I cannot be content that satisfactory accommodation could be provided there for the both the appellant and his family and his mother.
22. I am mindful that a functional need for accommodation depends on the needs of the enterprise rather than the personal preferences or circumstances of the individuals involved. Nevertheless, the appellant's mother has lived in the farmhouse all her married life and during that time (working with her husband and more latterly her son) the enterprise has funded and built several new buildings and expanded the pig rearing element of the business. She continues to be actively involved in the day to day running of the farm and has no intention of curtailing this or of leaving the farmhouse in the foreseeable future. The house is already adapted for wheelchair users and she could remain there for some time.
23. On this basis, there is no indication whether or when the farmhouse would be likely to become available. In the absence of any firm evidence to demonstrate that the farmhouse could accommodate the appellant and his family as well as his mother (or that she would be willing to downsize or share her home), and since it would be unreasonable to require the appellant's mother to leave, I am therefore not persuaded that the existing farmhouse is available.
24. Whilst there are no immediate plans to expand the enterprise, the proposed house would allow the appellant to operate the existing business more effectively. Additionally, I understand that in the longer term the appellant intends to increase further the number of agricultural buildings to accommodate additional pigs, with a view to employing his son on the farm. As such, the proposed dwelling would assist in the growth of the business as supported by paragraph 28 of the Framework.
25. I have also had regard to the appellant's concern that his rented home at Wydale may not always be available. Whilst he was originally on a 10 year lease this has now reverted to a yearly arrangement with the elderly landlord

there. The appellant is worried that in the event of his landlord's death, and in the absence of any alternative dwellings at Wydale, he would be required to leave his home. His rent is currently low in recognition of the work he does at Wydale and the appellant is aware of no affordable alternative rented accommodation within a similar distance of Rye Topping Farm. The Council does not dispute this and it seems to me that these particular circumstances add to the appellant's case to live at the appeal site.

26. The Council is concerned that the existing farmhouse could become available in the future and be sold off separately. It is not subject to any occupancy conditions tying it to the farming business and I understand the Council's wish to avoid the proliferation of dwellings in the countryside. That said, given the appellant's mother intentions considered above, along with the farmhouse's position in the midst of a working farmyard and close to the livestock buildings, I have seen nothing to suggest that its sale and occupation independently of the farm would be likely.
27. Bringing matters together, for the reasons given, I am not convinced that the farmhouse can reasonably be considered to be available to the appellant. This being so, and taking into account the benefits that would arise from the proposal, I therefore conclude on the main issue that there is an essential need for an additional dwelling to accommodate a rural worker. Thus I see no conflict with Local Plan Policy ENV6 or paragraph 55 of the Framework.

Other matters

28. The council raises no objections to the proposal in terms of its impact on the character and appearance of the surrounding countryside or on the setting of the listed farmhouse. Based on the evidence before me I see no reason to come to a different view. Therefore I confirm that with the statutory test set out in Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 in mind, I have had regard to the desirability of preserving or enhancing that designated heritage asset, and am also content that the proposal would preserve those interests.

Conclusion and Conditions

29. For the reasons set out above, I conclude that the appeal should be allowed.
30. I have considered the Council's suggested conditions in light of the advice in the National Planning Practice Guidance and the discussions at the hearing.
31. I have attached conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with the requirements of the Act. It is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition limiting the occupation of the dwelling is required to ensure that it is kept available to meet agricultural need. I have imposed a condition requiring the provision of foul and surface water drainage in accordance with the submitted details in order to ensure the site is appropriately drained and to prevent pollution. Finally a condition requiring the provision of an electrical socket suitable for charging electric vehicles is necessary to comply with the terms of Local Plan Policy DEC2 and in the interests of moving to a low carbon economy as set out in the Framework.

32. Since development is required in accordance with the approved plans, I see no need for a condition to ensure that the proposed dwelling is located within the area edged or shaded red on the approved site location plans.

Elaine Worthington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J Mudd	Appellant
Mrs E Mudd	Appellant's wife
Pat Sutor BA DipTP MRTPI	Appellant's agent
Phil Fisher	NDA

FOR THE LOCAL PLANNING AUTHORITY:

Hugh Smith BA(HONS) MRTPI Scarborough Borough Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter from Cundalls dated 25 January 2017
- 2 Keen v Secretary of State for the Environment JPL extract
- 3 Ford and another v Secretary of State for Communities and Local Government Judgement
- 4 Appeal Decision APP/W9500/A/08/2087370
- 5 Costs application by the appellant
- 6 Costs response by the Council

Annex A

- 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 takes place 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 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 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 following approved plans: Location Plan, Site Location Plan and revised Site Location Plan (sent by letter dated 22 March 2017).
- 5) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 6) The dwelling hereby permitted shall not be occupied until the foul and surface water drainage works shall have been completed separately and in accordance with the submitted Foul Sewage and Utilities Assessment February 2017 prepared by Cundalls.
- 7) Details of the provision of an electrical socket suitable for charging electronic vehicles (at least a single phase 13 amp socket) shall be submitted to and approved in writing by the local planning authority as part of the reserved matters before any development takes place and the development shall be carried out as approved.

JOHN KEEN v. SECRETARY OF STATE FOR THE ENVIRONMENT AND AYLESBURY VALE DISTRICT COUNCIL

QUEEN'S BENCH DIVISION (Sir Graham Eyre, Q.C., sitting as a Deputy High Court Judge): May 12, 1995

Town and Country Planning—Application for planning permission for agricultural dwelling—Whether existing dwelling was suitable and available—Whether Inspector's decision was unreasonable

The applicant applied for outline planning permission for the erection of an agricultural worker's dwelling on land off Long Marston Road, Lower End, Marsworth ("the Farm"). He wished to withdraw from the practical side of his farming enterprise and intended to employ a full-time agricultural worker who would live on the Farm in the proposed dwelling. He resided in a substantial family house, known as Brookside Farm, on a separate planning unit some 350 metres from the Farm. The second respondent refused the application amongst other matters on the ground that, the normal development control policy would only permit the erection of a dwelling beyond the built-up limits of a settlement where a need ensued from agriculture. There was no justification for the grant of permission because of the proximity of the applicant's dwelling to the Farm. On appeal, it was common ground that the applicant's farming enterprise met the functional and financial tests in PPG7 and that there was need for one worker to live on or very close to the Farm. In his decision letter the Inspector observed, *inter alia*, that it would be possible for the applicant to meet the requirements of the farming enterprise by making all, or part of, Brookside Farm available to the agricultural worker. He dismissed the appeal. In the High Court it was argued on behalf of the applicant that, *inter alia*, it was unreasonable for the Inspector to decide that Brookside Farm was suitable accommodation for the agricultural worker; that it was unreasonable for the admitted need for an agricultural worker to be met by the appellant moving out of, or sharing, Brookside Farm with the agricultural worker; and that it was unreasonable for the question of the availability of accommodation for a full-time agricultural worker to be answered by reference to a dwelling already lawfully and permanently occupied.

Held, granting the application was granted and quashing the Inspector's decision that the Inspector had inadequately applied the test of availability and suitability to the probative material before him and had rejected the need for the dwelling on a number of unjustifiable and inconsistent hypotheses. The relevant policies could not be reasonably interpreted and applied with the results ultimately identified by the Inspector. There was no material to justify a conclusion which, *prima facie*, flew in the face of good sense. The absence of a logical analysis of a number of questions and answers rendered the decision manifestly unreasonable and one to which no Inspector acting reasonably on the material before him could come.

Cases referred to:

- (1) *Ashbridge Investments Limited v. Minister of Housing and Local Government* [1965] 1 W.L.R. 1320; 129 J.P. 580; 109 S.J. 595; [1965] 3 All E.R. 371; 63 L.G.R. 400, C.A.
- (2) *R. v. Home Secretary, ex parte Brind* [1991] A.C. 696.
- (3) *South Somerset District Council v. Secretary of State for the Environment* (1992) 66 P. & C.R. 83; [1993] 1 PLR 80; [1993] 26 EG 121; [1992] EGCS 134, C.A.

Application under section 288 of the Town and Country Planning Act

1990 to quash a decision of the first respondent's Inspector refusing an appeal from the second respondent's refusal to grant outline planning permission for the erection of an agricultural worker's dwelling on land off Long Marston Road, Lower End, Marsworth. The facts are set out in the judgment below.

Joseph Harper, Q.C. for the applicant.

Christopher Katkowski for the first respondent.

The second respondent did not appear and was not represented.

SIR GRAHAM EYRE, Q.C. This is an application under section 288 of the Town and Country Planning Act 1990 against a decision of an Inspector appointed by the first respondent, the Secretary of State, to determine an appeal against the decision of the second respondent, the local planning authority, to refuse outline planning permission for the erection of an agricultural worker's dwelling with details of the siting, design, external appearance, means of access and the landscaping of the site reserved for subsequent approval, on land off Long Marston Road, Lower End, Marsworth. The application was refused on grounds that normal development control policy would only permit the erection of a dwelling on a site beyond the built up limits of the settlement where a need ensued from agriculture and that there was no justification for permission for a dwelling adjacent to the farmstead "since the applicant already resides in a dwelling within 100 metres of the farm building", and the proposal failed to comply with Policy RC14 of the Rural Areas Local Plan Adoption Draft. In addition, it was claimed that the building would be a visually intrusive form of development and would be detrimental to the appearance and character of the rural area. I note that the distance of the existing dwelling from the farm buildings referred to in the grounds of refusal was said to be 100 metres whereas the Inspector found that the dwelling was some 350 metres from the building used for calving and the proposed agricultural dwelling was less than 150 metres. However, no point as to this was taken in the grounds of appeal or at the inquiry itself and it is not a matter for me to pursue. I should also note that the ground of refusal, in which visual intrusion was alleged, appears to have been rejected or at least was regarded as constituting, in the words of the Inspector, an over-statement. It was considered that the degree of visual intrusion had little bearing on the matter before him.

A further preliminary matter, to which I should draw attention, arises from the grounds of appeal which clearly put in issue that the agricultural need was not satisfied by the existence of the applicant's dwelling and that, accordingly, there was no house "which is suitable or available to meet the identified agricultural need in this case".

Finally, I should record that the application for planning permission was accompanied by a report submitted by ADAS as to the agricultural considerations and the need for residential accommodation on the appellant's farm.

By virtue of the provisions of section 70(2) and section 54A of the Act, the Inspector, quite properly, first considered the development plan policies which in such a case would be commonplace. Inevitably, the Structure Plan set out a general presumption against development in the open countryside and stated that any new farm building should be sited within an existing group of dwellings unless there were valid reasons for locating it elsewhere.

The Rural Areas Local Plan was approaching adoption and should be accorded considerable weight. Policy RC1 of that Plan stated, in assessing proposals for development in the countryside, that the most important consideration was the protection of the countryside for its own sake and that development would not normally be permitted unless it was essential for identified countryside activities including agriculture. In so far as it was relevant, RC14, as summarised by the Inspector, provided that permission for a new dwelling for an agricultural worker will normally be granted only where it is necessary and there was no suitable alternative accommodation available. Such policies are entirely predictable and essentially reflect the provisions of the relevant Planning Policy Guidance Note 7 entitled *The Countryside and the Rural Economy* which provides a comprehensive and stringent test for the purpose of assessing the need for an agricultural dwelling in the countryside. PPG 7 contains highly restrictive policies to prevent unjustified development outside existing developments whilst recognising that, albeit on a decreasing scale, agriculture remains the major user of land in the countryside and that over three-quarters of the total land of England and Wales is used for farming. Development should, as a matter of general approach, benefit the rural economy and maintain or enhance the environment.

It is acknowledged that the countryside cannot accommodate many forms of development without detriment and that buildings in the open countryside, away from existing settlements, should be strictly controlled. Paragraph E2 of Annex E to PPG 7, which deals specifically with agricultural and forestry dwellings, states:

There will be some cases, however, in which the demands of the farming or forestry work concerned may make it essential for one or more of the people engaged in this work to live at or very close to the site of their work. Whether this is essential in any particular case will depend on the needs of the farm or forestry enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved.

Paragraph E3 recognises that demand for development in the countryside remains high and exploitation must be prevented. Applications for planning permission should be scrutinised thoroughly with the aim of detecting attempts to abuse the concession that the planning system makes for such dwellings. Accordingly, the Planning Policy Guidance Note recognises that in assessing applications for new agricultural dwellings, local planning authorities may find it useful to apply what are described as functional and financial tests. E5 reads as follows:

A functional test will be necessary in all cases to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:—in case animals or agricultural processes require essential care at short notice

Paragraph E8 is of particular importance. In so far as it is relevant, it reads:

When a functional requirement is established, it will then be necessary to consider the number of workers needed to meet that requirement, for which the scale and nature of the enterprise will be relevant, and the

extent to which any existing accommodation in the area is suitable and available for occupation by the workers concerned. When existing accommodation is insufficient, or where none exists, it may be appropriate for planning permission to be granted for one or more dwellings, provided other normal planning requirements, for example on siting and access, are also satisfied. Care should be taken to choose a site which is well related to existing farm buildings or other dwellings. Such dwellings should be of a size commensurate with the established functional requirement. Dwellings which are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income it can sustain in the long term, should not normally be permitted.

I should read paragraph E12:

The functional and financial tests may not need to be applied so rigorously to an application for an additional agricultural dwelling on an established farm, to meet an increased need for accommodation. On the other hand, in cases where the local planning authority is particularly concerned about possible abuse, it may be helpful to investigate the history of the holding to establish the recent pattern of use of land and buildings and whether, for example, any dwellings have recently been sold separately from the farmland concerned. Such a sale could constitute evidence of lack of agricultural need. Local planning authorities should, however, endeavour to minimise the information required of applicants, consistent with the level of scrutiny required in each case.

There is no question of that situation being raised in the case under consideration. Indeed, in this case no detailed examination under these paragraphs was undertaken at the Inquiry at all because it was common ground that the appellant's agricultural enterprise and farming operations were such that both the functional and financial tests were met and there was a need for one worker concerned with the livestock based on this land at Long Marston Road to live on or very close to that land.

The Inspector identified the issue as whether that need justified the erection of the proposed dwelling or whether such need could be met by the applicant's present house in Church Farm Lane. The applicant's house is some 350 metres away from the farm buildings which are used for calving. The appellant is a part-time farmer who now wishes to withdraw from the practical side of the farming business although there seems to be no doubt that he wished to maintain a general interest in the farming operation. In the past, both he and his son have at times fulfilled the role of stockman. When a cow is close to calving it should not be left through the night without inspection and over the period of calving a conscientious stockman would be expected to get up several times a night to carry out inspections. It is because the appellant wished to withdraw from the practical side of the business that he envisaged the employment of a full-time stockman to manage the herd and live in the proposed agricultural dwelling situated more conveniently less than 150 metres from the calving buildings. The farm enterprise had expanded and continues to expand so that it is becoming more and more difficult to run on a part-time basis. No doubt, all these considerations were taken into account in reaching the agreement that there was a need for a

stockman to live on or very close to the farm and buildings. The whole case proceeded on the basis that the need was genuine and beyond reproach.

Whilst the applicant's house is known as Brookside Farm, it is not situated on the holding itself and there is no finding that it was the farmhouse of the farm. Indeed, it stands in a separate curtilage and is a discrete planning unit located in a lane lying to the north of Long Marston Road and a property called Little Gammel intervenes between the house and the road and the boundary of the holding. It is an imposing and spacious residence with four bedrooms and further accommodation in the roof space. The former integral garage has been converted into an additional living room and a new garage has been added. There is no finding as to the number of bathrooms or as to the kitchen facilities. One is left with the impression that it is a substantial family house. It is known that the applicant lives and proposes to continue to live at the house with his wife. There is a finding that his son lives at the house but no reference to any other members of the family or the extent to which the house or any part of it was available other than for residential family purposes. There is further no finding as to the extent to which the bedroom accommodation is currently occupied. It was common ground that in the open market the property would command a rent far beyond the means of a stockman but no consideration was apparently given to the prospect that a suitably qualified stockman, prepared to undertake the necessary duties, might be a married man with or without one or more children.

Against that general background the Inspector rejected the need for the agricultural dwelling. I should make reference at this stage to certain passages in the decision letter. In paragraph 6 the Inspector stated:

I accept your submission [that is the appellant's submission] that this argument should be tested not only in relation to the location of the house, but also in the light of its suitability and availability for occupation by the worker concerned, which are the other criteria mentioned in PPG7.

In paragraph 7 he made certain findings as to the location of the house which were not examined further in this court. In paragraph 8 he wrote:

The questions of whether Brookside Farm is a suitable dwelling to meet the identified need, and whether it is available, arise because the farm enterprise has expanded and continues to expand, so that it is becoming more and more difficult for your client to continue to farm on a part-time basis. I understand that he now wishes to withdraw from the practical side of the business, while continuing to live in his present house, and envisages the employment of a full-time stockman to manage the herd. It was submitted that, as a spacious detached four-bedroom house, Brookside Farm is not commensurate in size or style with the agricultural need, and the authority accepted that in the open market the property would command a rent far beyond the means of a stockman.

I have already made a brief reference to that aspect. In paragraph 9 he writes:

It is true that PPG7 cautions that dwellings permitted in response to an agricultural need should be of a size commensurate with that need, and that unusually large or expensive dwellings should not be permitted. However, those comments do not in my view have any bearing on the

suitability of an existing house: they are made in the context of the desirability of restricting new building in the countryside, and to my mind their purpose is firstly to minimise the scale—and hence the intrusiveness—of a new dwelling, and secondly to ensure that such a dwelling, once built, remains within the means of someone whose income is derived mainly from agriculture. In respect of the existing accommodation, the PPG advises that permission for an additional dwelling may be appropriate where such accommodation is insufficient, not where it is too large.

For the Secretary of State, it was contended that that paragraph clearly relates to the proposed agricultural dwelling and I accept that contention. However, it should not be supposed that the size of a dwelling, when issues of the kind that arose in this case were before an Inspector, is an irrelevant consideration for reasons which I shall canvass. Paragraph 10 reads:

Annex E to PPG7 makes it clear that it is the requirements of the enterprise which are relevant in considering the justification for a new dwelling, rather than those of the owner or occupier; you did not seek to dispute that principle. Accommodation for the person or people responsible for the stock on this holding (your client and his son) has in the past been provided by Brookside Farm. As I saw during my inspection, the house is an imposing and spacious one, with four bedrooms and further accommodation in the roof-space; the former integral garage has been converted into an additional living-room and a new garage added.

I emphasise this sentence:

I have no doubt that it would be possible for your client and his wife to meet the requirements of the enterprise by making the house or part of it available, if only at the most critical time of year, to whomever is appointed to take over responsibility for the stock.

In paragraph 12 the Inspector wrote:

I appreciate that moving from Brookside Farm, or adapting the property so that part could be made available to an employee could result in substantial inconvenience or financial loss, and any adaptation of the house might itself require planning permission, depending on what was proposed.

He then went on to set against those matters the characteristics of the policies identified as justification for the rejection of the proposed agricultural dwelling.

His decision was challenged in this court on some five grounds. The first claimed that there was nothing in logic or in policy to make the test of suitability of a dwelling to house an agricultural worker a different one depending upon whether the dwelling is in existence or has yet to be built. Accordingly, the Inspector failed properly or at all to understand or to apply the policy he there seeks to apply.

In the second it was alleged that it was unreasonable and/or perverse for the Inspector to decide that a spacious detached four bedroom house not linked (otherwise than by ownership) with the planning unit, which

comprised the operational farm on which the appellant had applied for permission to build a house for a stockman, was suitable accommodation for that stockman.

Next, it was contended that it was unreasonable and/or perverse for the Inspector to conclude that the admitted and identified need for accommodation for a full-time stockman should be met by the appellant and his wife moving out of the matrimonial home to give it over to that worker or sharing the home with that worker and any family he or she might have.

Fourthly, in concluding that the admitted and identified need for accommodation of a stockman and his or her family might be met in the matrimonial home, the Inspector failed to make any inquiry as to the prospects for obtaining planning permission for converting the same into two separate units of accommodation.

Finally, it is unreasonable or perverse or is a misapplication of the policy contained in PPG7 for the question of availability of accommodation for a full-time agricultural worker to be answered by reference to a dwelling which is already lawfully and permanently occupied.

Mr Harper, who appeared for the applicant, made no bones about his grounds of challenge which essentially can be derived from the grounds to which I have adverted in the Notice of Motion. He asked me to approach the decision with, as he put it, disbelief. In other words, as is clear from the Notice of Motion, the interpretation on the application of the policy and the results that flowed from it were so perverse that no Inspector, acting reasonably on the material before him, could have come to the decision which this Inspector reached. He fully appreciated that he was asking the court to surmount a high hurdle but it was appropriate that in this case the court should take that course. The allegation of perversity or *Wednesbury* unreasonableness is often seen in Notices of Motion relating to applications under section 288 in this court but usually it is a makeweight that is seldom pursued and very rarely pursued successfully. Great emphasis, quite properly, was put, on behalf of the Secretary of State, on the very narrow grounds upon which this court might quash a decision under the section. I was reminded of the speech of Lord Lowry in the case of *R. v. Home Secretary, ex parte Brind*.¹ The noble and learned Lord examined the kind of unreasonableness which would justify a court in setting aside an administrative act or decision and cited a number of dicta from various sources and from various cases. He proceeded to describe these as colourful statements which emphasised the legal framework that judicial review administrative action is supervisory and not an appellate jurisdiction and he identified what he described as: "A less emotive but, subject to one qualification, reliable test is to ask, 'could a decision-maker acting reasonably have reached this decision?'" The citation continues:

The qualification is that the supervising court must bear in mind that it is not sitting on appeal, but satisfying itself as to whether the decision-maker has acted within the bounds of his discretion. For that reason it is fallacious for those seeking to quash administrative acts and decisions to call in aid decisions of a Court of Appeal reversing a judge's finding, it may be on a question of what is reasonable.

It is clear that the relevant part of Lord Lowry's speech was specifically

¹ [1991] A.C. 696 at 765.

related to the supervisory jurisdiction of the court in relation to administrative acts and the exercise of discretion but, subject to the qualification, I wholly and respectfully accept that the principle which he describes is appropriate in approaching a case such as this where the court is exercising an appellate jurisdiction. Indeed, a similar approach is echoed and has been repeatedly followed, at least since *Ashbridge Investments Ltd v. Minister of Housing and Local Government*,² which was concerned with the correct approach only where an appeal lay, as is the case in section 288, in cases where the tribunal has gone outside the powers of the legislation. At page 1326 Lord Denning M.R. stated:

The court can only interfere on the grounds that the Minister has gone outside the powers of the Act or that any requirement of the Act has not been complied with. Under this section it seems to me that the court can interfere with an administrative decision if he has acted on no evidence or if he has come to a conclusion to which, on the evidence, he could not reasonably come.

I need not cite anything further in that extremely well-known passage. At page 1328, Harman L.J. said:

If he [that is the Minister] could not properly arrive at that opinion on his Inspector's facts, that is law; and strictly speaking the two questions are not mixed at all, they follow one on another. We can interfere if the decision of the Minister was perverse and could not have been properly arrived at on the facts ... but otherwise ... we should not interfere.

That was a case where the Inspector was reporting to the Secretary of State and the Secretary of State was making a decision related to the facts garnered by his Inspector in the report.

There has been a recent reminder in the case of *South Somerset District Council v. Secretary of State for the Environment*.³ In that case an Inspector had allowed an appeal for housing on a site beyond the development limits of Martock. An application to quash the decision was successful before Sir Frank Layfield, Q.C., sitting as a Deputy Judge of the Queen's Bench Division, on the grounds that the Inspector had misunderstood or failed to have regard to certain policies in existing and draft development plans. The learned Deputy Judge conducted an exhaustive examination of the various policies he thought should have persuaded the Inspector to a different conclusion. At page 87 Hoffman L.J. said:

In my judgment, therefore, an analysis of the decision letter does not show that the Inspector overlooked a relevant policy or misunderstood one in any material respect. His decision was entirely based on what he deemed to be the planning merits. The deputy judge, who has immense experience of town and country planning, may have found the decision surprising. He may well have been right. The appellants may have struck it lucky. But the judge was not entitled to substitute his own views on planning matters for the Inspector's and it seems to me that, in reality, that is what he did. I, therefore, think he was wrong to quash his decision and I would allow the appeal.

² [1965] 1 W.L.R. 1320.

³ [1993] 1 PLR 80.

In this case the applicant struck it very unlucky but mere disagreement on the part of the court with the conclusion is not enough. Conscious of the limits of my jurisdiction and fully aware that I cannot substitute my own views for that of the Inspector, I set out, with an appropriate sense of reluctance, on the question whether an Inspector, acting reasonably on the material before him, could have reached the decision to which he came. It seems to me that the Inspector rejected the need for the agricultural dwelling on a number of what proved to be unjustifiable and inconsistent hypotheses. The main matter is essentially disposed of in one sentence. The following hypothetical situations appear to emerge. First, it would be possible for the applicant and his wife to meet the requirement of the enterprise—that is the need for a full-time stockman required to live on or very close to the holding—by making the house available to the stockman thus requiring the applicant to move from his house. Secondly, it would be possible to meet that requirement by making part of the house available to the stockman. Thirdly, giving the decision as generous an interpretation as I am able, it would also be possible apparently for the stockman to live elsewhere, which would appear to be in direct conflict with the agreed needs supported by ADAS, but have the house or part of it made available to him if only at the most critical time of year.

In my judgment, the qualification relating to the most critical time of year gives the lie to appropriate reasonableness in the approach of the Inspector in that a need for a full-time stockman living on or very close to the farm had been established and agreed and the case thereafter proceeded on that basis.

The third hypothesis necessarily ignores the whole basis upon which the case thereafter proceeded. The implications of those findings are also disposed of in one sentence. It was appreciated that moving from the house, presumably altogether, for a period which related to the most critical time of the year, could result in substantial inconvenience or financial loss. It was not clear whether “the sharing concept” involved any adaptation but it was acknowledged that there could be a situation where planning permission might be required without any consideration as to whether it was likely to be forthcoming. It is not recorded in the decision letter itself that, in the circumstances postulated by the Inspector, planning permission would have been forthcoming or that the question had been addressed by the second respondents. As was discussed during the course of argument, by virtue of section 55(3) of the Act, the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change of use in the use of the building and of each part of it which is so used. Thus one cannot rule out, as an unrealistic possibility, the necessity for the obtaining of a planning permission in order to realise what I have described as the sharing concept.

However, giving due weight to the very restrictive policies relating even to development for agriculture in the countryside as set out in the putative development plan and, in particular, PPG7 which only reflects the situation which has obtained without such detailed guidance for decades, I cannot accept that the policies can be reasonably interpreted and applied with the results ultimately identified by this Inspector. The effect is to require a part-time farmer, who has built up a successful and still expanding agricultural enterprise, on which animals require skilled on-the-spot care and where the need for a full-time specialist stockman living on or very close to that enterprise is not in dispute, to move out or share his imposing and

spacious four bedroom family house in order to accommodate that stockman. Having established the need, it is reasonable to expect clear-cut planning reasons as to why it should not be met in the way proposed unless other available and suitable accommodation exists. That position is to be derived from paragraph E8 of PPG7.

I seek to identify with a little more precision the respects in which I believe the Inspector has gone wrong. The policies require that in order to test the need the question whether there exists accommodation which is both suitable and available must be answered. Accommodation may *de facto* exist but its availability and suitability must be subjected to some scrutiny.

The decision letter does not disclose the basis upon which this exercise was carried out. Whilst purporting to acknowledge the approach in paragraph 6, the Inspector fails to gather the relevant information and identify the considerations on which he relies. There is no material disclosed in the decision letter as to whether, applying the ordinary canons of common sense, the house or any part of it was or would be available as a matter of fact. As I have indicated, its mere existence cannot suffice. What other demands are being made or are likely to be made on it? Nor is there any material or any sufficient material to justify a conclusion, which *prima facie* flies in the face of good sense, that a house of this kind is suitable. Relevant unanswered questions abound. Is it really to be expected that, in the circumstances where a clear need has been established, the applicant must leave his house and presumably buy another house elsewhere for his wife and family? How are the sharing operations to operate in reality in the various hypotheses that the stockman may be single, married, or married with children? Does the house lend itself to sharing? What is the position with regard to common use of the bathroom facilities and kitchen accommodation? Does the house reasonably lend itself to adaptation? I have only given some indication of the multiplicity of matters that would require rational consideration.

In my judgment, the decision is flawed essentially because it inadequately applies the test of availability and suitability by reference to the probative material disclosed in the decision itself. In the absence of a logical analysis of the questions and answers that I have sought to identify, the conclusion is manifestly unreasonable. Exceptional circumstances would need to be identified in order, on the face of it, to justify it. The decision, therefore, falls into a very special category, that having regard to the considerations to which I have adverted, it is one to which, on the material identified in the decision letter, no Inspector acting reasonably could come. In those circumstances, this application succeeds. The court will quash the decision.

Application allowed, with costs.

Solicitors—Ashby & Co., Tring; Treasury Solicitor.

Reporter—Daniel Tobin.

APPENDIX 5

HSE Guidance: Handling and Housing Cattle

Handling and housing cattle

HSE information sheet

Agriculture Information Sheet No 35 (Revision 1)

Introduction

This information sheet provides general advice for farmers on safe handling of adult cattle, including stock bulls, bull beef, suckler and dairy cattle, and on housing stock bulls and bull beef safely. It also gives advice on preparing cattle for slaughter. It does not include the precautions necessary to protect the public when keeping cattle in fields with public access, which the Agriculture Information Sheet AIS17 *Keeping cattle in fields with public access* covers.

Every year there are deaths and injuries to farmers and other workers while handling cattle. These are often caused by using poor equipment, ineffective methods of moving cattle and an underestimation of the strength, speed or behaviour of cattle.

The risks

Handling cattle always involves a risk of injury from crushing, kicking, butting or goring. The risk is increased if the work involves animals that have not been handled frequently, such as those from hills or moorland, sucklers or newly calved cattle. Certain jobs, such as veterinary work, may increase the risk further. However, proper handling systems, trained and competent staff, and a rigorous culling policy can help make sure cattle handling can be carried out in relative safety. You should never underestimate the risk from cattle, even with good precautions in place.

Familiarity with individual cattle can lead to complacency, especially when handling bulls. A number of accidents, some fatal, happen every year because stockpeople fail to treat bulls with respect. A playful bull can kill you just as easily as an angry one.

General principles of cattle handling

You need to consider the following:

- the person – including their mental and physical abilities, training and experience;

- the equipment available – including races, crushes, loading facilities and bull-handling equipment; and
- the animal – including its health and familiarity with being handled.

The person

Everyone handling cattle should be:

- able to use the handling and other safety equipment provided;
- aware of the dangers when handling cattle and be supervised until they are competent;
- able to work calmly with the cattle, with a minimum of shouting, impatience or unnecessary force; and
- in good health and properly trained in safe work methods. Training in livestock handling is available from training groups, colleges and individual training providers.

Some work with cattle will need two people. Always assess the need for help before beginning the task.

There is no legal upper or lower age limit for cattle handling, as individuals' capabilities vary widely, but children under 13 should not normally be allowed to enter cattle housing or handle cattle. Many incidents involving cattle happen to people beyond normal retirement age, when they are less agile. Consider the risks carefully before anyone over 65 works with cattle, and if so, what they can safely do.

The equipment

Every farm that handles cattle should have proper handling facilities. These should be well-maintained and in good working order. A race and a crush suitable for the animals to be handled are essential. Makeshift gates and hurdles are not sufficient, and will result in less efficient handling as well as risking injury. Never attempt to treat or work on any animal that is held by gates alone, or that is otherwise free to move at will. If you have to attend to 'downer' cattle, or animals in loose boxes or isolation pens, and it is not possible to secure them, make sure you have an adequate escape route and will not be crushed if the animal rolls or stands suddenly. Special equipment is needed for handling stock bulls out of the pen.

The race

Check that:

- animals can readily enter the race, which should have a funnel end, and there is enough room in the collecting pen for them to feed into the funnel easily. A circular collecting pen allows staff to stand safely behind a forcing gate as they move animals into the race, and keeps the animals moving;
- animals can see clearly to the crush and beyond, so they will readily move along the race, which may be curved, but should not include tight turns. Animals will be more prepared to move towards a light area than into the dark;
- the sides of the race are high enough to prevent animals from jumping over them, and they are properly secured to the ground and to each other – sheeting the sides of the race helps to keep cattle moving by reducing visual disturbances such as shadows and shields them from other animals; and
- you can contain the lead animal in the race while it waits its turn in the crush. Hinged or sliding doors are suitable, but be sure they are operated from the working side of the race so the operator does not have to reach across it to close the gate. No one should work on an animal in the crush with an unsecured animal waiting in the race behind.

The crush

A crush which will allow most straightforward tasks to be carried out in safety (including oral treatments and work from the rear end, **but not** belly or foot trimming) will:

- have a locking front gate and yoke (ideally self-locking) to allow the animal's head to be firmly held. Additional head bars will prevent the animal tossing its head up and injuring people;
- have a rump rail, chain or bar to minimise forward and backward movement of the animal. Make sure this is always used;
- be secured to the ground or, if mobile, to a vehicle;
- be positioned to allow you to work safely around it, without the risk of contact with other animals, and have good natural or artificial lighting;
- allow gates etc to open smoothly with the minimum of effort and noise. Regular maintenance will help; and
- have a slip-resistant floor, made of sound hardwood bolted into place (nails are not suitable), metal chequer-plate, or with a rubber mat over the base.

Consider the need for shedder gates after the crush to allow animals to be sorted into groups. Work around the crush will be more convenient if it is under cover with a workbench nearby (for documentation, veterinary medicines, instruments etc).

Belly clipping

While some abattoirs offer a post-slaughter clipping service, cattle are usually required to be presented to an abattoir in a clean condition. Research has shown that the dirtier the hide, the greater the potential for carcase contamination with bacteria such as *E coli* O157. To achieve the standards needed, farmers may need to:

- change their cattle production practices to keep cattle clean and reduce the need for clipping;
- improve housing and transport arrangements;
- clip the lower parts of the animals before sending them to the abattoir.

The Food Standards Agency has produced advice on husbandry systems farmers can adopt to keep animals clean, *Clean beef cattle for slaughter: A guide for producers* (see 'Further reading').

The husbandry aspects discussed include; finishing cattle at grass, diet, housing, the general health of cattle and the use of a marketing yard. Putting these systems in place will reduce the need to clean cattle before they leave the farm.

Even with good husbandry practices it may be necessary from time-to-time to clip parts of your cattle before presenting them for slaughter. If you do, you will need to take precautions to help control the risk of injury.

The main hazards are from crushing when you move the animal from the pen to the crush and kicking when you access the underside of the animal to clip it. Clipping should only be carried out using properly designed handling equipment and safe working techniques. It is therefore essential that you assess the suitability of your cattle handling facilities and whether you need to modify their design, and to working methods or tools.

Remember that:

- some cattle will be semi-wild and not used to being handled;
- you cannot safely clip the belly of an animal in a crush with enclosed and fixed bottom sides, or which has permanently fixed vertical or horizontal bars close to the belly area of the animal;
- the flanks and legs can be clipped in relative safety standing up and behind the animal, but belly clipping will always involve work forward of, and close to, the rear legs.

In addition to the general guidance on the use of crushes, check that:

- you can fully open the bottom half of the sides of the crush;
- there are no permanent vertical bars when the doors are open which could allow the operator's hand to be trapped if the animals kicks;
- both sides of the crush open and that you have enough room along each side of the crush to work safely. If not, you will have to reach underneath the animal – this is **not** safe practice;
- you can avoid stretching too far from one position during clipping, as this will result in your head moving down and in towards the animal;
- you can work facing the front of the animal, as this will prevent you leaning into the direction of any kick;
- the animal will be adequately restrained from kicking – consider whether you should use an anti-kicking device.

Anti-kicking devices

There are a number of devices on the market designed to minimise an animal's freedom to kick. These include horizontal anti-kicking bars, which can typically be swung and locked into position and anti-kicking aprons, which are tensioned in front of the back legs. The experience of farmers who have used these devices suggests they can work well. However, whatever devices are used, the animal should always be fully restrained at the head and rear.

Artificial insemination (AI) stalls

To prevent injuries to inseminators, use a crush, or some other means of keeping the animal tightly restrained in an area small enough to prevent movement during insemination. Loose stalls in which the animal can move freely are not suitable. Ideally, position the AI facility by the parlour so that animals can move straight into it after milking. If necessary, check that adequate staff are available to help the inseminator move the cattle into the crush safely.

Other equipment

Sticks and prods should never be used to strike an animal – this may breach animal welfare legislation as well as agitating it. Before beginning work on any animal, check it will be adequately restrained from kicking – consider whether you should use an anti-kicking device. For specialist tasks such as foot trimming, use a purpose-designed crush, eg with foot restraints, belly winches and adequate space, especially at the rear end. Check that there are a minimum of trapping points so that if the animal kicks out, parts of your body will not be trapped against the crush.

Halters and ropes may be useful but will normally require specially instructed users. Always use suitable ropes – do not improvise with bale string or similar.

The animal

Many cattle being handled will be familiar with the process – dairy cattle, for instance, will normally be handled daily. Make sure that heifers new to the milking herd, which may be less familiar with the noises, activity and people involved, are allowed to become accustomed to them before they are first milked. Suckler cattle, or fattening cattle kept on hills or moors, may be handled very infrequently and so the risks may be greater. Newly calved cows are very protective of their calves and should be treated with caution.

Bull-beef animals may not have developed all the aggressive traits accompanying maturity, but they can never be regarded as safe. Ensure safe management practices are in place from the start so that you are not put at risk when the low-risk calf becomes a potentially dangerous semi-adult.

If you have an animal that is habitually aggressive or difficult to handle, consider whether you should cull it from the herd. If this is not an option, you should ensure your equipment and systems of work are capable of dealing with it, and that staff, and other people such as vets, are aware of the potential difficulties. Dehorning cattle can temporarily quieten them, but may have welfare implications. Consult a vet before doing this.

Working with cattle in the field

Some tasks may have to be carried out in the field without adequate handling facilities. If you have to separate an animal from the herd, or carry out any work on an animal in the field, make sure you can do so safely. Ear-tagging may pose particular problems as it may arouse the dam's protective instincts, resulting in risks to the stockperson.

Always make sure that:

- there are at least two people present if you have to separate an animal from the herd in the field, or during ear tagging with the dam unsecured;
- you have a vehicle close to where the task is to be carried out;
- the second person acts to dissuade other animals or the dam from approaching too close to the task, and warns when it is necessary to take avoiding action, eg entering the cab of the vehicle.

If you use portable or fixed field tethers for bulls in fields, make sure that:

- the tether allows free movement with a minimal risk of entangling the bull;
- the connection with the tether passes through the nose-ring regardless of whether or not a head collar or chain is used;

- you never make any connection direct to the nose-ring;
- the tether is secured to the ground;
- the bull's temperament is such that you can approach in safety to attach the handling ropes and poles before leading him back to the pen.

Stock bulls

Stock bulls, which are often kept separately from other cattle, may be frustrated by the lack of contact and so be more aggressive. Bulls are more likely to be amenable to handling if, from an early age, they learn to associate the presence of people with pleasant things, such as feeding, grooming and exercise. If you buy, hire or borrow an adult bull, find out how he was handled and the kind of equipment used, and take time to get to know him – remembering to be especially cautious at this stage. Consider whether you should have your bulls ringed at about ten months old – this provides a convenient way of handling them, especially if they are polled. Check nose-rings regularly for wear or damage.

Dairy bulls

All stock bulls of a dairy breed should be kept in a purpose-made bull pen. It is not acceptable to allow these bulls to run through the parlour at milking time, to tether them by neck chains in cow stalls or cubicles, or allow them to run free in yards in which stockpeople may work. The bullpen should:

- be sited where the bull can see other cattle and farm activity, and be large enough and strong enough to contain the animal. A 215-mm-thick wall of reinforced concrete blocks, topped with railings or bars so that he can see what is going on, is suitable. Railings or bars should have a minimum outside diameter of 48 mm;
- have outer walls, fences and gates at least 1.5 m high and be designed to prevent children passing through or over into the bull pen. The bars in gates and partitions should be vertical with spaces between them of no more than 100 mm;
- allow all external doors and gates to be kept locked or otherwise secured to prevent unauthorised access. Catches should be stockproof;
- allow the bull to be fed and watered from outside the pen, eg through a feeding hatch. The feeding area should incorporate a yoke (or a chain and spring hook if the bull is ringed) so that he may be secured without the need to enter the pen;
- include an exercise yard to which entry is controlled by a gate operated from the outside. This will allow bedding up or cleaning the inside or outside area while the bull is contained in the other area;
- have a refuge or emergency escape route which is free of obstruction and impassable to children and

dogs from the outside, eg by fencing a small area on the outside so that a person can escape but nothing else can enter;

- have free-draining and slip-resistant floors, and adequate natural and artificial lighting (you may need to work around the bull at night);
- incorporate a service pen, accessible by the cow from the outside. Provide a yoke or something similar to allow the cow's head to be secured, and also provide good footing for the bull, such as a grooved floor surface. Consider providing service ramps for the bull's front legs. Collecting semen for AI etc should be done outside the service pen, controlling the bull using a bull pole or with a handler on each side using ropes;
- have safety signs warning of the presence of a bull at the entrance to any building where the bull is kept. Use a triangular sign with a bull's head in black on a yellow background with a black border.

Never enter the enclosure when the bull is loose.

Controlling the bull out of the pen

When a stock bull has to leave the pen, you must use suitable equipment to secure and lead him. Consider breed, past handling and temperament to decide which of the following methods to use:

- two people, one using a bullpole attached to the bull's nose-ring and the other using a rope or chain attached to the halter or head chain via the nose-ring;
- two people both using ropes or chains, one rope or chain attached to a halter, the other either attached directly to the nose-ring or via the nose-ring to the halter;
- one person using a bullpole attached to the bull's nose-ring and a rope or chain attached to a halter, or head chain, via the nose-ring. Make sure there is a competent person standing by to help control the bull if necessary.

If the bull has not been ringed, ensure you have another equally effective means of handling, eg a halter and a rope around the base of the bull's horns.

Bull handlers should:

- hold the bullpole, rope or chain firmly without exerting unnecessary pressure;
- keep the bull under observation;
- walk at a steady, slow pace slightly ahead of the bull; and
- keep the bull's head up at all times.

Beef-type stock bulls

If you keep a beef-type stock bull in a bullpen it should meet the standard described for dairy bulls. If you run such a bull, or a dual-purpose bull, with the milking

herd he should, wherever possible, be safely excluded from the cows at milking time and not allowed to pass through the parlour. But, if you do not have adequate handling facilities or enough staff at all milking times to allow this, the bull may be allowed into the parlour, as long as it is large enough, he can be kept quiet during the milking period (eg by feeding) and shows no sign of distress. Alternatively, let the bull into the parlour as you let milked cattle out, so that he can pass straight through. Make sure that you have a safe system of work for this activity and that it is known to everyone likely to be involved.

If the bull runs loose in the cattle housing, make sure other people, such as visitors or casual workers, know he is loose and the precautions they should take.

Bull beef

Although bull-beef animals are often sent to slaughter before full sexual maturity, they can still present a risk to those working with them. Make sure you:

- keep animals in groups of no more than 15–20; and can carry out all feeding, bedding and other routine husbandry tasks without entering the pen. You should be able to open and close internal pen division gates from outside the pen. By making sure you have an empty pen in any arrangement of adjacent pens, you will always be able to move animals out of any pen you need to enter;
- check that pen divisions and gates are strong enough, securely fastened in place and can be kept at a height of around 1.5 m above the floor or bedding. Suitable materials would include tubular steel rails with a minimum outside diameter of 48 mm;
- check that the lower 1 m of the pen divisions fronting on to passageways etc will deter access by children (eg by using mesh or sheet metal, but make sure that ear tags will not be pulled off if cattle rub their heads on the divisions);
- keep the outside doors of any building used for bull beef secured except when access is needed, and put up prominent signs warning of the presence of bulls;
- check that handling, weighing, veterinary treatment and shedding arrangements are safe – and designed for the often greater strength and volatility of a group of young bulls;
- arrange your race, crush and loading areas so that no one ever needs to be in them with the animals. A properly designed loading area will allow you to keep parts of the fixed handling system or the lorry tailboard gates between you and the animals at all times. Keep yard or farm perimeter gates closed when loading bulls to contain an escaped animal within the yard or farm.

Never enter a pen containing, and never allow a lone person to handle, bull-beef animals.

Further reading

Clean beef cattle for slaughter: A guide for producers which is available to download at <http://www.food.gov.uk/multimedia/pdfs/publication/cleanbeefsaf1007.pdf>

BS 5502: Part 40: 2005 *Buildings and structures for agriculture: Code of practice for design and construction of cattle buildings* British Standards Institution

Further information

For information about health and safety, or to report inconsistencies or inaccuracies in this guidance, visit www.hse.gov.uk/. You can view HSE guidance online and order priced publications from the website. HSE priced publications are also available from bookshops.

British Standards can be obtained in PDF or hard copy formats from BSI: <http://shop.bsigroup.com> or by contacting BSI Customer Services for hard copies only Tel: 020 8996 9001 email: cservices@bsigroup.com.

DEFRA and SAC produce a range of publications on cattle handling and housing, which are available to download from the DEFRA website: www.defra.gov.uk and the SAC website: www.sac.ac.uk. DEFRA publications are also available in hard copy from TSO, The Stationery Office, PO Box 29, Norwich NR3 1GN Tel: 0870 600 5522 Fax: 0870 600 5533 email: customer.services@tso.co.uk Website: www.tsoshop.co.uk/.

This guidance is issued by the Health and Safety Executive. Following the guidance is not compulsory, unless specifically stated, and you are free to take other action. But if you do follow the guidance you will normally be doing enough to comply with the law. Health and safety inspectors seek to secure compliance with the law and may refer to this guidance.

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APPENDIX 6
Pre-app Response



RIBBLE VALLEY BOROUGH COUNCIL

Officer:	Maya Cullen	Direct Tel:	01200 414513	Council Offices Church Walk Clitheroe Lancashire BB7 2RA
Email:	maya.cullen@ribblevalley.gov.uk			
Our Ref:	RV/2024/ENQ/00079			
Proposal:	Construction of a farm workers dwelling			
Location	Thornley Hall Farm, Thornley, Longridge, PR3 2TN			
Date of meeting	15/11/2024			
Response Date:	18/11/2024			

Pre-Application Enquiry Response

Dear Mr Hoerty,

I write further to your submission of a request for pre-application advice at Thornley Hall Farm, Thornley. The enquiry seeks the Council's views in relation to the construction of an agricultural workers dwelling.

Relevant Core Strategy Policies:

- Key Statement DS1: Development Strategy
- Key Statement DS2: Sustainable development
- Key statement EN2: Landscape
- Key Statement EC1: Business And Employment Development
- Key Statement DMI2: Transport Considerations
- Policy DMG1: General considerations
- Policy DMG2: Strategic considerations
- Policy DMG3: Transport and Mobility
- Policy DME1: Protecting Trees And Woodlands
- Policy DME2: Landscape And Townscape Protection
- Policy DMH3: Dwellings in the open countryside and AONB
- Policy DMB1: Supporting Business Growth And The Local Economy

- National Planning Policy Framework (NPPF)

Relevant Planning History:

3/2024/0661

Proposed agricultural building for livestock including concrete yard and access track.
Approved with Conditions

3/2023/0549

Proposed erection of a two-storey detached farm workers dwelling with attached garage and the creation of a garden area and balancing pond.
Approved with Conditions

3/2022/0265

Proposed erection of a farm workers dwelling and the creation of a new access off the public highway.
Approved with Conditions

3/2020/0108

Proposed extension to previously approved general purpose store to adjoin existing agricultural building.
Approved with Conditions

3/2019/1073

Proposal to construct agricultural general purpose storage building to adjoin existing farm building.
Approved with Conditions

3/2019/0118

Extensions to agricultural building to house livestock.
Approved with Conditions

3/2019/0096

New agricultural building for livestock and storage.
Approved with Conditions

3/2019/0095

Proposal to construct further extension to approved agricultural building to provide storage and livestock housing.
Approved with Conditions

Site/surrounding area description:

Thornley Hall Farm is located within the Forest of Bowland National Landscape, to the north-east of the settlement of Longridge and includes the Grade II Listed Thornley Hall (dwellinghouse). There is a separate dwelling 'Thornley Hall Cottage' which is located to the front of Thornley Hall which is believed to be in separate ownership outside the farmstead. There is a public footpath which runs south of Thornley Hall Farm and also to the north, running through the farm itself.

Proposal:

This pre-application enquiry relates to the erection of a new farmworkers dwelling. The dwelling would be located on the opposite side of the road from the buildings within the existing farmstead, to the south of the farm.

Principle of Development:

Agricultural workers dwelling

The application site is situated within a rural area, approximately 5.9 km to the north-east of the settlement of Longridge. The site is also located within the Forest of Bowland National Landscape (formerly Area of Outstanding Natural Beauty).

Paragraph 84 of the NPPF states:

“Planning policies and decisions should avoid the development of isolated homes in the countryside unless there is an 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”.

Paragraph 88 of the NPPF states that:

“Planning policies and decisions should enable:

a) the sustainable growth and expansion of all types of business in rural areas both through conversion of existing buildings and well-designed new buildings:

b) the development and diversification of agricultural and other land-based rural businesses”.

With regards to the Ribble Valley Core Strategy, Policy DMG2 allows for development outside of the defined settlement areas when the development in question is needed for the purposes of agriculture or forestry.

Policy DMH3 states that:

“Within areas defined as open countryside or AONB on the proposals map, residential development will be limited to 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”.

With the above in mind, an assessment has to be made of the proposal with regards to the following issues:

- 1. Evidence of the necessity for the applicant to live at, or in close proximity to, their place of work to ensure the effective operation of the existing agricultural enterprise (functional need)*
- 2. Labour requirements of the existing agricultural enterprise*
- 3. The degree to which there is confidence that the agricultural enterprise is currently economically viable and will continue to be so for the foreseeable future*
- 4. The suitability and availability of existing dwellings on the agricultural holding and / or evidence to demonstrate that options for alternative housing within the locality have been explored*

The submitted information within this pre-application enquiry outlines the history of the farm, noting that the farming partnership of G E Airey and Sons comprises Graham Airey, wife Gill Airey and two sons Chris and Daniel. Previous planning permission has established that there is a need for two full time workers to be present on site to deal with out of hours work. As a result, Daniel and his family moved into Thornley Hall with Graham and Gill but the submitted information indicates that sharing the property between the two families is not sustainable, was intended as a temporary solution and is now resulting in noise issues with both families living in the same property.

Planning permission was granted under planning ref: 3/2022/0265 for the erection of a farm workers dwelling to the western side of the farm holding for one of the brothers (Chris) to live in, on the basis that as Graham reaches retirement, both sons could reside on the farm and undertake the duties which meet the functional need by way of 170 diary cows and youngstock. The Councils agricultural advisor was consulted on the above planning application and considered for there to be a need for two full time workers to reside at the farm to assist with out of hours duties. The agricultural advisor considered that the existing farmhouse at Thornley Hall Farm was suitable and available to house the two full time workers, however as the applicant (Graham) withdraws from physical work on the farm and retires, but continues to reside in part of the farmhouse, that part of the farmhouse would become unavailable to the farming business to house a full-time worker. As such, planning permission for one new agricultural dwelling was granted under planning ref: 3/22/0265 and a condition was also added for this dwelling that Thornley Hall Farmhouse remain as an agricultural worker dwelling to house the other full-time worker and secure that it remains part of the farm.

The pre-application seeks the Council’s advice on the principle of a third dwelling to accommodate Daniel (and his family) on the farm, so that there would still be two full time workers residing at the farm, with Graham and

wife Gill, being able to reside in Thornley Hall and other son Chris in the consented dwelling (which is currently under construction).

The supporting statement requests that the Council responds on the assumption that the farm is financially viable on the basis that proof would be submitted as part of a formal application. The acceptability of a third dwelling at the farm can only be given due consideration by way of a comprehensive technical assessment. The Council currently enlists the services of an agricultural advisor as noted above to carry out this assessment, however this service is not offered with respect to pre-application enquiries. As such, the Local Planning Authority is unable to offer any detailed comments at this stage with respect to the principle of establishing an agricultural worker dwelling at the application site.

Notwithstanding the above, given the recent planning history at the site, being that a new farm workers dwelling has already been granted in recent years, the Council are able to provide some information on the likelihood of this being acceptable.

The applicant has provided caselaw (John Keen v Secretary of State for the Environment and Aylesbury Vale District Council 1995) which considered the acceptability of an owner of a farm moving out or sharing accommodation and discusses whether an existing farmhouse would be suitable as well as available. Whilst there are some differences between the Keen Case and the Thornley Hall Farm, being that the farmhouse known as 'Brookside Farm' was not situated on the holding itself, with a separate curtilage and separate planning unit, the Case is considered to be a material consideration as to whether the existing farmhouse at Thornley Hall Farm is suitable and available.

The Council have not been provided with any floorplans of Thornley Hall Farm to identify the internal layout however the Planning Officer was able to visit the farm on 15 November 2024 and viewed the internal layout. It was noted that the farmhouse is large with several bedrooms some bedrooms not being utilised, due to noise issues from the ground floor rooms and thin walls. Whilst there is not a clear separation of the dwelling as two planning units, the house can be (and is being) used as two separate residential units, with two kitchens, two living areas and multiple bedrooms. It is also noted that the part of the house that Daniel and his family reside in was once used as a holiday let but the applicant has advised this has not been the case for around 20 years. However, it should be noted that the dwelling is still on the business rates valuation register.

The Keen Case identifies that it would be unreasonable for a farmworker who is reducing their duties/retiring to move out of their home or share their home to accommodate a full-time worker.

It is the Council's opinion that the before the erection of a new farmworkers dwelling is considered, an assessment as to whether the existing farmhouse is suitable and available must be made. The house in its current form, was previously considered acceptable to house two full time workers and although the applicant has outlined issues there has been a change since this permission was granted, with noise between the two families and a lack of space for other family members to stay, this pre-application has not identified whether there are any improvements to the existing house that could be made to enable the dwelling to be separated so that the two families can live independently each other, allowing for privacy, with less visual harm on the landscape of the Forest of Bowland National Park.

At this stage, the Council are of the opinion that the existing farmhouse still could be suitable and available and all alternative options should be fully explored to subdivide the existing property to allow for independent living for Graham and Gill and Daniel and his family, separately from each other. This could be through making internal alterations or exploring the possibility of extending the farmhouse.

It is acknowledged that the farmhouse at Thornley Hall is a listed building and as such there could be some restrictions on the type and level of development to the building but this is something that the applicants should explore, by seeking advice from a heritage surveyor as to whether any alterations could reasonably be made to the existing building.

Another option could be to explore the provision of a lower level of accommodation for Graham and Gill to reside in, for example, through the conversion of any existing buildings within the farmstead so that the two families can live independently, without the need for an additional dwelling.

In light of the above, the applicant should be aware that any formal planning application submission relating to the development of an agricultural workers dwelling would be subject to comprehensive assessment by the Council's agricultural advisor, however the Council expects that all reasonable attempts have been made to utilise either the existing farmhouse or existing buildings within the farmstead. Submission of detailed planning and supporting/financial information would be necessary to support any formal planning application and the applicant should be aware that further information may be sought in the event of any shortcomings being identified.

The siting of the proposed dwelling will be discussed later in this letter.

Impact Upon Residential Amenity:

Policy DMG1 of the Ribble Valley Core Strategy states that all development must:

1. *Not adversely affect the amenities of the surrounding area.*
2. *Provide adequate day lighting and privacy distances.*
3. *Have regard to public safety and secured by design principles.*
4. *Consider air quality and mitigate adverse impacts where possible.*

The proposed farm workers dwelling would be located approximately 80 metres away from the nearest neighbouring residential property of Thornley Hall Cottage. When the Planning Officer visited the site, it was noted that the application site sits on higher land than the roadside and Thornley Hall Cottage. Whilst the proposal would not likely result in any harmful overshadowing or loss of light, if a dwelling were to be accepted in this location, it should be designed as to have the minimum impact by way of overlooking and overbearing impact to the occupiers of Thornley Hall Cottage as possible.

The Council would also consult with the Environmental Health Officer who many wish to impose restrictions on the hours of construction and/or request further information if there is any noise generating equipment such as an Air Source Heat Pump proposed.

Visual Amenity/External Appearance and Heritage:

The application site is located within the Forest Of Bowland National Landscape and consists of agricultural grassland. The majority of the farmstead is to the North of the application site, on the opposite side of the road.

Paragraph 135 of the NPPF states:

'Planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting'.

Policy DMG1 of the Ribble Valley Core Strategy provides additional general design guidance, stating:

'All development must be sympathetic to existing and proposed land uses in terms of its size, intensity and nature as well as scale, massing and style...particular emphasis will be placed on visual appearance and the relationship to surroundings, including impact on landscape character.'

With respect to development within the Forest of Bowland National Landscape (formerly Area of Outstanding Natural Beauty), Paragraph 182 of the NPPF states:

'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty... The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.'

Key Statement EN2 of the Core Strategy states:

'The landscape and character of those areas that contribute to the setting and character of the Forest of Bowland Areas of Outstanding Natural Beauty will be protected and conserved and wherever possible enhanced. As a principle the Council will expect development to be in keeping with the character of the landscape, reflecting local distinctiveness, vernacular style, scale, style, features and building materials.'

Furthermore, Policy DMH3 of the Core Strategy states:

'The protection of the open countryside and designated landscape areas from sporadic or visually harmful development is seen as a high priority by the Council and is necessary to deliver both sustainable patterns of development and the overarching Core Strategy vision.'

In general terms the Council seeks to restrict the provision of accommodation for agricultural workers to the development of modestly sized dwellings located within close proximity to substantial built form (well established farmsteads) in order to safeguard against the suburbanisation of the Borough's open countryside.

In this instance, whilst there are residential dwellings located approximately 300m to the south-east of the application site, the proposed dwelling would appear visually separate from the existing farmstead and although set back slightly from the roadside, would be visible given the higher land gradient from the road. As such, there is likely to be visual harm arising from the introduction of a new dwelling in this location.

If the principle of a new dwelling is accepted then the applicant should explore alternative locations within the farmstead which would likely result in less visual harm to the Forest of Bowland National Landscape. At the site visit, the Planning Officer suggested locating the dwelling to the western side of the farmstead, adjacent to the recently granted detached dwelling. The applicant stated that this would be less desirable as it would be located adjacent to a slurry pit. The Council consider that there must be a balance between providing an acceptable level of amenity for the future occupiers and exploring other alternative locations to the northern side of the road where the existing farm buildings are.

No detailed floorplans or elevation drawings have been submitted as part of the application, however if an agricultural workers dwelling were to be accepted, the applicant should carefully consider its bulk, massing, height, siting and visibility in relation to the context of the site and the impact that this could have on the character of the surrounding rural countryside.

The site is also located within close proximity to Thornley Hall (the main farmhouse) which is a Grade II Listed Building. As such, there could be an impact on the setting of the designated heritage asset. Key Statement EN5 of the Ribble Valley Core Strategy states that *'There will be a presumption in favour of the conservation and enhancement of the significance of heritage assets and their settings. The Historic Environment and its Heritage Assets and their settings will be conserved and enhanced in a manner appropriate to their significance for their heritage value; their important contribution to local character, distinctiveness and sense of place; and to wider social, cultural and environmental benefits'*.

In addition, Policy DME4 also states that *'alterations or extensions to listed buildings or buildings of local heritage interest, or development proposals on sites within their setting which cause harm to the significance of the heritage asset will not be supported'*.

Thornley Hall Cottage is located to the front and side of Thornley Hall (listed building) and as such, Thornley Hall is not highly visible from the roadside. Thornley Hall has a garden frontage and set back from the road,

within the farmstead and the proposed new dwelling would be sited 50 metres to the south-west of Thornley Hall. Any new dwelling would need to be sympathetically designed as to not harm the setting of the designated heritage asset. A formal planning application would also need to be accompanied with a heritage statement which states the significance of the designated heritage asset and assesses the impact of the development on the asset.

Highways and Parking:

The application would need to provide adequate parking, appropriate to the number of bedrooms at the property. There is an existing agricultural access to the field, however this would likely need to be upgraded with appropriate visibility splays to ensure safe access on to the highway. The site should also provide sufficient space for vehicles to turn within the site and leave in forward gear.

The Local Highways Authority do not engage in the Council's pre-application service as they offer their own service, for full details of this please visit the Lancashire County Council website.

Landscape/Ecology:

The site is bound by numerous trees, shrubs and hedges which the applicant advised at the site visit are within their ownership. As such, an Arboricultural Impact Assessment would be required to support any formal planning application submission to determine the trees on site and assess whether the trees could be retained, during and following construction of the agricultural workers dwellinghouse.

From 12 February 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Developers must deliver a Biodiversity Net-Gain of 10% so that development will result in more or better quality natural habitat than there was before development. As such, unless the applicant considers that the development is exempt (more information can be found at Biodiversity net gain: exempt developments - GOV.UK), the applicant would need to submit a Biodiversity Metric and a Biodiversity Gain Plan, demonstrating how the proposals will achieve the required gain in biodiversity.

Other Matters:

Policy DME6 states that:

'Development will not be permitted where the proposal would be at an unacceptable risk of flooding or exacerbate flooding elsewhere. Applications for development should include appropriate measures for the conservation, protection and management of water such that development contributes to:

- 1. preventing pollution of surface and / or groundwater*
- 2. reducing water consumption*
- 3. reducing the risk of surface water flooding (for example the use of sustainable drainage systems (SuDS))*

As a part of the consideration of water management issues, and in parallel with flood management objectives, the authority will also seek the protection of the borough's water courses for their biodiversity value.

All applications for planning permission should include details for surface water drainage and means of disposal based on sustainable drainage principles. the use of the public sewerage system is the least sustainable form of surface water drainage and therefore development proposals will be expected to investigate and identify more sustainable alternatives to help reduce the risk of surface water flooding and environmental impact'.

When the Planning Officer visited the site, it was noted that there is a brook which runs to the east of the site, through a culvert under the road and down through the farm. In addition, surface water had collected on the

highway adjacent to the site entrance. Any formal planning application should provide details of surface water drainage to ensure flood risk is not increased and water does not discharge onto the highway.

The Council has a local validation checklist, which can be accessed by the link below. However, during the planning process, requests for further technical information may be made by third party consultees during the application.

The validation checklist can be found at [Adopted Validation Checklist August 2023 – Ribble Valley Borough Council](#)

Conclusion:

In conclusion, the Council cannot provide certainty as to whether two full time workers are still required at the farm until the application stage where the Council can engage with the agricultural advisor. Notwithstanding this, the Council consider that the existing farmhouse known as Thornley Hall could still be suitable and available to house 1 no. full time worker when Graham retires from farming duties and the option of subdividing the property or extending/altering the property to enable the two families to live separately should be fully explored before the option of a third agricultural workers dwelling is accepted. Concerns are also raised regarding the siting of the proposed dwelling. The dwelling would be sited on the opposite side of the farmstead in an area with little built form either side. Whilst there is some development further to the east of the site, if the principle of a new build dwelling is acceptable then the applicant should explore siting the dwelling within the farmstead to the northern side of the road, as this would likely have less visual impact.

Submission Requirements:

Should you proceed to submission of a formal application, based on the nature of the proposal / site constraints identified above, it is my opinion that the Local Planning Authority would require the following information to accompany such an application:

- Completed application form
- Red edged Location Plan at a scale of 1:250 or 1:2500, showing North arrow
- Extent of agricultural holding map(s)
- Existing site plan showing any site boundaries (at a scale of 1:100 or 1:200)
- Proposed Site Plan showing any site boundaries, hardstanding areas, landscaping and visibility splays for the site's access point at Moor Lane (at a scale of 1:100 or 1:200)
- Proposed floor plans (at a scale of 1:50 or 1:100, dimensioned)
- Proposed elevation drawings (at a scale of 1:50 or 1:100, dimensioned, showing details of proposed external materials)
- Site level section drawings (at a scale of 1:50 or 1:100, dimensioned)
- Arboricultural Impact Assessment
- Noise impact assessment
- Heritage Statement
- Agricultural information form

- Design and Access (supporting) statement, to include as a minimum:
 - Evidence of the necessity for the applicant to live at, or in close proximity to, their place of work to ensure the effective operation of the existing agricultural enterprise (functional need)
 - Labour requirements of the existing agricultural enterprise
 - The degree to which there is confidence that the agricultural enterprise is currently economically viable and will continue to be so for the foreseeable future
 - Evidence to demonstrate that options for alternative housing within the locality have been explored and that amendments to the farmhouse could not be made to subdivide the property
- Drainage Strategy (and Flood Risk Assessment if the application site area would exceed 1ha)
- The appropriate application fee (to be confirmed with planning administration team)

Please note this aforementioned required information may not be exhaustive and is provided on the basis of the level of information submitted. Failure to provide required information is likely to result in an application being made invalid until such information is received or potentially refused on the basis of insufficient information.

Please also be advised that Lancashire County Council provide a separate, chargeable pre-application service for highway related matters and drainage matters. You should contact the County Council directly to discuss any such issues - <https://www.lancashire.gov.uk/business/business-services/pre-planning-application-advice-service/pre-planning-application-highways-advice-service>

<https://www.lancashire.gov.uk/business/business-services/pre-planning-application-advice-service/pre-planning-application-flood-risk-and-land-drainage-advice-service/>

The above observations have been provided on the basis of the level of information submitted and the comments contained within this response represent officer opinion only, at the time of writing, without prejudice to the final determination of any application submitted. Should you wish to discuss any of these matters further please do not hesitate to contact me.

Yours Sincerely,

Maya Cullen

Senior Planning Officer

APPENDIX 7

Photographs of the proposed site

Our Ref: Air/1164/3543/GH
Proposed farm worker's dwelling at Thornley Hall Farm
Photographs of the propose application site



Close up view of the application site from within the field parcel, the existing farm buildings can be seen in the gap between the two groups of trees. The proposed dwelling would obscure the view of the farm buildings.

Our Ref: Air/1164/3543/GH
Proposed farm worker's dwelling at Thornley Hall Farm
Photographs of the propose application site



View of the application site from the footpath to the south, the proposed new dwelling will sit to the west of the two existing dwellings and will not be out of place.

Our Ref: Air/1164/3543/GH
Proposed farm worker's dwelling at Thornley Hall Farm
Photographs of the propose application site



The view of the existing dwellings Thornley Hall and Thornley Hall Cottage from the footpath to the south, both properties are clearly visible in views from this direction and the farm buildings become more visible as the ground rises heading south see image below.



Our Ref: Air/1164/3543/GH
Proposed farm worker's dwelling at Thornley Hall Farm
Photographs of the propose application site



This photograph shows the existing hedgerow along the eastern boundary of the field in which the application site is located. Which will provide screening from views from the east and south.



This photograph shows other dwellings to the east of the farm.