

Taunton Deane Borough Council

Planning Committee – 25 May 2011

1. File/Complaint Number: E/0013/49/11

2. Location of Site

FERNICAPS PARK FARM, LANGFORD BUDVILLE ROAD, WIVELISCOMBE,
TAUNTON, TA4 2AF

3. Name of Owner

MISS GREENSLADE
FERNICAPS PARK FARM
LANGFORD BUDVILLE ROAD
WIVELISCOMBE
TAUNTON
TA4 2AF

4. Names of Occupiers

MISS GREENSLADE'S AGRICULTURAL WORKER AND FAMILY

5. Nature of Contravention

OCCUPATION OF MOBILE HOME AT FERNICAPS PARK FARM, LANGFORD
BUDVILLE

6. Planning History

Planning permission had been granted for a mobile home in 1999 for a temporary period of 3 years. Miss Greenslade purchased the site in 2001 and submitted an application for a permanent dwelling in 2002, with supporting plans to further expand the existing dairy herd. This application was approved in February 2003, subject to an agricultural tie, and was built following reserved matters approval in 2006. The mobile home remained in situ whilst the property was being constructed. Miss Greenslade now claims that she faced financial problems whilst the new dwelling was being constructed and subsequently it had to be sold.

In February 2011 it was brought to the Council's attention that the mobile home was still in situ with a young family occupying it. A site visit was made and discussions took place whereupon Miss Greenslade said she needed to retain the mobile home for her agricultural worker and young family and she would submit a Planning application for consideration to retain the mobile home. At the end of February an application was submitted and subsequently refused in April 2011 under delegated powers.

7. Reasons for Taking Action

The site is within the open countryside, where there is a presumption against new development. Planning policy statement 7 sets out exceptional circumstances in which dwellings may be permitted in such locations where there is a genuine agricultural need for the holding. This, was the main consideration in determining

the recent planning application and, therefore, 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 are whether there is a 'functional need', whether the enterprise has been planned on a sound financial basis and whether there are any other dwellings that could fulfil the functional need (if there is one).

(i) Functional need

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". Fernicaps Park Farm is owned by the applicant, Mrs Greenslade, who lives in the main farmhouse. All farm work, however, is done by an employed stockman who currently lives in the caravan with his partner and their young child.

No information about the agricultural activities undertaken on the holding was submitted with the application, however, the planning officer had a site meeting with the owner, which revealed that the enterprise is based upon cattle rearing, where young stock are bought, fattened and sold on. There are currently 39 cows on site, with an intention of purchasing 50 more. The holding also has 2 flocks of lambing ewes totalling around 200, and 3 rams.

In assessing functional need, it is useful to assess the amount of work required to be undertaken on the holding. Reference is often made to 'standard man days' calculated from agricultural budgeting books, such as that by John Nix; or the Agricultural Budgeting and Costings Book (ABC) produced by Agro Business Consultants. No formal agricultural appraisal was submitted in this case to justify the functional need, however, reference to the ABC suggests that, at most, cattle would produce a direct labour requirement of 10 hours per head, per year. At present, therefore, this would create around 390 hours of work per year and if the additional cattle are purchased would lead to around 890 hours per year. A standard agricultural worker is expected to work around 2200 hours per year.

It is accepted that there is other farm work on this holding, such as the lambing activities and cropping of wheat and barley. However, there is ample case law to suggest that these activities do not create a functional need. Work associated with lambing is seasonal and cropping activities do not require a worker to be present on site at most times. The work associated with the cattle is likely to occupy a farm worker for less than half of his time, so it cannot be said to require an on-site presence at most times. With regard to these matters, it is considered that there is no functional need for a worker to be present on this farming enterprise.

(ii) Sound financial planning

Applications for temporary dwellings at new enterprises are expected to provide evidence that the business has been planned on a sound financial basis; at established enterprises it should be shown that the enterprise has been profitable and is likely to continue to be so. No information in terms of financial forecasts or previous trading accounts was submitted with the recent application and so it cannot be determined whether the enterprise is financially sound. It is, therefore, impossible to assess this test.

(iv) The functional test could not be satisfied by other dwellings on the holding

It has already been argued that there is no functional need for a dwelling on this holding. Even if it was construed that there is a need, there is already a farmhouse which is capable of satisfying that need. True, it is occupied by a relatively elderly woman (the applicant) who does not undertake any of the work, but PPS7 makes clear that the case for a new dwelling must be based on the functional needs of the holding and not that of the individual worker or owner. The fact is that there is already a dwelling at Fernicaps Park Farm and, therefore, there is absolutely no need for a second.

Reference must also be made to the planning history. In 2003 outline permission was granted for a new dwelling for an agricultural worker. Reserved matters were subsequently approved and the dwelling was constructed. According to the applicant, she was unable to finance the construction of the dwelling and sold the property to the builder, who subsequently sold it on to a third party.

PPS7 makes clear that the Local Planning Authority should pay special regard to the previous history of the holding, in order to detect cases of abuse of the special exception granted to farms to build dwellings in the open countryside. In this case, it is difficult to assess whether there is any calculated abuse of the planning policy – i.e. whether the previous ‘agricultural need’ was actually fabricated with the benefit of gaining permission for a dwelling, or whether there was always an intention to sell on the dwelling – however, financial reasons aside, this farm and this applicant have disposed of an agricultural dwelling recently. In addition to the foregoing, this further weakens the case for a new dwelling, permanent or temporary.

With regard to the above the mobile home represents an unjustified dwelling in the open countryside, which would foster the need to travel by private car, contrary to 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.

Members should be aware that if they recommend Enforcement Action to be taken this would result in the young family occupying the mobile home being made homeless. However, the tests for new dwellings in the open countryside are clearly enshrined in planning policy and it is not considered that this personal circumstance can be given sufficient weight to outweigh the clear conflict with planning policy, especially in light of the planning history.

8. Recommendation

The Solicitor to the Council be authorised to serve an Enforcement Notice to secure the removal of the unauthorised mobile home. Also to take Prosecution Action subject to satisfactory evidence being obtained that the notice has not been complied with.

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