



## Appeal Decision

Hearing Held on 28 October 2020

Site visit made on 16 November 2020

**by Chris Baxter BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 December 2020**

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**Appeal Ref: APP/Y2736/W/20/3251627**

**Butterwick Whins, Butterwick, Weaverthorpe, Malton, YO17 8HF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Stuart Mason of Mason Farming against the decision of Ryedale District Council.
  - The application Ref 20/00052/FUL, dated 31 January 2020, was refused by notice dated 16 April 2020.
  - The development proposed is change of use of agricultural land to allow the siting of a two bedroom agricultural workers mobile home.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of agricultural land to allow the siting of a two bedroom agricultural workers mobile home at Butterwick Whins, Butterwick, Weaverthorpe, Malton YO17 8HF in accordance with the terms of the application, Ref 20/00052/FUL, dated 31 January 2020, subject to the conditions set out in the attached schedule.

### Applications for costs

2. An application for costs was made by Mr Stuart Mason against Ryedale District Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. For the sake of brevity and clarity I have used the description of development from the Council's decision notice.
4. Although not detailed in the description of development, both parties confirmed at the Hearing that the proposal applied for was for a temporary permission. I have dealt with the appeal accordingly.

### Main Issue

5. The main issue is whether there is an essential functional need for the proposal.

### Reasons

6. The appeal site is located within open countryside, directly adjacent to a free-range egg production facility (the facility). This facility, which includes a new building<sup>1</sup>, has the capacity to accommodate 64,000 birds.

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<sup>1</sup> Building approved under Local Planning Authority reference: 20/00128/MFUL

7. The National Planning Policy Framework (the Framework) states that isolated homes in the countryside should be avoided unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. This is also reflected in Policies SP1, SP2 and SP21 of the Ryedale Plan – Local Plan Strategy 2013 (LPS). The appellant has indicated that the proposal is required in connection with the operation of the facility.
8. From the evidence submitted, it is apparent that the welfare of the birds at the facility is the main contributing factor for the appellant requiring a worker near the site. The facility relies on automated systems for controls on things such as lighting, ventilation and feed. There are alarms attached to these systems which can alert workers immediately should there be a failure. The failure of these systems can be a threat to the welfare of the birds however, any problems with the system can be managed effectively if a failure is responded to quickly.
9. It is also noted that the automated systems cannot cope with every eventuality. Birds kept in a free-range buildings such as this are susceptible to smothering incidents which can occur when the birds get scared or agitated and group together. These smothering incidents can occur for a number of reasons including the presence of intruders or predators, or from an increase in noise level such as from stormy or adverse weather. A smothering incident can lead to a significant loss of birds which could in turn have substantial effect financially.
10. The proposed mobile home would be in close proximity to the facility with direct views to the buildings. Whilst not all elevations of the facility would be viewable from the appeal site, due to the positioning of the proposal, someone living at this location, would be best placed to see and hear any disturbance and respond to an emergency immediately.
11. The Council argue that the functional need could be met by a combination of split shift working with some accommodation provided within the facility. The appellant explained at the Hearing that having workers at the site on a 24 hour basis would be costly and not necessarily beneficial given emergency incidents are sporadic. The monitoring of weather forecasts for stormy/adverse weather would also not be totally reliable and would not necessarily be a true reflection of weather conditions at the location of the facility.
12. East End Farm (EEF) is one of the closest residential properties to the facility and is approximately a five minute drive along a well surfaced access track. The egg production facility manager, who is the son of the appellant, currently resides at EEF and the Council have argued that EEF is nearly as convenient and is a more sustainable option. EEF is around 1.5 kilometres away and due to the topography of the land there is no direct view of the facility. For this reason and those already given above, I am convinced that there is an essential need for a worker to be present within close proximity of the facility, and EEF does not provide this essential need.
13. Accordingly, I find that there is an essential functional need for the proposal. The proposal would comply with Policies SP1, SP2 and SP21 of the LPS and paragraph 79 of the Framework which allow isolated homes in the countryside where there is an essential need for a rural worker.

**Conditions**

14. The conditions imposed are those that were agreed by the appellant and the Council at the Hearing. In the interests of precision and clarity I have undertaken some minor editing and rationalisation where necessary.
15. Conditions relating to timeliness, restriction on length of the permission, and the identification of plans are necessary in the interests of proper planning and to provide certainty. To ensure the development does not compromise the character and appearance of the area, conditions are necessary in relation to materials and permitted development rights. To prevent undue risk to the local environment it is necessary to attach conditions relating to drainage. It is also necessary, given the justification for allowing the proposal, that the use of the mobile home to be restricted.
16. A condition relating to landscaping is not considered necessary in this instance given the permission is only for a temporary period.

**Conclusion**

17. For the reasons given above I conclude that the appeal should be allowed.

*Chris Baxter*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

Ian Pick	Planning Agent
Henry Mason	Appellant's son

FOR THE LOCAL PLANNING AUTHORITY:

Alan Goforth	Senior Planner - Ryedale District Council
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### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Site Plan; Floor Plans and Elevations.
- 3) The mobile home hereby permitted shall be removed and the land reinstated to its former condition on or before the expiration of three years from the date when the mobile home is first occupied. The date of first occupation shall be confirmed in writing to the local planning authority within 7 days of occupation.
- 4) No development shall commence until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall commence until details for the disposal of foul sewage and surface water from the development have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved details have been implemented.
- 6) The occupation of the mobile home shall be limited to a person solely or mainly working, or last working, at the free range egg laying unit on land known as Butterwick Whins, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement or alteration of the mobile home hereby approved shall be carried out.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no sheds, greenhouses or other buildings or structures ordinarily incidental to the enjoyment of residential properties shall be erected on the site.





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## Costs Decision

Hearing Held on 28 October 2020

Site visit made on 16 November 2020

**by Chris Baxter BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 9 December 2020**

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### **Costs application in relation to Appeal Ref: APP/Y2736/W/20/3251627 Butterwick Whins, Butterwick, Weaverthorpe, Malton YO17 8HF**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Stuart Mason of Mason Farming for a full award of costs against Ryedale District Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for change of use of agricultural land to allow the siting of a two bedroom agricultural workers mobile home.
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### **Decision**

1. The applications for an award of costs are refused.

### **The submissions for Mr Stuart Mason**

2. The costs application was submitted orally at the Hearing.
3. The appellant considers that the single issue of essential functional need is a technical area, in which the Council should have sought expert advice on. The Council have been provided with overwhelming evidence in the form of seven appeal decisions of similar nature. In addition, the appellant considers that the Council did not properly assess the matter of alternative accommodation at East End Farm.

### **The response by Ryedale District Council**

4. The Council's response was made orally at the Hearing.
5. The Council acknowledge the submitted appeal decisions and noted that these were in other Authorities. It was explained that each case is determined on its own merits. The Council determined that an essential need was not demonstrated for the proposal when assessed against development plan policies and the National Planning Policy Framework (the Framework).

### **Reasons**

6. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
7. It will be seen from my decision that I consider the proposal to be in accordance with the relevant policies of the development plan and the Framework. Nevertheless, the main issue of the appeal, which includes

functional need and alternative accommodation, is a subjective matter and the Council's report as well as evidence presented at the Hearing clearly discuss why they consider the proposals are unacceptable in relation to the development plan and national policies, as well as discussing the relevance of the submitted evidence.

8. Council's do sometimes use consultants to gain expertise advice on matters however, there is no requirement to do this and ultimately the Council are the decision making body at the application stage.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Chris Baxter*

INSPECTOR