

Item Number: 9
Application No: 13/01461/FUL
Parish: Sheriff Hutton Parish Council
Appn. Type: Full Application
Applicant: Ms L. Banks
Proposal: Siting of two bedroom timber cabin for use as a temporary rural workers dwelling to include formation of access track and hardstanding, and provision of a domestic curtilage (retrospective application)
Location: Land At Cornborough Road Sheriff Hutton Malton
Registration Date:
8/13 Wk Expiry Date: 27 February 2014
Overall Expiry Date: 1 February 2014
Case Officer: Matthew Mortonson **Ext:** 332

CONSULTATIONS:

Parish Council	Object
Highways North Yorkshire	No objection
Property Management	Comments made regarding information provided
Tree & Landscape Officer	

Neighbour responses: C.K. Wilson, Dr Stephanie Oxendale, Ann Tennant, Dr David Willis, Mrs R K Clarke, Mr S Beswick, Katie Woods, Annette Pyrah, Mrs P Shaw, Mr And Mrs R W . M W Haste, Mr Marcus Oxendale, Mr And Mrs Hind, Mr. M. D. Davies, Dr Niall Moore, N W Marwood, Lisa Woodfine, Mr Toby Kendall, Joanna Reid, Mr S A Morris, Miss Sarah Crane, P And C Metcalfe, Mrs Curry, Mrs R Weightman, Miss M.A. Jeffery, Mr J S Hicks, Mrs Christine Brookes,

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SITE:

The application site is located approximately 800m west of Sheriff Hutton to the south of Cornborough Road. It is situated within the open countryside, as identified by the Ryedale Local Plan. Members will note that a public footpath runs to the south of the site.

During a site visit on 26 March 2014, the site contained the following development:

- 1No. Agricultural building
- 1No. Temporary timber cabin
- 1No. Stable
- Access road, gate and bunding
- 1No. Dog kennels (attached to southern elevation of agricultural building)
- 1No. Shed

In terms of livestock the site contained:

- 1No. Livery horse
- 5No. Chicks and 1No. Cockerill

The applicant confirmed on site that she owns 2No. Falabella Horses which are currently kept in Lincoln.

PROPOSAL:

The siting of a two bedroom timber cabin for use as a temporary rural workers dwelling to include formation of access track and hardstanding, and provision of a domestic curtilage (retrospective application).

HISTORY:

Planning Application - 13/00863/FUL

Erection of an agricultural building for the storage of produce and housing of livestock

Note – This development is also currently under investigation by Planning Enforcement as it is not built in accordance with the approved plans. The building as constructed has a mono –pitch roof form which is a significant difference from the approved plans. Photographs of the structure will be displayed at the meeting.

POLICY:

National Planning Policy Guidance

National Planning Policy Framework

National Planning Practise Guidance

Ryedale Plan - Local Plan Strategy

Policy SP1 - General Location of Development and Settlement Hierarchy

Policy SP2 - Delivery and Distribution of New Housing

Policy SP13 - Landscapes

Policy SP16 - Design

Policy SP19 - Presumption in Favour of Sustainable Development

Policy SP20 - Generic Development Management Issues

APPRAISAL:

Members will note that this application is presented to Planning Committee due to the large number of consultation responses received against and in support of this development. Additionally, as the proposal is retrospective, if Members were minded to refuse planning permission the site would raise planning enforcement related issues.

Sheriff Hutton Parish Council have objected to the planning application by stating:

“After hearing from members of the public both in support and against the application the Council decided that it did not support the application due to its location on a green field site and the inappropriateness of the materials used in construction which are out of character with the local vernacular. It believes that if this application were granted it would open the floodgates for similar applications on green field sites around the parish which would impact on the very nature of the village. It also believes that the business cases proposed in the application do not require a residence on site and that the application may result in a permanent residence on site after the three years has expired.”

Policy Context

Para 55 of the National Planning Policy (NPPF) states that Local Planning Authorities should avoid new isolated homes unless there are special circumstances. One such circumstance is ‘the essential need for a rural worker to live permanently at or near their place of work in the countryside.’ The NPPF does not include any clarification of how such need should be demonstrated. However it is

considered that guidance can be taken from the now superseded Planning Policy Statement 7, Annex A.

The tests from the former PPS7 Annex A in relation to temporary agricultural workers dwellings are as follows:

- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
- (ii) functional need (see paragraph 4 of this Annex);
- (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
- (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 normal planning requirements, e.g. on siting and access, are satisfied.

Paragraph 12 (4) of Annex A of PPS7 stated that any proposed temporary agricultural dwelling proposal must meet a financial and functional test, which cannot "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..."

The guidance in PPS7 also indicates that there is an expectation that permissions for temporary workers' accommodation are likely to subsequently translate into applications for permanent accommodation. Consequently, local planning authorities are advised (Annex A para 13) that they should not normally give temporary permissions in locations where they would not permit a permanent dwelling.

If the proposal fails to satisfy the NPPF's requirement to prove 'essential need', the proposal would also fail to satisfy Policy SP2 (Delivery and Distribution of New Housing) of the Ryedale Local Plan Strategy which in the wider open countryside supports "new building dwellings necessary to support the land-based economy where an essential need for residential development in that location can be justified..."

The planning consultant for the application has provided information to indicate that the NPPF does not require applications for temporary rural workers dwellings to demonstrate that the proposal is economically viable:

"It is our view that this situation has been clarified by the decision in R(Embleton PC) v Northumberland CC [2013]. I would refer you to paragraph 44 of the court report (a copy of which is attached), where the Court held;

44. I prefer the submissions of Mr White QC. Thus I accept that the test under paragraph 55 of NPPF is different from the test under Annex A, paragraph 12(iii) of PPS7. In particular I do not accept Mr Harwood QC's submission that the NPPF requires that the proposal is economically viable. As Mr White QC points out this is a temporary permission lasting for only 3 years. The NPPF test simply requires a judgment of whether the proposed agricultural enterprise has an essential need for a worker to be there or near there."

However, the recent decision of a Planning Inspector in Ryedale in considering planning application ref. 12/00331/FUL (appeal ref. APP/Y2736/A/13/2197766) identifies that:

"7. No definition of 'essential' is given in the Framework, but the main parties agreed that the functional and financial tests set out in the Annex to the now superseded PPG7: Sustainable Development in Rural Areas form a reasonable basis for such an assessment. The functional test establishes whether the enterprise whether the need for a full time worker to live at the site can be justified for the proper functioning of the enterprise, and the financial test addresses the viability of the enterprise and whether it can sustain the cost of the dwelling. If this is not the case then the development cannot be said to be sustainable; promoting

sustainable development (economic, social and environmental) is 'golden thread' which runs through the Framework."

Whilst the above relates to an application for the erection of a new permanent dwelling, Officers consider that the decision is relevant in determining the basis for the appraisal of this application. The comments of the Planning Inspector clearly state that both the functional need and financial test are key to identifying the sustainability of the proposed development. If the functional need or the financial viability of the enterprise cannot be demonstrated then it cannot be said that the development is sustainable and would therefore be contrary to the requirements of the Framework.

Development Appraisal

In applying the tests of PPS 7, firstly, as this application is retrospective it is clear the applicant has made investment in the land.

The functional need for the development is identified within the 'Appraisal (December 2013)' document submitted as part of this application. To summarise, the proposed functions of the business will be:

- The breeding and rearing of Falabella Horses;
- Livery Services;
- Rare Breed Poultry;
- Dog Breeding;
- Animal Rescue Facility

Members will note that further details for each of the above functions have been provided within the supporting statement. For example, the livestock numbers quoted for the enterprise (up to Year 3) are as follows:

- Falabella Horses – 2No. mares owned today, up to 6No. mares in Year 3.
- Livery Services – 1No. full livery horse in Year 1 to 3No. full livery horses in Year 3.
- Rear Breed Poultry – Year 1 with 20 hens and 10 cockerels expanded to 40 hens and 20 cockerels in Year 3.
- Dog Breeding – Year 1 single bitch already owned, expanded in Year 3 with introduction of a second bitch. Average litter sizes between 2 to 7 puppies.

The supporting statement highlights that for the proper functioning of the enterprise it is essential for a worker to be readily available on site at most times. Particular reference is made to the breeding and rearing of the Falabella horses, the livery services and the rare breed poultry. It is identified that "*the sum of the five functions of the business makes it essential that a worker is available on site at all times.*" The application documents state that "*the labour requirement of the horses alone is calculated to be 1.2 full time workers.... The poultry, dogs and rescue facility will add to this labour requirement but it is clear that the unit will require the input of full time worker – and will satisfy the wording of the occupancy condition set out in Policy SP21.*"

The above comments are noted. However the application is lacking in information to demonstrate the labour requirements for each function of the business. This adds doubt to the overall functional need of the proposal and means that it is unclear which parts of the business are the more labour intensive. For example, it may be that certain parts of the business which do not require a worker to be located on site at most times are those which significant contributing to the labour requirements of the site.

An independent appraisal has been commissioned by the Council in respect of the enterprise. The appraisal identifies the small scale value of the various elements of the business and considers the functional and financial tests. The appraisal identifies concerns regarding the business plan and projections which have been considered in more detail by the Council's Asset Management Surveyor. A copy of the appraisal can be viewed on the working file.

Even if the functional need of the proposal is satisfied, the application is required to demonstrate that the business can financially support a full time worker to live on site by the end of the 3rd year. The Council Asset Manager Surveyor has commented raising concerns to the application. These comments include the following statement:

“As mentioned no where in the information supplied or the appraisal’s is there mention of the current financial situation. The inference being that there is none and therefore this appears to me to be a standing start business. I would have expected to see at least a business plan not just a set of future figures which could be anything and are meaningless. In addition to a business plan we should be seeking further assurances and information that the applicant is able to finance the stable block, the fixed timber cabin and have sufficient living expenses for at least six months. Whilst I understand that this is a retrospective application, how has the applicant financed the buildings if there is no current business. Clearly at this stage the business is not viable or sustainable.”

The applicant’s agent explains that in their opinion there is no requirement to demonstrate viability associated with a proposed business. However, this is not agreed by officers and evidence of viability or a business plan is required in order to justify the applicant’s case. The supporting statement does provide a 3 year forecast for the business and whilst this does show that the business could be operating at a profit by the end of the third year, no details have been provided to show that the business would be able to generate sufficient income to support the construction of a permanent residential dwelling at the end of that period, or whether sufficient income would be generated to support the worker living within it. The projected profit is marginally in excess of the current full time minimum agricultural wage. In the light of this the financial soundness of the proposed business remains questionable.

The submitted forecast clearly identifies that the main sources of income for the proposed business are generated from both the Livery Income and POL sales (The application documents identify that the Dog Breeding does not add to the functional need of the development, yet this is identified as giving rise to a proportion of the income of the business approximately 19.2% of the Year 3 total income). Officers have serious concerns whether these aspects of the business do require a worker to be located on-site. The income received from the Falabella Pony sales and the egg sales are secondary to these sources, yet these are the two of the main arguments cited by the applicants to demonstrate the essential need for this dwelling.

In the statement submitted, reference is made to a number of Planning Inspector decisions. One such decision relates to the functional requirement for a worker to live on a site to allow the operation of a livery business. This decision is noted. However, Members will also note that this was based on a livery business containing a block of 14 stables. The submitted scheme, by the third year, would accommodate 3no. livery horses. The livery aspect of this proposal is clearly significantly smaller than that the case referred to. Therefore the decision is not considered to be directly relevant to this proposal. Whilst livery horses may well be time consuming in terms of labour requirements, this alone does not necessarily mean that it is essential for worker to live permanently on site.

The application documents themselves lack clarity in terms how the business will be accommodated within the site although discussions with the applicant held on site on 26 March 2014 provided clarification on this matter. It was indicated that the existing agricultural building together with stables and field shelters would provide the required accommodation. The Falabella Horses will be kept on the paddock to the south of the timber cabin, and field shelters / stables will provide overnight accommodation. If the Falabella are nursing both the mare and fowl would be accommodated within the existing agricultural building. The chickens will be free range however it was stated that the agricultural building would also be used for incubating the eggs and as accommodation for the chicks until “point-of-lay”. Members will note that aside from the permitted agricultural building (which has not been constructed in accordance with the approved plans) there are no further planning permissions on the site for stables or any other structures required for this business. It is possible that field shelters do not require planning permission but not details have been provided to determine this. If the existing barn is to be used in part for stabling, this would require planning permission for the change of use of the building. At this point, Members are referred to the ‘Justification Statement’ for planning

application ref. 13/00863/FUL (see appendix) which granted planning permission for the agricultural building on October 2013. Section 3.0 (Livestock Housing Situation) of the report identifies the need for the building stating:

“The need for a building on the land is to facilitate continued business growth and provide further income streams for the applicant. The use of the shed will be for storage of farm produce, housing sheep and other livestock and also shelter during the hotter, summer months. In addition to being used for storage, the building will be also be used to lamb sheep through-out the spring months as at present the applicant would have to rent storage away from the land. This in turn adds extra financial burden onto the business and unnecessary travel and stress on any livestock.”

The applicant has confirmed that she has not owned any sheep or lambs, but explained that it was her intention to buy stock once the building had been constructed. It was due to changes in personal circumstance had led to this alteration in the use of the site and the submission of this application.

All these issues add considerable doubt to the establishment of the business. Even if the relevant permissions did exist, the financial information within the application does not breakdown the costs of the business to demonstrate that all the relevant costs to establish this business have been taken into account. Therefore, at this stage it cannot be said with any certainty that this proposal has been based on a sound financial basis or that the business would be likely to be sustainable into the future.

Members will note that the village of Sheriff Hutton is located in relatively close proximity to the application site, and other villages such as Strensall are accessible in a few minutes by car. This would enable workers to reach the site quickly if required. The essential need to live on site is normally only required where it involves animals that require 24 hour care. It is not considered that the limited number of Falabella Pony's kept by the applicant, together with the other aspects of the business, is sufficient to warrant living on the site. Indeed, throughout the district there are many examples of stables and poultry buildings being located some distance from the associated residential properties. The applicant has verbally explained that the two Falabella Horses she currently owns are kept at a friends property in Lincoln. She advised that because she was not present on site during a recent foaling event, it resulted in the death of a foal, hence the need to live on site. Whilst this unfortunate turn of events is noted, it is considered that if the applicant is required to be on site during certain times, such as when animals are due to give birth, a temporary mobile caravan could provide an alternative solution for a short period of time if required. In relation to the need to live on site to provide security, case law has shown that this is not normally enough in itself to satisfy an essential need to live on site.

In light of the above, whilst Officers do accept that planning policy is supportive of sustainable rural economic growth, and that the intention of temporary consent is to allow businesses to become established, serious concerns do exist as to whether sufficient justification has been provided for the essential need for a full time worker to live on the site. Each of the functions of the business are very small-scale and the business plan itself does not clearly show how this business will develop into a sustainable business into the future. It has not been demonstrated how this business would support the cost of constructing a new dwelling at the end of the three year period, and whether this business could sustain the any such dwelling and the worker living within it.

Policy SP2 (Delivery and Distribution of New Housing) of the Local Plan Strategy seeks to ensure that new build dwellings located within the wider open countryside will only be permitted ‘*when necessary to support the land based economy where an essential need for residential development in that location can be justified.*’ In this case, it is not considered that the residential development has been justified. Therefore the proposed dwelling is considered to be an unjustified new dwelling in open countryside which is contrary to the requirements of the Local Plan Strategy.

Officers consider that the applicant cannot demonstrate the likelihood of its business progressing to demonstrate an essential need for an agricultural worker to reside on the application site to fulfil the functional needs of the business on a full time basis. Whilst this application is for the retention of the

timber cabin as a temporary rural workers dwelling there are serious doubts whether the enterprise would evolve to a level where it would qualify a permanent dwelling on the site.

In terms of its landscape impact, one of the NPPF's core principles states that planning should: *"take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting the thriving communities within it."*

The above demonstrates that whilst the NPPF is supportive of economic rural development, it should not be at the expense of the 'intrinsic character and beauty of the countryside.' The proposed development would represent a sporadic form of development an unjustified visual intrusion within an area of open countryside. The development is highly visible from the public footpath located to the south of the site and it is considered to harm the character of this part of the open countryside and also from the adjacent highway. Officers consider that even if the development was justified, concerns would be raised to the visual impact of the proposal on the surrounding area which adds doubt to whether a permanent rural worker dwelling would be approved in this location in the future.

The site does currently contain a recently built agricultural building. However members will note that this has not been built in accordance with the approved plans, and the unauthorised appearance of the building is considered to be harmful to the area. Members will also note that a large section of bunding has been installed to screen the access road into the site. This also forms an unnatural, alien feature within the site that looks incongruous locally within the landscape. As a result, it is considered that this proposal results in an unacceptable impact on the character and appearance of the open countryside contrary to the requirements of the NPPF and Policy SP13 and SP20 of the Ryedale Local Plan Strategy.

Conclusion:

To conclude, the proposed development is considered to be contrary to the requirements of Paragraph 55 of the NPPF as the applicant has failed to demonstrate the essential need for a rural worker to live on site, or that the business is based on a sound financial basis. Moreover, the proposed dwelling is considered to be an unjustified new dwelling in the open countryside which is detrimental to the visual amenities of the open countryside, contrary to the requirements of Paragraph 14 of the NPPF and contrary to Policy SP2, Policy SP13, SP16, SP19 and SP20 of the Ryedale Local Plan Strategy.

RECOMMENDATION: Refusal

- 1 The Local Planning Authority considers that the applicant has failed to demonstrate an essential need for a rural worker to live on the site. Moreover, there is no evidence that the business has been planned on a sound financial basis. This lack of substantive evidence and the position of the timber cabin to use as a temporary workers dwelling, outside of the development limits of the village is considered to constitute an unsustainable form of development in the open countryside that is contrary to the guidance of the National Planning Policy Framework (Paragraph 14, 28 and 55) and contrary to Policies SP2 and SP19 of the Ryedale Local Plan Strategy.
- 2 The proposed development by reason of its lack of justification, prominent position and design would be alien to its surroundings and would fail to respect the character of the area resulting in sufficient harm to the visual amenity of the open countryside. The proposal would therefore be contrary to the requirements of the NPPF and contrary to Policies SP13, SP16, SP19 and SP20 of the Ryedale Local Plan Strategy.

NOTE

In light of the above recommendation, enforcement action and any associated legal authority is sought to secure the removal of the timber cabin, access track, hardstanding, existing buildings and stables. In addition authority is requested in respect of the agricultural building constructed under ref. 13/00803/FUL to secure compliance with the previously approved plans.

Background Papers:

Adopted Ryedale Local Plan 2002
Local Plan Strategy 2013
Regional Spatial Strategy
National Planning Policy Framework
Responses from consultees and interested parties