

REPORT OF THE HEAD OF PLANNING AND REGENERATION – MRS JENNY
CLIFFORD

**15/01622/FULL - ERECTION OF AN AGRICULTURAL WORKER'S
DWELLING AND AN AGRICULTURAL LIVESTOCK BUILDING -
LAND AT NGR 316711 110152 (TEN OAKS FARM) CLAYHIDON
DEVON**

Description of Development:

The Application seeks the erection of a permanent agricultural worker's dwelling and an agricultural livestock building. This application follows the approval of a temporary mobile agricultural worker's dwelling under appeal Ref: APP/ Y1138/A/12/2172238 on 7th September 2012.

The previous application and approval established on similar numbers of stock that there was an essential need for on-site accommodation to support the developing livestock enterprise. The Inspector concluded that with the information provided this was sufficiently demonstrated and so the proposal did not conflict with Mid Devon Core Strategy Policy COR18 or with the National Planning Policy Framework (The Framework).

Where essential need for an agricultural worker to live on site is established standard national policy is to provide in the first instance a temporary unit of accommodation over a 3 year time period to establish the viability of the unit.

In this case a temporary consent was granted through a planning appeal. During this appeal questions arose in relation to the size to which the enterprise might ultimately grow, the current absence of any mains services and the likely costs of providing these in due course. Nonetheless, the Inspector considered that given the clear support in the Framework for the development (and not just the diversification) of agricultural businesses, allowing the dwelling on a temporary basis was justified to facilitate the further establishment and development of the livestock enterprise.

The current application seeks a permanent dwelling to save the holding, together with a further livestock building to expand the agricultural operation. Your officers have been advised by the agent that an appeal has now been made on the basis of non-determination although appeal notification has yet to be received by the Inspectorate. Members will be updated at the meeting. If appeal paperwork has been received, Members will be asked to indicate the decision they would have made on the application had they the ability to do so. If appealed, justification passes to the Planning Inspectorate.

REASON FOR REPORT:

At the meeting on 10th February 2016, it was resolved that Members were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out the implications for the proposed reasons for refusal based on the following issues:

- Insufficient size of holding to sustain the proposed activity upon which the need for a dwelling was based.
- Information to support the applications did not adequately demonstrate that the business will be sustained and financially viable.

Members also requested receipt on a confidential basis of the applicant's stock movement records for the past two years and any audited accounts or financial information in support of the application.

Relationship to Corporate Plan:

None

Financial Implications:

The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour resulting in unnecessary expense. The Council must be in a position to defend and substantiate each of its reason for refusal.

Legal Implications:

None

Risk Assessment:

If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council.

REASONS FOR REFUSAL AND IMPLICATIONS:

It was resolved that members were minded to refuse the application for two reasons

- 1 Insufficient size of holding to sustain the proposed activity upon which the need for a dwelling is based.
- 2 Information to support the application does not adequately demonstrate that the business will be sustained and financially viable.

Members also requested receipt on a confidential basis of the applicant's stock movement records for the past two years and any audited accounts or financial information in support of the application.

With regard to the request for the stock movement records the applicant has stated that DEFRA would not allow the details of these stock records to be given to or viewed by the Committee as it would breach Data Protection protocols. Therefore the applicant is not willing to provide any further information in respect of this. Despite this report, no further information has been provided.

Members also asked for audited accounts. The applicant has advised that as the agricultural business is small scale, the accounts are undertaken by the applicant himself and there are no audited accounts available. The figures already supplied are those which represent the business and is the full extent of the financial information available.

Suggested wording for reasons for refusal:

1. In the opinion of the Local Planning Authority it is considered that the size of the holding is considered insufficient to sustain the level of agricultural activity upon which the need for a dwelling to provide accommodation for an agricultural worker is based. This is contrary to Policies COR18 of the Mid Devon Core Strategy and DM10 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
2. In the opinion of the Local Planning Authority the financial information submitted in support of the application is insufficient to demonstrate that the enterprise is either currently financially sound or has a clear prospect of remaining so and accordingly is contrary to Policy DM10 of the Local Plan Part 3 (Development Management Policies).

First reason for refusal.

The erection of agricultural workers dwellings is required to demonstrate that the nature and demands of the existing rural business are such that there is an essential need for a full time worker to be permanently resident at or near the place of work so that they are available at most times (policy DM10). Planning permission was initially granted for the siting of a temporary agricultural dwelling on this holding at appeal under application 11/01618/FULL with the Inspector identifying that the main issue for the appeal was whether there was an essential need for an agricultural worker to live on site. This necessitated an assessment of the holding and agricultural operations on it. The land holding at that time was just over 5 ha (as now), but had only been operating for approximately 12 months. The Inspector did not see this time period as being sufficient to demonstrate the likelihood of long-term success. Assessment of need was based upon a yearly throughput of 200 calves, but took into account hand rearing together with other necessary tasks identified by the Inspector as general maintenance and grassland management. He concluded that the labour requirement amounted to at least a full time worker and that it was

necessary for the worker to be on hand at night and that that this functional test was met.

This earlier appeal decision therefore accepted that there was a need for a dwelling on site, based upon the holding and agricultural operations at that time. The farm business has now been operational for four years and through the erection of a second livestock building is proposed to expand. A condition is proposed to ensure that the new agricultural livestock building that will double the calf throughput is built and brought into use before the occupation of the dwelling. This is intended to ensure that the degree of agricultural activity on the holding and welfare requirements justifying the dwelling are maintained and expanded as set out in the application.

In light of the Inspector's assessment of the holding in 2012 which also took into account its 5ha size and that the current application increases stock throughput, it would be difficult to sustain this reason for refusal.

Second reason for refusal.

Policy DM10 requires that in the case of permanent agricultural workers dwellings that the rural enterprise has been established for at least three years, is currently financially sound and has a clear prospect of remaining so (the financial test). Financial information submitted with the application seeks to demonstrate this. Should Members consider that this test has not been met, it may form a reason for refusal.

The appeal Inspector commented that at the stage of considering the temporary dwelling that on balance there were sufficient grounds to conclude that the enterprise was planned on a sound financial basis. She took into account sales figures for the initial batch of 26 calves. However he also commented that questions arose over the size to which the enterprise might ultimately grow, given the absence of mains services and the likely costs of their provision. The enterprise is not currently served by either a mains water supply or borehole. She stated that 'The appellant however should bear in mind that in due course the Council is likely to expect comprehensive and detailed information to demonstrate the sustained continuation and / or development of the enterprise throughout the period of the temporary permission'.

An appeal for costs against the Council was made by the applicant in relation to the appeal for the temporary dwelling. Costs were not granted as the Inspector considered that the Council had adequately substantiated its reasons for refusal however she added that for this particular type of proposal there was more onus upon the appellant to demonstrate the need for the dwelling. The Inspector comments within this and the preceding paragraph lead to an expectation of the submission of detailed and persuasive financial information to accompany the application in order to demonstrate that the financial test has been met. Members will need to consider the financial information submitted and whether it meets this

financial test. Whilst further financial information was requested, none has been submitted.

Financial information submitted takes the form of a simple breakdown of income and expenditure for the business over the past 4 financial years together with a forecast to the end of the current financial year. A modest profit is indicated for the last 3 financial years and is also forecast for the current financial year. In addition financial forecast information has been submitted for years 15/16 and 16/17 assuming the second livestock building is erected. This too takes the form of a simple list of income and expenditure resulting in a surplus.

Members will need to consider whether this information is sufficiently detailed and accurate taking into account the financial test, whether the indicated profit levels returned / forecast are sufficient to indicate that the enterprise is financially sound and capable of remaining so. If Members conclude that it is not and are able to demonstrate why, it is capable of forming a reason for refusal. Member must be sure that there is sufficient lack of detail, accuracy or omissions in the submitted information or that the profits indicated are insufficient to indicate soundness and be able to substantiate this. An appeal is expected.

Contact for any more information

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Background Papers

File Reference

15/01622/FULL

Circulation of the Report

Cllrs Richard Chesterton
Members of the Planning Committee