

Our Ref: 5829mh-1  
Your Ref: 12/2377/FUL

8 March 2013

**For the attention of Marie Clarke**

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

Dear Ms Clarke

**Application No:** 12/2377/FUL  
**Proposal:** Agricultural dwelling  
**Location:** The Mulberry Bush, Dawes Lane, Sarratt

1. I write further to your letter of 24<sup>th</sup> January regarding the planning application submitted on behalf of Mr T Norris for permission to erect a permanent agricultural worker's dwelling at The Mulberry Bush, Dawes Lane, Sarratt.
2. 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. In order to prepare this report I undertook a site visit on 7th March when I was able to meet the applicant and discuss the needs and development of the business over the past few years and the background to this application.
3. 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;
  - previous reports prepared by Reading Agricultural Consultants (RAC) on the need, or otherwise, for accommodation at this site; and various appeal decisions that have also considered the matter.
4. The appraisal has been undertaken by P Williams (Director of RAC) and is an independent assessment of the planning application.
5. For avoidance of doubt it is noted that I address only the agricultural issues pertinent to this application; I do not address issues related to Green Belt or AONB policies.

**Background**

6. 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 driven journey time of seven minutes.
7. In May 2003 I attended the unit and considered the functional needs of the holding and determined there was not a need to live on site to provide for the needs of the number of poultry kept on the holding at that time. The Council refused to grant planning permission and a Planning Inspector ultimately dismissed an appeal against that decision.

8. However, by 2009, when I re-attended the site, I noted that the scale of the business had developed considerably in the intervening period and that planning permissions had been obtained for further development on the farm sufficient to provide:
- an agricultural storage barn (100m<sup>2</sup>);
  - 3 poultry houses, each capable of housing 2,000 hens - by making use of a two-tier system; and,
  - 2 polytunnels.
9. In terms of the productive capacity of the holding I was advised that the farm had the building capacity available for 8,000 free-range egg-laying hens which was a considerable increase from the 1,500 birds on site in 2003, and that bird numbers would be developed over the next three years to reach this total. In addition, broiler production was being undertaken with approximately 9,000 birds being reared each year.
10. My assessment of the functional needs of the proposed business in 2009 was such that the scale of activities could not properly be undertaken without an on-site presence. Specifically, I noted:
- "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".*
11. I understand that in the event the Council refused planning permission for accommodation on the farm due to landscape concerns and that an Inspector upheld that refusal in April 2010. Subsequently, a further application was submitted and accepted by the Council; I was not involved in that second application and planning permission for temporary accommodation was (finally) granted in January 2011.
12. The application before the Council now seeks permission to effectively convert that temporary agricultural worker's dwelling into a permanent dwelling.
13. In terms of stocking on site, during my inspection on 7th March, I observed that there are presently six permanent poultry houses on the unit (referred to as A - F), with a maximum stocking capacity of some 10,000 laying hens. These contained:
- House A was actively in the process of being cleaned prior to re-stocking with pullets booked to arrive on, or around, the 26th March;
  - House B had 1,600 free-range laying hens producing eggs;
  - House C had 1,600 free-range laying hens producing eggs;
  - House D had the remnants of a laying flock (approximately 100 birds) awaiting slaughter;

- House E was full of broilers (1,500 birds);
  - House F (upstairs) is under construction. Downstairs there were approximately 500 older broilers awaiting slaughter;
14. Day-old chicks are purchased and reared in the stable block adjacent to the butchery, and there were approximately 500 chicks housed on 7<sup>th</sup> March. These day-olds are reared on for broiler production with approximately 900 purchased and reared each month to provide a steady output of birds, though this number has been temporarily reduced whilst laying birds are slaughtered.
  15. The old mobile poultry house close to House F was empty, awaiting removal.
  16. Thus, the scale of the operation in 2013 is entirely in line with the forecast plans in 2009, albeit poultry numbers are temporarily reduced with flock turn-around. In fact, Mr Norris explained that in 2011 he was required to sign a Section 106 agreement that enabled the Council to carry out two, 3-month checks of stocking and sales to ensure business growth was being undertaken as planned. The second of these two windows was October - December 2012 and artificially necessitated keeping birds slightly longer than usual to maintain the "right" number of birds for the Council - as shown on the plan at Appendix 1.
  17. I am though, satisfied that the current business does manage approximately 8,000 hens throughout the year, allowing for "normal" flock depletions.
  18. With the broilers Mr Norris showed me copies of his flock purchase and slaughter programme which indicated that approximately 192 birds are killed each week (32 boxes of 6 birds), and equates to 9,600 birds over a 50-week year.
  19. Virtually all the produce is sold via ten Farmers' Markets:
 

Bloomsbury	(Thursday)	Pimlico	(Saturday)
Swiss Cottage	(Wednesday)	Marylebone	(Sunday)
Broadstairs Circus	(Thursday)	Islington	(Sunday)
Parliament Hill	(Saturday)	Black Heath	(Sunday)
Wimbledon	(Saturday)	Brixton	(Sunday)
  20. Staffing is provided by four full-time (Polish) workers and various family and casual staff, as required. The Polish workers (two married couples) all share the single mobile home on site. They are paid the equivalent of the minimum wage and finance the costs of the mobile home. During quieter periods they take annual holidays and one couple was absent (in Poland) at the time of my site visit.
  21. The application before the Council seeks permission to convert the mobile home into a permanent dwelling to be occupied by the applicant and his family. The Polish workers will then be housed off-site, possibly in one of two flats owned by Mr Norris in Watford.

**Planning Policy Guidance**

22. The Development Plan now includes the National Planning Policy Framework (NPPF), which was published in March 2012 and which revoked the former PPS7, Annex A that was used for the assessment process for the 2009 application. The NPPF deals with agricultural workers' dwellings (or more accurately rural workers' dwellings) at paragraph 55 and states:

*"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*

- *the essential need for a rural worker to live permanently at or near their place of work in the countryside...*"

23. Paragraph 214 et seq of the NPPF also notes that:

*"For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.*

*In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

24. In this case the document (and policies) that continue to have relevance are set out in the Three Rivers District Council Development Management Policies LDD. Policy DM2 notes:

*"Within the Green Belt, except in very special circumstances, approval will not be given for new buildings other than those detailed in national and other relevant guidance. With regards to new dwellings for agricultural and/or forestry use applicants must demonstrate compliance to the tests detailed in Appendix 3."*

25. Appendix 3, notes variously:

*"The National Planning Policy Framework states that buildings for agriculture and forestry are not inappropriate in the Green Belt...*

*Permanent Agricultural Dwellings*

*New permanent dwellings will only be allowed to support existing agricultural activities on well established agricultural units, providing:*

- i. there is a clearly established existing functional need;*
- ii. the need relates to a full-time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;*
- iii. the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;*
- 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 planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied."*

26. Although the references to a financial test and/or economic viability do not expressly appear in the NPPF the core requirement of these policies - that there is an essential need for permanent on-site accommodation - are in general conformity with the NPPF, and provide a reasonable basis for the following assessment.

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

## **The Appraisal**

### The functional test

28. As noted above, I assessed the issue of functional need on this holding in 2009 and concluded that provided stock numbers included 8,000 laying hens and 9,000 broilers there was an essential need for on-site accommodation. In order to justify this position I also provided the

Council with a number of appeal decisions where Inspectors had allowed appeals for free-range poultry holdings, including:

APP/A3010/A/06/2026709 - Land off Southgore Lane, North Leverton, Nottinghamshire

9,000 Organic hens

*“Whilst automatic systems relating to temperature control, ventilation and feeding could be monitored and alarmed remotely, any failure could require attention at short notice. In addition, free range birds are easily stressed and circumstances can occur where flock reaction and panic due, for example, to sudden noise or the presence of predators can be immediate and potentially fatal to large numbers due to smothering. To this extent I am satisfied that the demands of the enterprise require a full-time worker to be readily available at most times”.*

APP/K6920/A/09/2098921 - Hill View Poultry, Caer Llwyn, Abertridwr, Caerphilly CF83 4FG

4,500 hens

*“The Appellant contends that it is necessary for her to live in the appeal caravan so as to be close at hand to supervise her 4,800 or so birds, since emergencies can arise at any time of the day or night. Since September 2007 there have been 2 failures of the automatic feeding system and some 5 mains electricity cuts. Whilst there is a backup electricity generator on site, the failure of the feeding system, which was not apparent at the time from any alarm system, could have been catastrophic. In addition, only days before the Hearing the single track lane to the site was closed because of flood damage.*

*It would not be good animal husbandry in her view to rely on an automatic alarm system going off in a house some distance away to warn of emergencies, since such systems are not wholly reliable. In any case, as she and her husband sold their former home in order to finance the erection of the egg production building, they could not now afford to buy a house in nearby Abertridwr or Senghenydd.*

*Whilst the latter point is a matter of personal circumstances and not directly relevant to the farm enterprise as such, nevertheless I consider, on the evidence before me, that there is a functional need for someone to live adjoining or close to the egg production unit. I consider therefore that criterion (b) is met”.*

APP/J3205/A/99/1033400 - The Meadows, Brick Hill Lane, Alveley

4,000 hens; 2.7 ha

*“PPG7 Annex I in paragraph 12 indicates that, in some cases, the demands of the farming work concerned may make it essential for a farm worker to live at or very close to the site of their work. Whether this is essential will depend on the needs of the farm enterprise concerned. In this particular case, I do not consider that the routine tasks of husbandry, such as releasing the birds in the morning, rounding them up and shutting them away at night, and feeding, would justify a worker being available on site at most times. Nor would routine management tasks, such as attending to deliveries or other visits. However, I was told that unexpected loud noises, visits from predators, or adverse weather conditions, had in the past caused panic amongst the birds that, on occasions had lead to numbers of birds dying from smothering. At other times when such events had occurred, the presence of a person on the site who was able to respond quickly to such incidents and to calm the birds was likely to have prevented or significantly reduced losses. Such incidents could occur at any time during the day or night. These incidents, as well as occurrences such as the loss of water supply to the hen house due to frozen pipes, could also have an adverse effect on egg production if not rectified promptly.*

*On the basis of the information before me as to the frequency of these incidents, I am satisfied that it is essential for the proper functioning of this enterprise for someone to be readily available at most times. This is in order to deal with such incidents, to provide essential care to the birds when they occur, to prevent or mitigate serious stock losses from smothering, and to reduce the likelihood of reduced production. I also consider that the incidence of attempted break-ins at the premises adds to the need for a worker to be available on animal welfare grounds, although I acknowledge that this would not, of itself, justify a dwelling. Although the Council suggested that the quality of husbandry that the appellants seek to provide is unnecessarily high, I do not consider, on the information with which I have been provided, that the appellants have exaggerated the need for someone to be present at the unit at most times”.*

(Note; RAC were acting for the Council).

APP/L3815/A/96/274691 - Mereside Farm, Scratchings Lane, Balls Cross

6,000 hens

*“It was confirmed at the inquiry that there are presently 6,000 hens kept on the land following the addition of 3,000 in November 1996. These are free range birds kept for egg production for a period of between 12 to 15 months after which they are sold for slaughter. The hens currently graze a field at the northern end of the holding which is broken into 4 separate enclosures each containing 1,500 birds. At night time the birds return to the poultry shed to roost...*

*It was accepted by the Council and their agricultural advisors within the Countryside Management Unit of West Sussex County Council that some form of residential accommodation for an agricultural worker was now justified, following the introduction of 6,000 hens”.*

29. Based on my findings at the site visit on 7th March I remain of the opinion that it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times.

The financial test

30. The financial test for a permanent dwelling requires evidence of a) current profitability, and b) sustainability.
31. Unfortunately, and most unusually Mr Norris does not engage the services of an accountant to prepare business accounts thus no third party, independent checks are available of the financial data he has provided. However, there is no express requirement that formally prepared accounts are prepared and I was advised at the site visit that the Inland Revenue did review Mr Norris' financial data about five years ago and were content with the systems used for financial recording.
32. In terms of current performance Mr Norris advised that turnover and profit for the past four years was:

	2009 -2010	2010 - 2011	2011 - 2012	2012 - 2013 (forecast)
Income	190,585	194,352	238,794	355,000
Expenditure	181,336	182,661	269,395	290,000
<b>Profit</b>	<b>9,249</b>	<b>11,691</b>	<b>-30,601</b>	<b>65,000</b>

33. The figures for 2010/11 and 2011/12 were corroborated in the figures provided in his Self Assessment returns to the Inland Revenue (that I saw).
34. Thus it is clear that the business satisfies the first and second of the tests posed in the LDD Appendix 3 that i) the unit and the agricultural activity concerned have been established for at least three years; and b) have been profitable for at least one of them.
35. In terms of providing evidence/explanation for the growth of the business over the past 12 months Mr Norris was able to cite:
- an increase in sales of eggs at Farmers' Markets to secondary producers;
  - an increase in profits from processing old laying hens;
  - an increase in wholesale egg sales;
  - the preparation and sale of ready meals at markets, using farm-produced goods;
  - the preparation and sale of chicken meat sausages.
36. As far as the loss recorded in 2011/12 is concerned, this was attributed to the costs incurred in erecting two additional poultry houses. Although these costs would - in normal accountancy practice - have been attributed to the Balance Sheet and depreciated over a 10-20 year period, Mr Norris chose to report the costs via expenditure and record a loss for the year. I was provided with bank statements and receipts during the site visit to corroborate the costs incurred, and the bank loan that was made available to finance the works. Had those exceptional costs not been recorded this way it is likely that the farm profit would have been approximately £60,000 greater (minus, say £5,000 as a depreciation charge) thus producing a farm profit of approximately £25,000.
37. As far as the income figures are concerned, again I was provided access to Mr Norris' spreadsheets and was able to check all or any entry against hand written market receipts; I found no discrepancy in the documentation provided. The same exercise was made available for the expenses and various receipts were examined (including orders for poultry chicks and feed) and found in the spreadsheets.
38. In such circumstance, I am content that the financial data provided to me is robust, and indicative of a profitable rural business, generating profits in excess of £50,000 per annum.
39. In terms of testing sustainability, historically, MAFF provided guidance to LPAs that suggested that viable agricultural units ought to be able to generate sufficient profits to provide:
- a reasonable return to the owned land equivalent to its rental value of, say, £1,250 based on a rental income of £250 per hectare;
  - a reasonable return to labour equivalent to the minimum agricultural wage, presently £14,115;
  - a reasonable return to working capital of 2½ percent. As no Balance Sheet has been provided I have estimated this at £200,000 (to include poultry, buildings and sundry equipment) which would generate an income of approximately £5,000 based on the 2½ per cent return; and,
  - provide funds for the build cost of the dwelling (estimated by Acorus to be £175,000) which would cost approximately £12,500 per annum to finance.
40. These figures suggest that in order to "prove" sustainability this unit ought to be generating profits in the order of £20,000 per annum plus the build-cost finance. It is clear that the forecast profit for 2012/13 will meet this requirement. Equally, the average profit over the past three years would have met this figure.

41. In such circumstance I consider the unit is able to show evidence of a sound financial basis justifying the future need for the new dwelling.

*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.

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

Yours sincerely

Peter Williams