

48/14/0010

MR & MRS A COURTNEY

**ERECTION OF AN AGRICULTURAL WORKERS DWELLING, DEMOLITION OF STABLES AND ERECTION OF EXTENSION TO AGRICULTURAL BUILDING FOR GENERAL PURPOSE AT THE WILLOWS, NOAHS HILL, WEST MONKTON**

Location: THE WILLOWS, NOAHS HILL, WEST MONKTON, TAUNTON, TA2  
8QX

Grid Reference: 325796.128465

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

**RECOMMENDED CONDITION(S) (if applicable)**

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A4) DrNo 2462/01 Location Plan  
(A3) DrNo 2462/02 Site Plan  
(A1) DrNo 2462/03 House Floor Plan and Elevations  
(A2) DrNo 2462/04 Barn Elevations

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Prior to the commencement of the erection of any part of the dwelling or garage hereby permitted, a panel of the proposed stonework measuring at least 1m x 1m shall have been built on the site and both the materials and the colour and type of mortar for pointing used within the panel shall have been agreed in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed details and thereafter maintained as such, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

4. Prior to the commencement of the erection of any part of the dwelling or garage hereby permitted, a sample of the materials to be used in the construction of the external surfaces of the roof shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and thereafter retained as such, in accordance with the approved details as above, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

5.
  - (i) Before any part of the dwelling hereby permitted is brought into use, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
  - (ii) The scheme shall be completely carried out within the first available planting season following agreement with the Local Planning Authority, or as otherwise extended with the agreement in writing of the Local Planning Authority.
  - (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

6. The occupation of the dwelling hereby permitted 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 of such a person, and to any resident dependants.

Reason: The site lies in area where new development is generally restricted to that for which there is a proven need in accordance with paragraph 55 of the National Planning Policy Framework.

7. Before any part of the development hereby permitted is commenced, detailed drawings showing existing and proposed site levels, floor levels and contours of the development site, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

8. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (“the 1995 Order”) (or any order revoking and re-enacting the 1995 Order with or without modification), no extensions, additions or curtilage structures (of the types described in Schedule 2 Part 1 Class A-E of the 1995 Order), other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: The Local Planning Authority are not of the opinion that the property could be further extended without resulting in an adverse impact on the appearance of the surrounding area, as set out in Policy DM1 of the Taunton Deane Core Strategy.

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and entered into pre-application discussions to enable the grant of planning permission. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.
2. Note at request of Wessex Water:
  - New water supply and waste water connections will be required from Wessex Water to serve this development. Application forms and guidance information is available from [www.wessexwater.co.uk/developerservices](http://www.wessexwater.co.uk/developerservices)
  - Further information can be obtained from our New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.
3. Notes at the request of Drainage Officer:
  1. Soakaways should be constructed in accordance with Building Research Digest 365 (September 1991).
4. With reference to Condition 4 requiring samples of the roof material, please be aware that there are many other more appropriate alternatives to slate than that suggested and this should be taken into account when providing the sample roof tile.
5. As the proposal includes the use of a septic tank to treat foul sewage, percolation tests should be carried out to ascertain the required lengths of sub-surface irrigation drainage. The builder/developer should also consult the literature prepared by the Construction Industry Research and Information Association (CIRIA) regarding on-site sewage disposal and septic tank systems. The relevant leaflets can be found on the CIRIA website. Alternatively advice can be obtained from the Environment Agency on foul drainage systems.

## PROPOSAL

The Willows is situated at Noah's Hill, West Monkton. It is a block of land of approximately 2.15 acres, owned by the applicants, with a further 10 acres on the opposite side of the road, held on a Farm Business Tenancy. On the site is a stable block and agricultural barn, for which permission has been granted. Retrospective planning permission was granted in April 2011 for the siting of the mobile home for temporary agricultural worker's accommodation for a period of three years.

This application now seeks planning permission for a permanent agricultural worker's dwelling. This would be stone and grey tile construction providing three/four bedrooms and positioned in the field, to the north-east of the access (to the north of the mobile home). To the south-east of the dwelling, it is proposed to erect a garage in matching materials. It is also proposed to demolish the stable building and erect an extension to the existing agricultural building. This would involve a higher eaves and ridge level by approximately 900mm and would be of matching materials. The extension would occupy a larger footprint than the existing agricultural building and would provide indoor stabling and a farrowing unit.

In 2010, the applicants were using the site for the breeding of micro pigs, with a target of producing approximately 100 pigs per annum. In addition, the site was used for free range egg production, at that time with a small flock of 100 birds supplying eggs on a farm gate sales basis; small scale ornamental poultry breeding with a view to producing 100 per annum; and the breaking in of young horses/ponies, approximately 4 horses in the first year. (Figures taken from Appraisal and Business Plan in 2010).

Planning permission was granted for the mobile home in 2011 for the following reason:

*Members considered that it had been demonstrated that there is an agricultural need for a dwelling to be positioned on site while the enterprise develops. The enterprise has been planned on a sound financial basis and the tests outlined in Planning Policy Statement 7, Annex A have been complied with. The proposal is, therefore, considered to be acceptable for a temporary period of 3 years and will not impact unreasonably upon the amenities of neighbouring residents, highway safety or the landscape character of the area, in accordance with Policies S1, EN12 and M4 of the Taunton Deane Local Plan.*

During the processing of the application, additional information was requested regarding the livestock numbers now on site. The additional information received stated:

- The target of producing 100 micro pigs per annum was being met, although some pigs are being kept longer to provide replacement breeding stock for other farmers. The target is expected to be exceeded this year.
- The level of laying hens averages 120 birds, plus ornamental breeds of which, the applicants expect to breed and sell 200-250 this year. It is stated that these are now bought in as day old chicks, rather than hatched on site.
- No information is provided on the level of breaking and schooling horses being undertaken at the site.
- The business has been expanded to provide a "mobile petting farm", which offers educational, recreational, therapeutic and promotional services by taking a selection of animal to schools, care homes, shopping precincts, country fayres, private parties, etc
- It was proposed to expand with a small flock of pedigree Wiltshire Horn rare

breed sheep, with target expansion to 20-25 ewes. This has not occurred and there is only one sheep and two lambs on the site, which are used in association with the Petting Farm.

## CONSULTATION AND REPRESENTATION RESPONSES

### Consultees

*WEST MONKTON PARISH COUNCIL* - Site outside village envelope, no other development on that side of the road.

- Three years ago retrospective permission was given for a mobile home/caravan. Argument made at the time was that a person needed to live at the site in order for the applicant's business plan keeping chickens and pigs to be fulfilled.
- Land taken opposite on FBT, proposed to be used to house the chickens or pigs. Mr and Mrs Courtney have rented this land to graze their two pet ponies.
- The local residents report that they have not seen farm gate sales taking place, nor has an 'eggs for sale' sign been seen at the entrance gate.
- The normal sounds and smells to be expected from an enterprise of the type described appear to be absent.
- The high security farm gate is padlocked unless the applicants are in attendance at the site. No-one appears to reside and stay at the caravan as the gate is seen to be padlocked from the outside more nights than not.
- Given the financial argument made in the application that a build on site would be the only affordable option, the size and description of the proposed house is far in excess of the fairly modest business described in the current business plan.
- The Parish Council is of the opinion that the building represents overdevelopment for the agricultural need described in the application.
- Given that much of the centre of West Monkton Village is in a Conservation area, and this site is only just outside it, the Parish Council is very concerned that any new build in the area should be sympathetic to West Monkton and its environs and to use appropriate materials.
- Protection and enhancement of the hedges around the site would be important to minimise visual impact.
- The dwelling described in this application does not seem to address sustainable issues, the walls should be of stone or brick (not reconstituted) that reflects the Quantock stone colours, the grey concrete tiles proposed for the roof are out of character, and should be replaced by genuine slate tiles.
- If permission were to be granted it is absolutely essential that an agricultural tie should be put on this dwelling.
- The Parish Council notes the site of the septic tank shown on the plan. If the house is built there, there will be a greater occupation of the site and therefore a significant need for the disposal of waste.
- It is not known what arrangements are made for the disposal of the waste from the animals described in the Business Plan, as no waste/manure store appears to be visible on the site. The location of the septic tank as currently drawn is at the top of the site, therefore run-off will undoubtedly make its way down the site and into the lake shown adjacent to the boundary of the applicant's land due to the lie of the land and the porosity of the earth in that location. The same would be true of pig and chicken waste. The lake drains into a drainage system that follows the open ditch the length of Blundells Lane before joining the Bathpool Drainage system.

- The applicant has indicated that he has funds of up to £122, 000 with which to build this house: it is the Parish Council's view that the house and large barn of the calibre described in the plans could not be built for that money.
- Despite the example of house prices quoted in the application documents, there are a great many properties currently available in Monkton Heathfield in the new development which cost substantially less than the £300,000 quoted, all within a maximum of 7 minutes drive from the site. It is the view of the Parish Council that the business as reported by the applicant does not require a dwelling house on the site, the needs of the business can be adequately met by the applicant living nearby.
- The application also includes a proposal to increase the existing barn, nearly doubling its size according to the drawing, and stating the use of the barn will be for general purposes. The original permission for the existing barn was granted with a condition that it was for agricultural and equine use in perpetuity. The Parish Council would strongly recommend the same agricultural and equine condition is attached to the extended barn, particularly in view of the reported history of noise nuisance and other activities that would not reasonably associated with agriculture associated with the existing buildings.
- Recent removal of trees on the boundaries has resulted in increased visibility of the site, and the proposed enlarged barn and the house on the location would be highly visible from the road in both directions.
- It is inconsistent to apply for an agricultural workers dwelling – which would therefore carry an agricultural tie - whilst in the same application seeking permission to remove the tie from the barn by doubling its size for general purposes.
- The gates to the site are large and set off the road by the required distance, but the fact remains that the entrance to the site if approached from West Monkton village is at the top of the hill and the turn into it is blind until level with the gates. Impact from traffic would be significant if the agricultural element and any associated retail sales are likely to be significant. This element doesn't seem entirely clear, but forms part of the justification for the build. The Business Plan as currently described would indicate an increasing amount of traffic to and from the site by delivery wagons, feed lorries etc which causes concern about the safety of the access. Narrow and steep access makes it difficult for lorries to access the site.
- This application would result in a significant change in the density and size of vehicles using this road (Red Hill/Noahs Hill). The Parish Council has concerns that the size of the site is insufficient to allow for the growth of the business over the next 3, 5, 10 years, and the application does not address issues of functionality and business viability in the longer term.
- The crux of the matter is whether the applicant needs to live on site or whether all conditions for the ongoing success of the enterprise and welfare of the stock can be met by living nearby ('AT ' or 'NEARBY'). It is the view of the Parish Council that the applicant has not made his case that it is necessary to be at the site 24/7. The quantity and type of livestock do not appear to be so fragile or unique that they are not able to survive in normal agricultural surroundings. There is no possibility of a farmer always being present 24/7 to watch out for foxes or other predators; suitable fences, cages and housing would be a better deterrent and a much cheaper option to the applicant.
- The Parish Council is of the opinion that the applicant has not demonstrated the case that he has to live on site, rather than nearby. He doesn't always reside and stay there now, and the animal welfare argument can be met by his living

nearby (as is the practice in many agricultural units), where affordable houses are available. The appellant appears to be using the agriculture exemption to build a house on land that would otherwise not be granted. Previous applications on this site have all been refused on the grounds of landscape impact and highways.

Subsequent comments - Confirm that the views submitted were the final views of the Parish Council.

*SCC - TRANSPORT DEVELOPMENT GROUP* - Refer to Standing Advice – Previous comments used -

The proposed development site lies outside any Development Boundary Limits and is therefore distant from adequate services and facilities, such as, education, health, retail and leisure. In addition, public transport services are infrequent. As a consequence, occupiers of the new development are likely to be dependant on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to government advice given in PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) and Policy S7 of the Taunton Deane Local Plan, and would normally receive a recommendation of refusal from the Highway Authority as a result.

However it is noted that the application is for an agricultural workers dwelling and therefore it must be a matter for the Local Planning Authority to decide whether there is sufficient need or justification for such a development in this location, which outweighs the transport policies that seek to reduce reliance on the private car.

In terms of the technical detail the applicant has indicated that by allowing this proposal it would reduce the level of vehicle movements as the applicant would not need to visit the site twice a day as indicated in the Design and Access Statement. However it should be noted that a normal dwelling would generate 8-10 vehicle movements per day. Reading the other documentation submitted as part of the proposal it is apparent that this site has a number of uses which potential generate an increase in vehicle movements. Although no details have been provided on the exact number of movements I have concerns that these uses would generate an increase in vehicle movement. From visiting the site it was observed that the approach roads are single width and sinuous in nature with high hedges either side of the carriageway. I do not believe that these approach roads are of sufficient standard to accommodate any additional vehicle movements.

I note that part of Design and Access Statement refers to previous applications on this site. One related to the erection of an earth-sheltered dwelling this proposal went to appeal where it was dismissed. The applicant has indicated that part of the appeal related to highway issues. These issues were dismissed by the Inspector as such the applicant feels that this appeal is a material consideration. In response to this although I note the Inspectors comments this appeal was in 1991 and planning and highway policy has significant changed since then as such any highway concerns should still be considered to be relevant. Raise objection.

*DRAINAGE ENGINEER* - Note that septic tank is to be installed to treat foul sewage. Percolation tests should be carried out to ascertain the required lengths of

sub-surface irrigation drainage. Environment Agency's consent to discharge to an underground strata is also required. With regard to surface water drainage, I note soakaways are to be utilised. These should be constructed in accordance with Building Research Digest 365 (September 1991) and made a condition of any approval.

*LANDSCAPE* - The position of the dwelling is not well related to the barns and will be visible through the gated entrance. I recommend, if it is to be approved, that it is moved further east and closer to the barns with a smaller garden area.

*WESSEX WATER* - New water supply connections will be required from Wessex Water to serve this development. Suggest note regarding application forms guidance and further information.

## **Representations**

Three letters received stating NO OBJECTION:

- One letter went on to say seems sensible use of land with no safety/access issues. No increased noise and disturbance. No overshadowing, overlooking or loss of privacy. Proposed house in keeping with surroundings and agricultural use is appropriate to area.
- One went on to say they look forward to Mr and Mrs Courtney becoming part of the village community, they will bring a business and young family that will benefit us all.

One letter of OBJECTION based on the following grounds:

- Concerns regarding incorrect address, query attempt to imply it forms part of the group of dwellings at Noah's Hill
- Council seems to be downgrading prestigious village with farming and it's inherited nuisances.
- Visitors would have to access by foot or vehicle at the top of a hill, road used as rat run.
- Allowing pig farm unreasonable to those who have paid much money and rates to live here. Query how many micro pigs sold as appeared to be a fad some years ago.
- Free range eggs available at three other nearby locations so no great need. Egg production with such limited land cannot be used as a planning reason.
- Query what poultry can be kept on such a small site, used also for equine. Have seen none of venture on site, which is visible from her garden.
- Query whether repairs are being carried out due to the smell of paint.
- Animals are of nature that can be locked up at night. Only occasional need for birthing of pigs, on such a small scale, would require occasional overnight stays.
- Mr Courtney's vehicle has been noted leaving site at 12.30am but not returning.
- Barn granted with conditions so could not be converted to a dwelling, now proposed to demolish, extend barn and build four bedroom dwelling.
- Agricultural workers dwelling planned for 4 bedrooms.
- Application states commuter movements to and from site kept to a minimum but



query how customers get to site.

- It is suggested that submission of accounts show enterprise is sustainable. So many larger farmers cannot make ends meet, query how can applicant on small area of land.
- Query outlet of septic tank and possible contamination to watercourse in village.
- Site is bounded on roadside by ugly fencing, not dense vegetation.
- Should not grant permission for a house as Mr Courtney cannot afford a house in this area. Houses are being built nearby at reasonable prices.
- Planning policy should create economic growth in rural areas. Query how much land available to business with all these buildings on 2.15 acres.
- Parish Council has consistently refused residential development on that site, including underground house that would not be seen. It is divorced from settlement and surrounded by farmland, at foothills of AONB. If approved neighbouring farmers may also apply for similar dwellings.
- Unreasonable that so many farmers are selling land for housing development that residential area of West Monkton should suffer nuisances of a small pig and chicken farm.

#### FURTHER INFORMATION RECEIVED FROM AGENT:

- Livestock numbers comfortably exceed the numbers anticipated at the end of the three year trial period in the original business plan agreed by the Planning Committee in 2010. Wholly unreasonable for the Council to take the view that the functional test was not met at this time, when the livestock numbers and the activity on the farm exceeds the level of activity anticipated in 2010, which the Planning Committee accepted would meet the functional test.
- Query comments of Parish Council as different to what applicant was expecting comments to be having attended meeting. Queries whether comments properly reflect views of Parish Council. Requested clarification of PC views.
- Applicants have 5 year business tenancy with Kevin Chedzoy. The land was in the original application. The land is used for 1x pony and 1x horse. Also hay has been taken off the land for the past 2 years and will be again this summer. On occasions, goats and lambs have been grazed here too.
- The applicants put a sign out regarding egg sales in the very early stages, but this attracted unwelcome visitors to come into the property to look about at everything else - stock, farm machinery, etc. They did not put sign out again and do not need to, as they have built up a loyal customer base. The eggs are stored in tack room, so customers come right into our property; eggs are not exchanged at the gateway.
- What do they call normal sounds and smells? If you are walking from bottom of Noahs Hill you will hear the chickens/cockerels and sometimes the goats/lambs baaing, the adult pigs grunting and piglets squealing. However, these are not often because our animals are happy, well looked after and have the applicants around all the time (because they are living on site). I would be more worried if there is a lot of noise, as this means the animals are distressed and not getting the attention they need.
- Again, what smells are they looking for? The property is well screened and good husbandry is paramount. The only real smell is the pigs as their pens back onto the lane (Noah's Hill) where people walk. The animals muck/manure is either picked up daily and pens are thoroughly cleaned once a week. A tipper trailer especially for the waste is sited in the top left hand corner of the paddock that is

visible through the main gate - it has been in the same position for the last 4 years. The waste is taken between three allotments - the applicants have a key for Obridge allotments, Priorswood, Creech St Michael allotments and individuals at Hamilton Park allotments.

- With regards to the applicants not being on site because of the padlock on the gate at night, there is no visible padlock on the gate. There is always someone on site at night, only sometimes during the day when the applicants are out with the mobile petting farm but the applicants mother (an ex farmer) is there seeing to the animals.
- The Parish Council seem to be confused about the building. It is described in the application as being a general purpose agricultural building and that is what is intended. It is not intended to be used for industrial purposes and it should not be necessary to impose a condition restricting its use, because any non-agricultural use would require planning permission in any event.
- Temporary agricultural worker's mobile home was permitted by Council in 2011. The Council accepted that application complied with advice set out in PPS7, Annex A, confirmed by minutes of meeting.
- Misunderstanding of activities being undertaken. Activities being undertaken are not less than set out in business plan in 2010.
- 2010 business plan based on 5 sows, 1 boar producing 100 piglets per annum. Now 6 sows, 2 boars that will produce in excess of 100 micro-piglets in current financial year. Many sold, some retained as replacement breeding stock for farmers. Exceeds what was set out in business plan, which was agreed by Council.
- In addition to farrowing, pigs need careful monitoring when castrated and cannot be done without worker being on site around clock at these times.
- Two elements of poultry – free range egg production and ornamental breeding. Business plan reported flock of 200 layers plus ornamental breeds and that it was intended to keep below 350 bird threshold where DEFRA become involved. Ornamental birds in great demand, sold at point of lay so considerable turnover of stock. The suggested 60 birds on site was level present on that day, whereas applicants expect to breed and sell 200-250 in current financial year (2-3 times original target set out in business plan).
- No evidence to support view that alarms can be used to monitor hatchers and incubators. Not widely used in commercial poultry industry as not proper way of operating. Refers to appeals won on this point.
- Re-iterates that level of activity associated with micro-pigs and poultry has materially increased. Therefore wholly unreasonable for Council to refuse application on the functional test in view of position in 2011 and misleading advice on this point.
- Dwellings being built in Monkton Heathfield need to be suitable and available under Annex A.
- If a worker needs to be available at most times and short notice, need to be very close, e.g within sight and sound. Planning Inspectors may take wider view and area of search normally 500-600m. A dwelling in Monkton Heathfield is simply too far away to meet functional needs of enterprise.
- Social housing available in Monkton Heathfield only available to families on Council Housing Register and therefore not available to applicant. Two young children so require minimum of 3 bedrooms and minimum open market price is £199,9950 plus stamp duty. Whilst have some capital, would need a mortgage. Doubtful that business could sustain additional mortgage payments, additional travel costs and inevitable losses which would be sustained if worker was not

available at short notice.

- Further letter supplied from Mortgage Adviser indicating low borrowing capability based on net profit. Based on projected year end figures for 2013-2014, this could be increased (albeit still low), once latest figures were finalised and income verified.

## **PLANNING POLICIES**

NPPF - National Planning Policy Framework,  
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,  
CP1 - TD CORE STRAT. CLIMATE CHANGE,  
CP8 - CP 8 ENVIRONMENT,  
SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,  
SP4 - TD CORE STRATEGY REALISING THE VISION FOR THE RURAL AREAS,

## **LOCAL FINANCE CONSIDERATIONS**

The application is for residential development outside the settlement limits of Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is approximately £21,000.

The development of this site would result in payment to the Council of the New Homes Bonus.

### 1 Year Payment

Taunton Deane Borough Council (Lower Tier Authority) £1,079

Somerset County Council (Upper Tier Authority) £270

### 6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority) £6,474

Somerset County Council (Upper Tier Authority) £1,619

## **DETERMINING ISSUES AND CONSIDERATIONS**

Paragraph 55 of the National Planning Policy Framework states local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. e.g the essential need for a rural worker to live permanently at or near their place of work in the countryside. It has been widely accepted that the most appropriate way of assessing this need is through the use of the former Annex A of PPS7 and following the LDF Steering Group in July 2012, the Executive Portfolio Holder for Planning and Transportation formally agreed that 'the Council continues to follow the criteria specified in PPS7, Annex A, as Council Policy when considering proposals for 'rural worker's dwellings' in the countryside'.

Paragraph 3 of the former Annex A sets out the criteria that applications for a new

permanent dwelling, which should only be allowed to support existing agricultural activities on well-established units, should be assessed against:

- (i) there is a clearly established *existing* functional need;
- (ii) the need relates to a *full-time* worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- (iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other planning requirements, e.g in relation to access, or impact on the countryside, are satisfied.

### Functional need

One of the main issues for consideration is therefore whether there is an essential need for a worker to be accommodated on the holding. A functional test is therefore undertaken in order to ascertain whether it is essential for the proper functioning of the enterprise for the worker to be readily available at most times, for example if he/she is needed to be on hand day and night. In assessing this, it is necessary to take into account whether the problems/emergencies are likely to occur during normal working hours (even if these hours are long). If this is the case, emergencies/problems can be dealt with as part of the day to day routine and this does not call for a worker to live on site.

It is important to note that this should clearly relate to an existing functional need. Planning committee resolved to grant permission for the temporary agricultural worker's dwelling in 2011 to enable the business to develop and in doing so, accepted that there would be a functional need provided the business was developed in line with the business plan.

The business plan stated a target to produce 100 micro piglets per annum and it is stated that it is budgeted to produce in excess of this figure in 2014/2015 as a result of the increase in sows to 6, rather than the proposed 5, which would marginally strengthen the functional need associated with the micropig element of the business. It is important to note that pigs generally produce 2 litters per year, which at the current numbers would result in around 12 farrowings per year, which is a reasonably low level of farrowings, with a limited risk of problems occurring that need essential care at short notice.

The limited amount of farrowings, being on average 1 per month, is not considered to be of a size that warrants a worker being readily available at most times. It is important to note that a competent stock man would have a good idea of when a sow is likely to farrow, and whilst many would farrow down in the day, if necessary he/she could return to the site to check the occasional sow that might farrow at night. Furthermore the large workload associated with feeding, cleaning, monitoring, treating with antibiotics, castration and associated monitoring, along with additional handling due to breeding for the pet market would all be carried out as part of the normal working day, rather than at night. As such, these tasks do not add to the justification of a worker being readily available at most times. Notwithstanding this, it

is important to note that the micro-pig activities now taking place on site are not any less than the level taken into consideration when committee determined the previous application. In addition, it is stated that the applicants expect to exceed the target of 100 micro piglets this year, which if achieved, would increase micro pig activities on the site beyond that set out in the initial business plan.

There are currently 120 laying hens on site, plus 60 ornamental poultry, although it has been clarified that the 60 ornamental birds are the level on site at that time and the applicants hope to produce 200-250 this year, as oppose to the initial target of 100 per annum. The daily activities associated with this level of poultry, including feeding, watering and egg collection are all activities that would be undertaken as part of a normal working day and do not necessitate a worker being readily available at most times.

The agent states that it is a necessity for an agricultural/rural worker to be on site at all times to prevent the chickens from being killed by predators such as foxes. It is normal to assume that chickens are shut up at night to protect them from predators and this would certainly be good husbandry. On this basis, they are at little risk at night and as none of the birds are housed within controlled conditions, there is no requirement for someone to be on hand to deal with any power/system failure, in order to prevent suffering. Whilst it is accepted that a small amount of eggs are likely to be incubated for the ornamental poultry element and young birds likely to be reared under heat, it is not stated that these systems are linked to an alarm. As such, even if a worker was living on site, a change in temperature is not something he/she would be aware of until checking the stock in the morning. Furthermore, due to the small scale of these enterprises, it follows that the risk of loss would be minimal. However, it is pertinent to note that the overall level of poultry on the site is not less than that on which the previous decision was based and that this is likely to be more if the additional targets of ornamental poultry are met.

The sheep enterprise, targeted at 20-25 ewes has not occurred and only 1 ewe and 2 lambs are present on site. Whilst this element of the business was small, it did contribute, albeit marginally, to the functional need. The submitted information states that additional income has been generated by breaking/schooling horses, although no quantities have been provided. However, as this would entail work that would take place during the course of a normal working day and not at night, this is not considered to contribute significantly to the functional need.

It is acknowledged that the Petting Farm is a new element of the business, which was not included in the initial plans three years ago. A great deal of feedback/letters from users of the petting farm have been submitted by the applicants in support of the proposal, which indicates that this is a successful element of the business. However, this involves simply keeping a low level of livestock, which are transported around to the schools, garden centres, fayres, etc, it does not involve any additional breeding or other such activities that would contribute significantly to the functional need. It is acknowledged that the animals may require additional handling to be of a suitable temperament and that the petting farm may involve some early mornings in order to load and transport the animals. However, the vast majority of the work undertaken as part of the mobile petting farm would be undertaken as part of the normal working day, albeit possibly a longer working day at times.

As such, there are several different enterprises being operated on the site, being

poultry breeding, free range egg laying, micro pig breeding, commercial equestrian activities and the mobile petting farm. Each part of the business is reasonably small scale and even when considered together, the vast majority of the work/problems/emergencies can be dealt with during a normal working day, albeit possibly a long working day.

With livestock, there will always be the occasion where emergencies may arise or problems require an animal to be carefully monitored, however due to the scale of the business on the holding, it is not, in my opinion, considered that there is a defined functional need.

However, it is important to note that concerns were raised by the case officer in the committee report in 2011, that there was no functional need for a worker to reside on site. Notwithstanding this, after hearing all of the evidence put forward, the Planning Committee resolved to grant permission, consequently accepting that there would be a functional need if the business was established in line with the business plan. The enterprise now on site, although this deviates from that set out in the business plan, is not deemed to operate with less livestock than originally proposed. Furthermore, if the additional targets for the micro piglets and ornamental poultry are met, this would increase activity on the site. Whilst the case officer has significant reservations regarding the functional need, the fact that the previous permission was granted is a material consideration. As such, taking into account the earlier permission, on balance, it is now considered difficult to resist the application before you on the grounds of a lack of functional need.

#### Financial Test

The financial test is a further important consideration. It is acknowledged that the business has been in operation since 2010 and the accounts for the year ending April 2011 showed a reasonable loss, followed by a very small loss in the year ending April 2012, which was stated to be due to the significant increase in stocking levels to generate increased future sales revenue. The year ending April 2013 showed a reasonable profit, despite the significant expenses incurred in modifying the lorry for the mobile petting farm and the projected figures for the year ending April 2014 indicate a further improved profit.

As such, it has been demonstrated that the business has been operating for over three years and been profitable for at least one. On the basis that the loss has been reducing and the profit rising over the last few years, it is deemed that the business is heading in the right direction. As such, it is deemed that the business appears currently financially sound and has a prospect of remaining so.

#### Functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area

It is acknowledged that there is a level of activity associated with the business. The agent states that the applicants have a dwelling 3.2 miles away, which is not considered an excessive distance to travel to be able to operate the business on a daily basis, returning to the site for a night time check on the rare occasion that this may be necessary. However, it is acknowledged that it would be more beneficial for the agricultural worker to reside closer to the site, in order to pop back to the site as and when necessary after normal working hours.

The agent has provided an example of a four bedroom property for sale in Mead Way, Monkton Heathfield. It is acknowledged that a property of this nature would be beyond the affordability of an agricultural worker, as would a large proportion of other dwellings in close proximity to the site. However, it is important to note that there are a great deal of properties newly built and currently being built at Monkton Heathfield, which would take only approximately 5-10 minutes by car. This is a significant change in circumstances since the previous application was determined in 2011 and these new dwellings are available in a range of tenures to meet a range of budgets, including affordable housing.

The agent states that the applicants would not qualify for social housing. Having discussed the matter with the Council's Housing Enabling Officer, it is accepted that the applicants would not qualify for social housing as they are current homeowners. It was initially envisaged that as the open market housing covered a range of budgets, a three bedroom dwelling to meet their needs could be found amongst these. The agent has however provided additional information following the applicants meeting with a Mortgage Adviser. This indicates a very low borrowing capability based on the net profit for the year 2012/2013. Whilst he acknowledges that this could rise in the future, subject to verification of the figures for 2013/2014, the resulting mortgage obtainable remains low. As such, even with the sale of the applicant's existing dwelling and the consequent release of capital, the lowest priced three bedroom dwellings available at Monkton Heathfield would remain outside of the affordability of the applicant. As such, it is not considered that the needs of the enterprise could be fulfilled by other existing accommodation in the area.

#### Other planning requirements

During pre-application discussions, despite concerns being raised regarding the principle of a permanent agricultural worker's dwelling and whether the relevant criteria could be met to justify a dwelling, comments were provided on the siting and design of the proposed dwelling.

Concerns were raised regarding the siting of the dwelling and it was suggested that this was re-sited so that it was grouped more closely with the agricultural buildings. Whilst the dwelling has been repositioned marginally further to the south, this remains some distance from the existing buildings and as the Landscape Officer has stated should be repositioned closer to these to reduce its prominence in the landscape. Whilst the current positioning is far from ideal, it is considered that this could be improved with an appropriate landscaping scheme and a condition to this effect is recommended. As such, on balance, the positioning of the dwelling is not considered to warrant such harm to the character of the landscape that would warrant a refusal.

In terms of materials, traditional materials were suggested at the pre-application advice stage. The use of natural stone to the walls is considered an appropriate material to the rural character of the area, however the use of Stonewold II Grey tiles (a concrete slate) would not be considered an appropriate material and there are many other more appropriate alternatives to slate, which reflect the appearance of slate more closely. As such, a condition is recommended requiring samples of the roof material to be approved.

With regard to the size of the dwelling, although this appears somewhat large, the dwelling amounts to approximately 186 m<sup>2</sup> including the office and boot room. This is of a size in line with other agricultural workers dwellings that have been permitted within the Borough and is not deemed to constitute a reason for refusal.

The extension to the agricultural building is approximately 1m higher than the existing building and the footprint is larger than that of the existing agricultural building, which was stated to be to accommodate the lorry used for the mobile petting farm. Whilst the increase in height is not ideal, the resulting building would be reasonably well screened by the well established roadside hedge, would reflect the materials of and relate well to the existing building. As such, although large, it is not considered to result in excessive harm to the appearance of the surrounding area that would warrant refusal.

In terms of highway safety, whilst it is acknowledged that the approach roads are narrow and do not provide an ideal access to the site, the land is agricultural land and therefore the agricultural activities, that are likely to generate additional traffic, can be undertaken on the land without the need for additional planning permission. It is not considered that the erection of the dwelling and extension to the agricultural building would result in such an increase in traffic flows that would result in detriment to highway safety.

Concern has been raised by a local resident regarding allowing a pig and chicken farm on the edge of the village of West Monkton. From a planning point of view, the land is agricultural land and therefore no planning permission is required to undertake an agricultural activity on that land. As such, limited weight can be attributed to these issues.

### Summary

In conclusion it is considered that sufficient information has been provided to demonstrate that the application should be recommended for approval, taking into account the previous decision of the Council. There are not considered to be other material considerations such as design or highway safety that would warrant refusal of the application.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.**

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