



Mrs K Rowley  
Three Rivers District Council  
Northway  
Rickmansworth  
WD3 1RL

**Electronic Version**  
Our Ref: KCC1734/hr  
10<sup>th</sup> June 2014

Dear Mrs Rowley

**13/1345 AND 14/0034: THE MULBERRY BUSH, DAWES LANE, SARRATT**

1. I respond to your instructions to carry out an agricultural appraisal of proposals for residential accommodation on the above property.
2. There are two proposals:
  - the erection of a dwelling and office, garage and log store (13/1345). This is the subject of an appeal;
  - retention of mobile home (14/0034).
3. In carrying out this appraisal I have:
  - (i) reviewed the documentation listed below;
  - (ii) visited the farm on the 30<sup>th</sup> May when I inspected the holding and farm records;
  - (iii) re-visited on 6<sup>th</sup> June to inspect records not available on the previous visit.
4. In preparing this report I have considered:
  - (i) the planning application documentation for both applications;
  - (ii) the Council's Appeal Statement of April 2014;
  - (iii) Peter William's appraisals including that of April 2014 in connection with 14/0034;
  - (iv) recent Employment Tribunal findings;
  - (v) farm records relating to purchase of the flocks, to substantiate the number of birds;
  - (vi) spreadsheets and records relating to farm income and expenditure. I carried out some random spot checks to validate the data.

**The Enterprise and Proposals**

5. The enterprise operated is primarily a poultry enterprise. The current enterprises are described by Mr Williams, following his recent visit, and comprise:
  - three flocks of 1,600 hens each (4,800 laying hens);
  - three batches of 700 each (2,100 in total) of young chicks being reared on.

*Greenacres Barn, Stoke Common Lane, Purton Stoke, Swindon SN5 4LL  
T: 01793 771333 Email: info@kernon.co.uk Website: www.kernon.co.uk*

---

*Directors - **Tony Kernon** BSc(Hons), MRAC, MRICS, FBIAC **Sarah Kernon**  
Chartered Surveyors- **Verity Drewett** BSc(Hons), MRICS, MBIAC **Sara Compton** BA(Hons), MSc, MRICS, MBIAC  
**Julia Norman** BSc(Hons), MRICS*

6. The Appellant processes meat birds on site, and sells the produce, together with eggs, at various Farmers Markets in the area. Meat birds, about 180 each week, are slaughtered on the holding and the meat is mostly sold fresh, either as whole carcasses or jointed. Surplus meat, plus meat from the cull hens, is processed and made into various meat products such as sausages, quiche, pies, curry etc. Mr Norris is also starting a new enterprise, notably the pickling of eggs.
7. It is proposed to erect a dwelling on a site central to the holding as shown on application plan "Revised Siting".

### **Policy Framework**

8. National Policy is set out in the National Planning Policy Framework (the Framework). This permits new isolated homes in the countryside where 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"**.
9. The Council has adopted Development Management Policies (July 2010). DM2 Green Belt cross refers to Appendix 3, which sets out detailed guidance along the lines of the former PPS7 Annex A. That sets out tests for new permanent dwellings as follows:
  - (i) there is an established existing essential need;
  - (ii) that need relates to a full-time worker;
  - (iii) the unit and the activity concerned have been established for a least three years, profitable for at least one of them, are currently financially sound and have a clear prospect of remaining so;
  - (iv) no other dwelling could meet the need;
  - (v) siting, access etc are satisfied.
10. For new enterprises, paragraph 12 sets out five different tests. These are, in short:
  - (i) evidence of intention and ability;
  - (ii) functional need;
  - (iii) evidence of sound financial planning;
  - (iv) that no other dwelling could meet the need;
  - (v) siting, access etc are satisfied.

### **Identification of the Issues**

11. Clearly there is a detailed planning history relating to this site. As part of that history a temporary dwelling has been allowed, with planning permission limited to a three year term which expired on 13<sup>th</sup> January 2014.
12. I have reviewed two proposals: one for a permanent dwelling and one for renewal of a temporary consent. These give rise to the following key issues:
  - (i) is there an existing essential need, or will there be one in the future?
  - (ii) does this relate to a full-time worker?
  - (iii) is the financial test for a permanent dwelling now satisfied?
  - (iv) in terms of the temporary dwelling, is there a clear evidence of sound financial planning?
  - (v) are there other dwellings that can meet the need?
  - (vi) is siting, access etc acceptable?

### **Functional Need?**

13. In 2009 the Applicant set out projections, in the form of a Business Plan and report. Projections were for:
  - 8000 laying hens;
  - a hatchery producing 7000 rising to 9400 chicks per year;
  - rearing those on to meat birds;
  - and a herb business in polytunnels.
14. This is taken from the Acorus Business Plan dated 29<sup>th</sup> April 2009.
15. With the planning application for the permanent dwelling (13/1345) there is a supporting statement dated September 2010 but containing an appendix being a Business Plan dated December 2012. That also refers to there being 8000 free-range chickens on site, and confirms that around 10,000 free range meat chickens are reared and sold from the site each year.
16. The accompanying Financial Appraisal (17<sup>th</sup> December 2012) makes clear on page 4 that incubation and hatching no longer takes place on the holding, as chicks arrive as day-olds.
17. The decision of the Employment Tribunal casts some doubt over the scale of the enterprises. The Judge recorded there being about 8000 hens for the period September 2011 to December 2012, but only 3500 from January 2013 to January 2014. See the Tribunal report paragraph 10. Paragraph 67 sets out Mr Norris' stated intention to maintain a flock of around 4000 hens.
18. Mr Williams visited the farm on 9<sup>th</sup> April 2014 and identified 4,800 laying hens and 2100 young chicks being reared on. Previously Mr Williams had seen records of 9600 table birds being reared per year, and assuming that a new batch of 700 is started every 4 or so weeks, that would be consistent with the numbers seen on site by Mr Williams in April 2014. I visited on 30<sup>th</sup> May and also saw similar numbers of birds. For each of the laying flocks I also saw documentary evidence of their purchase, which confirmed the number and age of each flock.
19. In terms of whether there is an essential need for a resident worker, I consider that there is such a need. This remains the case whether the laying flock is 4000 or 8000 birds, together with the rearing of flocks of young birds (arriving as day olds) under heat initially, and then on to meat bird size.
20. I reach this conclusion because of the need to be able to identify and respond to unexpected emergencies, such as failures of heaters over the brooder pens, panic or predation in the laying flocks, problems caused by weather or electricity failure, and for the proper welfare of the animals.
21. Accordingly, in my opinion, there is an essential functional need for one persons to reside on site whether the flock is 8000 hens plus meat birds (as per the 2012 projection), or 4000 hens plus meat birds (as recorded at the Tribunal).
22. Therefore I agree with the recent conclusions of Mr Williams.

### **Full-Time Worker?**

23. This number of birds would give rise to a full-time worker equivalent. There are few reliable budget estimates for small-scale poultry enterprises, but in my opinion and given

the year-round, seven-days-per-week native of the enterprise, this need will equate to a full-time worker.

24. The needs of the poultry are met by several workers, including Mr Norris. It is Mr Norris' aim that all his workers can do most jobs, so that they develop animal husbandry skill as well as retail skill. Several employees currently share the mobile home and all carry out agricultural work.
25. The Applicant is currently undecided about who will occupy the dwelling, but it will probably be him. The need to be on site relates to the needs of the poultry, and so long as the resident workers comply with any occupancy condition imposed by the Council, the functional need can be met either by Mr Norris or by one or more staff workers resident in the proposed dwelling.

#### **Financial Test: Permanent Dwelling**

26. There is no explicit or prescriptive financial test set out in the Framework. The recently adopted DMP policy document does, however, set out a prescriptive test based on the old PPS7 Annex A tests.
27. The test requires that the enterprise has been profitable for at least one of the last three years. The documentation presented with the application did not show this.
28. The Acorus report of December 2012 sought to disaggregate the income from the farming activities from the income from selling meat at markets. It projected a split profit of £48,000 after a notional rent and a theoretical repayment on borrowings. It is however clear that these were projected incomes and costings, not actual. Accordingly these do not demonstrate historic profitability.
29. At his recent visit, Mr Williams did not inspect accounts I understand, as they were not available in that format. Mr Williams did see Mr Norris' self-assessment returns, which corroborated the figures. Mr Norris has now got his records into such a format, to which I return below.
30. In respect of the financial test for a permanent dwelling, I consider two issues as preliminaries to the assessment:
  - (i) can profits (and costs) from food processing be included in the assessment?
  - (ii) what threshold of profitability is required to satisfy the tests?
31. The DMP Appendix 3 paragraph 3 iii) makes clear that it has to be the unit and the agricultural activity concerned that have to have been established and profitable. In this case eggs are produced and are sold. Many are sold via Farmer's Markets rather than wholesale, but that is still direct sales of eggs, and in my opinion it is reasonable to include all these sales as part of the farm enterprise. Selling in this way incurs additional costs, but that is a commercial decision for the farmer.
32. In terms of the processing of poultry meat, that is a more difficult judgement. The DMP Appendix 3 is clear that the unit "**and the activity concerned**" must have been profitable. Much of the meat is sold simply plucked and dressed as whole chickens, or jointed. This, in my opinion, is little different to selling eggs graded and packed. Therefore this income should be included in the farm sales. If, for example, Mr Norris farmed beside a busy road he would sell all his produce via a farm shop on the holding. In this case he has to take his shop to the population, but it is still the sale of agricultural produce. Therefore, in my opinion, it relates to "**the activity concerned**".

33. Some of the meat is processed, however, into ready meals such as Thai chicken. This is sold hot at three Farmers' Markets. I asked Mr Norris what proportion of his income and costs related to the hot food sales, and he has carried out that analysis for me.
34. Income comes from the following sources:
- farmers' markets in London;
  - a small egg round plus, at times of surplus, some wholesale sales;
  - a small amount of farm gate sales.
35. In terms of the farmers' markets and other invoiced sales, which make up the majority of sales, I have seen evidence to validate the figures. I carried out random spot checks to test the data, picking for example random weeks at randomly picked markets, and checking back to the original receipt. All records appeared to be in order.
36. I then did the same for the expenditure, which Mr Norris has set out on spreadsheets. I picked items at random and cross checked back to his original bills. Again, on a randomised check of about 10 items, all were accurate.
37. Mr Norris provided a spreadsheet, which is akin to a Trading Profit and Loss breakdown, based on these figures. This I attach. It includes:
- farmers' markets income, as randomly checked above;
  - invoiced sales, as randomly checked above;
  - farm gate cash, not capable of verification but seemingly realistic;
  - an allowance for home consumption of produce, also small and realistic;
  - and the correction of an error we had found relating to a 52<sup>nd</sup> week having been included in the wrong spreadsheet.
38. The income, less the purchase records, showed a Profit and Loss as follows.

Item	Year		
	2013/14	2012/13	2011/12
Income	341,220	305,757	250,567
Expenditure	282,506	283,727	269,395
Profit (loss)	58,714	22,030	(18,828)

39. On this basis I can conclude that the enterprise meets the policy requirements of the Framework and policy DM2 and Appendix 3.
40. Mr Norris has tended to put items of capital expenditure through the books as costs. Alternatively he could have elected to capitalise those items and provide a depreciation figure instead, which would have provided an offset figure to reduce profits (and hence tax) in future years. As per the attached table, he has identified capitalised items for each of these years. If these items were added back it would have increased profits, before then deducting depreciation. Mr Morris also deducts £3,000 per year for his non-business use of the vehicle.
41. Mr Norris has also carried out an analysis of the hot food ("street food") income and expenditure and hence profitability. That too is attached.
42. Taking these all together we can then see farm profitability or losses, based on farm records, adjusted to deduct capital expenditure and also excluding the profit on street food. These totals are as follows.

Item	Year		
	2013/14	2012/13	2011/12
1 Unadjusted trading profit	58,714	22,030	(18,828)
2 Capital items	3,385	26,605	55,076
3 Profit excluding capital items (1 plus 2)	62,099 <sup>(1)</sup>	48,635	36,248
4 Profit on street food	11,222	5,428	4,506
5 Trading profit minus street food (1 minus 4)	47,492	16,602	(23,334)
6 Adjusted profit minus street food (3 minus 4)	50,877	43,207	31,742

<sup>(1)</sup> One of the spreadsheet figures is slightly incorrect. This is the correct figure.

43. Accordingly I am confident in concluding that the enterprise is economically viable. It operates profitably, with or without adjustments. I have carried out random checks of the figures to seek to ensure accuracy. Therefore I feel able to conclude with confidence that the underlying agricultural business is profitable.
44. It is frustrating that the figures identified through my site visit and as analysed above do not correlate well with those presented with the planning application or as shown to Mr Williams. This makes analysis difficult for everybody, not least the Council.

#### **Financial Test: Renewal of Temporary Consent**

45. On the basis of the analysis, I conclude that the financial test for a permanent dwelling is met.
46. Based on these figures, the business is planned as well as operating on a sound financial basis. Therefore the financial requirements for a renewal of the temporary dwelling are in my opinion satisfied.

#### **Other Dwellings**

47. Having seen the site, it appears to be an isolated site in that there are no other dwellings on or adjoining the site.

#### **Siting Etc**

48. I understand that the siting of the dwelling has been the subject of discussions with the Council, and therefore leave those planning judgements to others.

#### **Conclusions**

49. There is, in my opinion, an essential need for a resident worker.
50. The Council's policy requires that the unit and the enterprise concerned, have been profitable. This necessitates some breakdown of the accounts to assess the profitability of the production enterprise distinct from the overall enterprise.
51. Having studied records, including income sources not previously itemised in correspondence, I conclude that the enterprise is profitable, both including and excluding the street food element.

52. In my opinion it meets the financial tests both for renewal of the temporary consent and for a permanent dwelling.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tony Kernon'. The signature is fluid and cursive, with the first name 'Tony' and the last name 'Kernon' clearly distinguishable.

**TONY KERNON** BSc(Hons), MRICS, FBIAC

**Eggs & Chicken P&L**

	<b>13/14</b>	<b>12/13</b>	<b>11/12</b>
<b>Income</b>			
Farmers Markets	332,400	261,412	238,794
Invoiced Sales	5,320	35,764	8,273
Farm Gate Cash	2,500	2,500	2,500
Farm Gate Family	1,000	1,000	1,000
52nd Week extra line 2	-	5,081	-
	<u>341,220</u>	<u>305,757</u>	<u>250,567</u>
<b>Expenditure</b>			
Purchase Records	282,506	283,727	269,395
<b>Less Exceptional Items</b>			
Planning Fees	385 -	4,105 -	2,880
Family Cars Costs	- 3,000 -	3,000 -	3,000
Construction Work	- -	12,233 -	47,753
Cooking Equipment	-	4,600	-
Equipment	-	2,667 -	1,443
	<u>279,891</u>	<u>257,122</u>	<u>214,319</u>
<b>Cost Less Exceptional Items</b>			
	<u>61,329</u>	<u>48,635</u>	<u>36,248</u>
<b>Farm Profit</b>			
	<u>11,222</u>	<u>5,428</u>	<u>4,506</u>
<b>Street Food Profit</b>	note 1		
	<u>50,107</u>	<u>43,207</u>	<u>31,742</u>
<b>Profit on Eggs &amp; Chicken</b>			

note 1  
**Street Food P&L**

	<b>13/14</b>	<b>12/13</b>	<b>11/12</b>
<b>Income</b>			
South Ken/BG	21,825	25,496	27,405
	-		
Swiss Cottage	8,250		
Bloomsbury	40,720	12,829	
	<u>70,795</u>	<u>38,325</u>	<u>27,405</u>
<b>Expenditure</b>			
Market Rents	4,000	2,400	1,540
Van Costs	4,620	2,880	1,320
Staff	13,792	7,920	6,600
Bookers (wholesale)	17,000	11,417	5,807
Thai Food (wholesale)	4,521		1,852
Farm Chicken	13,480	7,680	5,280
Bottled Gas	2,160	600	500
	<u>59,573</u>	<u>32,897</u>	<u>22,899</u>
<b>Profits Generated</b>	above		
	<u>11,222</u>	<u>5,428</u>	<u>4,506</u>