

# Taunton Deane Borough Council

Planning Committee – 29<sup>th</sup> February 2012

E/0302/27/11

## **CHANGE OF USE OF AGRICULTURAL LAND TO SITE A TEMPORARY MOBILE HOME AND RETENTION OF BUILDINGS IN CONNECTION WITH THE OPERATION OF A FALCONRY BUSINESS ON LAND TO THE NORTH OF HIGHER KNAPP FARM, HILLFARRANCE**

**OCCUPIER:** MR I HEAL

**OWNER:** MR I HEAL  
LAND TO THE NORTH OF HIGHER KNAPP FARM,  
HILLFARRANCE

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### **PURPOSE OF REPORT**

To consider whether it is expedient to serve an Enforcement Notice requiring the cessation of the land for residential purposes together with the removal of buildings in connection with the operation of a Falconry business.

### **RECOMMENDATION**

The Solicitor to the Council be authorised to serve an Enforcement Notice and take Prosecution action subject to sufficient evidence being obtained that the Notice is not complied with.

The Enforcement Notice shall require:-

- the cessation of the land for residential purposes and removal of a mobile home.
- the removal of buildings and structures in connection with the operation of a Falconry business.

Time for compliance: 9 months from the date the notice comes into effect.

### **SITE DESCRIPTION**

The access to the site lies off the road between Allerford and Hillfarrence. The track leading to the site is approximately 75mtrs and the mobile home and Falconry pens lie to the North of the site. The Mobile home is in the far North West corner with the pens for the Falcons.

### **BACKGROUND**

A complaint was received in November 2011. Investigations were carried out and a Planning application was submitted on 30 November 2011. The

application was unregistrable and further information was requested. The application was registered 22 December 2011. However, the applicant has now withdrawn the application and therefore the use and structures are unauthorised.

## **DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL**

The access to the site lies off the road between Allerford and Hillfarrence. The track leading to the site is approximately 75mtrs and the mobile home and Falconry pens lie to the North of the site. The Mobile home is in the far North West corner with the pens for the Falcons.

Although the mobile home is not occupied on a permanent basis, planning permission is still required as it constitutes a change of use of land for residential purposes. The buildings and structures used in connection with the Falconry business also require planning permission as this use is not associated with agricultural.

## **RELEVANT PLANNING HISTORY**

27/11/0021 – Change of use of agricultural land to site a temporary mobile home and erection of associated buildings in connection with the operation of a falconry business on land to the north of Higher Knapp Farm.

Application withdrawn by applicant 15 February 2012 prior to determination.

## **RELEVANT PLANNING POLICIES**

### National Policy and Guidance Documents

PPG 18 -Enforcing Planning Control  
PPS1 – Delivering Sustainable Development  
PPS3 – Housing  
PPS7 – Sustainable Development in Rural Areas  
PPG13 - Transport

### Somerset and Exmoor National Park Joint Structure Plan Review

STR1 – Sustainable Development  
STR6 – Development Outside Towns, Rural Centres and Villages  
Policy 49 – Transport Requirements of New Development

### Taunton Deane Local Plan 2004

S1 - General Requirements  
S2 – Design  
S7 – Outside Settlements  
EC7 – Rural Employment Proposals  
EN12 – Landscape Character Areas

## **DETERMINING ISSUES AND CONSIDERATIONS**

The pertinent issues to consider are:

- The use of land for operating a falconry business;
- Whether the continued siting of a mobile home on agricultural land and its residential occupation is acceptable in this location and
- The visual impact of the mobile home and associated falconry buildings and structures upon the landscape character of the area.

### Use of land for Falconry business

The falconry business which has been established on the site primarily involves flying birds of prey at specific contracted locations within the wider area in order to provide a pest control service. Birds of prey are not used to control pests on the land attached to the business nor am I aware that the business operates within the immediate vicinity of the site.

No reason other than having sufficient space to shelter and exercise birds were submitted previously as justifying the need to operate the business from this site. The exercising of the birds alone is considered to be an acceptable use over the land and will not materially harm the landscape character or ability to return the use the land to agriculture in the future.

In my opinion, the harm arising from the use of the land for a falconry business as is currently the case relates to the residential occupation of the site and the erection of buildings on the land in relation to the business enterprise. These issues are considered later within the report.

### Residential use of land

The site is located within the open countryside, where there is a general presumption against new residential development. Planning Policy Statement (PPS) 7 sets out exceptional circumstances in which dwellings may be permitted in such locations where there is a genuine need for a worker to live at or near their place of work. The recent planning application submitted against the background of guidance contained within PPS7 for the residential development at the site has been withdrawn and, therefore, this is the main consideration in determining this enforcement case.

Annex A of PPS7 sets out stringent tests, which govern whether an agricultural workers dwelling is acceptable in principle. The main issues here, having regard to the existing business which appears to be developed towards pest control, the experience of the proprietor as a falconer and the location of the site, are whether there is a 'functional need' and whether there are any other dwellings that could fulfil the functional need (if there is one).

PPS 7 defines a functional need as being whether it is essential for the proper functioning of the enterprise for "one or more workers to be readily available

at most times". Guidance contained within Annexe A of PPS7 relates primarily to agricultural enterprises however consideration should be given to other enterprises that require a particularly rural environment in which to be located.

Justification for requiring a key worker to be on hand day and night, in this instance might include the need to provide essential animal care at short notice or to prevent theft. Falconry is a unique enterprise that does, to a degree, require an open environment such as that found within rural landscapes, particularly for bird exercise and training.

Having regard to the justifying the residential occupation of the site, I am not aware of any breeding or similar activities being undertaken as part of the business operations. Therefore with the exception of exercising birds by way of walks across open land the main use of the site is for bird housing within timber weatherings. These activities, in essence, are considered to form the justification for requiring residential use at the site together with security and prevention of theft.

The decision of the business owner to keep the birds of prey on the site seems to me to be one of personal preference rather than to meet the essential need of the birds. There can be no doubt that the sheltering and exercising of the birds is an integral part of the owners business and the future success of the business will rely heavily upon ensuring good animal welfare. However it would seem more reasonable, having regard to planning policy, to expect birds to be kept at a place of residence within a sustainable location with sufficient space, where security can be provided and space for exercise available nearby, than it would be to locate and operate the business on land within the open countryside where access to day to day services, including the sites at which the falconry pest control business are employed, are more readily available and accessible.

I do not consider the need to provide shelter, exercise or security for the birds of prey to satisfy the functional test set out within Annexe A of PPS7 and little other justification leads me to conclude that there is a need for a worker to be readily available at most times on the site, in order to allow for the proper functioning of the falconry business. The use of the land for walking and exercising birds may alone be acceptable however the accumulative effect of establishing a business and residential use at the site is not. Therefore the development fails the functional test set out in Planning Policy Statement 7, Annex A. The proposal therefore represents an unjustified residential development in the open countryside, contrary to planning policy.

### Landscape impact

The site is located within open countryside, with the surrounding landscape being within the River Floodplain Landscape Character Area (LCA). The application site slopes steeply uphill to the east and south east making the site prominent within the surrounding area, particularly to the north and west.

The field is bound in all directions by traditional hedgerows whilst the west boundary is strengthened in one corner by a small group of trees. Notwithstanding the screening around the site boundaries, the site is clearly visible from public vantage points to the west. An unclassified public highway runs along a SW-NE axis approximately 175 metres to the North West. In addition, public footpath WG9/31 crosses the adjoining field to the north and is within 90 metres of the site.

The proposed bird weathering boxes are small, of timber materials and relatively inconspicuous at present, being largely hidden by the mobile home and storage buildings. Accumulatively, the bird weathering boxes, mobile home and workshop/storage sheds are locally prominent and out of keeping with the surrounding area; in particular the white exterior finish to the mobile home is clearly visible and incongruous within the landscape. The structures and buildings are considered to materially harm the visual amenity and landscape character of the area and therefore conflict with Policy EN12 of the Local Plan.

#### Conclusions:

With regard to the above the occupation of a mobile home at the site represents an unjustified dwelling in the open countryside, which would foster the need to travel by private car, contrary to LP Policy S7 of the Taunton Deane Local Plan, Policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review and advice contained in Planning Policy Guidance note 13. The location of the site is considered to be unacceptable for new business as; LP Policy EC7 restricts this to sites near a public road, adjacent to existing settlements and where there would be no harm to amenity, landscape or highway safety. Finally the accumulative effect of buildings sited on the land is to the detriment of the landscape character of the area and therefore contrary to LP Policy EN12.

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

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