

Our Ref: 4646kr-1
Your Ref: 09/0813

27 August 2009

For the attention of Kimberley Rowley

Three Rivers District Council
Leisure and Environment Department
Three Rivers House
Northway
Rickmansworth
WD3 1RL

Dear Ms Rowley

Application No: 09/0813
Proposal: Temporary agricultural worker's dwelling
Location: The Mulberry Bush, Dawes Lane, Sarratt

I write further to your letter of 6th July regarding the planning application submitted on behalf of Mr T Norris for permission to site a mobile home on land known as The Mulberry Bush, Dawes Lane, Sarratt for use as a temporary agricultural worker's dwelling, for a period of three years.

In preparing this response, I have had regard to the Development Plan and national planning policy guidance regarding the provision of dwellings in the countryside and have prepared an analysis of the application in the context of the Annex A tests set out in Planning Policy Statement 7 (PPS7). In order to prepare this report I undertook a site visit on 31st July when I was able to meet the applicant and discuss the needs of the holding and the background to this application.

The facts presented in this report are derived from:

- the comments and observations made during the site visit;
- the documents submitted with the planning application.

The appraisal has been undertaken by P Williams (Director of RAC) and is an independent assessment of the planning application. The report does not make any recommendation for, or against, the application.

Background

The Mulberry Bush extends to 4.2ha and has been owned by the applicant since 1990, and developed since that time as a poultry farm producing free-range eggs and free-range broilers. Mr Norris presently lives in a house he owns, approximately 2 miles from the site - a journey time of seven minutes.

Reading Agricultural Consultants has previously been instructed to examine the need for residential accommodation at this farm in May 2003 and concluded - at that time - the needs of the farm could adequately be serviced from Mr Norris' house off site. The planning application was refused permission and that refusal was appealed. The appeal was heard at Public Inquiry (at which I gave evidence on behalf of the Council) and the Inspector ultimately concluded that the refusal of permission should be upheld. Specifically, the Inspector reported:

"As in the case of Appeal A, the Council agrees that the financial test in item (iii) has been satisfied. I consider that the fact that Mr Norris has obtained planning permission for the additional development indicates his firm intentions and he stated that he has only held back

construction of the new buildings to wait for the outcome of the current appeals. He clearly has the technical ability to develop the enterprise and I find that item (i) is satisfied. Turning to item (ii), functional need, I have taken into account the existing situation, as already assessed, plus any need that would arise from the additional development which has not yet been carried out. In Mr Norris's view, that would constitute a new farming activity on an established agricultural unit. The new activity would primarily stem from the hatchery although there would also be some differences between the operation of the existing and new poultry houses. The projected numbers of birds would be similar to now.

The hatchery would enable Mr Norris to replace his stock from eggs hatched on the holding rather than buying in day old chicks from outside. His evidence indicates that some 250 chicks per week would eventually be produced and the temperature and humidity within the hatchery would need to be closely controlled. Maintenance of the desired conditions and the turning of the eggs would be carried out by the incubator machine. Periodic monitoring would be needed and an alarm system to warn of any failure. There would be some use of semi automatic systems in the new poultry houses whereas there are none at present and these might more easily go wrong. On the other hand, Mr Norris agreed under cross examination that the proper construction of the new poultry houses would alleviate some existing problems of disturbance to the birds from such things as flapping polythene sheeting.

Taken altogether, I do not find that there is a new farming activity involved in this case, just some changes to certain elements of the existing enterprise. There would again be a need to be able to respond to an alarm within 30 minutes but that could be achieved from the existing house or another one in or near Saratt. I do not consider that the hatchery and other projected new development would create a greater need than the existing activities to have a worker living on or very near the site. The enterprise is already well established and financially viable so that the normal justification for a temporary agricultural dwelling, that it is needed while the business becomes viable, is not relevant. Mr Norris stated that the new development was not entirely contingent on having a house on site but that he was concerned about the risk if he could not live there. I find that a new dwelling is not essential to support a new farming activity and that the tests of (ii) and (iv) are not satisfied.

I have concluded that the proposed temporary dwelling would not be essential for agricultural purposes and would thus not comply with SP policy 5 nor with LP policies GB1 and GB11. It would therefore be inappropriate development in the Green Belt as indicated in PPG2'.

The application before the Council is effectively a repeat of that previously refused and dismissed at appeal, with the key differences being that the business has developed considerably in the intervening period and planning permissions have been obtained (all, I am advised, via the appeals process) for further development on the farm. I have not been provided with the precise details of these but they are described in the supporting documents as including:

- an agricultural storage barn (100m²);
- 3 x 100m² poultry houses, each capable of housing 2,000 hens - by making use of a two-tier system; and,
- 2 polytunnels.

These are additional to the existing structures on the farm - all of which Mr Norris advised were authorised structures.

There is though apparently a planning condition limiting the number of poultry buildings on the land to seven, which was clearly being breached at the time of my visit with:

- two free-range egg production houses in use, and one in conversion;
- four broiler rearing sheds, including another shortly to be converted to egg production;

- four brooder houses;

a total of eleven houses. I am still awaiting the relevant document regarding this condition from the Council.

In terms of the productive capacity of the holding I am advised that the farm now has the building capacity available for 8,000 free-range egg-laying hens which is a considerable increase from the 1,500 birds on site in 2003, and that bird numbers will be developed over the next three years to reach this total. At the time of my site visit there were two of the "new" two-tier houses in use for egg production (with between 3,000 to 4,000 hens) and two others were in-preparation, having previously been used for broiler production.

With the broiler production, this numbered approximately 7,000 birds reared from day-old chicks through to slaughter in 2003, with the poultry again being sold at Farmers' Markets and shops. Over the next three years it is intended that this enterprise will be expanded to 9,000 birds sold.

One significant change that will be effected - subject to the grant of permission to live in site - will be the setting up of the egg hatchery, for which planning permission has already been obtained, and which will be sited within the former stable building. This enterprise will enable the rearing of all the broiler birds from purchased eggs through to slaughter and, with 9,000 birds reared, will generate a further £13,000 gross margin for the business.

Finally, Mr Norris intends to establish a very small niche market producing fresh herbs (parsley, coriander, chives and basil) in the polytunnels, for which planning permission has been granted.

In order to manage this business properly Mr Norris contends it is essential that a key worker lives on site, and not seven minutes distant, hence the application before the Council for a temporary mobile home to enable the business to be developed still further.

Planning Policy Guidance

The Local Plan policy that deals with agricultural workers' dwellings is set out in the Three Rivers Local Plan 1996-2011 at Policy GB11. This states that permission for an agricultural worker's dwelling will be granted provided that:

- "(i) The functional and financial tests set out in Annex I of PPG7 (Countryside) are completely met;*
- (ii) The functional need cannot be met by an existing dwelling on the site, or any other existing accommodation in the area which is suitable and available".*

This Development Plan framework accords with the national planning policy guidance on agricultural workers' dwellings as set out in the replacement to PPG7, Planning Policy Statement No.7 (PPS7) "Sustainable Development in Rural Areas", Annex A. Paragraphs 1 and 2 of the Annex provide the background to the policy which is based on the premise that agricultural workers will normally live in towns and villages close to their place of work and only where an agricultural business has an essential need for a worker to be more closely on-hand will this premise be re-examined and set aside.

In order to test whether such a need exists, the PPS proposes functional and financial tests to establish whether it is essential for a worker to live at their place of work; that the associated farming circumstances are genuine; are capable of being sustained for a reasonable period of time; and that no other dwellings either on the unit, or available nearby could satisfy the requirements of need.

"If a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation. It should satisfy the following criteria:

- (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 4 states that the functional test is necessary to establish whether

“it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:

- (i) *in case animals or agricultural processes require essential care at short notice;*
- (ii) *to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems.”*

Paragraph 7 states that provided the functional requirement is established, it is then necessary to consider the number of workers needed to meet that requirement, for which the scale and nature of the enterprise will be relevant, and that the functional requirement must relate to an agricultural need and not to any personal preferences or circumstances of the individuals concerned, or to issues of security (paragraph 6) though these may contribute to the argument of need.

The remainder of this report assesses the appropriateness of the application in the context of these tests.

The Appraisal

Intention and Ability

This issue was examined at appeal in 2004 when the Inspector reported:

“I consider that the fact that Mr Norris has obtained planning permission for the additional development indicates his firm intentions and he stated that he has only held back construction of the new buildings to wait for the outcome of the current appeals. He clearly has the technical ability to develop the enterprise and I find that item (i) is satisfied”.

Having visited the unit in 2009 it is clear that Mr Norris has not stopped developing this unit simply because planning permission for the dwelling was not secured; rather he has developed it still further and is seeking permission to enable further expansion of the unit.

There can be no doubt of his abilities to develop the unit as outlined; his intentions appear clear - to develop this unit with the maximum poultry possible; and secure on-site accommodation.

The only potential stumbling block relates to the planning condition limiting poultry production to seven houses, but Mr Norris advised at the site visit that, if necessary, he could reduce the number of broiler birds slightly and incorporate the rearing birds within the existing three broiler houses.

The functional test

The issue of functional need was also examined at the 2004 Inquiry and the Inspector concluded - based on the evidence presented - that it was not an essential for the proper functioning of the enterprise for a key worker to be readily available at most times.

If the enterprise operated at Mulberry Bush now - and proposed - had been of the same scale and nature as was the case in 2004 I consider that finding would have been equally valid.

However, this is not the case, specifically as:

- the free-range egg operation, which was running at approximately 1,500 hens in 2004 is now intended to expand to 8,000 hens over the next couple of years - and there is sufficient permitted housing to accommodate this number of birds, and sufficient land based on a range stocking rate of 2,500 birds per hectare;
- the broiler enterprise is intended to rise from 7,800 birds sold per annum to 9,000 birds - and there is sufficient permitted housing and land to accommodate this number of birds;
- an egg incubation and hatchery enterprise will be started which is expected to produce some 250 chicks per week (this was intended at the time of the 2004 Inquiry);
- polytunnels will be erected (or the old ones will be recovered) and enterprise growing herbs from seed and/or cuttings will be commenced.

Although Mr Norris has apparently been able to run this enterprise since 1990 without on site accommodation; and since the 2004 Inquiry at the 1,500 hen plus broiler level seemingly without on-site accommodation, I do not consider the proposed expanded enterprise of 8,000 laying hens plus 9,000 broilers, plus hatchery plus polytunnels can, in the words of PPS7, function properly without the ready availability of a key worker at most times. I am aware of a number of appeal decisions that would support this contention for the 8,000 free-range hens alone. At present there are between 3,000 and 4,000 laying hens on the unit, and this will rise to 8,000 hens over the next year or so.

As a statement of fact, Mr Norris advised that for much of the time one of his staff has lived in the mobile home on site, which doubles as a staff rest room and have provided for the welfare needs of the birds.

I am aware that this position is an apparent reversal of that taken in 2004 - and successfully defended at the Inquiry - but the scale of the enterprise that Mr Norris now proposes to develop, and has the infrastructure in place in spite of the planning difficulties, will be too large to be properly managed remotely. I consider the functional test will be met for the expanded business model set out in the application papers.

PPS7 advises at paragraph 13 that:

“...The planning authority should make clear the period for which the temporary permission is granted, the fact that the temporary dwelling will have to be removed, and the requirements that will have to be met if a permanent permission is to be granted...”

I consider Mr Norris should be left in no doubt that should temporary permission be granted for a dwelling on site a permanent dwelling would not be granted unless the indicative stocking rates (ie. the 8,000 laying hens and 9,000 broiler hens) can be met, and demonstrably maintained. Any significant reduction in stock numbers would reduce the need to live on site to a level that could be achieved from a dwelling seven minutes away.

The financial test

The financial test was examined in the 2004 Inquiry PPS7 with the Inspector reporting:

“It is common ground between the parties that the financial test in item (iii) above is satisfied. Mr Norris confirmed in his evidence that the expansion of the business has been led by customer demand for high quality products and value is added by butchering and packing on the premises and selling direct to the customer”.

The financial data that have been presented with the application include business projections prepared by Acorus. These set out in detail the income estimates and assumptions used to calculate the potential profit available from the expanded business with £15,000 in Year 1; £31,000 in Year 2 and £45,000 in Year 3.

I have examined these figures and, with the exception of the herb enterprise, consider the figures presented to be soundly based on Mr Norris's actual experience of the market place over the past few years. With the herbs the scale of the market - and the ability to sell 20,000 units per annum - will be tested over the next three years.

In the context of the phraseology adopted in PPS7 I consider the business has been planned on a sound financial basis.

The functional need could not be fulfilled by any other existing accommodation in the area

Given the complexity and scale of the expanding and proposed business I do not consider this unit can continue to be properly managed from off-site.

Other normal planning requirements

RAC is not retained to consider these other aspects - such as siting and access - but I note that the mobile home would be serviced by the same access as the agricultural building which must be considered suitable for that use.

I trust that this report will assist you in your deliberations.

Yours sincerely

Peter Williams