

The Planning Inspectorate

ENFORCEMENT NOTICE APPEAL FORM (Online Version)

WARNING: The appeal must be received by the Inspectorate before the effective date of the local planning authority's enforcement notice.

Appeal Reference: APP/C3430/C/22/3306177

A. APPELLANT DETAILS

Name Mrs Caroline Anning

Address Willow Farm
Hollies Lane
Pattingham
Wolverhampton
WV6 7HJ

Preferred contact method

Email ☐ Post ☒

A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice?

Yes ☒ No ☐

Additional Appellant: Mr Gary Anning
Appeal Reference: APP/C3430/C/22/3306178

B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes ☒ No ☐

Name Mr Justin De Vries

Company/Group Name The Rural Planning Company

Address

Phone number

Email

Your reference J007536

Preferred contact method

Email ☒ Post ☐

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

LPA reference number (if applicable)

Date of issue of enforcement notice

Effective date of enforcement notice

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address? Yes ☒ No ☐

Address

Willow Farm
Hollies Lane
Pattingham
Wolverhampton
WV6 7HJ

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site? Yes ☒ No ☐

Please describe the health and safety issues

What is your/the appellant's interest in the land/building?

Owner ☒

Tenant ☐

Mortgagee ☐

None of the above ☐

E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? Yes ☐ No ☒

(a) That planning permission should be granted for what is alleged in the notice. ☒

The facts are set out in

☒ see 'Appeal Documents' section

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact. ☐

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development"). ☐

(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. ☐

(e) The notice was not properly served on everyone with an interest in the land. ☐

(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. ☒

The facts are set out in

☒ the box below

See attachments for ground a

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why. ☒

The facts are set out in

☒ the box below

See attachments for ground a

F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations ☒

(a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes ☐ No ☒

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes ☐ No ☒

2. Hearing ☐

3. Inquiry ☐

G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes ☐ No ☒

2. Are there any planning reasons why a fee should not be paid for this appeal? Yes ☐ No ☒

If no, and you have pleaded ground (a) to have the deemed planning application considered as part of your appeal, you must pay the fee shown in the explanatory note accompanying your Enforcement Notice.

H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes ☐ No ☒

I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

☒ see 'Appeal Documents' section

02. Plan (if applicable and not already attached)

☒ see 'Appeal Documents' section

J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

Signature

Mr Justin De Vries

Date

01/09/2022 14:31:30

Name

Mr Justin De Vries

On behalf of

Mrs Caroline Anning

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

K. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to appeals@planninginspectorate.gov.uk. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number.

The documents listed below were uploaded with this form:

Relates to Section:	GROUPS AND FACTS
Document Description:	Facts to support that planning permission should be granted for what is alleged in the notice.
File name:	Appendix 1 - Appeal decision 3253786.pdf
File name:	Appendix 2 - Refusal to determine app ref 21.00531.pdf
File name:	Appendix 3 - PAP LETTER 10.06.21.pdf
File name:	Appendix 4 - Letter from LPA planning department.pdf
File name:	Appendix 5 - Letter from LPA solicitor.pdf
File name:	Appendix 6 - 7536_Planning Statement.pdf
File name:	Appendix 7 - 7536_Supporting Statement.pdf
File name:	Appendix 8 - Elevations and Floor Plan_Willow Farm.pdf
File name:	Appendix 9 - 7536_Landscaping Statement.pdf
File name:	Appendix 10 - Supporting Letter from DP Manning & Co.pdf
File name:	Appendix 11 - Financial Summary.pdf
File name:	Appendix 12 - Appeal decision of previous Notice appeal.pdf
File name:	Appendix 13 - Acorus Report - Nov 19.pdf
File name:	Appendix 14 - Councils Planning and Agricultura case.pdf
File name:	Appendix 15 - Appeal Decision P_2016_00840.pdf
File name:	Appendix 16 - Appeal Decision 3199408 Home Farm.pdf
File name:	Appendix 17 - Nix SMD info 1.pdf
File name:	Planning Statement.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	01. The Enforcement Notice.
File name:	3. Enforcement Notice Willow Farm 2-8-22.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	02. The Plan.
File name:	7536_Location Plan_Willow Farm.pdf
File name:	7536_Block Plan_Willow Farm.pdf

Completed by MR JUSTIN DE VRIES

Date 01/09/2022 14:31:30

Appeal Statement to the Secretary of State

**Against the Enforcement Notice issued by
South Staffordshire District Council**

for

Alleged breach: Material change of use of land to mixed use
residential and agricultural and siting of caravan and wooden
extension and construction of a bund

LPA reference 18/00676/UNCOU

At

Land at Willow Farm
Hollies Lane
Pattingham
Wolverhampton
WV6 7HJ

Appellant

Mr and Mrs G S Anning

Planning Consultants

Justin de Vries BSc (Hons) MSc MRTPI
Angela Cantrill BSc (Hons) MRICS FAAV

Providing planning solutions for FORMAT???

agriculture | equestrian | rural business | residential



Appeal summary	
Description	<p>Appeal against the Enforcement Notice issued by South Staffordshire District Council for:</p> <p>Material change of use of land to mixed use residential and agricultural and siting of caravan and wooden extension and construction of a bund</p> <p>LPA reference 18/00676/UNCOU</p>
Site address	<p>Land at Willow Farm Hollies Lane Pattingham Wolverhampton WV6 7HJ</p>
Appellant	Mr and Mrs G S Anning
Local Planning Authority	South Staffordshire District Council
Job reference number	J007536
Planning consultant details	<p>The Rural Planning Co, The Farm Office, Millridge Farm, Parsons Lane, Hartlebury, Nr Kidderminster, Worcestershire, DY11 7YQ.</p> <p>Telephone: 01299 667344 Email: team@theruralplanningco.co.uk</p>
Documents submitted	<p>Appeal Statement</p> <p>Documents pertaining to application case:</p> <p>Application Form</p> <p>Enforcement Notice</p>
Appendices	<p>Appendix 1 – Appeal decision 3253786</p> <p>Appendix 2 – Refusal to determine app ref 21.00531</p> <p>Appendix 3 - PAP Letter 10.06.21</p> <p>Appendix 4 - Letter from LPA planning department ref 21.00887</p> <p>Appendix 5 - Letter from LPA solicitor</p> <p>Appendix 6 - Planning Statement Willow Farm</p> <p>Appendix 7 – Supporting Statement Willow Farm</p> <p>Appendix 8 - Elevations and Floor Plan Willow Farm</p>

	<p>Appendix 9 - Landscaping Statement</p> <p>Appendix 10 – Supporting letter from DP Manning and Co</p> <p>Appendix 11 – Financial Summary</p> <p>Appendix 12 - Appeal decision of previous Notice appeal</p> <p>Appendix 13 - Acorus Report - Nov 19</p> <p>Appendix 14 - Councils Planning and Agricultural case</p> <p>Appendix 15 - Appeal Decision P_2016_00840</p> <p>Appendix 16 - Appeal Decision 3199408 Home Farm</p> <p>Appendix 17 - Nix SMD info 1</p>
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1.0 Introduction

- 1.1 This appeal statement sets out the Appellant's case in respect of a planning enforcement notice (hereafter referred to as the 'Notice') issued by South Staffordshire Council (hereafter referred to as the 'LPA') on 2nd August 2022 alleging a breach of planning control at Land at Willow Farm, Hollies Land, Pattingham, Wolverhampton, WV6 7HJ (referred to as the 'Appeal Site').
- 1.2 A plan showing the Appeal Site edged in a red line has been submitted with this application.
- 1.3 In assessing an enforcement appeal it is necessary to first determine whether what is alleged in the Notice constitutes development as defined in section 55 of the 1990 Act. Section 55(1) of the 1990 Act defines two limbs of development – operational development and the making of a material change of use. Operational development means the carrying out of building, engineering, mining or other operations in, on, over or under land. Section 55(1)(a) defines building operations as, amongst other things, structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder.
- 1.4 The breach of planning control alleges:
 1. Without planning permission, the making of a material change of use of the land, to a mixed use for residential and agricultural use together with the siting of a caravan with a wooden extension to facilitate that material change of use.
 2. Without planning permission, unauthorised operational development consisting of an earth bund.
- 1.5 The appeal is submitted under Grounds A, F and G.
- 1.6 Ground A:

"that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;"
- 1.7 Ground F:

"the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary either to remedy any breach of a planning control or to remedy any injury to amenity which has been caused by any such breach; and/or"
- 1.8 Ground G:

"any period specified in the notice falls short of what should reasonably be allowed."
- 1.9 With regards to grounds A and G, this appeal statement will note the proposal formally

submitted to the LPA for determination. This sought to overcome the concerns as raised under the previous appeal on the Appeal Site. The application included the replacement of the existing caravan with a wooden log cabin (appendix 8) and the introduction of new type of farming to diversify the business. That of calf rearing.

- 1.10 The LPA declined to determine the application as were of the opinion that that proposed was the same as the scheme considered under the previous appeal. While the statement does not seek to argue that the very broad outline of the application is for an agricultural worker's dwelling, there are important material differences. To allow for the necessary specialist knowledge the statement is jointly produced by a Chartered Town Planner and Rural Chartered Surveyor (credentials below).
- 1.11 The Inspector is encouraged to read this appeal statement against the submitted planning statement for the proposal (appendix 6). In brief summary the differences between the cases are:
- (a) Expanding the nature of the agricultural enterprise at Willow Farm from purely a sheep based enterprise to a mixture of sheep and calf rearing which goes to the crux of establishing an essential need as per policy requirements;
 - (b) Demonstrating that the enterprise has been founded on a sound financial basis with an updated business plan and supporting budgets;
 - (c) Demonstrating that the proposal does not harm the rural character and appearance of the countryside by the replacement of the mobile home with a log cabin (appendix 8) which will be sited in a different location, comprise different more sympathetic materials and amount to a new design for the consideration of the local planning authority;
 - (d) Demonstrating that the proposal displays very special circumstances to overcome the harm to the Green Belt.
- 1.12 The statement will also demonstrate that the level of enforcement required under the Notice is excessive. As such ground F has been put forward against that being enforced.

2.0 The Authors

- 2.1 Angela Cantrill BSc (Hons) MRICS FAAV is a principal planning consultant within The Rural Planning Company covering the Midlands and focussing on Shropshire, Staffordshire, Worcestershire and Herefordshire. She is a qualified Rural Chartered Surveyor and Agricultural Valuer with over 15 years' experience. Specific agricultural and rural experience includes preparing planning proposals for property in rural locations, residential and commercial uses on behalf of farmers and landowners. Assessment and implementation of diversification projects, liaising with lenders and preparing business plans. Whole asset approach to advise on and implement land use agreements and advice to land owner occupiers, tenants and farmers. Project management of development schemes, whilst considering succession, tax planning, agricultural law, Basic Payment Scheme, rural grants and environmental schemes. Angela is retained by existing clients to assist in management

and planning of farming and other rural businesses, reviewing and analysing business position. Particularly skilled in getting clients to consider, discuss and plan their objectives in context of their personal, family, financial and business position.

- 2.2 Angela submits applications for temporary agricultural worker's dwellings throughout the Midlands based on temporary consent to establish the viability of the proposed and new enterprise. This is not uncommon and a principle which is generally accepted where the business is required to demonstrate the viability to the LPA when superseding the consent with a permanent consent.
- 2.3 Justin de Vries BSc (hons) MSc MRTPI is a principal planning consultant for the Rural Planning Company working across the Midlands within the rural districts in particular Worcestershire, Herefordshire, Shropshire and Staffordshire. Justin has worked in the profession since 2007 and became a Chartered Town Planner in May 2014. He has worked in local authority and for private practise in both rural and urban settings. The types of applications he has handled have been diverse, although over the last four years his experiences have focused on developments within the Green Belt. The proposals have included obtaining planning permission for agricultural developments, prior notifications (such as Class R and Class Q), rural housing and commercial developments.

3.0 Appeal site and surroundings

- 3.1 The Appeal Site comprises an agricultural holding, including land, and a farm building. It extends to approximately 16 acres and is identified in red in Figure 1 below. Pattingham is situated on the western fringe of the West Midlands conurbation. The local landscape is still dominated by agricultural businesses and agricultural land management however, with increased residential development over the last 50 years or so, leisure, recreational and equestrian pursuits are also now a common feature.
- 3.2 The Appeal Site is located on Hollies Lane, with an existing agricultural field gate accessed over a shared drive with Grange Farm, of which it once formed part.



Figure 1: Aerial map of the site showing existing and proposed elements and the surrounding area

- 3.3 The Appeal Site is located within a predominantly rural setting with fields to the east and built form adjacent or close to the northern, western and southern boundaries to the land. The Appeal Site forms part of the wider total 39 hectares spread across several widely separated parcels of land.
- 3.4 The Appeal Site's northern boundary consists of the established mature hedgerow which runs along Hollies Lane itself. The Appeal Site is elevated above the wider adjoining arable land which falls to the south and east. The topography is such that the Appeal Site is not readily visible from the Wolverhampton Road (to the south) which lies beyond the associated land which is in the appellant's ownership.

4.0 Relevant planning history

- 4.1 A building for agricultural purposes was approved by the LPA under reference 20/00223/AGR on 30th April 2020.
- 4.2 Under application reference 19/00462/FUL planning permission was refused for the stationing of a static caravan as a temporary agricultural workers dwelling. This was subsequently dismissed at appeal under reference APP/C3430/W/20/3253786 (appendix 1). This is referred to in the appeal statement as the 'previous appeal'.
- 4.3 As will be assessed in greater details in sections 7 and 8 of this appeal statement, an application was submitted to the LPA which sought to overcome the concerns raised in the previous appeal. This was given two references by the LPA: 21/00531/FUL and

21/00887/FUL. The LPA declined to determine the proposal. The case will be referred to in the appeal statement as the 'current proposal'.

- 4.4 This Notice follows the enforcement notice which was served on 8th November 2021. The earlier Notice was appealed under references APP/C3430/C/21/3288846 and APP/C3430/C/21/3288847. The case was quashed as the Notice was defective in a number of areas that the Inspector was not of the opinion that it could be amended without injustices being done (appendix 12). This is referred to as the 'previous Notice' in this statement.

5.0 Relevant planning policy

5.1 National Planning Policy Framework (NPPF)

- 5.1.1 The NPPF was revised in July 2021 and sets out the Government's planning policies for England and how these should be applied by Local Planning Authorities (LPAs). Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. National policy statements form part of the overall framework of national planning policy and may be a material consideration in preparing plans and making decisions on planning applications.
- 5.1.2 At its core, planning is about comparing the benefits of a proposed development with the harm it would cause. Proposals can involve competing planning policies which need to be weighed up in coming to a decision. The more important an impact, the more weight it is given in the overall planning balance. In considering the principle the important elements in the planning balance are economic development and the necessity for the temporary farm workers dwelling against the impact of the development on the Green Belt.
- 5.1.3 The definition of sustainable development is at the heart of the NPPF. This has been considered to be a golden thread running through both plan making and decision taking. The NPPF provides some guidance on what weight should be given to different factors. In some cases it even goes so far as to suggest the exact weight those factors are given in the decision making process.
- 5.1.4 Paragraph 9 of the NPPF states that:
- 'Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.'*
- 5.1.5 Paragraph 80 with regards to isolated homes in the countryside and the essential need. This includes the essential need for a rural worker to live permanently at or near their place of work in the countryside.
- 5.1.6 Paragraphs 84 and 85 seek to support economic growth in rural areas to create jobs and prosperity by taking a positive approach to sustainable new development. Specifically, support for the sustainable growth and expansion of all types of business and enterprise in

rural areas is given, both through conversion of existing buildings and well-designed new buildings. The promotion of development and diversification of agricultural and other land-based rural businesses is also highlighted.

5.1.7 Section 13 entitled 'protecting the Green Belt'.

5.1.8 Section 12 entitled 'achieving well designed places'.

5.2 South Staffordshire Council Core Strategy

5.2.1 The South Staffordshire Council Core Strategy (herein referred to as the 'local plan') was adopted in December 2012. The plan was prepared to help to shape a sustainable future for South Staffordshire. The Core Strategy is at the heart of the Local Plan and sets out the long-term vision, objectives and planning policies to deliver the vision and secure a sustainable future for the District.

5.2.2 The most relevant policies of the Core Strategy are:

Core Policy 1: The Spatial Strategy

Policy GB1: Development in the Green Belt

Core Policy 2: Protecting and Enhancing the Natural and Historical Environment

Policy EQ4: Protecting and enhancing the character and appearance of the landscape

Core Policy 4: Promoting High Quality Design

Policy EQ11: Wider Design Considerations

Policy EQ12: Landscape

Core Policy 9: Rural Diversification

Policy EV5: Rural Employment

Policy EV8: Agricultural

6.0 Reason for Notice

6.1 The LPA's reasons for issuing the Notice are set out in section (4) of the Notice.

6.2 The LPA's reasons for issuing the Notice refers to paragraphs 137, 147 and 148 of the NPPF and GB1 of the Core Strategy Development Plan with regards to the Green Belt. Policy EQ4 and EQ11 regarding to design.

7.0 The appellant's case

Background

7.1 Gary and Caroline Anning, the appellants, begun dating in 2005. Both found that they had a background and passion for farming so decided to rent some land for sheep rearing. At the time they had other careers with Gary working in a slaughter house. Although after three operations he realised that he had to give up his current lifestyle and find a different way to

live. Given this the couple decided it was worth taking a chance and went full time into farming with a small enterprise. This allowed them to follow their passion, helped with their life circumstances and earned a modest income.

- 7.2 Prior to moving into their current home, the caravan on the Appeal Site, they made enquiries with the Local Authority to determine if they required any permissions to do so. The person they spoke with explained that this was not an issues. The couple accepted the advice on face value and moved onto the land. They remained at the Appeal Site for a period of approximately 12 months before being visited by the Planning Enforcement Officer who, at that stage explained that they would require planning permission.
- 7.3 This lead to the submission of a planning application for the caravan as a temporary agricultural worker's dwelling in connection with the lambing and procurement enterprise, this second element is no longer operating from the Appeal Site. This was unfortunately turned down at appeal.
- 7.4 Currently the enterprise has changed. In order to diversify, the proposal is to introduce calf rearing to the farm. The economic benefit of this is to lower the risk to the enterprise by providing a different income stream. This was considered to be a genuine attempt to overcome the planning objections as set out in the appeal.
- 7.5 As such an application for the siting of a temporary agricultural worker's dwelling to serve this enterprise was submitted to the LPA on 12th May 2021, reference 21/00531/FUL. This sought to address the concerns raised by the Inspector with regards to the previous appeal at the Appeal Site. The local authority declined to determine this application as they considered that there was no material difference between that proposed and the scheme determined at appeal (appendix 2).
- 7.6 This was subsequently followed by a Pre-Action Protocol (PAP) letter with the view to taking the case to Judicial Review (appendix 3). The letter set out the legislation with regards to the case and the reasons why that set out before the LPA materially differs from the appeal case. This was followed by a letter from the LPA planning department and solicitor setting out why the application would not be determined (appendix 4).
- 7.7 Assessments of applications for rural worker's dwellings form a specialist and complex area of development management. To fully understand and appreciate the differences between the previous appeal and the subsequent current proposal, the LPA were strongly encouraged to discuss the proposal with their agricultural consultant. Unfortunately, this opportunity was not sought by the LPA who mistakenly identified the 'cattle' element of the appeal decision as being the same as the 'calf rearing' element of the submitted applications.
- 7.8 Under the previous Notice, the LPA procured the services of an agricultural surveyor.
- 7.9 Under the previous appeal (appendix 1) on the Appeal Site, in their agricultural evaluation report (appendix 13), the rural surveyor noted that *'The farm enterprises (as detailed in the*

submitted documents) are as follows:-

- A flock of 270 breeding ewes and 10 rams;*
- A procurement activity of 200-220 animals per week (i.e. sheep and lambs).*

It is understood that the enterprises as above are ongoing and that the intention is to increase the sheep flock to 350 ewes.'

- 7.10 In contrast, under the previous Notice, in paragraph 2.2 of the report (appendix 14) they confirm that *'The latest proposal is to increase the breeding sheep flock to 350 ewes over a three-year period, and to develop a calf-rearing enterprise which will, after three years, produce 300 reared calves'.*
- 7.11 This has necessitated a different consideration of the farming operation on the Appeal Site particularly in the assessment of different labour calculations and an entirely different level of functional requirements for the calf rearing enterprise. In their agricultural report with the previous Notice (appendix 14) point 3.10 *'The calf rearing operation would give rise to an essential need when fully established.'* Albeit fail to consider the functional and welfare needs of the 270 ewes (rising to 350 in year 3) during lambing season, at Willow Farm.
- 7.12 This contrasts with the comments made in agricultural evaluation report (appendix 13), which considered only the sheep rearing business, by the rural surveyor that stated: *'the basis of the enterprises forming the business relate to the keeping of sheep, it is considered that there is not an essential need for residential accommodation at Willow Farm.'*
- 7.13 This bears witness in demonstrating that the LPA made a poor decision in refusing to determine the previous application for calf rearing business on the Appeal Site. This led to the serving of the previous Notice which was appealed and quashed and that currently before the Inspector.

8.0 Ground A – Planning Permission ought to have been granted

- 8.1 It is set out by the appellants, that the case currently before the Inspector should be approved, which will allow the continued successful operation of the enterprise.
- 8.2 Whilst the appellants' existing farming business is successful and profitable, with a large proportion of the farming income being derived from sheep production, the appellants need to spread their business risk and seek alternative farming incomes from different enterprises.
- 8.3 As a result of Brexit and a reduction to farm incomes and support payments, alternative income streams are being sought. Diversity of enterprises is becoming the key to mitigate market fluctuations in the agricultural industry.
- 8.4 The price for commodities and products used by the farm has increased significantly. Diesel prices have increased from £0.45 to £1.45 per litre; fertilisers were £278 and are now £1060 per tonne and wheat (used in pellets to feed the livestock) have increased by 50% over the

past four months. This is putting tremendous pressure on the business.

- 8.5 This is multiplied by the fact that the price of household utilities and fuel have been increasing. The resulting effect will be that people spend less money on food.
- 8.6 The knock on effect for farmers are: significantly higher expenses and falling income makes an already volatile industry even more unpredictable. As such the only option for farmers is to diversify.
- 8.7 The farm business has secured an opportunity for rearing calves, the applicant intends to draw on her experience in rearing youngstock and develop a calf rearing business from the Appeal Site. After much research and business planning, the applicant identified that a modern, efficient calf rearing enterprise would be most profitable on the small area, whilst utilising the applicant's existing skills and stockmanship.
- 8.8 The enterprise has been operating on the Appeal Site since 2007, during which time, the applicants have grown their flock of breeding ewes to 270, with plans to increase this further to 350, in addition to the new calf rearing enterprise which will ensure the longer term viability of the farming business.
- 8.9 Some of the comments made in the agricultural evaluation report (appendix 13) of the previous Notice seem to misunderstand the proposed operation on the Appeal Site as such were incorrect. For clarity the establishment of the calf rearing enterprise does not require any significant amount of land as the calves are housed inside (in the igloos and under cover in the verandas) for the duration of their time on farm. The sheep enterprise is operated over land which is in the ownership of several landlords and for an intense period of 2-3 months is operated from Willow Farm, when undertaking lambing.
- 8.10 During the course of the previous Notice, which was quashed, the agricultural evaluation report (appendix 13) made reference to lambing indoors. The functional need comes from lambing and the calf rearing enterprise, which take place on the land at Willow Farm. The lambing will always take place at Willow Farm, with ewes lambed in batches, so that the appellants can monitor ewes during the process of giving birth and be within sight and sound of the animals, so they can hear, see and identify issues arising and attend to them quickly.
- 8.11 Lambing takes place outdoors and there is no need for ewes to be brought into a building prior to lambing. If the welfare of livestock is at risk, then they can be closely monitored on the land at Willow Farm and housed within the building in case of emergency (in the event that lambs are weak and at risk of dying), as permitted under paragraph A.2(1)(a) under circumstances set out under D.1(3) (b) (i) and (ii) of Part 6 of the GPDO.
- 8.12 The main point is in the functional need to be on the Appeal Site for the **majority of the time** relates to the new calf rearing enterprise and sheep enterprise. The need for the functional day to day management of the stock is outlined in the Supporting Statement (appendix 7) with the need for a skilled stock person to be present. Other livestock which

are kept away from the farm are those which are established and healthy, once the lambs are strong enough and established (getting enough milk from their mothers/no issues arising), they are moved from the main farm to the rented land where they can continue to grow on.

- 8.13 In the previous Notice, the LPA's Agricultural Assessment referred to the calf rearing enterprise in connection with the number of SMDs required to operate the enterprise. The assessment apportioned the calf numbers for the time they are on farm (reference the highlighted section in the excerpt below). This approach is incorrect. The John Nix Farm Pocket Management Book 2022 recommends that "for the livestock listed (including calves up to the age of 6 months) SMDs per annum should be based on the numbers produced (sold) during the year. For all other livestock, average numbers on the farm at any one time during the year should be used (i.e. average numbers at the end of each month)" This figure should not be apportioned because the standard figure relates to all calves up to the age of 6 months old (Copy of relevant section of John Nix Farm Pocket Management Book 2022 at Appendix 17).

Enterprise Type	Unit	No.	SMD/Unit	Enterprise Total
Breeding ewes (incl lamb and shearing)	Head	270	0.5	135.00
Breeding rams	Head	12	0.5	6.00
Calf rearing (3-11 wks, round up to 3mths)	Head	300	0.86	258.00
Grassland Management	Ha	39.46	0.4	15.78
Haylage Production	Ha	12.14	1.6	19.42
Grassland reseeding (20 acres every 5 yrs)	Ha	1.62	0.6	0.97
Sub-total				435.18
Maintenance, Repairs and Management factor @15%				65.277
Total				500.46
Equivalent Standard Workers @ 275 days P.A. at Year Three				1.82

Figure Three: - Standard Labour Calculation for Year Three

- 8.14 The SMD calculation for the calf rearing enterprise contained in the current submissions are therefore correct.
- 8.15 It is the intention of the appellants to increase the sheep enterprise in due course, however this has not been budgeted for in the current application and is not the sole focus of development of the business. As set out the main area of development and expansion comes from the calf rearing enterprise. Any increase in ewe numbers will of course increase the labour requirement.
- 8.16 The Appellants' existing agricultural business comprises rented land on tenancies and grazing arrangements; the functional justification for the new dwelling will predominantly come from the establishment of a cattle rearing enterprise. For this reason, the applicant intends to initially site a temporary dwelling, allowing the new enterprise to establish and allowing the applicant to prove long term sustainability and viability prior to applying for a permanent dwelling.

- 8.17 As such an application was submitted for a temporary dwelling for an agricultural worker to support an existing agricultural business comprising an established flock ewes, which lamb between January/February and April every year, and the development of a new calf rearing enterprise.
- 8.18 However, given the outcome of a previous Notice it was considered by the LPA that the current proposal presented:
- (i) no new substantive evidence submitted;
 - (ii) no material change in circumstances; and
 - (iii) no relevant change in national or local planning policy.
- 8.19 It follows that in their view the current proposal does not represent a genuine attempt to overcome the LPA's or the Inspector's concerns and so the LPA exercised its discretion to decline to determine under s70A. The reasoning was predominantly based on the fact that the calf rearing business did not currently exist.
- 8.20 The policy in the Local Plan that considers agricultural worker's dwellings is Policy EV8 (g). Under the sub-section entitled 'temporary dwelling', there is no requirement to demonstrate that the enterprise is operational at time of application. Neither is this requirement reflected in the reasoned justification which states that support for agricultural worker's dwellings given their contribution to the local economy.
- 8.21 Another concern of the LPA was that the previous application was not materially different from the previous appeal. The previous application had fundamental and important material differences from that of the original planning application, which overcome the planning objections as set out below:
- a) Effect on character/appearance - Landscaping Statement submitted addressed the impact on the character of the area-the proposed mobile home, in the form of a log cabin (appendix 8).
 - b) Essential and Functional need – The assessment of functional need is specific to the proposed farming enterprise. The nature of the business has changed from purely sheep based to sheep and calf rearing, both of which provides for a year-round essential need not found in the recent appeal decision. The element of functional need associated with calf rearing has not formed any part of the original application assessment or appeal decision. This essential element to an application of this nature is therefore substantially different to the previous proposal. The Supporting Statement (appendix 7) and Landscaping Statement (appendix 9) submitted address this.
 - c) Sound financial basis – The financial assessment of an entirely different enterprise will require a completely different assessment of 'sound financial basis'. As per the functional need assessment, the financial basis of the proposed calf rearing

enterprise has not been assessed. This too therefore, proposes a significant change to the original application submissions. Investment, costs and income will be entirely different to a purely sheep based system as demonstrated in appendix 11.

- d) Adverse impact on the Green Belt and the landscape – Needs of business outweigh harm to justify the Very Special Circumstances. The application proposes significantly different siting and design, with a log cabin style dwelling (appendix 8) of natural material finishes, which would appear differently in the surrounding landscape, as opposed to a light coloured static caravan, which was referenced in the previous appeal as appearing 'isolated' being visible from 'more distant locations in the surrounding countryside'.

8.22 Given the above, the application proposed is materially different to the extent where the local authority should be required to consider the case.

Functional need for an agricultural worker's dwelling

- 8.23 The LPA will support proposals for agriculture and related development which is consistent with national policy for the protection of agricultural land and other local planning policies by supporting proposals for temporary and permanent agricultural and occupational workers dwellings provided that they satisfy the criteria set out in policy where there is clear evidence of a firm intention and ability to develop the enterprise concerned; there is a clear functional need which cannot 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; clear evidence that the proposed enterprise has been planned on a sound financial basis; and the proposal satisfies all other normal planning requirements.
- 8.24 The current application primarily relates to a baby calf rearing enterprise, which is a separate and a substantially different enterprise. The baby calves are reared only to approx. 12 weeks of age, then sold on. The baby calves command attentive management which is outlined in the Supporting Statement, which is referenced in the submitted Planning Statement.
- 8.25 As demonstrated in the submitted Supporting Statement (appendix 7), there is a clear functional need for the applicant to be on the Appeal Site at most times of the day and night, every day of the week. The functional need is clear and is based on the need to be within sight and sound of the young animals, at most times of the day and night, every day of the week, in case of welfare emergency. It is essential that this need is fulfilled on the Appeal Site; not further afield, where the ability to react to emergencies and opportunities to detect problems is diminished due to distance. The Inspector in the appeal at Land West of Home Farm Close (appendix 16, as further discussed below) concurred with this view. It is essential that problems are identified and resolved quickly to reduce the risk of loss, in terms of both loss of life and financial loss through the inability to physically and functionally support the agricultural business.

Green Belt

- 8.26 Paragraph 147 of the NPPF states that 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. This is mirrored in policy GB1 of the Core Strategy.
- 8.27 In coming to an informed decision, it is important to weigh up if the case presents any Very Special Circumstances (VSC). This is provided for in paragraph 143 of the NPPF where inappropriate development should not be approved unless VSC can be demonstrated.
- 8.28 In answering the question: "*what constitutes a VSC?*" this will depend on the weight of each of the factors put forward, and the degree of weight to be accorded to each is a matter for the decision maker. This stage will often be divided into two steps. The first is to determine whether any individual factor taken by itself outweighs the harm and the second is to determine whether some or all of the factors in combination outweigh the harm.
- 8.29 In the case currently before the Inspector the VSC are created by the need for the appellant to be on the Appeal Site due to the operational necessity, to be within sight and sound of the animals, primarily on welfare grounds. Section 9 of the Animal Welfare Act 2006 requires those responsible for animals to take positive steps to ensure they care for their animals properly and in particular must provide for the five welfare needs, which are:
- need for a suitable environment
 - need for a suitable diet
 - need to be able to exhibit normal behaviour patterns
 - need to be housed with, or apart, from other animals
 - need to be protected from pain, suffering, injury and disease.
- 8.30 In their Statement of Case for the previous application, appeal and Notice, the LPA went to some lengths to highlight that the development is inappropriate development within the Green Belt (Section 13 of the NPPF). For which this Statement does not seek to disagree. However, there are numerous examples of planning permission being granted for rural workers dwellings as the essential need is considered to create the VSC to overcome the policy objections.
- 8.31 One such example, which is comparable to the case currently before the Inspector is Land West of Home Farm Close (appendix 16). In this case the Inspector considered a permanent home for a rural worker in the Green Belt. Similarly to this case at Willow Farm, the appellant had a number of different animal species. Although only the cattle were considered for purposes of the application, with the pigs and sheep were discounted. In this case the Council's Rural Surveyor accepted that the provision of a dwelling should be actively considered.
- 8.32 Similar to this case, the Council referred to dwellings available in villages in the vicinity of the various plots of land which made up the business. In that case though it was the

Council's agricultural consultant who confirmed that a person needed to be within sight and sound of the livestock.

- 8.33 The case set before the Inspector in that appeal meant that they attached substantial weight to the essential and functional requirements of the business. This they felt clearly outweighed the harm to the Green Belt.

Economic and social benefits

- 8.34 Weighing positively in favour of this case are the economic and social benefits such a scheme brings.
- 8.35 Section 6 of the NPPF is entitled 'building a stronger, competitive economy'. In paragraph 81 of this section the government sets out the amount of weight that should be attributed to economic development which is 'significant'.
- 8.36 As such the impact on the Green Belt needs to be balanced with the economic benefits to aid the effective running of the business. As set out in the planning statement, the calf rearing enterprise requires close supervision of the animals year-round.
- 8.37 Farming is vital for the British economy and food security. As a sector it is worth over £120 billion and employs over 4 million people with over 149,000 businesses. Because of this farming offers huge potential to the rural economy as a whole, providing business to business commerce enabling growth throughout the sector. However, where the enterprise is restricted in its development and diversification, it is likely to be exposed to a large amount of risk that gives it an uncertain future.
- 8.38 Farming is an extraordinarily difficult and volatile industry which is impacted by political and economic factors. Loss of subsidies following Brexit; higher competition from countries such as the United States and Australia and dependence on the weather which is impacted by the effects of climate change, to name but a few.
- 8.39 The social objective as set out in paragraph 8 of the NPPF aims to support strong, vibrant, and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. The social benefits of this scheme provide affordable housing through a temporary dwelling and will enhance the rural community in the locality.

Landscaping and design

- 8.40 Policy EQ4 sets out how proposals are required to protect and enhance the character and appearance of the landscape.
- 8.41 Policy EQ11 is primarily concerned with achieving the highest quality that takes into account local character and distinctiveness and reflects a number of principles as set out in the policy.
- 8.42 Concerns with regard to design and impact on the landscape from the existing caravan were raised under the previous appeal on the Appeal Site. The current proposal is that the caravan

is to be replaced with a log cabin.

- 8.43 The design can be seen from the plans in appendix 8. These show a modest single storey log cabin with a slate tiled roof. The internal space consists of two bedrooms and bathrooms and a kitchen living space.
- 8.44 The architecture of the log cabin consists of an elongated form with a pitched roof which mimics the design of traditional agricultural buildings. The materials, timber and slate, are natural materials and will harmonise with the rural setting. The appellants would be willing to accept a condition that included the addition of soft landscaping to further screen the building from the long distance views of the Appeal Site.
- 8.45 Although as will be discussed later in this appeal statement, the current caravan and any structure fitting the description of a caravan in Caravan Sites Act can be considered as a chattel. Given the parameters as set out in section 9 of this statement, the positioning a caravan on the land may not require planning permission. As such considering its impact on the landscape could be considered a red herring.

Caravan and wooden construction

- 8.46 While the proposals seeks to replace the existing caravan with a wooden structure, the Statement will briefly consider the existing structure.
- 8.47 The caravan is described as 'static' which makes no difference to the definition of a caravan but the Statement would like to highlight that the caravan still has wheels.
- 8.48 The wooden construct to the east side of the caravan, while close to is not adjoined to the caravan and was not works carried out by a builder, as such the Statement questions if this can be considered as an 'extension'.
- 8.49 Appendix 15 notes a case for a static caravan in association with a farming operation. There are differences as this appeal was for campsite, a plant nursery, willow trees and living structures, and the production of herbs and vegetables. However, in similarity, there was no dispute that the site is not within a settlement boundary and that due to its siting it is physically separate from a settlement.
- 8.50 The Inspector noted of the enterprise on the site that:

'It is labour intensive and relies in no small measure upon the appellant's knowledge of the land, the business and her willingness to work extremely long hours. Due to the small profit margins, the enterprise is less resilient to loss than larger commercial ventures meaning it is imperative that crops are protected.'

- 8.51 In that case the inspector appreciated that the business was still in its infancy and that it was *'inconceivable that the business could afford to pay out money each month for rent or mortgage payments'*. These are all factors that should for the same consideration for Willow farm.

8.52 Interestingly in this appeal case the site was on top of a hill and clearly visible it was in the most appropriate position to serve the farm.

8.53 Given the changing situation, this contrasts with the situation at Willow Farm. The construction of the metal barn has introduced further built form on the Appeal Site. The barn is the dominant structure on the Appeal Site which screens some views of the caravan from the west. The construction of the barn also allows for a better acceptance of the log cabin on the plot which appears as part of the existing operation.

Points raised by the LPA on previous appeals

8.54 The LPA's Statement of Case for the previous appeals continued to make reference to a dwelling that the appellants once owned. This Statement intends to dwell on this point briefly to add some context and then question its relevance to the case before the Inspector.

8.55 As this Statement has been at pains to highlight a person needs to be within sight and sound of the animals. As such the previous dwelling, being a 15 minute drive from the Appeal Site was inappropriate.

8.56 The LPA may make the point the appellants moved onto the land without planning permission first having been obtained. The statement wishes to make two points to this. Firstly it is not an offence to carry out development without first obtaining any planning permission required for it as specified in Section 73A of the 1990 Act. Secondly, as far as they were considered, having contacted the LPA, no permissions were required.

8.57 The LPA may again attempt to highlight a covenant that runs with the land. If this is to be done, I would urge the LPA to specify the relevance to the planning appeal. None of those involved with the case are solicitors or law minded and this is a private matter for the appellants. I would ask the LPA to stick to their remit of offering their opinion within the scope of planning judgement and law.

8.58 As a note to the LPA, if they require any information that has not been submitted with this appeal please do not use it to cast negativity on the appellant or their agents. Let the appellants' agents know with sufficient time to put together the information that is required and a note accepting any charges that may be incurred because of the work to be undertaken.

9.0 Ground F: Notice exceeds what is necessary to remedy the breach

9.1 Under Section 5 of the Notice the appellants are required to:

- (i) Cease the use of the Land for domestic residential purposes;
- (ii) Remove the caravan and wooden extension from the Land, (shaded blue in the approximate position shown on the red line plan);
- (iv) Remove the unauthorised operational development consisting of the earth bund from the Land, (shaded green in the approximate position shown on the red line plan).

- 9.2 The normal authority relating to reduction to a permitted level is the court case of *Mansi v Elstree RDC 1964* where a horticultural nursery use had expanded to the point where it was primarily a shop selling produce. An enforcement notice required the cessation of all retail activity but the court held that a limited ancillary retailing right existed and this should be protected. So the requirements of the enforcement notice went too far. The Mansi principle may be summarised as meaning that you can only require that part of a use to cease that made the change material.
- 9.3 Caravans are considered under the dimensions, moveability and assemblage as noted in the 1968 Caravan Sites Act (amended in 2006). The Act does not seek to provide a description of materials for the caravan or what it should look like.
- 9.4 The reports from the LPA and the appeal report from the Inspectorate in case 19/00462/FUL and the Notice, the subject of this appeal, refer to the object on the Appeal Site as a static caravan. There are no arguments forwarded that it does not meet the definition of a caravan.
- 9.5 The legal definition of a caravan has been found to be wide enough to include structures which might ordinarily be regarded as a building. However, the Courts, as in *Wyre Forest DC vs SOS (1990)*, have decided that if something falls within the statutory definition of a 'Caravan' as provided by the 1960 and 1968 Acts it cannot be a 'Building' because of its element of mobility. The two definitions are mutually exclusive.
- 9.6 Under *Wealden DC v SoS 1988* it was established that a caravan is a chattel. In that case the Council sought the removal of a caravan used to provide weatherproof storage for cattle food and shelter for the farmer, saying that this amounted to a material change of use. The inspector quashed the enforcement notice on the grounds that as the caravan was used for animal feed preparation and shelter. Such uses were ancillary to the agriculture use, and stationing the caravan was not a material change. The Council now contended that the caravan amounted to a new primary use of the land, and was not incidental to the existing use, that the use now was a mixed use, and that the change was material because the caravan was objectionable visually.
- 9.7 The Court ruled that this was not a correct interpretation of the legislation. Planning permission will definitely not be required for the stationing and use of such a caravan for any purpose which is ancillary to agriculture. As such the Notice cannot be allowed to prevent a caravan from being stationed on the land.
- 9.8 A related case of some interest is *Swinbank v SoS & Darlington BC 18/02/1987*. Here enforcement notices related to a use at a farm for the commercial storage of tractors. One of the issues was the requirement to cease the storage of tractors altogether and the appellant's right to store tractors for his own agricultural use. The court noted the ruling in *Mansi* and held that a notice could not take away existing use rights. However, it recognised a problem if the matter came before a Magistrates' Court, which might take the words in the notice literally rather than recognise the qualification. But in this case it was decided not to remit the case to the SoS for amendment of the requirement as the court

had made it clear that the notice did not bear on the use for farm tractors, and this could be quoted to magistrates. Nevertheless, the judge concluded that future litigation of this type could be avoided if a statement were inserted into enforcement notices to the effect that the notice did not affect any existing use rights or uses that were not development of land.

- 9.9 To note a caravan has been positioned on the land for a period in excess of ten years (as denoted in figure 1). Previously it was located along the western boundary to the Appeal Site. Evidence of its existence, while difficult to note from historical aerial photos as it was positioned below the canopy of a tree, is still evident on the ground.
- 9.10 While it occupied a different location to the caravan currently being considered under this application it should be considered to have been on the same planning unit. This was held in *Fuller v Secretary of State for the Environment [1987]*, where land within a single agricultural unit did not necessarily need to be contiguous. No objections were registered from the neighbours or Council to this caravan.
- 9.11 As can be seen from the previous appeal decision the Inspector did not contest that there is a functioning breeding ewe and lamb enterprise which operates from the Appeal Site. The lambing season tends to run from December to April each year. During this time it has been accepted that it is vital for a person to be on the Appeal Site in case of problems during the birthing. These include malpresentation (difficulty birthing); injury to the lambs or permanent disabilities and even on occasions death. This was highlighted in paragraph 4.1 of the LPA's Agricultural Worker's Dwelling Assessment.
- 9.12 Given the above this statement argues that the LPA are over-enforcing in this case. As such the Inspector is requested to alter the Notice to allow a caravan to, as a minimum, be on the Appeal Site for a period during the year in order to be on hand during the lambing process.

10.0 Ground G: The timeframe for compliance is unreasonable

- 10.1 A timeframe of six months for compliance with the requirements as set out in the Notice.
- 10.2 The Inspector may be of the opinion that the proposal as laid out under Sections 7 and 8 of this appeal statement is not appropriate to be dealt with by way of an Enforcement Appeal. As such this appeal statement requests that the timeframe for compliance is extended for a period of 18 months to allow further negotiations with the LPA, the submission and determination of an application with regards to the proposed calf rearing business. Additional time should be allowed if the LPA and the appellants not be able to agree, so that the proposal can be considered a planning appeal.

11.0 Conclusion

- 11.1 This appeal is against South Staffordshire District Council (the LPA) and the serving of an Enforcement Notice for the reasons as set out in section 3 of the Notice. The Enforcement

Notice is being appealed on three grounds: A, F and G.

- 11.2 Under ground A of the consideration is that the breach of planning control ought to have been granted planning permission. As the appeal statement and accompanying information have demonstrated the appellants have provided a fresh proposal with the aim of overcoming the concerns as noted in the previous appeal. The LPA have stated that they decline to determine the application as that proposed is not materially different from that under the previous appeal. Additionally, that the calf rearing enterprise has yet to begin.
- 11.3 The appeal statement highlights the material difference between the previous appeal and the current proposal. Essentially that the proposed calving enterprise has a materially different set of considerations when assessing the need for an agricultural worker's dwelling than solely the existing lambing enterprise on the Appeal Site. The fact that the calf rearing does not yet exist is not a requirement as stipulated in the Local Plan.
- 11.4 Under ground F, the appeal considers that the Notice exceed the steps reasonably necessary to remedy the breach of planning control. There is agreement amongst the parties, as shown by the previous appeal and Notice, that the Appeal Site is used for lambing. Between the months of December and April it is an accepted requirement that for animal welfare that a person is at the Appeal Site. In these instances any accommodation is seen as ancillary to the business. As such the Notice in its current form will severely restrict the enterprise and will cause harm to the animal's welfare. As such the Inspector is requested to alter the Notice to take account of the seasonal requirement for a worker to be at the Appeal Site.
- 11.5 Under ground G the appeal statement, along with the accompanying Planning Statement in appendix 6, sets out the further proposal which seeks to overcome the issues as noted under the previous appeal. The Inspector may be of the opinion that the enforcement appeal is not the correct forum to consider the current application under ground A. As such an additional period of 18 months are requested to allow for an application to be determined under the materially different proposal for calf rearing. This will allow the appellants to remain at the Appeal Site to attend to their existing livestock and establish the calf rearing enterprise.
- 11.6 Given the above the Inspector is respectfully asked to support that proposed and quash or amend the Planning Enforcement Notice.

Justin de Vries BSc (Hons) MSc MRTPI
Angela Cantrill BSc (Hons) MRICS FAAV
The Rural Planning Co
August 2022



Appeal Decision

Site visit made on 22 October 2020

by Sarah Manchester BSc MSc PhD MI EnvSc

an Inspector appointed by the Secretary of State

Decision date: 15th March 2021

Appeal Ref: APP/C3430/W/20/3253786

Land forming part of Willow Farm, Hollies Lane, Pattingham WV6 7HJ

- 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 and Mrs Anning against the decision of South Staffordshire Council.
 - The application Ref 19/00462/FUL, dated 24 May 2019, was refused by notice dated 07 February 2020.
 - The development proposed is stationing of a static caravan as a temporary agricultural workers dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal scheme was completed in October 2017. In addition to the static caravan, there is a wooden timber porch attached to the side elevation of the caravan. At the time of my visit, I saw that the location, size and appearance of the caravan and the porch correspond to the submitted details. However, the appeal only relates to the stationing of the caravan, which amounts to a material change of use of land. Therefore, I have determined the appeal on this basis.
3. Mrs Anning is named as the appellant in the appeal form, but the applicants are named in the application form as Mr and Mrs Anning. The agent confirmed that the appeal should proceed in the names of both Mr and Mrs Anning.

Main Issues

4. The main parties have agreed that that the proposal is inappropriate development in the Green Belt, having regard to Policy GB1 of the South Staffordshire Council Core Strategy Development Plan Document Adopted December 2012 (the CS) and paragraphs 145 and 146 of the National Planning Policy Framework (the Framework). I concur with this position given that the openness of the Green Belt is not preserved and the scheme results in encroachment into the countryside, albeit that it does not contribute to urban sprawl.
5. Therefore, the main issues are:
 - i) the effect of the proposal on the character and appearance of the area;

- ii) whether there is an essential need for a rural worker to live permanently at the site; and
- iii) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify it.

Reasons

Character and appearance

- 6. Willow Farm is located in an area of undulating countryside comprising generally large open fields with boundary hedgerows and scattered individual trees and small woodlands. It is a typically rural area with sporadic development including farmsteads and detached dwellings, some of which have been created by the conversion of traditional agricultural buildings.
- 7. Although the caravan is partially screened by the hedgerow along Hollies Lane, particularly when the hedge is in leaf, it is visible from locations around the highway access and Nurton Croft. While it would be hidden from these views by the permitted agricultural building¹, this has not yet been constructed. Irrespective, the caravan is visible from more distant locations in the surrounding countryside including the right of way from Pattingham Road along the edge of the golf course. From here, the caravan appears isolated and it is not seen as ancillary to a residential dwelling. It is out of keeping with the surrounding rural character and context. Consequently, it is a discordant feature that is not sympathetic to its surroundings.
- 8. Hedgerow planting and enhancement might provide additional screening benefits from close range, but the existing hedgerow is already well established. Moreover, there are no alternative proposal before me to illustrate how a different form of temporary residential accommodation may result in less harm to the rural character and appearance of the area.
- 9. Therefore, the scheme harms the rural character and appearance of the countryside. It conflicts with Policies EQ4 and EQ11 of the CS. These require, among other things, that development should be of high-quality design, making a positive contribution, taking account of the local character and distinctiveness of the landscape and its surroundings, and respecting and safeguarding visual amenity. It would also conflict with the policies in the Framework that require development to add to the overall quality of the area, to be visually attractive, to be sympathetic to local character including landscape setting, and to maintain a strong sense of place.

Essential need for a rural worker

Policy considerations

- 10. Policy EV8 of the CS sets out that proposals for temporary agricultural and occupational workers dwellings will be supported subject to meeting a number of criteria including: evidence of a firm intention and ability to develop the enterprise; a functional need which cannot be fulfilled by an alternative dwelling; and that the enterprise has been planned on a sound financial basis.

¹ Ref 20/00223/AGR

11. Paragraph 79 of the Framework states that the development of isolated homes in the countryside should be avoided except in specific circumstances including where there is an essential need for a rural worker to live permanently at or near their place of work. This is substantially the same as the provisions in Paragraph 55 of the 2012 version of the Framework. In this regard, my attention has been drawn to the case of Embleton², where it was concluded that the test under paragraph 55 only required an assessment of whether there was an essential need for a worker to be at or near the site.
12. Nevertheless, the Planning Practice Guidance (the PPG) sets out that the functional need and the degree to which there is confidence that the enterprise will be viable for the foreseeable future are both factors that may be relevant when considering whether there is an essential need for a rural worker. Moreover, the case law relates to the Framework and not to the development plan which was found sound and adopted subsequent to the publication of the Framework in 2012. Consequently, although the Framework is a material consideration, the starting point for decision making is the development plan.

Essential functional need

13. The appellants farm approximately 97 acres spread across several widely separated parcels of land. They have been farming the 16.5 acres at Willow Farm since approximately 2007, initially on a Farm Business Tenancy and as owner occupiers since approximately 2017 when they purchased the land **following the sale of Mrs Anning's family home in Pattingham. The remainder of the holding comprises rented grazing land.**
14. The current agricultural business operating at Willow Farm includes a sheep breeding enterprise (the SBE) and a procurement enterprise (the PE). The PE operates from the top pastures, roughly 2 acres, and the SBE utilises the lower pastures, roughly 14 acres.
 - a) Sheep breeding enterprise (the SBE)
15. The SBE has grown from an initial flock of 12 to 270 breeding ewes plus 10 rams. The acreage at Willow Farm is not sufficient to support the entire flock. Consequently, for much of the year, the flock are grazed on the tenanted land away from Willow Farm. The ewes are brought back in batches to the lower pastures from January onwards, where they lamb from February through April before being transported back to the tenanted land. The SBE lambs are finished on the holding at between 3 and 9 months old. Outside of the lambing season, the flock is brought back to Willow Farm for routine husbandry operations including shearing and foot trimming.
16. There is clearly a seasonal need for an agricultural worker to be permanently present on site for the 12 weeks or so that cover the main lambing period. However, the flock is not permanently based at Willow Farm and, even during the lambing season, only a proportion of the flock are present at any one time. Therefore, there simply cannot be an essential functional need for a rural worker to live permanently at Willow Farm to manage the flock.
17. I acknowledge that the appellants intend to increase the size of the SBE flock to 350 ewes. While this would increase labour requirements, the lambing season would still extend over 12 weeks in the spring with a relatively low

² Embleton Parish Council v Northumberland County Council [2013] EWHC 3631

number of ewes lambing outside of this period. Moreover, an even greater proportion of the flock would be away from Willow Farm on the tenanted land. Therefore, an increase in the flock size would not require a permanent agricultural workers dwelling at the site.

b) The procurement enterprise (the PE)

18. The PE has been operating at Willow Farm since approximately 2009, predominantly utilising the top pastures near to the appeal site. Lambs, cull ewes and rams are bought direct from local farmers or from livestock markets to supply fresh meat to the ethnic meat market. This is largely a reactive operation, meeting short notice orders for fresh meat. However, some livestock are bought speculatively, in order to be able to meet anticipated future orders at times of high demand such as religious festivals. Although numbers vary through the year, approximately 200-220 animals pass through Willow Farm each week in several separate loads.
19. Following purchase, the PE livestock are brought back to Willow Farm where they are checked and transferred into holding paddocks with access to food and water until such time as they are graded and sorted and taken to the abattoir. The length of stay on the holding varies from overnight for transport the following day to several days, such as over weekends when the abattoir is closed. Although some stock are held for longer periods of time, the average duration that PE livestock are kept on site is between 2 to 4 days.
20. There is a dispute between the parties as to whether the PE is a lawful agricultural use of the land. Clearly, it is not lairage for the purposes of long-distance haulage and export of livestock. Nevertheless, it is not a short-term lamb finishing unit as it is consistently described as a procurement activity. The PE livestock are purchased to order or bought in advance of expected orders from existing customers. The livestock are held on the land for short periods of time for the purpose of meeting and maintaining procurement contracts. Notwithstanding that some animals may be held for longer periods, this remains in connection with the procurement business.
21. There is no detailed historic evidence relating to the PE, although it has been operating for several years with apparently no previous or current enforcement investigations. Irrespective of whether or not it is a lawful agricultural use, given the large numbers of animals involved and the nature of the activity I am satisfied that it is a rural use. On that basis, it is appropriate for me to consider whether or not it gives rise to a functional need for a rural worker.
22. The PE enterprise involves a lot of paperwork and travelling, often with early starts and late finishes. However, long working days are part and parcel of farming and they do not of themselves demonstrate a functional need for a rural worker to live on site.
23. The livestock markets and transport will be stressful for the animals, most particularly any that might already be in poor health. Mr Anning advised that serious injury and health issues such as fly strike and severe calcium deficiency would be apparent upon arrival at the holding and could therefore be treated promptly. The relatively low number of stock displaying signs of stress are marked for ease of identification, put out with the flock to recover and monitored at intervals during the night.

24. The historically low number of livestock deaths is attributed to the high standard of husbandry including overnight monitoring. However, no detailed information is available in relation to the numbers of stock that arrive injured or ill or that have required treatment immediately or during the following night. Consequently, it is not possible to establish the number of animals that would have suffered or died if they had not been monitored overnight. In any case, given that the late finishes and early starts, it seems reasonably likely that any unsupervised overnight period would be relatively short.
25. While the PE is not a standard agricultural operation, livestock markets, handling and transport are a routine part of livestock farming. Moreover, some of the livestock come direct from farms, thereby avoiding the stress associated with commercial markets. There are apparently no industry guidelines relating to welfare following relatively short domestic journeys from markets or farms. It will be a matter for the individual farmer based on the needs of the stock, but in this case there is not an essential functional need for a worker to be present overnight in connection with non-breeding sheep that are destined for slaughter, in some cases the following morning.

c) Beef finishing enterprise (the BFE)

26. While the business plan indicates the intention to introduce a calf rearing enterprise in year 3, the appellants previously purchased a small number of calves in 2019-2020, including some that required milk-feeding and monitoring for pneumonia due to their young age. Until they were weaned, the calves were kept on the top pastures, with mobile calf hutches for shelter and they were fed 3 to 4 times a day, including overnight. Following weaning, they were moved to rented pastures for finishing at roughly 24 months.
27. There would be a need for a worker to be present to care for the calves during their early weeks, but the overnight husbandry need drops away as the calves age. There are currently no young calves at Willow Farm and there is no detailed plan for a future commercial BFE, including in terms of numbers of livestock or requirements and associated investment in additional land, livestock buildings and equipment such as automated feeders. Moreover, given that the top pastures at Willow Farm are used for the PE and the lower pastures are used for the SBE and hay-making, it is not clear that a BFE could be operated sustainably alongside the SBE and the PE at Willow Farm.
28. The evidence is that the business at Willow Farm is primarily sheep-based and there is a seasonal need for a worker to be permanently on site during the lambing season. While the PE is undoubtedly a resource intensive activity, there is little compelling evidence of a functional need for a permanent rural worker to live on site. Associated agricultural activities relating to routine animal husbandry, land management and maintenance of machinery, while time-consuming, do not require a rural worker to live on site.

d) Alternative dwellings

29. There are no dwellings on the holding or buildings that could be converted to residential use. The market dwellings in the immediately surrounding rural area are not affordable on a rural workers salary. While more distant dwellings may not meet an essential functional need, no information has been provided in terms of the type of dwelling that the business could sustain or in relation to

the affordability and availability of dwellings in nearby settlements including Pattingham and Perton.

Evidence of a firm intention and ability to develop the enterprise

30. The appellants have been farming at Willow Farm since 2007. They have also rented land to accommodate the expanding needs of the SBE and they have purchased the land at Willow Farm. They have recently placed an order for an agricultural building to replace the pole barn and they intend to increase the size of the SBE flock and to increase the lambing percentage.
31. Except for the land used for haymaking, all of the pasture at Willow Farm is permanently grazed and the high stocking densities are maintained by supplementary feeding. While Willow Farm is only a small part of the holding, it is the focus of activities and it is the most intensively used of all of the land. In this regard, any further expansion of the SBE, the PE or a commercial BFE would inevitably put further pressure on the land at Willow Farm.
32. **The appellants' have a clear intention to develop the enterprise. However, I share the Council's concerns about whether the business operations at Willow Farm are sustainable in the longer-term, taking into account increasing stocking densities, the competing pressures on the land from the various activities and the need to maintain the land in good agricultural condition.**

Has the enterprise been planned on a sound financial basis

33. Financial accounts have been provided for the years ending 2016-2019. These show small profits in 2 years, a substantial loss in 2018 and a small loss in 2019. The significant loss in 2018 is attributed in large part to the impact of the severe winter storms that year and also to investment in the business.
34. Irrespective, the business accounts are amalgamated for the SBE, the PE and a wider trading activity relating to the purchase and direct transport of livestock **to the abattoir without passing through Willow Farm. By the appellants' own admission**, the financial accounts are not therefore a reliable indication of the financial viability of the agricultural operations at Willow Farm.
35. Although some 6 months have passed since the year end, the financial accounts for 2020 are not yet available. At the Hearing, Mr Anning stated that the business made a substantial profit in the year ending 2020, due in large part to the impact on lamb prices of the coronavirus pandemic lockdown in March. However, it seems reasonably unlikely that many, if any, of the 2020 early lambs would have been ready for finished sale by the end of the financial year. Moreover, no substantive evidence was presented in terms of the numbers of SBE lambs sold at a significantly higher price or the implications of lockdown for the PE or the wider trading activity.
36. There was a discussion at the Hearing as to whether or not it would be helpful for the latest accounts to be provided. In this respect, the 2020 accounts will be combined for the various agricultural and wider trading activities. Therefore, **as with the previous years' accounts, they would not demonstrate the financial viability of the agricultural business.**
37. The business plan predicts substantial gross profits from year 1 onwards, but it does not include full details of costs such as labour or transport, legal and bank charges, land rental or capital costs. Notwithstanding the unusually large loss

in 2018, and the proposed increase in SBE flock size, it has not been adequately explained how the business would rapidly go from very modest net profits at best to significantly large sustained profits in future years. Moreover, while the static caravan is already on the site and the appellants live frugally within their means, there is little evidence that the business could sustain 1, let alone 2, reasonable living wages. Therefore, and taking account of the absence of reliable accounts in relation to the agricultural business in previous years, it is not clear that the business has been planned on a sound financial basis.

38. The appellants are seeking permission for a temporary dwelling in order to demonstrate that the business can support a permanent dwelling. Nonetheless, the business has been operating for over 10 years and the static caravan has already been on site for 3 years, which would appear to have already been a reasonable amount of time to account separately for the agricultural business.
39. Therefore, having regard to the functional requirements of the business and the financial aspects, an essential need for a rural worker to live permanently at Willow Farm has not been demonstrated. Consequently, the proposal is in conflict with the requirements of Policy EV8 of the CS.

Other Considerations

40. The nearby Grange Farmhouse Grade II listed building dates from the 17th century. It is timber-framed with painted brick infill and rendered stone or brick with a clay tile roof. The listing building is approximately 40m from the appeal site. It is set in its own grounds which are separated from the appeal site and the Willow Farm by its private access road and the vegetated field boundary. Given the degree of separation, the modest size of the caravan and the nature of the intervening land, the Council considers that the caravan does not harm the listed building or its setting and I see no reason to disagree. The absence of harm in this respect does not weigh in favour of the scheme.
41. The agricultural business provides rural employment and economic support for other rural businesses including farm contractors, feed merchants and veterinary surgeons. These benefits would have flowed from the business during the time that it operated without a rural workers dwelling. Therefore, the wider economic benefits do not appear to be dependent on the appeal scheme and therefore they carry limited weight in favour of it.
42. There would be no adverse impacts on the safe operation of the highway. Although the development has already been carried out, given the improved nature of the agricultural grassland at Willow Farm and the small scale of the development, adverse impacts on biodiversity appear reasonably unlikely. These are requirements of planning policy and they do not weigh in favour of or against the proposal. I note the concerns in relation to the highway access over third party land. However, this is a private legal matter.
43. **Following the sale of Mrs Anning's family home, the appellants** required alternative accommodation in the area. In this regard, the caravan at Willow Farm will be a convenient and cost-effective form of accommodation. **Nevertheless, the appellants' personal circumstances are not related to the** needs of the business and they do not weigh in favour of the scheme.
44. My attention has been drawn to appeal decisions relating to agricultural worker dwellings elsewhere, including in the Green Belt. The evidence concerning the

alpaca breeding business indicates that alpacas are expensive animals that breed at any time of year with potentially high mortality rates. The site was also in an area subject to thefts and dog attacks and the business was profitable and supported a full-time worker with a reasonable salary. In the case of the horse livery, it was in an isolated location where theft was a problem and there was an established essential functional need. While the livery business was not particularly profitable, the Inspector allowed a temporary log cabin to be occupied on a permanent basis subject to conditions that linked the permission to the appellant as well as to the business. Neither case appears directly comparable to the appeal scheme and they do not provide a justification for it.

Green Belt balance

45. The proposal is inappropriate development in the Green Belt and it has resulted in a small but significant loss of openness and conflict with the purposes of the Green Belt. The adverse impact on the character and appearance of the area is a modest harm that weighs against the proposal.
46. There is a seasonal need for a rural worker to be present during the lambing season, but there is no essential functional need for a worker to live permanently at Willow Farm either in connection with the SBE or the PE. While the appellants have been farming the land for several years, it has not been demonstrated that the agricultural business is financially sound. Moreover, while the business plan predicts substantial gross profits almost immediately, given that the previous years accounts are not reliable, it is not clear that the enterprise has been planned on a sound financial basis.
47. Therefore, the needs of the business do not outweigh the harm that I have found. Consequently, there are no other considerations that would amount to the very special circumstances necessary to justify the development.

Conclusion

48. For the reasons set out above, the appeal is dismissed.

Sarah Manchester

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs Caroline Anning (appellant)

Mr Gary Anning (appellant)

Mrs Melanie Holt BA (Hons) PgD MRICS FAAV (Moule & Co Ltd, Planning Agent)

FOR THE LOCAL PLANNING AUTHORITY:

Mr John Baggott MA MRTPI (Tyler Parkes Partnership)

Mr Anthony Atkinson MRICS FAAV (Acorus Rural Property Services)

INTERESTED PERSONS:

Mr DeVries (observing from the Council)

Ms Jovanovic (observing from the Council)

Mr Phillip Collins

Mr Norman Levers

Mr Mike Powell



20 May 2021

Our Ref: 21/00531/FUL

Post No:

Your Ref:

Please ask for: Lucy Duffy

Switchboard: 01902 696000

Email: l.duffy@sstaffs.gov.uk

Mrs C Anning
C/o Mrs Angela Cantrill
The Rural Planning Co
The Farm Office
Millridge Farm
Parsons Lane
Hartlebury
DY11 7YQ

Dear Sirs,

Planning permission reference: 21/00531/FUL

Address of development: Land forming part of Willow Farm, Hollies Lane, Pattingham

Please note the Council is implementing it's right under Section 70A of the Town and Country Planning Act to decline to determine this application.

It is the opinion of the authority that this submission is within 2 years of the appeal decision and there has been no significant change since that refusal and subsequent dismissal at appeal.

I will instruct our accounts team to issue a refund.

Yours sincerely,

Lucy Duffy
Assistant Team Manager (Localities 4 & 5)





FAO: Lorraine Fowkes
South Staffordshire Council
Council Offices
Codsall
South Staffordshire
WV8 1PX

10 June 2021

by email ONLY to: l.fowkes@sstaffs.gov.uk
c.c. l.duffy@sstaffs.gov.uk

Your Reference:
Our Reference: AM/A4701-1

Direct Line: 0117 930 9575
Direct Fax: 0117 929 3369
Email: amadden@thrings.com

URGENT PRE-ACTION PROTOCOL LETTER

Dear Sirs

Proposed Judicial Review: Pre-action Protocol Letter

Your ref: 21/00531/FUL

Our Client: Mrs Caroline Anning of Willow Farm, Hollies Lane, Pattingham WV6 7HJ

We are instructed by our Client in respect of their proposed challenge to the decision of South Staffordshire Council ("the Council") to exercise its discretion under section 70A of the Town and Country Planning Act 1990 to decline to determine our Client's planning application bearing the reference 21/00531/FUL ("the 2021 Application") which sought permission for a temporary dwelling for an agricultural worker at Willow Farm, Hollies Lane, Pattingham Wv6 7HJ ("the Application Site"). The Council's letter confirming the above is dated 20 May 2021 ("the Decision").

This is a letter before action sent in accordance with the pre-action protocol for Judicial Review.

The Claimant has taken legal advice and is prepared to pursue this matter through the High Court by way of judicial review. The time scale for such applications lends itself to a necessarily brief overview of the Claimant's **position; however this** letter provides sufficient information regarding the Claimant's case that the Council can take a considered view about its decision.

If the Council declines to consent to reviewing the Decision and determining the 2021 Application, subject to anything the Council may say that materially affects our position, we will advise our Client to institute proceedings for judicial review.

The details of the proposed claim are as follows:

The **Paragon** • **Counterslip** • **Bristol** • **BS1 6BX** • Tel: **0117 930 9500** • Fax: **0117 929 3369** • DX: 7895 Bristol
Email: solicitors@thrings.com • www.thrings.com Also in London, Bath, Swindon and Southampton

Thrings is the trading style of Thrings LLP, a limited liability partnership registered under No.OC342744 in England and Wales, authorised and regulated by the Solicitors Regulation Authority. A list of partners (members of Thrings LLP, or employee or consultant with equivalent standing and qualifications) is available at its registered office: 6 Drakes Meadow, Penny Lane, Swindon SN3 3LL.

1. Proposed Claimant

Mrs Caroline Anning of Willow Farm, Hollies Lane, Pattingham Wv6 7HJ

2. Proposed Defendant

South Staffordshire Council, Council Offices, Codsall, South Staffordshire WV8 1PX.

3. Decision to be Challenged

The decision of the Council dated 20 May 2021 to decline to determine the 2021 Application pursuant to section 70A of the Town and Country Planning Act 1990.

4. Details of the Proposed Grounds of Challenge

▪ *Factual and Statutory Background*

4.1 Our Clients who reside at the Application Site farm approximately 97 acres spread across several widely separated parcels of land. Further they have been farming the 16.5 acres at **Willow Farm since approximately 2007, initially under a Farm Business Tenancy (“FBT”) and as owner/occupiers since approximately 2017 when they purchased the land following the sale of Mrs Anning’s family home** in Pattingham. The remainder of the holding comprises mainly grazing land. The current agricultural business operating at Willow Farm includes a sheep breeding enterprise (“SBE”), a procurement enterprise (“PE”), and a beef finishing enterprise (“BFE”).

4.2 In terms of the recent planning history an application bearing the reference 19/00462/FUL for the proposed development comprising the stationing of a static caravan as a temporary agricultural workers’ **dwelling (retrospective) dated 24 May 2019 was refused** by Council on 7 February 2020. An appeal was then made by our Clients against the decision of the Council and that appeal was dismissed by Sarah Manchester, a Planning Inspector appointed by the Secretary of State, on 15 March 2021. In summary, the appeal was dismissed on the following grounds:-

4.3 The proposal harms the rural character and appearance of the countryside in conflict with the Policies EQ4 and EQ11 of the Core Strategy;

4.4 There was no essential functional need for a worker to live permanently at the Application Site either in connection with the SBE or the PE;

4.5 It had not been demonstrated that the agricultural business was financially sound nor that it has been planned on a sound financial basis; and

4.6 The proposal was inappropriate development in the Green Belt and there were no very special circumstances to justify the same.

4.7 **Following the Inspector’s decision**, our Clients planning agent, Angela Cantrill of The Rural Planning Company, submitted a new planning application for a temporary dwelling for an agricultural worker at Willow Farm and this was afforded the reference 21/00531/FUL by the **Council (“the 2021 Application”)**. The 2021 application sought to address the concerns raised by the Inspector set out in paragraphs 4.3 to 4.6 above. However, by letter dated 20 May **2021 the Council informed the planning agent that it would be “implementing its right under Section 70A of the Town and Country Planning Act to decline to determine the application.”** **The letter went on to state “it is the opinion of the authority that this submission is within 2**

years of the appeal decision and there has been no significant change since that refusal and **subsequent dismissal at appeal.**"

- 4.8 The planning agent subsequently wrote to the Council via the email dated 24 May 2021 setting out, inter alia, the fundamental and important material differences contained within the 2021 Application compared to the original planning application that was dismissed at appeal. The Council responded on 27 May 2021 maintaining its position but did not provide any reasons for the same. In that email the Council confirmed that an enforcement notice would be issued shortly.

- *Material legislation*

- 4.9 A new section 70A was substituted, with effect from 24 August 2005, by section 43 of the Planning and Compulsory Purchase Act 2004. So far as material, section 70A provides that:

"(1) A local planning authority may decline to determine a relevant application if— (a) any of the conditions in subsections (2) to (4) is satisfied, and (b) the authority think there has been no significant change in the relevant considerations since the relevant event."

Subsection (3) provides:

"The condition is that in that period [two years] the Secretary of State has dismissed an appeal -

(a) against the refusal of a similar application ...

The relevant event is defined by subsection 7(b), for the purpose of subsection (3), as being the dismissal of the appeal. The relevant considerations are defined by subsection (6) as being:

"(a) the development plan so far as material to the application;

(b) any other material considerations."

Subsection (8) provides:

"An application for planning permission is similar to another application if (and only if) the local planning authority think that the development and the land to which the applications relate are the same or substantially the same."

- *Government Guidance*

- 4.10 On the same date as the coming into force of the new section 70A the Office of the Deputy Prime Minister issued new guidance for local planning authorities in the form of Circular 08/2005, which replaced Circular 14/91, which itself had been issued to coincide with the insertion of the original section 70A into the 1990 Act by the Planning and Compensation Act 1991. The circular has a passage headed "PURPOSE OF POWERS" and in paragraph 4 states:

"These new powers are intended to inhibit the use of repeated applications that are submitted with the intention of, over time, reducing opposition to undesirable developments. They are not intended to prevent the submission of a similar application which has been altered in order to address objections to the previous

application. Applicants should be encouraged to enter into pre-application discussions to minimise the likelihood of their applications being rejected."

- 4.11 Paragraphs 5 to 9 give guidance on repeat applications. In particular, paragraph 8 states:

"Local planning authorities should use the power to decline to determine repeat applications only where they believe that the applicant is trying to wear down opposition by submitting repeated applications. If an application has been revised in a genuine attempt to take account of objections to an earlier proposal, the local planning authority should determine it."

- 4.12 Under the heading "SIMILAR' APPLICATIONS" paragraphs 10 to 12 give further guidance. In particular, paragraph 12 states:

"Where an authority considers that an application is similar, it is not automatically obliged to decline to determine the application. However, local planning authorities should be mindful of the intention behind this power. It can be a major cause of frustration to members of the public and the local community to have to deal with a repeat application when they have already dealt with the original application and seen the development be refused."

- 4.13 Under the heading "SIGNIFICANT CHANGE" paragraph 13 states:

"Local planning authorities should decide what constitutes a 'significant change' in each case. An authority may consider that a change in a Development Plan Document or other material consideration will be 'significant' for the purpose of this section if it is likely to alter the weight given to any planning consideration in the determination of an application."

- 4.14 Under the heading "DOUBTFUL CASES" paragraph 14 states:

"In considering whether to exercise its power under sections 70A or 81A, an authority will sometimes be faced with a doubtful case. In such a case, the authority should generally give the benefit of the doubt to the applicant and determine the application. No conclusion about the likely success of an application should be drawn from the decision by a local planning authority not to exercise its powers under sections 70A and 81A."

- 4.17 Whilst the aforementioned guidance has now been replaced by the National Planning Policy Guidance ("NPPG") the sentiments are very much the same. In particular, the NPPG provides as follows:-

Can an application be made for a development which has already been refused?

An application can be made for a development which has already been refused. However local planning authorities have the power to decline an application for planning permission which is similar to an application that, within the last 2 years, has been dismissed by the Secretary of State on appeal or refused following call-in. A local planning authority may also decline to determine an application for planning permission if it has refused more than one similar application within the last 2 years and there has been no appeal to the Secretary of

State. In declining to determine an application, a local planning authority must be of the view that there has been no significant change in the development plan (so far as relevant to the application) and any other material considerations since the similar application was refused, or dismissed on appeal.

This power includes the ability to decline to determine applications for listed building consent and applications for the prior approval of a local planning authority for development which is permitted under the Town and Country Planning (General Permitted Development) Order 2015.

Where a local planning authority declines to determine an application, it should notify the applicant that it has exercised its power under section 70A of the Town and Country Planning Act 1990, or section 81A of the Planning (Listed Buildings and Conservation Areas) Act 1990, to decline to determine the application and should return the application to the applicant.

Paragraph: 056 Reference ID: 14-056-20140306

Revision date: 06 03 2014

What constitutes a similar application?

*Section 70A(8) of the Town and Country Planning Act 1990 defines applications for planning **permission as 'similar' if (and only if)** the local planning authority thinks that the development and the land to which the applications relate are the same or substantially the same.*

Section 81A(7) of the Planning (Listed Buildings and Conservation Areas) Act 1990 defines an application for listed building consent or conservation area consent as similar if (and only if) the local planning authority thinks that the building and works to which the applications relate are the same or substantially the same.

Paragraph: 057 Reference ID: 14-057-20140306

Revision date: 06 03 2014

Must a local planning authority decline to determine repeat planning applications?

*Where an authority considers that an application is similar, it is not automatically obliged to decline to determine the application. The purpose of these powers is to inhibit the use of **'repeat' applications** that the local planning authority believes are submitted with the intention of, over time, wearing down opposition to proposed developments. They are, however, designed to be flexible and to give local planning authorities the discretion to **entertain 'repeat' planning applications where they are satisfied that a genuine attempt** has been made to overcome the planning objections which led to rejection of the previous proposal or there has been a material change in circumstances.*

Paragraph: 058 Reference ID: 14-058-20140306

Revision date: 06 03 2014

- 4.18 The upshot here is that the appropriate interpretation of s70A, which is a narrow one based on the Government guidance that sits behind the legislative provision, should only lead to a local planning authority declining to determine an application when an applicant is not seeking to overcome objections to a proposal but it seeking to pressurise the authority into granting consent. That is to say, it should not be exercised in cases of genuine attempts to take account of objections to earlier proposals as is the case here.

▪ *Proposed Grounds*

Ground 1: The Council has failed to take into account material considerations in relation to the substantial revisions made to the 2021 Application that have sought to overcome the planning objections raised by the Inspector at appeal resulting in a misinterpretation of s70A of the 1990 Act

- 4.19 The statutory and policy framework has been set out in detail above so is not repeated in these grounds. Suffice to say, a local planning authority may decline to determine an application where any of the conditions in subsections (2) to (4) are satisfied, and the authority think there has been no significant change in the relevant considerations since the relevant event.

- 4.20 On any view, there have been several significant changes in the relevant considerations. In particular, the 2021 Application seeks to overcome the planning objections raised by the Inspector at appeal by:

- (a) Expanding the nature of the agricultural enterprise at Willow Farm from purely a sheep based enterprise to a mixture of sheep and calf rearing which goes to the crux of establishing an essential need as per policy requirements;
- (b) Demonstrating that the enterprise has been founded on a sound financial basis with an updated business plan and supporting accounts;
- (c) Demonstrating that the proposal does not harm the rural character and appearance of the countryside by the replacement of the mobile home with a log cabin which will be sited in a different location, comprise different more sympathetic materials and amount to a new design for the consideration of the local planning authority;
- (d) Demonstrating that the proposal will not conflict with the purposes of the Green Belt by addressing any harm and establishing very special circumstances.

- 4.21 In the Decision, the Council simply set out that it is of the opinion that the 2021 Application is within 2 years of the appeal decision and there has been no significant change since that refusal and subsequent dismissal at appeal.

- 4.22 No analysis of the significant changes in the relevant considerations appears to have been undertaken by the Council. As such, the Council have clearly failed to take in to account material considerations and the Decision is unlawful.

Ground 2: The Council has failed to provide any reasoned consideration for the decision it has reached.

- 4.23 The leading case on the adequacy of reasons is *South Bucks DC v Porter (No 2) [2004] UKHL 33*:

“The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the “principal important controversial issues”, disclosing how any issue of law or fact was resolved. Reasons can be briefly stated, the degree of particularity required depending entirely on the nature of the issues falling for Decision. The reasoning must now give rise to a substantial doubt as to whether the Decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter or by failing to reach a rational Decision on relevant grounds. But such an adverse inference will not readily be drawn. The reasons need refer only to the main issues in the dispute, not to every material consideration” (Lord Brown at [36]).

4.24 The Supreme Court Decision of *Dover District Council v CPRE Kent* [2017] UKSC 79 cited the extract immediately above in outlining the explaining the standard of reasons required. It went on to clarify that where reasons are inadequate, the usual remedy is an order quashing the decision.

4.25 Despite this requirement, the Decision offers no reasoned consideration as to how it has been reached. No assessment whatsoever is offered as to why the Council is exercising its power under s70A. Against this back drop, the omission of any reasons to justify its Decision means that no adequate reasons have been provided and therefore the Decision is unlawful and should be quashed.

Ground 3: The Council’s decision to exercise its power under s70A is Wednesbury unreasonable as no recipient of the Decision could understand why it was reached in the circumstances.

4.26 For the reasons set out above, no reasonable decision-maker would take the decision to exercise its power under s70A in such circumstances where the applicant has made a genuine attempt to overcome previous planning objections. Indeed, it seems the Council has not directed its mind at all to:

- (a) the change in circumstances by reason of the significant changes in the relevant considerations set out in the 2021 Application;
- (b) the appropriate interpretation of s70A which is a narrow one and should only lead to a planning authority declining to determine an application when an applicant is not seeking to overcome objections to its proposal, but rather seeking to pressurise the planning authority into granting consent; and
- (c) the Government guidance on the application of s70A.

4.27 It is, therefore, *Wednesbury* unreasonable for the Council to have exercised its power under s70A and the Decision to do so was unlawful. Consequently, the Decision should be quashed.

5. Alternative Dispute Resolution

5.1 It is considered that ADR is not applicable having regard to the circumstances of this claim.

6. Details of the action that the Proposed Defendant is expected to take:

6.1 The Proposed Defendant is respectfully invited to:

- (a) consent to the quashing of the Decision; and
- (b) **Undertake to meet the Proposed Claimant’s reasonable** legal costs on an indemnity basis occasioned by this claim.

7. Details of any documents or disclosure sought by the Proposed Claimant

- 7.1 The Proposed Defendant is respectfully invited to provide a copy of any delegated report or correspondence which sets out the rationale for issuing the Decision.

8. Details of any Interested Parties

None

9. Details of Legal Advisors Dealing with this Claim

Alex Madden, Thrings Solicitors, The Paragon, Counterslip, Bristol BS1 6BX.

10. Address for Reply and Service of Court Documents

- 10.1 Thrings Solicitors, The Paragon, Counterslip, Bristol BS1 6BX. Please mark all correspondence FAO: Alex Madden, with reference set out at the top of this letter. Given the restrictions on access to offices due to the Coronavirus, we would ask that all correspondence is also sent via email to amadden@thrings.com.

11. Proposed Reply Date

- 11.1 The Claimant is required to issue any judicial review within 6 weeks of the date of the **Council's** decision. The Claimant expects to issue a claim before 1 July 2021. The normal period for a pre-action reply is 14 days.

- 11.2 The Claimant therefore respectfully requests a substantive reply to this letter by no later than 4pm on Thursday 24 June 2021.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Alex Madden', is written over a light grey rectangular background.

Thrings LLP



Application Ref: 21/00887/FUL
PATTINGHAM & PATSHULL

Applicant: Mrs C Anning

Address: Willow Farm, Hollies Lane, Pattingham, Staffordshire, WV6 7HJ

Proposed Development: Temporary agricultural workers' dwelling

1. BACKGROUND

1.1 Retrospective planning permission has previously been sought, under planning application 19/00462/FUL, for the stationing of a static caravan as a temporary agricultural workers' dwelling at Willow Farm, Hollies Lane, Pattingham. That application was refused by the Council on 07/02/20 for the following reasons:

1. The proposed development amounts to inappropriate development within the Green Belt, which is harmful by definition and should not be approved except in very special circumstances. Having assessed the case advanced by the applicant, including confidential financial details and three year business plan, the Council does not consider that there is an essential need for an occupational workers' dwelling (i.e. the static caravan) to be present on site in connection with the Lambing Enterprise and Procurement Enterprise as described within the application submission, either taken individually or combined. Consequently, very special circumstances have not been demonstrated in this case. As such, the development is contrary to Policies GB1 and EV8 of the adopted Core Strategy and the National Planning Policy Framework.

2. The static caravan introduces an alien feature into the landscape which has a detrimental impact upon the openness of the Green Belt and the character and appearance of the local landscape, contrary to policies GB1, EQ4 and EQ11 of the adopted Core Strategy and the National Planning Policy Framework.

1.2 The Council's decision to refuse was subsequently appealed to the Planning Inspectorate (PINs ref: APP/C3430/W/20/3253786) and was the subject of an Appeal Hearing which took place on 21/10/20, with the Inspector's Decision Letter issued on 15/03/21. The Appeal was dismissed.

2. THE CURRENT APPLICATION

Site Description

2.1 Located within the Green Belt, the application site lies within what is a rural area, approximately 1 mile to the north-east of Pattingham and 1.5 miles to the south-west of Perton. The site lies in Flood Zone 1 and is therefore not at risk from fluvial flooding. The application forms submitted indicate that the size of the site is approx' 0.14 hectares in area. It consists of land adjacent the associated arable land, located at a sharp bend in the road on Hollies Lane, adjacent to





Grange Farm (Grange Farmhouse itself is a Grade II Listed Building). Vehicular access is via a shared driveway with Grange Farm. The site forms a small part of the wider total 6.7 hectares (16.5 acres) of land owned by the applicant.

2.2 With the exception of an additional area of land to the east (approx'. 0.4 hectares), the site appears to be extremely similar to the application site which was the subject of the previous refusal, and dismissal at Appeal (as summarised above).

Application Details

2.3 The application as submitted seeks permission for a temporary agricultural workers dwelling. An almost identical proposal to the earlier application (19/00462/FUL), but with no indication within the description that the proposal relates to any existing on-site accommodation (temporary or otherwise). However, the application forms (at Section 5) clearly indicate that work/change of use occurred on 04/10/17 and it is assumed that this reference relates to the same unauthorised static caravan which was the subject of the previous refusal, and dismissal at appeal.

2.4 The application forms have been accompanied by the following plans and documents:

- Location Plan
- Block Plan
- Proposed Plans and Elevations
- Planning Statement

2.5 The plans and elevations indicate the proposed siting of a timber cabin style of accommodation, located to the east of the previously proposed, and presumably still in-situ, unauthorised static caravan. However, the Planning Statement indicates, at Paragraph 3.5, that a static caravan style mobile home is likely to be used in the first instance (presumably the existing unauthorised caravan) to be replaced by a timber cabin in due course. No time frame is given for this. Paragraph 3.6 goes on to make repeated references to a "mobile home", with Paragraph 3.8 again indicating that the proposed timber cabin would be brought to site as soon as practicable.

2.6 The Planning Statement, at Paragraph 3.1, describes the proposal as:

"Temporary dwelling for an agricultural worker"; and goes on to state: "The applicant operates an agricultural business consisting of breeding and rearing commercial sheep, which is to be complemented by the introduction of a calf rearing enterprise" (Author's emphasis)

2.7 The suggestion appears to be that calf rearing does not currently take place, but is proposed, and that appears to be confirmed by the content of Paragraph 3.2 of the Planning Statement, which refers to the Applicants intention to rear calves. There appears to be nothing to suggest that this has commenced already.





3. COMPARISON WITH PREVIOUSLY REFUSED APPLICATION AND DISMISSED APPEAL

3.1 The previously refused application sought retrospective permission for the stationing of a static caravan to be occupied on a temporary (3 year) basis as an agricultural workers' dwelling, in association with the Applicant's agricultural business which was stated as consisting of a Lambing Enterprises and a Procurement Enterprise. At the Appeal stage, the Applicant introduced the intention to introduce a calf rearing enterprise (in Year 3 of the then business plan). All such matters were considered by the Appeal Inspector.

3.2 No mention is made within the current application regarding the previous Procurement Enterprise, merely the existing lambing (sheep breeding) enterprise and the proposed calf rearing (beer finishing) enterprise. In terms of the lambing (sheep rearing) enterprise, the existing and future flock numbers appear to be identical to the earlier application (i.e. existing flock 270 ewes, proposed flock 350 ewes). Setting aside the previous Procurement enterprise, the similarities between the current proposal and the previously refused, and dismissed proposals, are evident.

4. ARE THERE GROUNDS FOR THE COUNCIL TO DECLINE TO DETERMINE THE LATESET APPLICATION?

4.1 Section 70A of the Town and Country Planning Act 1990 (hereafter referred to as the T&CP Act) confirms that local planning authorities have the power to decline an application for planning permission which is similar to an application that, within the last 2 years, has been dismissed by the Secretary of State on appeal (Author's emphasis).

4.2 In declining to determine a local planning authority must be of the view that there has been no significant change in the development plan (so far as relevant to the application) and any other material considerations since the similar application was refused or dismissed on appeal (National Planning Practice Guidance (NPPG) Paragraph: 056 Reference ID: 14-056-20140306).

4.3 Section 70A(8) of the T&CP Act defines applications for planning permission as 'similar': "*if (and only if) the local planning authority thinks that the development and the land to which the applications relate are the same or substantially the same*". (Author's emphasis).

4.4 Paragraph: 058 Reference ID: 14-058-20140306 indicates that: "*Where an authority considers that an application is similar, it is not automatically obliged to decline to determine the application. The purpose of these powers is to inhibit the use of 'repeat' applications that the local planning authority believes are submitted with the intention of, over time, wearing down opposition to proposed developments. They are, however, designed to be flexible and to give local planning authorities the discretion to entertain 'repeat' planning applications where they are satisfied that a genuine attempt has been made to overcome the planning objections which led to rejection of the previous proposal or there has been a material change in circumstances*".

4.5 The current application as submitted has been compared with the previously submitted, refused and appealed application (ref: 19/00462/FUL). That application sought permission for an agricultural worker's dwelling in association with the rearing of sheep. The stated flock number at the time of that earlier application was 270 breeding ewes – the exact same number as in the case of the current application. At the subsequent appeal, the Appellants indicated the intention to





introduce calf rearing (a Beef finishing enterprise), albeit that the appeal Inspector established that had not yet occurred. The latest application again indicates an aspiration to introduce a Beef finishing enterprise, but again, on the basis of the application as submitted, this does not appear to have instigated to date.

4.6 The previously submitted justification for the need for an Agricultural/Rural Workers dwelling in this Green Belt location, by way of Very Special Circumstances, was predicated upon a need for someone to live 24/7 on the land in association with the agricultural enterprises carried out therein, which related to the rearing of sheep and calves as described above. This case was dismissed by the Appeal Inspector who found no basis or need for someone to reside on the land in relation to either of the enterprises.

4.7 It very much appears, therefore, that the Applicant has submitted an application for an agricultural worker's dwelling on the same or similar plot of land with the justification being that it is required to support the very same type and amount of agricultural enterprise (lamb and calf rearing) as has already been found to be unjustified by the Appeal Inspector on the earlier Appeal.

4.8 There has been no significant change in circumstances, and it is the case that there has been no significant change in the development plan, nor have there been any significant changes in national planning policy and guidance. It very much appears that no genuine attempt has been made to overcome the previous planning objections, rather this appears to be a repeat application for the same development as was previously found to be unacceptable by both the Council and the Appeal Inspector.

4.9 Notwithstanding the above initial comparisons, the structure and order of the Appeal Inspector's Decision Letter is a useful template for considering further whether there have been any changes and/or whether the current application is the same or substantially the same as it's predecessor.

4.10 It was agreed by all parties that the proposed development was (and still would) amount to inappropriate development in the Green Belt, and on the Inspector commented that: "*.... the openness of the Green Belt is not preserved and the scheme results in encroachment into the countryside*" (Para 4).

4.11 Thereafter, the Inspector listed the main issues to be considered as being:

- i) The effect of the proposal on the character and appearance of the area;
- ii) Whether there is an essential need for a rural worker to live permanently at the site; and
- iii) Whether the harm by reason of appropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify it.

4.12 Taking each of these in turn:





- i) The proposed temporary accommodation will be sited in a similar position, albeit further to the east, than the previously proposed (and still present) static caravan. The Planning Statement supporting the current planning application clearly indicates that it would be proposed to site a static caravan (it is not clear whether this would be the current unauthorised caravan or a separate one) with the suggestion that a timber cabin would replace it at some point in the future.

Whether caravan or cabin, the proposed accommodation would be visible from the more distant locations described by the Planning Inspector (Para 7 of the Appeal Decision Letter) and would fail to satisfactorily address the policies cited by the Inspector (Para 9).

- ii) The Inspector considered in great detail the arguments regarding “essential functional need”, and clearly stated that “... there simply cannot be an essential functional need for a rural worker to live permanently at Willow Farm to manage the flock” (Para 16). This decision was based upon identical existing and proposed flock numbers to those proposed within the latest application and the exact same situation with regard to grazing land on site and elsewhere. In that regard the latest application appears to be not only similar but actually identical to the earlier unsuccessful application and Appeal.

With regard the proposed introduction of calf rearing, that too was considered by the Inspector under the earlier submission (Paras 26 to 28 of the Appeal decision), and she commented that there was: “no detailed plan for a future commercial BFE” (Beef finishing enterprise) (Para 27) and that: “there is little compelling evidence of a functional need for a permanent worker to live on site”. (Para 28).

The current application clearly indicates that the calf rearing (beef finishing) enterprise remains a future proposal, and that being the case the situation again appears completely unchanged in that regard from the case previously considered by the Appeal Inspector.

Whilst the Inspector acknowledged that there was a clear intention to develop the enterprise, she expressed concerns regarding the long-term sustainability of the business (Para 32), and also called into question the financial viability of the business (Paras 33 to 37 of the Appeal Decision). She drew the conclusion that an essential need for a rural worker to live permanently at Willow Farm had not been demonstrated (Para 39).

In light of the above, the proposed development and level of evidence appears to be, if not identical then, most certainly (very) similar to the previous proposals as considered by the Appeal Inspector. That being the case, there do appear to be grounds to consider the latest submission with reference to Section 70A(8) of the T&CP Act.

- iii) There was no dispute that the previous proposal (and thereby presumably the current proposal) constitutes inappropriate development in the Green Belt and is thereby harmful by definition.





4.13 The Appeal Inspector concluded that there was no functional need for a worker to live at Willow Farm; that it had not been demonstrated that the business was financially sound or planned on a sound financial basis, and that the needs of the business did not outweigh the harm found and that no very special circumstances were at play to justify the development in the Green Belt (Paras 46 and 47 of the Appeal Decision).

4.14 In light of the similar, almost identical, nature of the current application, and in the absence of any changes in planning policy; additional supporting evidence; or material change in circumstances, it would be reasonable to conclude that the same outcome would be reached if the latest application were to be considered by the Council.

5. CONCLUSIONS

5.1 For the reasons set out above, the proposed development and the land to which the application relates appears to be substantially the same as that previously considered by the Inspector and dismissed under Appeal Ref: APP/C3430/W/20/3253786.

5.2 There appears to have been no material change in circumstances. No new detailed evidence has been provided with regard the financial viability of the business and no business plan has been submitted. Rather, the Applicant has submitted a very similar application to that which was previously found wanting, and it appears that no genuine attempt has been made to overcome the previous planning objections which led to rejection of the previous proposal both by the Council and the Appeal Inspector. On the contrary, the application relies upon the very same livestock numbers and associated claims that there is a need for an agricultural worker to live on site as were previously considered unfounded by the Appeal Inspector.

5.3 Section 70A of the T&CP Act stipulates, under sub-paragraph (b) that a local planning authority may decline to determine an application for planning permission which satisfies the criteria under sub-paragraph (a) if: *"in the opinion of the authority there has been no significant change since the refusal or, as the case may be, dismissal mentioned in (sub) paragraph (a)*".

5.4 No new substantive evidence has been submitted to accompany the current application, and in many respects, that which has been submitted does appear to fall short of the level of supporting information that accompanied the previously refused and dismissed submission and which was found wanting. Furthermore, there appears to have been no material change in circumstances since the consideration of the previous application and subsequent Appeal. There has been no relevant change in national or local planning policy since the consideration of the earlier application.

5.5 In light of the above, and in the absence of any additional or new supporting evidence or any material change in circumstances, it does rather appear that there no genuine attempt has been made to address those matters which resulted in the previous dismissal on Appeal, and which are set out above and on this basis the Council will exercising it's right under Section 70A of the T&CP and will not be determining the application.





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23 June 2021

Dear Sirs,

We write in response to your Pre-Action Protocol Letter of 10 June 2021.

The Proposed Claimant

1. Ms Caroline Anning

The Proposed Defendant

2. South Staffordshire Council

Reference Details

3. 21/00531/FUL

Decision Being Challenged

4. The Decision of the Defendant to decline to determine the Claimant's Application under s.70A of the Town and Country Planning Act 1990 on 20 May 2021.

Response to the proposed Claim

5. To avoid unnecessary litigation in this matter, the Defendant is content to set aside its decision (dated 20 May 2021) and consider the matter afresh.

6. As the Claimant's application was returned and fee refunded the Claimant will have to re-submit the Application (along with any further justification/evidence they wish) and the Defendant will consider the matter again.
7. The Claimant erroneously suggests at paragraph 6.1 that this Decision that requires the formal quashing of the Court and seeks their costs of doing so. This ignores the fact that the Defendant is entitled to consider the matter afresh on a further application, and the purpose of the pre-action protocol is to avoid litigation and the incurrence of further costs. The Defendant does not agree to pay the Claimant's pre-action legal costs and the Claimant would not be entitled to them if a Claim were brought.
8. By agreeing to re-consider the matter the Defendant has rendered the Claimant's claim academic. On that basis if, despite this response, the Claimant were to issue proceedings the Defendant would resist them fully on the Claim being entirely academic and seek their full costs of doing so.

Costs

9. The Claimant has not set out whether, if a Claim is brought, they will seek costs protection under CPR r. 45.43.
10. Any such application will require the disclosure of the Claimant's finances and the Defendant reserves the right, on consideration of said information, to apply to the Court to raise the Claimant's Aarhus costs cap above the starting limit of £5,000.

ADR Proposals

11. None are relevant given that the Council are willing to re-take the decision.

Address for further correspondence and service of court documents



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Wolverhampton Road
Codsall
South Staffordshire
WV8 7PX
F.A.O. Mrs M. Dhillon and Mrs Lorraine Fowkes

By email: SSLegalServices@sstaffs.gov.uk and m.dhillon@sstaffs.gov.uk
L.Fowkes@sstaffs.gov.uk

Yours faithfully,

A small rectangular image showing a handwritten signature in black ink on a light-colored background. The signature appears to be 'M. Dhillon'.

M. Dhillon
Southern Staffordshire Legal Services

For Lichfield District Council, South Staffordshire District and Tamworth Borough Council

Planning Statement

In support of a

Proposed temporary dwelling for an agricultural worker and the
subsequent removal of existing caravan

at

Willow Farm
Hollies Lane
Pattingham
WV6 7HJ

Applicant

Mrs C Anning

Agent

Mrs Angela Cantrill BSc (Hons) MRICS FAAV

Ref: 7536/PS

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1.0	Proposal summary	
1.1	Description	Proposed a temporary dwelling for an agricultural worker and the subsequent removal of existing caravan
1.2	Site address	Willow Farm Hollies Lane Pattingham WV6 7HJ
1.3	Applicant	Mrs C Anning, c/o The Rural Planning Co
1.4	Local Planning Authority	South Staffordshire Council
1.5	Planning portal reference	
1.6	Agent details	The Rural Planning Co Millridge Farm Parsons Lane Hartlebury Worcestershire DY11 7YQ Telephone: 01299 667344 Email: team@theruralplanningco.co.uk
1.7	Documents submitted	7536/PS_Planning Statement 7536/SS_Supporting Statement 7536_Block Plan Willow Farm 7536_Location Plan_Willow Farm 7536_Elevations and Floor Plan_Willow Farm 7536_LS01 Landscaping statement

2.0	Site details	
2.1	Site address	Willow Farm Hollies Lane Pattingham WV6 7HJ
2.2	Grid reference / what3words ref	http://www.gridreferencefinder.com/SO8388499728 https://what3words.com/those.print.transmitted
2.3	Site location	<p>The site is located:</p> <ul style="list-style-type: none"> • Approximately 1.5 miles north of the village of Perton • Approximately 1.5 miles east of the village of Pattingham • Approximately 6 miles from the city of Wolverhampton <p>The site is accessed:</p> <ul style="list-style-type: none"> • From Hollies Lane, with an existing agricultural field gate accessed over a shared drive with Grange Farm, of which it once formed part. <p>The predominant land use is:</p> <ul style="list-style-type: none"> • Largely pasture and agricultural land uses.
2.4	Designations	<p>The land is within the West Midlands Green Belt but outside of any SSSI or AONB designations.</p> <p>Listed buildings: The nearest listed building within 40m of the site is neighbouring Grange Farm south-west of the site boundary.</p> <ul style="list-style-type: none"> • Grange Farm Grade II listed – ref 103901 40m west • The Mill House Grade II listed – ref 1188583– 275m north <p>Between the listed building of Grange Farm and the proposal site is a residential barn conversion, known as Nurton Croft, also historically forming part of Grange Farm. Given the orientation and curtilage of the listed building away from the barn conversion and proposal site, and that the setting of the listed building is already interrupted by an existing built form in separate ownership, use and occupation; the proposal is not considered to materially impact on the setting of any listed building.</p> <p>The site is within a Nitrate Vulnerable Zone for surface and ground waters however this is not considered to materially impact on the proposals or vice versa.</p>

2.5	Public Rights of Way	There are no known public footpaths or other rights of way crossing the property.
2.6	Flood risk	The site is located in Flood Risk Zone 1 classed as Low Probability of flooding.
2.7	Relevant site history	<ul style="list-style-type: none"> • 19/00405/FUL - Erection of an agricultural building and associated hardstanding – Refused • 19/00462/FUL - Stationing of a static caravan as a temporary agricultural workers dwelling (retrospective) – Refused (February 2020) • 20/00223/AGR - Agricultural building for the storage of hay, straw, machinery and equipment – Prior Approval Not Required (April 2020) • Appeal Decision APP/C3430/W/20/3253786 (March 2021)
2.8	Background	<p>This planning proposal has fundamental and important material differences from that considered by the Inspector and dismissed under Appeal Ref: APP/C3430/W/20/3253786. This planning statement and supporting statement demonstrates the differences between the dismissed appeal and the current proposal:</p> <p>(a) Expanding the nature of the agricultural enterprise at Willow Farm from purely a sheep based enterprise to a mixture of sheep breeding and rearing and calf rearing which goes to the crux of establishing an essential functional need as per policy requirements. The proposed enterprise requires a year-round essential need to reside on site, not found in the recent appeal decision. This essential element to a proposal of this nature is therefore substantially different to the dismissed appeal.</p> <p>(b) Demonstrating that the enterprise has been founded on a sound financial basis with an updated business plan and supporting budgets. Investment, costs and income of the entirely different and newly proposed enterprise will be different to an established, primarily sheep based system. The financial assessment of an enterprise will require a completely different assessment to an established one. The financial basis of the proposed calf rearing enterprise can only be assessed once the business has been operating for the temporary period;</p> <p>(c) Demonstrating that the proposal does not harm the rural character and appearance of the countryside by the replacement of the mobile home with a log cabin which will be sited in a different location, comprise different more sympathetic materials and amount to a new design for the consideration of the local planning authority;</p> <p>(d) Demonstrating that the proposal will not conflict with the purposes of the Green Belt by addressing any harm and establishing very special circumstances.</p>

		The previous appeal conflated the proposed calf rearing enterprise with a 'beef finishing enterprise'. The two enterprises are substantially and materially different, which will be further considered in the Supporting Statement. This proposal is made in a genuine attempt to overcome the planning objections as set out in the previous appeal.
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3.0	Proposal details	
3.1	Proposal description and outline	<p>Proposed a temporary dwelling for an agricultural worker and the subsequent removal of existing caravan</p> <p>The applicant operates an agricultural business consisting of breeding and rearing commercial sheep, which is to be diversified by the introduction of a calf rearing enterprise.</p>
3.2	Description of farming business	<p>The applicant has been farming at the site since 2007, when she took the land on a Farm Business Tenancy (FBT). She has subsequently purchased the 16.5 acres, which is now known as Willow Farm, and continues to farm it along with an additional 81 acres of rented ground locally.</p> <p>The applicant owns an established flock of 270 breeding ewes, which lamb between January/February and April every year achieving a 170% lambing percentage to sale. The lambs are all finished and sold direct to market or slaughter. The applicant plans to further increase the flock to 350, lambing spring and to increase the lambing percentage with enhanced welfare standards.</p> <p>The applicant farms across 97.5 acres pasture, which is sufficient to support 360 breeding ewes and their lambs according to standard Livestock Units LU/ha calculations. The applicant also owns and keeps 10 breeding rams.</p> <p>The farm business has recently been reviewed and due to current opportunities available for rearing calves, the applicant intends to draw on her experience in rearing youngstock and develop a calf rearing business from the site. Baby calves, about 2-3 weeks of age, will be reared on site until they are about 10-12 weeks old, when they move onto another holding to be reared and 'fattened' ready for slaughter. The calves will be housed in 'state of the art' temporary igloo structures, with undercover 'veranda' roaming areas, which are entirely mobile. These structures will be regularly moved within the site to allow for the effective cleaning out and disinfecting of each igloo.</p> <p>Whilst the applicant's existing farming business is successful and profitable, with a large proportion of the farming income being derived from sheep production, the applicant needs to spread her business risk and seek alternative farming incomes from different enterprises. After much research and business planning, the applicant identified that a modern, efficient calf and cattle rearing enterprise will be most</p>

		profitable on the small area, whilst utilising the applicant's existing skills and stockmanship.
3.3	Need	<p>The overall need for the temporary dwelling is driven by the need to be on site, in attendance for supervision for 24 hours a day, 7 days per week. This is in order to manage the existing business safely, efficiently and securely, whilst allowing for opportunity to expand and grow the business with different enterprises - both to better meet the production and welfare needs of the livestock, being within sight and sound of the enterprises they operate, and also to allow the business to benefit economically and to support local rural employment.</p> <p>The applicant is rearing and breeding high quality, high health status stock; managing them within the right facilities and disease management is hugely beneficial to the animals themselves and in economic terms both for the applicant and the other businesses which they will be working alongside. Management of livestock and the overall business can only effectively be undertaken from a 'base' where the applicant has direct and immediate access to livestock and management tools, including medicines and equipment.</p> <p>Although the applicant already runs a successful agricultural business from the site, the justification for the new dwelling mainly comes from the expansion into a calf rearing enterprise. For this reason, the applicant intends to initially apply for a temporary dwelling, allowing the new calf rearing enterprise to establish and enabling the applicant to prove long term sustainability and viability prior to applying for a permanent dwelling.</p> <p>It is wholly unfeasible to meet the essential functional need without living on site due to welfare, viability and functionality reasons. Alternative dwellings have been considered, however, due to the essential and functional need, the applicant needs to be on site 24 hours a day, 7 days a week. In addition, potential alternative accommodation has been investigated but unfortunately the properties rarely come on the market in the area and when they do, property values are high. There are limited rental opportunities in the area.</p> <p>Indeed, this fact aside, it is submitted that any property that is further than 200 – 300m away from the animals, would not fulfil the functional need anyway. It would mean that the applicant has significantly less time driving to and from the holding, but if even 1 mile away would still mean getting in the car to go to and from the site, and critically does not allow the applicant to be within 'sight and sound' of the animals. Further supporting information can be provided on this.</p> <p>The functional need is supported by the need for on-site security. Rural crime is on the increase with machinery and livestock thefts being among the most costly crimes. If there were to be any incidents of rural crime at the farm buildings during the night or even the day then those looking to carry out the act would likely to be able to access the buildings without any interruption or any other party noticing. Even the action of someone opening gates and letting out livestock could cause</p>

		<p>serious business, welfare, safety and highways issues should the animals escape. Although the building and proposed temporary dwelling are set back from the road access they are vulnerable due to their isolation.</p> <p>Additional details are provided in the submitted Supporting Statement.</p>
3.4	Use	<p>The temporary agricultural workers' dwelling will provide the applicant with a dwelling on site to aid the management of the livestock, which requires the applicants to be on site 24 hours a day, 7 days a week from the very inception of the enterprise's operation. The caravan will be removed within 3 months of occupation of the proposed mobile home.</p>
3.5	Scale	<p>The proposed temporary dwelling will fully comply with the definition of a caravan. It is likely that a static caravan style mobile home will be used in the first instance, to be replaced with a log cabin once sourced. Indicative elevations are submitted with the proposal. The dwelling will be a modest two bedroom home with an open living area, kitchen, and bathroom. The mobile home measures 6.7m x 13.74m with an approximate height of 5m.</p> <p>The applicant has applied for a modest temporary dwelling which will service the functional requirements for her to live on site. It is considered commensurate with the size of the business. The scale of the mobile home is in keeping with other structures on site. It will be properly sited and located on site against the backdrop of the farm building, adjacent to the existing farmyard, which will quickly assimilate with the surroundings. The internal floorplan shows that the dwelling has 2 bedrooms.</p> <p>It is proposed that the dwelling sits adjacent to the existing farm building (20/00223/AGR).</p>
3.6	Site and Access	<p>The proposed location for the mobile home has been selected to provide the site with security and allow for close and regular monitoring of livestock without being invasive or risking unnecessary disturbance to the animals. The siting is different to that considered under the previous appeal.</p> <p>The mobile home will be sited approximately 25m from the building. The location has been chosen to be close to the buildings and to utilise the proposed access. For biosecurity and hygiene reasons the applicant wishes to maintain at least a 25m distance between the mobile home and the livestock housing, and so for these reasons the proposed location has been chosen.</p> <p>It is the intention of the applicant to station a mobile home, of a size that meets the definition of a caravan, replacing the existing caravan and timber porch. Although mobile, an indicative floor plan has been supplied. A hardstanding area is required around the proposed mobile home to allow safe access, and to provide space for turning and parking.</p>

Closest residential dwellings are largely screened with natural features such as trees. The siting of the proposed mobile home has been carefully considered to utilise these natural features to the best advantage.

The location will allow the applicant to easily install the mobile home as access can be taken from the existing track leading to the building. The access track is required for the delivery of the mobile home and calves, feed and straw to the farm buildings. The existing access track entrance will serve the temporary dwelling. It is the intention to plant a hedge along the existing access, to provide screening of the mobile home from the road and other properties.

Pattingham is situated on the western fringe of the west Midlands conurbation. Originally a farming community, the local landscape is still dominated by agricultural management however, with increased residential development over the last 50 years or so, leisure, recreational and equestrian pursuits are also now a common feature.

The proposal site is located on Hollies Lane, with an existing agricultural field gate accessed over a shared drive with Grange Farm, of which it once formed part.

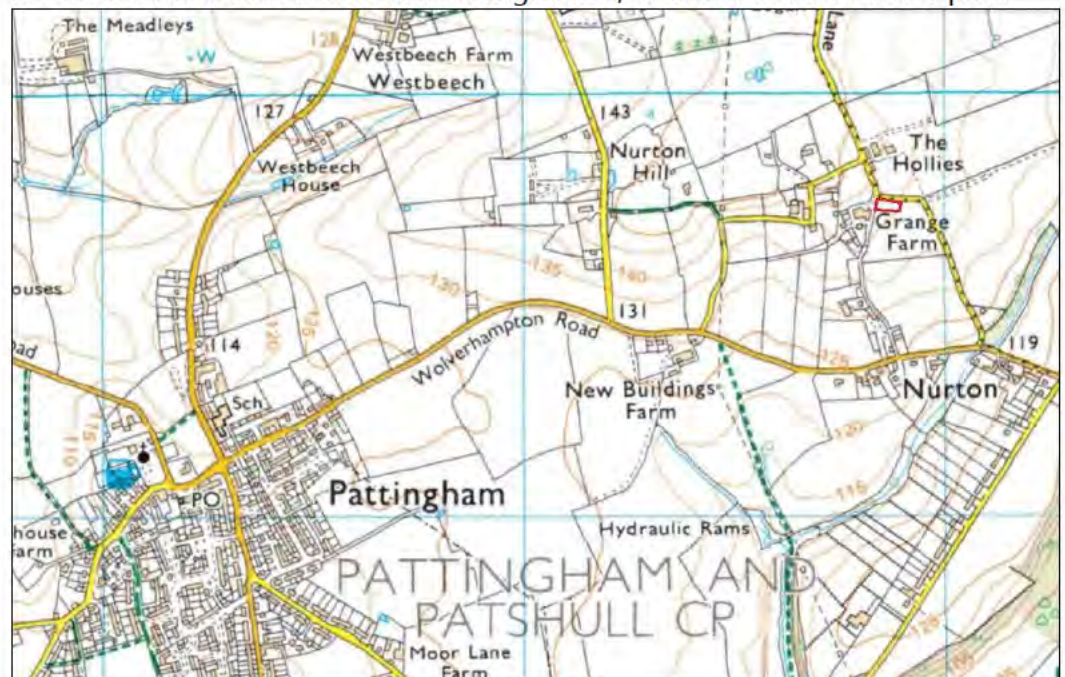


Figure 1 location plan showing proposed site, residential development and local farmsteads

The site's surroundings include a patchwork of arable and pasture land parcels, bounded by hedgerows and accessed via lanes off the main A454 Bridgnorth to Wolverhampton road. Scattered residential dwellings and farmsteads, together with ribbon development fronting the main road are typical of the residential settlement pattern between the proposal site and the villages of Pattingham (approximately 1 mile to the west and Perton (approximately 1.5 miles to the north-east). The locality benefits from a wide range of nearby services and facilities including shops, schools,

churches, public houses and restaurants, with frequent bus services running between Bridgnorth and Wolverhampton along the A454 at the end of Hollies Lane.

The proposed site and adjoining land is bounded by Hollies Lane to two sides, a private access track to the west and main Wolverhampton Road, the A454, to the south. The proposed site is situated on a relatively level section of the higher ground, with the adjoining land then sloping towards the A454 with a southerly aspect.

The natural topography is such that the proposed site is not visible from the Wolverhampton Road to the south. Only the very tips of the trees running along the private track to the west of the site are visible from this public view point. In addition, the hedgerow along the majority of the southern boundary would completely obscure views from the road side.



Figure 2 view towards the proposed site from Wolverhampton Road (Google StreetView).

The land is elevated from Hollies Lane, with an established mature hedgerow boundary, completely obscuring views of the application site and at the access point, where the private drive meets Hollies Lane, there are a number of mature trees, which further diffuse views into the site from public vantage points.



Figure 3 Eastern boundary from Hollies Lane (Google StreetView)



Figure 4 View towards proposed site from Hollies Lane at the access point

The site benefits from an existing, unrestricted access off a shared private drive, also serving neighbouring residential properties. This is the site's only existing access, and the water connection is also close by.

The hedgerow boundary to the roadside, surrounding topography and existing natural landscape features, continue to provide an effective visual screen to prevent the mobile home from being a prominent feature in the local landscape.

The siting of the mobile home behind the new agricultural building together with its low profile will ensure that it is not widely visible from public viewpoints and is located within the context of existing buildings and development in order to fit in with the local settlement pattern.

3.7	Layout	<p>The proposed mobile home site is beyond the existing building, separating agricultural movements on site from residential use. The mobile home is orientated so that visual impact will be reduced, being positioned adjacent to the existing building and yard, being 'massed' together so the mobile home is not obtrusive. The layout chosen is essential for functional access and security of the farmstead, as well as being within sight and sound of the calves.</p>
3.8	Design and Materials	<p>The intention is that a log cabin will be sited as soon as practicable, with the removal of the caravan within 4 months of the log cabin being substantially occupied. The hardstanding surrounding the mobile home will provide safe access, parking and turning. Indicative plans of the mobile home are submitted for reference.</p>
	Water Management Statement	<p>It is proposed that clean water run-off at the site will be managed via a soakaway in the adjacent paddock. A soak away will allow rainwater to gradually seep into the ground rather than remaining on the surface or running directly into a watercourse, where it will slowly begin to redistribute itself into the soil.</p> <p>The applicant is also actively exploring opportunities for the installation of rainwater harvesting facilities, which would allow them to efficiently collect water from the building, to use for livestock drinking.</p>

	<p>Any new parking area will be constructed of permeable materials which will freely drain and therefore cause no increase in run-off or have any other effect on drainage.</p> <p>It is proposed that the dwelling will be connected to the mains sewer. If this is not viable or appropriate, a new package treatment system is proposed to deal with foul waste, which will be located and managed in accordance with all necessary regulations.</p>
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[illegible]

		<p>Government 's intention to support the continuity of existing farm businesses. This element is central to the current proposal.</p> <p>Paragraph 84 of the National Planning Policy Framework (NPPF) seeks to support economic growth in rural areas to create jobs and prosperity by taking a positive approach to sustainable new development. Specifically, support for the sustainable growth and expansion of all types of business and enterprise in rural areas is given, both through conversion of existing buildings and well-designed new buildings. The promotion of development and diversification of agricultural and other land-based rural businesses is also highlighted.</p> <p>Strategic Objectives reinforce the NPPF stance to;</p> <p>Strategic Objective 1 'protect and maintain the Green Belt and Open Countryside in order to sustain the distinctive character of South Staffordshire'; and</p> <p>Strategic Objective 2 'To retain and reinforce the current pattern of villages across South Staffordshire, and in particular protect and retain the important strategic gaps between existing settlements in order to prevent the coalescence of settlements.'</p> <p>Policy GB1: Development in the Green Belt states that development will normally be permitted for 'a new or extended building, provided it is for a) purposes directly related to agriculture or forestry'.</p> <p>The proposed temporary dwelling is required for the running of an agricultural business from the site and therefore is directly related to agriculture. It is therefore considered appropriate development within the green belt. The proposal will not compromise settlement pattern or strategic gaps, being sited in good relation to other existing built forms locally.</p> <p>Within the context of the site the temporary dwelling is not isolated and is well screened as it is located in close proximity to the existing access and services as well as within the context of the new agricultural building.</p> <p>Strategic Objective 4 is '<i>To protect, conserve and enhance the countryside, character and quality of the landscape and the diversity of wildlife and habitats</i>'.</p> <p>Policy EQ4: Protecting and Enhancing the Character and Appearance of the Landscape requires the intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. That design should take into account characteristics and sensitivity of the landscape and its surroundings, and not have a detrimental effect on the immediate environment and on any important medium and long distance views.</p>
	Local Policy	

		<p>The locality and wider landscape setting is traditionally agricultural. The proposal is required for agricultural purposes and to enable the proper functioning of the agricultural business, by being within sight and sound of the animals. The dwelling will ensure high standards of animal welfare and aid land management.</p> <p>The proposal is functional as a temporary dwelling and is not intended to be sited on a permanent basis. Even so, the natural topography, existing landscape features and agricultural building will ensure that the mobile home is well screened from public viewpoints, the structure itself being massed together with the existing farm building.</p> <p>Whilst farming over 97.5 acres of land, this land parcel is the only one owned by the applicant and on which she is able to invest. The siting within the field parcel is the most favourable as this is close to the existing field access but allows adequate space for an agricultural building and yard, which the temporary dwelling will be sited just beyond, without the creation of a long access track. Existing services are also close by.</p> <p>The dwelling is already screened by existing hedgerows and tree planting and the natural topography means that it cannot be seen from the main road to the south. The dwelling is sited within the context of existing development, is not isolated nor directly in view from the nearby listed Grange Farm.</p> <p>The proposals will retain existing landscape planting, which filters views into the site from public and private viewpoints. Existing land enclosure patterns are retained and traditional hedgerow boundaries are proposed to be improved and enhanced, having visual, environmental and biodiversity benefits. Local native species will be utilised in supplementing the existing hedgerow planting and a landscaping plan forms part of the submissions.</p> <p>The design of the dwelling is functional as a temporary dwelling and financially viable. The siting takes into account the need to be within sight and sound of the calves and at times of lambing to serve its functional need.</p> <p>The dwelling is situated out of view from the listed Grange Farm and set back from the entrance and shared drive, with the new agricultural building in between, obscuring any views from the approach.</p> <p>The height of the mobile home will not be visible above the roadside hedge and given the agricultural and temporary nature of the proposal and only limited distant views from first floor private dwelling houses, it is not considered to have a significant detrimental effect on the local landscape character or views.</p>
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		<p>In line with Policy EQ11: Wider Design Considerations; the application and design proposals have considered;</p> <p>Use; the use is residential but limited to occupation by an agricultural worker. The structure is suitable for its proposed temporary period of use.</p> <p>Movement; the siting and layout separates space for residential and agricultural movements and parking, but utilises a shared access drive. The proposed dwelling is sited in close proximity both functionally and visually related.</p> <p>Space; the size and mass of the temporary dwelling has been kept to a minimum, which is adequate accommodation on a temporary basis.</p> <p>Policy EQ12: Landscaping. The retention of existing landscape features, enhancements to biodiversity and the visual amenity of the site and wider landscape character will enhance the proposal. Given the agricultural nature of the site, the proposal is not considered to damage the openness and the purposes of the Green Belt and is therefore considered appropriate development.</p> <p>Policy EV5: Rural Employment. Proposals for employment development will be supported where is small in scale and where the development is not capable of being located within development boundaries. The very nature of the proposal dictates that it cannot be situated within a village due to the nature of the agricultural operation.</p> <p>EV8: Agriculture. The Council will support proposals for agriculture and related development which is consistent with national policy for the protection of agricultural land and other local planning policies by supporting proposals for temporary and permanent agricultural and occupational workers dwellings provided that they satisfy the criteria set out in policy where there is clear evidence of a firm intention and ability to develop the enterprise concerned; there is a clear functional need which cannot 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 worker concerned; clear evidence that the proposed enterprise has been planned on a sound financial basis; and the proposal satisfies all other normal planning requirements.</p> <p>The farming business has been operating on this site since 2007, during which time, the applicant has grown their flock of breeding ewes to 270, with plans to increase this further to 350, in addition to the new calf rearing enterprise which will ensure the longer term viability of the farming business.</p>
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		<p>There is a clear functional need for the applicant to be on site at most times of the day and night, every day of the week. The functional need is discussed above and is based on the need to be within sight and sound of the young animals in case of welfare emergency. It is essential that this need is fulfilled on site; not further afield, where the ability to react to emergencies and opportunities to detect problems is diminished due to distance. It is essential that problems are identified and resolved quickly to reduce the risk of loss.</p> <p>This need cannot be fulfilled by another existing dwelling on the unit as there are no other existing dwellings. The proposed site is where the farm business is operated from and the only land on which the applicant has ownership to be able to invest.</p> <p>The need is on site, therefore existing local dwellings are not suitable. However, even if their location were deemed suitable, the value of these properties are not financially viable for the business to afford. The cheapest available property within ½ mile of the proposed site recently was £435,000.</p> <p>The intention always to be that they can build the buildings they need to run their business, know that investing in their owned land is sound financial investment and will receive financial backing (loan from the bank) which would be impossible on rented ground.</p> <p>The business has been trading successfully for a number of years and is planning to invest in the business for the long term, by diversifying and developing the calf rearing enterprise and this proposal for a temporary dwelling will enable the business to reach its target of 350 breeding ewes and develop the calf rearing enterprise.</p>
4.5	Design / amenity	<p>The design of the dwelling is entirely functional, it is temporary to support a new enterprise, its scale is consummate with the requirements of the family and business comprising two bedrooms, bathroom, a kitchen and open living area.</p>
4.6	Landscaping / visual impact	<p>It is proposed that the dwelling is sited adjacent to the existing farmyard. This is in a location which is lower than the farmyard in terms of topography, which allows the dwelling to assimilate into the landscape, using the existing farmyard as a backdrop and existing natural features, such as the tree cover adjacent to the site, as well as established hedgerows.</p> <p>There are no public rights of way within the holding boundary. There is already an established, thick roadside hedge to the north which will screen virtually all views from the road. Views from the south will be interspersed with hedgerows and trees. Very distant visual receptors, such as the public right of way reference 'Perton 6' which is over 600m away, would view the mobile home within the context of the established farmstead without being unduly conspicuous within</p>

		<p>this working landscape and positioning adjacent to the recently approved agricultural building has been carefully selected to reduce visual impact.</p> <p>This additional planting would enhance and reduce any perceived impact of the development from local viewpoints and therefore visual impacts in relation to the wider landscape would be successfully mitigated.</p>
4.7	Historic impact	<p>The nearest listed building is neighbouring Grange Farm, of which the land once formed part, lying approximately 40m to the south-west of the proposal site boundary.</p> <p>Between the listed building and proposed site is a residential barn conversion, known as Nurton Croft, also historically forming part of Grange Farm. Given the orientation and curtilage of the listed building away from the barn conversion and proposed site, and that the setting of the listed building is already interrupted by an existing built form in separate ownership, use and occupation; the proposal is not considered to materially impact on the setting of any listed building.</p> <p>The site has the benefit of existing established natural features and the proposed landscaping and siting the proposal will have limited impact on the setting, character or appearance of the listed buildings. The proposed development will be far enough away from the listed property and sited appropriately to ensure that they are neither viewed within the context of each other, nor impact on the outlook or setting of the listed building itself.</p>
4.8	Ecology	<p>The land on which the temporary dwelling will be sited is improved grassland which is tightly grazed by livestock and therefore holds limited suitable habitat for protected species. There will be no impact on any protected species or habitats.</p>
4.9	Highways	<p>The proposed site is located on Hollies Lane, with an existing agricultural field gate accessed over a shared drive with Grange Farm, of which it once formed part.</p> <p>The access is existing and is constructed of permeable materials and will not impede natural drainage. The track is built from crushed stone topped with gravel chippings; it will not be obtrusive in the landscape and is essential for the functional operation of the holding.</p>
4.10	Drainage	<p>Surface water drainage will be via an existing soakaway with foul water being dealt with via a package treatment plant, discharging to the nearby watercourse, water body or soakaway as appropriate.</p>
4.11	Planning balance and weighting	<p>In summary, providing there are no material considerations which would indicate otherwise, the principle of the development in this location is acceptable.</p>

		<p>This proposal clearly meets both NPPF and relevant local policies where an existing rural business is supported, whilst ensuring that the new enterprise is sustainable and viable.</p> <p>The nature of the proposal is one which can only be situated in a rural location. It is considered appropriate in the landscape and historic assets are not impacted. Furthermore, the design and nature of the proposed development ensures that the views from relevant vantage points are not altered in an identifiable way.</p> <p>The proposed involves very labour intensive enterprise and it is simply unfeasible to run this business, without significant harm and detriment to the welfare of the livestock and financial viability of the business, without on-site accommodation. Already farming in a substantial way, and heavily involved in agriculture, the applicant is totally committed to their new and existing ventures. This is a very genuine proposal that will allow a rural family business to establish a new profitable farming enterprise within the South Staffordshire area, contributing to a sustainable rural economy.</p> <p>All practical issues have been considered and are believed compliant; therefore, we submit there are no material considerations that indicate the proposal should not be permitted. The NPPF sets out that where proposals accord with an up to date development plan, they should be approved without delay.</p>
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Supporting Statement

In support of a

Proposed temporary dwelling for an agricultural worker and the
subsequent removal of existing caravan

at

Willow Farm
Hollies Lane
Pattingham
WV6 7HJ

Applicant

Mrs C Anning

Agent

Mrs Angela Cantrill BSc (Hons) MRICS FAAV

Ref: 7536/PS

Providing planning solutions for
agriculture | equestrian | rural business | residential



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1.0 Executive Summary

- Overview: A proposal for a temporary workers' dwelling to support the applicant's existing agricultural businesses where additional land is rented elsewhere on tenancies and grazing arrangements; the functional justification for the new dwelling will predominantly come from the establishment of a calf rearing enterprise. For this reason, the applicant intends to apply for a temporary dwelling to prepare and initiate the new enterprise and allow the applicant to prove long term sustainability and viability prior to applying for a permanent dwelling.
- Background: The applicant has secured planning consent for an agricultural building on the holding, which facilitates agricultural storage. This farmstead is a base from which to run their successful farm business. The applicant rents most of the land they occupy and now owns 16.5 acres. The intention has always been to build the buildings and establish a base she needs to run her business, knowing that investing in her owned land is a sound financial investment and will receive financial backing. The applicant has an essential need to be on site to attend to their business interests.
- Need: The essential need to reside on site to provide efficient attendance and supervision of the applicant's new enterprise developed to broaden and ensure robust income streams, ensure high welfare and ensure security, a temporary dwelling is essential to allow the applicant to be readily available at most times, within sight and sound, for the welfare of her livestock.
- Design and visual impact: Careful consideration has been given to the design and siting of the proposed temporary dwelling, particularly the impact on visual amenity, which has enabled the development to be sited appropriately, being massed together with the existing farm building.
- Highways: A safe and suitable access location can be provided to serve the proposed development site. The site access has capacity to accommodate associated traffic flows.
- Planning policy: Support for rural businesses is actively promoted through both the National Planning Policy Framework and the South Staffordshire Core Strategy, by specifically supporting the needs of agricultural businesses.
- Conclusion: This successful agricultural business, which contributes considerably to the local rural economy, has an essential, functional and demonstrable need for the proposed temporary dwelling, addresses the potential impacts on landscape and residential amenity and complies with national and development plan policy and should therefore be supported by the local authority. On planning balance, the perceived impact on the landscape can be successfully mitigated and clearly outweighs the essential need by a farming business which does not currently have the ability to be readily available at most times to ensure the welfare of livestock.

2.0 Introduction

- 2.1 The Rural Planning Co have been instructed by Mrs C Anning ("the Applicant") to set out the case for a proposed temporary agricultural workers' dwelling at Willow Farm, Hollies Lane, Pattingham, WV6 7HJ.
- 2.2 The proposal documents provide:
- A statement in support of a proposed a temporary dwelling for an agricultural worker and the subsequent removal of existing caravan at Willow Farm, Hollies Lane, Pattingham, WV6 7HJ.
 - The applicant's business plan, providing justification for the temporary dwelling.
 - An opinion as to how the proposal meets local and national planning policy.
- 2.3 This report has been prepared by Mrs Angela Cantrill BSc (Hons) MRICS FAAV, a member of the Royal Institution of Chartered Surveyors and the Central Association of Agricultural Valuers. Angela Cantrill and The Rural Planning Co fully comply with the regulatory and ethical procedures set out by our membership organisations.
- 2.4 The information provided herein has been provided to The Rural Planning Co by the applicant along with some of the commentary and assumptions (assumptions are stated wherever applicable) used within the business plan are from own experience and knowledge.
- 2.5 Although the applicant already runs a successful agricultural business on the site and on other land under other farming arrangements, part of the functional justification for the new dwelling will come from the establishment of a calf rearing enterprise. It is for this reason, that the applicant intends to initially apply for a temporary dwelling (mobile home), allowing the new enterprise to establish and be functionally managed, subsequently allowing the applicant to prove long term sustainability and viability prior to applying for a permanent dwelling.
- 2.6 Previous applications have sought to regularise the stationing of a caravan on the property, however, the current proposal intends to replace the caravan with a log cabin mobile home to address the comments made during the course of the previous application, concluded under appeal ref: APP/C3430/W/20/3253786.

2.7 Agricultural planning history which relates to the site:

- 19/00405/FUL - Erection of an agricultural building and associated hardstanding – Refused
- 19/00462/FUL - Stationing of a static caravan as a temporary agricultural workers dwelling (retrospective) – Refused (February 2020)
- 20/00223/AGR - Agricultural building for the storage of hay, straw, machinery and equipment – Prior Approval Not Required (April 2020)
- Appeal Decision APP/C3430/W/20/3253786 (March 2021)

2.8 This proposal has fundamental and important material differences from that of the previous appeal, which overcome the previous planning objections. This Supporting Statement demonstrates the differences between the dismissed appeal and the current proposal:

- (a) Expanding the nature of the agricultural enterprise at Willow Farm from purely a sheep based enterprise to a mixture of sheep breeding and rearing and calf rearing **which goes to the crux of establishing an essential functional need as per policy requirements.** The proposed enterprise requires a year-round essential need to reside on site, not found in the recent appeal decision. This essential element to a proposal of this nature is therefore substantially different to the dismissed appeal.
- (b) Demonstrating that the enterprise has been founded on a sound financial basis with an updated business plan and supporting budgets. Investment, costs and income of the entirely different and newly proposed enterprise will be different to an established, primarily sheep based system. The financial assessment of an enterprise will require a completely different assessment to an established one. The financial basis of the proposed calf rearing enterprise can only be assessed once the business has been operating for the temporary period;
- (c) Demonstrating that the proposal does not harm the rural character and appearance of the countryside by the replacement of the mobile home with a log cabin which will be sited in a different location, comprise different more sympathetic materials and amount to a new design for the consideration of the local planning authority;
- (d) Demonstrating that the proposal will not conflict with the purposes of the Green Belt by addressing any harm and establishing very special circumstances.

2.9 The calf rearing enterprise is materially different to that considered under the previous appeal in relation to:

- (i) Functional need – The assessment of functional need is specific to the proposed farming enterprise. The nature of the business has changed from purely sheep and finished cattle based to sheep and baby calf rearing, which provides for a year-round essential need not found in the recent appeal decision. The element of functional need associated with calf

rearing has not formed any part of the previous appeal. This essential element to a proposal of this nature is therefore substantially different to the previous appeal.

- (ii) Financial – Investment, costs and income of the entirely different and new proposed enterprise will be different to an established, primarily sheep based system. The financial assessment of a proposed enterprise will require a completely different assessment to an established one. The financial basis of the proposed calf rearing enterprise can only be assessed once the business has been operating for the temporary period. To support the proposal forecast budgets and forecast profit and loss projections are prepared to accompany the Supporting Statement. This too therefore, proposes a significant change to the previous appeal.

3.0 Background

- 3.1 The applicant has been farming at the site since 2007, when she took the land on a Farm Business Tenancy (FBT). She has subsequently purchased the 16.5 acres, which is now known as Willow Farm, and continues to farm it along with an additional 81 acres of rented ground locally building up her own livestock-based business located on purchased and rented premises for the last 20 years. The applicant has always operated a productive agricultural business, mainly breeding and rearing sheep. Having lived in the local area all of her life, Caroline has always had an interest in farming and has worked in various positions in the farming industry, to give her a good grounding and significant experience in the industry. She has also worked in other livestock marketing positions in the local area and has good contacts through which she can source calves. Caroline has managed to build the business over the years through renting blocks of land in the local area on both short term and longer arrangements (currently around 81 acres) and has now managed to purchase 16.5 acres of land at Hollies Lane through hard work and determination.
- 3.2 Whilst it is financially unfeasible to buy 'a farm' in the area / location, the applicant should be applauded for achieving – through hard work and savings – the ability and intent to buy 16.5 acres of her own, which she did in 2007. The intention always to be that she can build the buildings needed to run her business, knowing that investing in her owned land is a sound financial investment and will receive financial backing which would be impossible on rented ground. There are currently no residential units at the farm, although a caravan has been used to facilitate lambing on site and recently more frequently, with the applicant previously living between Willow Farm and Caroline's family home, approximately 12.5 miles away.
- 3.3 The new building (20/00223/AGR), has allowed the applicant to broaden her agricultural operations in order to develop the sheep business, diversifying her income stream by developing a calf rearing enterprise, provides essential storage and secures the employment of Caroline.

- 3.4 In light of industry and market volatility due to Brexit and the reduction in agricultural support payments, the farm business plan has recently reviewed its position and due to current demand for rearing calves, the applicant intends to draw on her experience in breeding stock and rearing youngstock and develop a calf rearing business from the site.
- 3.5 This report will provide further information and detail about the farming business operations and justification for the temporary dwelling to facilitate the commencement of the proposed calf rearing enterprise together with a brief analysis of the site, its physical and policy context, design principals and statements on access and water management.

4.0 Current use and farming enterprise

- 4.1 The applicant already runs a successful sheep enterprise on her owner occupied 16.5 acres at Hollies Lane and elsewhere on rented and other farming arrangements. In considering whether to apply for a permanent or temporary dwelling, given that part of the functional / essential need will be derived from a new enterprise it was concluded a temporary dwelling would be more acceptable to the LPA, allowing the applicant the opportunity to build up her business demonstrating the functional and financial need.
- 4.2 The applicant owns her own flock of 270 breeding ewes, which lamb between February and April every year achieving a 170% lambing percentage to sale. The lambs are all finished and sold direct. Overall current stocking is:
- 270 breeding ewes
 - 12 rams
 - 460 lamb followers
- 4.3 It is the applicant's intention to expand the agricultural enterprises to include not only sheep but also calf rearing where baby calves are kept on site for a prescribed period of time before being sold on to finishing units. Whilst the applicant's existing farming business is successful and profitable, with a large proportion of the farming income being derived from sheep production, the applicant needs to spread the business risk and seek alternative farming incomes from different enterprises. After much research and business planning, the applicant identified that modern, efficient calf rearing enterprise will be most profitable on the small area, whilst utilising the applicant's existing skills and stockmanship.
- 4.4 Whilst the functional need for onsite accommodation derives from the calf rearing enterprise and therefore the majority of this statement focusses on this enterprise, however it is important to note that the applicant is already farming and breeding a significant number of sheep; on owned land and rented land on grazing arrangements. The establishment of the farm holding at Hollies Lane will also enable the applicant to

set up a long term, sustainable 'base' from which her existing farming enterprise can be run.

4.5 All of the land at Hollies Lane is grassland and will be used for the grazing of sheep on the site. The applicant farms across 97.5 acres pasture, and in addition 16.5 acres of which is owned, a further 81 acres is rented; sufficient to support 360 breeding ewes and lambs according to standard Livestock Units LU/ha calculations. The applicant also owns and keeps 10 breeding rams.

- 16.5 acres land at Willow Farm, (the proposal site and adjoining land) Pattingham – owned and occupied all year round, utilised for lambing, storage of produce, machinery and equipment, grazing and mowing
- 55 acres land at Shipley, rented and utilised all year round for grazing
- 6 acres land at Shipley, rented as seasonal grazing
- 20 acres land at Bobbingon, rented and utilised all year round as grazing

4.6 The limitations of land owned restricts possible farming operations to intensive enterprises, and so on this basis the applicant researched various options predominantly those that are housed or are of high value. Although there are other farming enterprises that can be viable on a small acreage such as poultry, having had many years of livestock experience the applicant considered that calf rearing best utilises her skills and reduces her risk. She has carried out extensive research on best practice as well as preparing business plans, cash flow and other forecast budgets and on the basis of this research and planning has decided to proceed with establishing this enterprise.

4.7 Produce & Land Management

4.7.1 In addition to the livestock the applicant owns her own machinery and equipment, which is utilised to undertake her own land management activities and produce own hay, baling approximately 100 big round bales of hay each year for consumption on the holding.

4.7.2 Bedding straw is bought in, preferably purchased as standing straw at auction at the field gate. The applicant will then bale this and cart it back to Willow Farm for storage and use during lambing.

4.7.3 Typical land management operations include harrowing, rolling, topping, mowing, hay tedding, rowing up and baling as well as hedge cutting, boundary fence and general maintenance.

5.0 Existing buildings

5.1 The existing farmyard comprises of one building which was approved following an application for prior approval, made in 2020. The building extends to 157.9m² with an additional 92.9m² of hard standing yard, totalling an overall development area of 250.8m².

- 5.2 There are no other buildings on the site that are available to the farming business.

6.0 Background to the need for a dwelling

- 6.1 The overall need for the temporary dwelling is driven by the need to be on site, in attendance and providing supervision 24 hours a day, 7 days per week from the very inception of the operation of the enterprise, in order to functionally manage her existing business safely, efficiently and securely, whilst allowing for opportunity to expand and grow the business with different enterprises - both to better meet the production and welfare needs of the livestock, being within sight and sound of the enterprises she operates, and also to allow the business to benefit economically and to support local rural employment.
- 6.2 The applicant is breeding high quality, high health status stock; managing them within the right facilities and disease management is hugely beneficial to the animals themselves and in economic terms. Management of livestock and the overall business can only effectively be undertaken from a 'base' where the applicant has direct and immediate access to livestock and management tools, including medicines and equipment.

7.0 Proposed calf rearing enterprise – Overview

- 7.1 The calf rearing enterprise is based predominantly around rearing very young calves to weaned age on a quick throughput system explained more fully below. The enterprise will be based at Willow Farm and will utilise approximately only 160m² of land per batch of calves.
- 7.2 The applicant has established that in order to run a profitable enterprise it is essential to have a very high health status, with a strong emphasis on calf welfare which will be achieved through suitable hygiene, disease management, correct housing and ventilation, suitable feeding and management.
- 7.3 The applicant will purchase calves through a livestock supplier or direct from livestock markets, such as Market Drayton. The purchased calves will be reared to around 12-15 weeks old, when they are sold on to a growing unit.
- 7.4 The applicant has carried out much research and has prepared a clear management plan incorporating the above elements. The following sections will cover the various elements in more detail.

8.0 Calf rearing – numbers

- 8.1 The applicant will purchase the calves at around 2-3 weeks of age. The calves will be housed in batches of between 15 and 30 calves as soon as they arrive on the farm (no

individual pens or calf hutches). For good management of calves, they will be grouped with other animals of a similar size, condition and age.

- 8.2 The calves will be reared on milk (made up replacement milk powder) until they are about 8 weeks old. They are then weaned over a period of a couple of weeks and reared for a further 4 weeks or so and up to about 130kg in weight. In total the calves are normally on the holding for around 10 weeks, which allows a reasonably profitable throughput of 5 batches of calves per annum.
- 8.3 The housing system (explained in 10.0 below) will work on an all-in, all-out basis with all calves in the batch coming in all at once, or within a couple of days of one another. When they come in, calves will be on milk replacement in the calf rearing shed and once finished in this system, they are moved off the holding to be reared on by another rearer.
- 8.4 The applicant intends to build up the numbers over the next two to three years, predominantly for cash flow reasons but it will also mean that the early learning process which comes with a new enterprise allows the applicant to adopt best practice over a couple of years and so thereby reducing risk at the start. Calf rearing, although veterinary advice is sought, adopting a disease management strategy is trial and error according to the individual holding and so calf losses will be greater at the start. After a few batches the applicant will have established a proven routine which can then be applied to larger numbers as time goes on.
- 8.5 The numbers of calves planned are as follows:

	No. of batches	No. in batch	Total
Year 1	2.5 batches	60	150
Year 2	4 batches	60	240
Year 3	5 batches	60	300
3 Year Total			690

9.0 Calf rearing - management

9.1 Initial handling and care of the baby (pre-weaned) calf

- 9.1.1 Calves will either be transported by the applicant or delivered by lorry to the farm directly from the farm or from a calf collection centre. Due to the nature of livestock haulage, this delivery can be any time of day or night.
- 9.1.2 Immediately on arrival, baby calves should be penned in clean, well-ventilated pens with sufficient fresh bedding. Calves should always be protected from draughts and damp cold conditions.
- 9.1.3 If arrival is during the day, then calves should immediately be drafted into their housing groups and then left for 6 hours to allow them to rest.

- 9.1.4 If arrival is at night, then calves should be penned together and drafted the following day.
- 9.1.5 Calves will be fed their first feed approximately 6 – 8 hours after arrival as the stress of movement inhibits their ability to digest replacement milk powder. The first feed should also include a glucose or electrolyte solution. Any weak calves or those showing early signs of illness should be immediately isolated with additional heating, bedding and if necessary tubed with electrolytes and milk.
- 9.1.6 On their farm of origin, baby calves are fed in a variety of ways e.g. from a cow, by bucket, by individual feeder, by group feeder or by automatic machine. Therefore, all calves need training on how to use a new system. The applicant intends to use group feeders where 5 calves feed from one large bucket. This has some time savings however careful attention must be given to make sure each calf receives the correct amount and the larger calves are not taking more than they should.
- 9.1.7 Within 48 hours the first routine vaccinations and preventative medicine should be given which involves careful handling of each individual calf.
- 9.1.8 The baby calves will be bedded twice daily by hand (reducing to once daily after a few weeks) which allows the applicant to look very carefully for early signs of illness. Diseases such as pneumonia must be treated within a couple of hours of identification.
- 9.1.9 The arrival of a new batch of calves is also administratively heavy. Each calf needs to be checked to make sure it has two matching ear tags which also matches with the passport. There is a legal obligation to report the 'on' movements to the British Cattle Movement Service (BCMS) within 3 days of the movement. Each calves' details also have to be entered onto the holding's cattle register. The applicant must also keep detailed medical records for each animal. Other administrative requirements include the need to notify BCMS when the animal is moved off or dies, or if the animal has a calf. Each calf must always have two ear tags and so if any fall out (which is a regular occurrence) then these need to be ordered and retagged to the calf's ear.

9.2 Feeding

- 9.2.1 The applicant intends to feed the baby calves a minimum of 3 times per day, possibly 4 times per day to start with as this best mimics their natural behaviour and is the most digestible timing for the baby calf. This will be reduced to twice daily in the fortnight before weaning at 8-10 weeks.
- 9.2.2 The milk replacement powder is specially formulated to meet the whole nutritional requirement of a baby calf, however all calves are also offered ad-lib specially formulated concentrates as well as roughage in the form of hay or straw. The milk powder has to be reconstituted very carefully as the wrong ratio of powder to water (too much or too little)

will cause digestive problems or provide insufficient protein leading to poor weight gain. It also has to be heated to and fed at a consistent temperature or may result in digestive scours.

- 9.2.3 As the calves are weaned their intake of concentrates and roughage will increase. By the time they are ready to leave the farm they will be consuming at least 1.25kg of feed per day.
- 9.2.4 Some minerals and vitamins can be added to either the milk or hard feed as required. Fresh water is essential at all times, even whilst on milk.

9.3 Calf health

- 9.3.1 Young calves require very high levels of stockmanship during the rearing period as they are highly susceptible to medical problems. It is absolutely essential for the stockman to be able to recognise the very early signs of ill health and treat it immediately and appropriately.
- 9.3.2 The most common illness amongst baby and reared calves is pneumonia. Cases of pneumonia in calves leads to high costs of treatment, reduced weight gain, increased and significant workload in treatment and most significantly the cost of calf deaths.
- 9.3.3 The system of calf rearing unfortunately lends itself to pneumonia being a problem, having been stressed at market or collection centre and mixed with sometimes hundreds of different animals, pneumonia is par for the course for calf rearers. Because of the nature of livestock farming, over 90% of UK livestock farms carry the bacteria that can develop into pneumonia and so it is a constant risk.
- 9.3.4 Pneumonia takes hold seriously and quickly, so it is absolutely imperative the calf rearer is able to spot the signs early. The early signs are reduced feed intake, a fever (temperature) and a watery discharge from the nose. As the disease progresses coughing can be observed, and the nasal discharge becomes thicker. If the disease has reached this stage, there will almost certainly be other calves in the early stages. At its most progressed the lungs will be so damaged the calf will not be able to take in enough oxygen and will die.
- 9.3.5 Immediate treatment is absolutely essential, not only for the individual calf but also to prevent further transmission and spreading of the bacteria. Calves that are showing signs should be isolated immediately away from the same air space, given additional heating, bedding and suitable veterinary treatment.
- 9.3.6 The second most common problem is scouring and diarrhoea caused by bacteria, stress, changes to milk temperature or type, feeding regime or a change of environment. Again, when scouring is identified in a calf they should be isolated and treated. Treating scouring

is a time-consuming job as regular rehydration through tubing or feeding electrolytes is necessary.

- 9.3.7 Calves will also be vaccinated at least once during their time on the farm (which requires handling the calves through a special race and holding pen) and will need to be TB tested before leaving the holding (which requires an injection one day and reading the results three days later, again handling them twice).
- 9.3.8 Skin problems such as ringworm and lice have to be managed through observation and treatment.
- 9.3.9 All calves will need to be, dehorned and routinely treated for worms and parasites using a drench, and male calves castrated. All of these operations are undertaken on separate occasions so as not to overly stress the calves, but obviously creates a high labour requirement.
- 9.3.10 All medicines, routine and treatment have to be carefully recorded to meet with statutory requirements. There must be a written record of what medicine each calf has received, the date it was treated, the amount it was given, the batch number of the medicine and the reason for treatment. The calf rearer must keep accurate records of all medicines bought in, used, any not used and any disposed of.

10.0 Calf rearing - housing

- 10.1 Correct accommodation design is crucial to viable commercial calf rearing and the following design principles must be observed:
- The top priority for housing is to ensure very good air flow through correct ventilation. Good ventilation helps carry away viruses and disease, it also prevents the build-up of ammonia which is an irritant to the animals' natural defences making it more likely that bugs could get into the calves lungs.
 - Reduce stress wherever possible. When calves are transported to a calf rearing unit they will naturally be stressed from the journey and mixing with other animals. It is essential their stress levels are reduced as quickly as possible. This can be helped by a well-designed accommodation with easy access to water, milk and feed. It is important not to mix animals of various ages as the younger calves are most susceptible to developing disease. Similarly avoiding overstocking animals in a group will reduce any build-up of bugs in the environment, keeping air fresher and avoiding warm and moist environments.
 - Excellent hygiene, cleanliness and disinfecting regimes should be sought, ensuring the bedding and lying areas remain dry, ensuring adequate drainage, regular cleaning and disinfecting between batches of calves will reduce the build-up of respiratory bugs.

- 10.2 It is proposed that a mobile veranda and igloo system is used for the calf rearing system on the holding. These structures will be placed outside on the free draining ground, without the need for buildings. Images of these are provided below.



Figure 1: Indicative veranda and igloo layout and design.

- 10.3 Health, hygiene and disinfecting regimes are highly important therefore, the following principles have been incorporated into the modified veranda and design:
- The calves must have access to draught free, but well ventilated shelter;
 - The calves must be sheltered from precipitation;
 - The shelter must maintain an ambient temperature during the winter and summer months. Calves can deal with cold temperatures (so long as they are draft free and dry) but cannot deal with hot temperatures and being sweaty leads to pneumonia;
 - Ideally the calves should have a natural choice of their housing, i.e. in shelter or in a more open environment;
 - There should be sufficient space to avoid overstocking and competition for milk and feed;
 - The area should be capable of being cleansed and disinfected – both by easily moveable fixtures and using surfaces (e.g. metal and concrete) to enable washing;
 - Ideally there should be small numbers of stock kept together to reduce infectious disease and contamination. Smaller individual units are preferable to large sheds with a shared airspace; and
 - The pens must be easily accessible by the stockmen in order to ensure regular (at least twice or three times daily) close inspection.

- 10.4 Below are an illustration of how the rotation of igloos and verandas will be maintained, cleansed and disinfected.

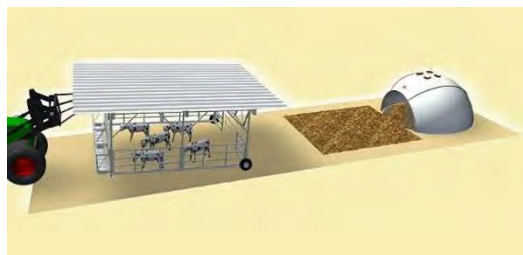
Igloo and Veranda in situ



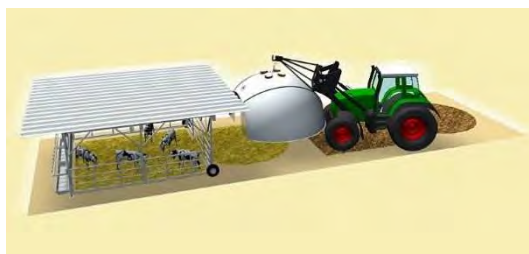
Veranda being lifted with a loader tractor.



Veranda being moved with a loader tractor to fresh ground.



Igloo being moved with a loader tractor to fresh ground, adjacent to the veranda.



The previous veranda position being 'mucked out' by machine, will be disinfected and cleansed.



- 10.5 The applicant is designing the operation as a whole bearing in mind the above design principles, and aiming to achieve the welfare principles. It is proposed to utilise veranda pens alongside igloos which can house up to 15 calves at once. This set-up can be utilised to house calves very effectively, although ideally the applicant would like to erect a more modern purpose-built building, when finances allow, which will allow increased efficiencies and functionality of the enterprise overall. The veranda is a well designed

mobile group pen with a roof. The calves lie in the Igloo to escape from draught and as they get older they progressively spend an increasing proportion of their time loafing in the veranda pen, providing fresh air, shelter, and shade, coupled with a cosy draught free bed.

- 10.6 It is anticipated that when at full capacity, a total of 60 calves per batch will be reared on an 'all in, all out' basis to ensure biosecurity is maintained. With 15 calves per pen, this means that there will be up to 4 igloos and verandas housing calves at any one time.
- 10.7 The calf unit/set-up has been specially modified to accommodate the system, and this is explained below. To reduce the potential for cross infection of respiratory diseases that would occur in one large, shared space the calf rearing unit will have four veranda pens with adjacent igloo lying area and shelter. Each pen is used by the calves for lying down, moving around and playing, with a separate feeding area to the front of the veranda.
- 10.8 The main part of the veranda pen lying area is deep littered with straw. To the rear of the pen an igloo is positioned which can also house up to 15 calves at a time. This is a flexible way of managing calves depending on temperature, season and age of animals. In the summer, the igloo provides a cool environment in which to lie and warm in winter. Both the veranda and igloo can be moved easily, with the use of a tractor or loader, to be mucked out whilst calves are contained in the veranda. Moving to a clean location reduces bacterial challenges.
- 10.9 At the front of the pen there will be a feeding area. The feeding area is the area with the highest traffic rate which makes it the dampest and dirtiest area. There should therefore be sufficient space to avoid the calves being required to lie in this area.
- 10.10 Each veranda pen and igloo provide 39.5m² of space (25m² veranda area and 14.5m² igloo area). This gives each calf an area of 2.63m² of space. In accordance with Farm Assurance (Red Tractor) guidelines, calves of up to 84kg require housing space of 1.5m² each, rising to 1.8m² for calves from 85-140kg. On that basis there is sufficient space for up to 19 calves per pen however the applicant proposes maintaining this number at 15 which is the recommended number of calves per pen to increase the welfare and effective management of disease.
- 10.11 The existing building is to be used for the storage of general-purpose items required for feeding. These items (feeders, milk powder etc) are required a minimum of twice per day while the calves are drinking milk and so must be in close proximity to the calves for optimum efficiency. Other areas in the building will be utilised for feed storage and for stacking straw (for distribution into the pens).
- 10.12 At Year 2 it will become necessary to erect a specifically designed building to house the numbers of calves which are proposed and to enable the highest productivity and functionality of the enterprise.

- 10.13 Each veranda pen can therefore house groups of 15 calves at any one time with a total of 60 calves being on the holding at any one time. When restocking the calves, it is preferable to get all the animals in within a couple of days of each other so as their vaccinations and the grouping can take place quickly, allowing the calves to settle in without re-disturbing. It is difficult to obtain large numbers of calves in a short space of time, but 60 calves would be achievable and so, this dovetails well with the size and design of the unit. As previously discussed, it is not helpful to mix different age calves in a unit.

11.0 Calf rearing - other management

- 11.1 In addition to the management of the calves, there are other daily duties that must be undertaken including regular cleaning of equipment which is essential for reducing bacterial infection.
- 11.2 As the acreage is small much of the fodder (hay and straw) and bedding (straw) will need to be bought in and so regularly transported to the farm and stored appropriately. Similarly, milk powder, concentrates, minerals, veterinary medicines must all be sourced, purchased, transported and stored to site.
- 11.3 Ideally calves, in future, would be housed in a purpose-built building but for the time being the veranda pens and igloos will be utilised, although the new building would better serve the enterprise in terms of functionality and productivity.
- 11.4 Once all the calves in a batch have been moved off the holding the muck and bedding needs to be mucked out and the area on which the veranda and igloo was sited, cleansed, and disinfected.

12.0 Sheep enterprise - overview

- 12.1 The sheep enterprise runs over owned and rented land in and around the Pattingham and Bobbington areas of south Staffordshire. The flock currently consists of a flock of approximately 270 sheep which is comprised of mainly commercial sheep, of sheep breeds such as Texel.
- 12.2 Currently the business lambs 180 throughout February – March with another 90 during April or so.
- 12.3 The main concentration of lambing is undertaken over a period of 16 weeks, however inevitably, some will be early and others late, which can frequently extend the lambing period and certainly the close monitoring period to around four to six weeks either side, requiring accommodation on site for six months of the year.
- 12.4 The following outlines the annual management requirements of the sheep enterprise;

- August/September - Gather in the whole flock including rams for a health check. This will include, mouthing, worming and foot treatment, undertaken over a period of 2-3 days weather permitting. At this point ewes will be sorted; older ewes will be separated to be sold off, being replaced in the flock by yearling ewes retained from previous years' lambing. Breeding ewes are sorted into groups and transported back out to pasture.
- September - 'Teaser' rams are put in with the ewes that are due to lamb in February-March time in order to synchronise their reproductive cycle.
- October - The teasers are taken out after four-six weeks and selected breeding rams introduced to the group. The rams will run with the ewes for a further six weeks.
- October -March - Except for times of extreme weather events, all sheep will be overwintered outdoors and supplementary fed in the field twice daily, with additional hay bales delivered to each location every 2 days (or more if there is a frost). Ring feeders are relocated within the field every week or so to prevent poaching and damage to the sward.
- November - 'Teasers' rams are put in with the ewes that are due to lamb in April, in order to synchronise their reproductive cycle for a period of four-six weeks.
- December - The teasers are then taken out and selected breeding rams introduced to the group. The rams will run with the ewes for a further six weeks.
- December - The ewes serviced early in the tupping season will start to be closely monitored in the field, at least three times a day. Checks are made for any signs of illness, early lambing or problems such as prolapsing. It is essential for the wellbeing of the ewe and her lambs that any problems are identified at an early stage and she will be brought in for treatment and monitoring.
- January - Early lambing ewes are brought into the building for close monitoring and at least four daily checks now occur. The first early lambs are born.
- February-March Main lambing season - Frequent checking and monitoring are essential at all times of the day and night during this period, to ensure high welfare standards and minimise losses. If problems are not identified in time, this can result in the death of the ewe and her lambs from instances of prolapsing or abortion for example. The ewes are checked every 2-3 hours as a minimum for signs of labour, complications or requiring assistance.

13.0 Sheep enterprise – lambing management

- 13.1 Managing a 270+ flock of ewes is highly time consuming, with lambing the most important time of year.
- 13.2 Assistance is often required in the delivery, to ensure the ewe lambs successfully. Ewes can become exhausted if their labour is extended, lambs presenting backwards and large lambs can get stuck. Failure to identify and check ewes frequently could result in the loss of the lamb/s and the ewe.
- 13.3 After delivery, each lamb's airways must be cleared, it must be checked to make sure it is sucking and receives essential colostrum within the first two hours. The ewes are penned in groups so immediately after lambing, hurdles are utilised to separate and protect the ewe and her new born lambs/s from the rest of the group for a few hours

before being moved to an individual pen. Each ewe must be checked for milk and that she has taken to her lamb/s.

- 13.4 Lambs must be checked for naval infection, watery mouth and eye infection. Each lamb is routinely treated with iodine to disinfect and dehydrate the wet navel and also given an oral treatment of Spectam to prevent/treat watery mouth. Should eye infections be detected, these require treatment every few hours, until cleared. Other illnesses or ailments such as hypothermia and meningitis are detected through regular monitoring, and urgent treatment administered as necessary. Failure to detect and react quickly enough to such illnesses will almost certainly result in the death of the animal.
- 13.5 If a lamb is not suckling for example, assistance to encourage the lamb to suck its mother is required at frequent intervals throughout the day. The ewe will require milking by hand to ensure that her milk supply does not deteriorate, and the lamb will be required to be tube fed every 2 hours until it learns to suck. Likewise, lambs not getting enough milk, such as a weaker twin or triplet, will require supplementary bottle feeding.
- 13.6 Cade (orphan) lambs also require a high level of individual care. Ewes can die during lambing, reject their lambs, have multiple births so are not able to feed all of their lambs or suffer with mastitis. These lambs will either have to be adopted onto a recently lambled ewe with a single lamb or one who has lost lambs. Close monitoring is obviously required and often intervention to ensure the lamb is successfully adopted.
- 13.7 If this is not possible, the lamb will require bottle feeding. Initially, bottle feeding will be required every 2 hours, extending to larger feeds every four hours and less frequently as the lamb gets older. Cade lambs are bottle fed until they are 2-3 months old before they are fully weaned.
- 13.8 At 24 – 48 hours old, each lamb is weighed, male lambs are castrated and all are tail docked, vaccinated, ear tagged and numbered. Records are made of the ewe's ease of lambing, maternal traits and prolificity to inform and improve breeding, and the births registered with the Animal Reporting and Movement Service (ARAMS).
- 13.9 At about 3 – 4 days old the couples are taken from their individual pens and put into larger pens to ensure they can identify each other in groups before going outside.
- 13.10 Once the ewes and lambs are ready to go to new pasture, and weather permitting, they are transferred to the paddock and continued to be checked and monitored at least twice daily. Even healthy new born lambs and ewes are susceptible to crows and other corvids, pecking out eyes, tongues or even pecking new born lambs to death.
- 13.11 In April the second lambing season takes place with all management above taking place for a second time with the second batch of sheep.

14.0 All year round management

- 14.1 The remainder of the flock is gathered in for dagging (their wool trimmed at their rear) and treatment for maggots.
- 14.2 In May/June the whole flock including rams are gathered in for annual shearing and in July/August the whole flock is gathered in for a mobile sheep dip treatment for scab.
- 14.2.1 Generally, all routine health checks etc are carried out at Willow Farm. Where this is not practical or for some other reason such as an emergency, treatment may be administered at the grazing site with the aid of temporary sheep hurdles to corral them.
- 14.2.2 Regular management of ewes throughout the year is vital to retain nutrition and condition of the animals, in order to prevent still births and ensure good mothering. This requires regular handling, moving, pasture and feed management.
- 14.2.3 Whilst the sheep are out to graze, every day management includes checking all of the sheep at least twice a day (to ensure no animals are cast on their back, or stuck in hedgerows or fences), feeding supplementary feed in the field, checking that all ewes get up and are not showing any signs of ill health or injury, checking water troughs, refilling and delivering water containers to outlying land without mains connected troughs.
- 14.3 Other routine management includes;
- Checking ear tags, ordering and replacing lost tags
 - Immediate isolation and treatment sick or injured animals
 - Keeping medical records
 - Monitoring and recording deaths
 - Stock movement recording
 - Quarterly foot checking with trimming as necessary
 - Vaccinations for clostridial diseases and toxoplasmosis
 - Fly strike treatment at least twice through the summer months
 - Repairing and maintaining fences and field boundaries
 - Checking, maintaining and repairing automatic water supply systems etc.
 - Maintaining sheep handling equipment

15.0 Land holding

- 15.1 The land called the 'farming unit' includes the owner-occupied land along with the rented land on grazing arrangements. It is established that the principle and necessity of renting land to expand the farming enterprise over and above owned land is wholly within normal farming practice in the UK.
- 15.2 As well as the owned land of 16.5 acres, the rented ground should be taken into account and used for the calculations of labour requirements. The fact that the applicant has been actively farming for over 20 years, occupying some of their current land which they have

on agreements for over 10 years. The land is in one block and is situated locally surrounding the Pattingham area.

- 15.3 The applicant's total area farmed has been maintained year on year for more than 10 years.
- 15.4 It is quite reasonable to assume that not all of the land without agreements will be at the disposal of the applicant for the long term, however, having established relationships with their landlords over many years there is a clear intention that the arrangements should continue.

16.0 Forecast budgets & financial viability

- 16.1 Detailed gross margins and forecast profit and loss calculations have been prepared and are provided at Appendix 1 as well as a commentary.
- 16.2 In order to assess the labour requirement of the business we provide below a table outlining the livestock and land management labour requirement and allocated a standardised labour amount using data from John Nix Farm Management Pocketbook (2021). We have carried out three calculations, one at current stocking and two at future stocking as the stock numbers increase over the next three-year period.

16.3 Table 1: Planned stocking density - Year 1

Anning			
	Acreage / Headage	Standard Man Days	Total
Livestock			
Breeding ewes	270	0.5	135
Lamb followers	459	0.3	138
Breeding rams	12	0.5	6
Rearing Calves	150	1.2	180
Total livestock days labour requirements / year			459
Cropping (based on 80 acres)			
Grass seeds establishment (every 5 yrs)	20	0.6	12
Grazing only	97	0.4	39
Haylage	30	1.6	48
Total cropping days labour requirements / year			99
Sub - total (livestock plus cropping)			558
Plus general management 15%			84
Total			642
Standard working year of 275 days equals labour requirement of number of full-time workers:			2.3

16.4 Table 2: Planned stocking density - Year 2

Anning			
	Acreage / Headage	Standard Man Days	Total
Livestock			
Breeding ewes	270	0.5	135
Lamb followers	459	0.3	138
Breeding rams	12	0.5	6
Rearing Calves	240	1.2	288
Total livestock days labour requirements / year			567
Cropping (based on 80 acres)			
Grass seeds establishment (every 5 yrs)	20	0.6	12
Grazing only	97	0.4	39
Haylage	30	1.6	48
Total cropping days labour requirements / year			99
Sub - total (livestock plus cropping)			666
Plus general management 15%			100
Total			765
Standard working year of 275 days equals labour requirement of number of full-time workers:			2.8

16.5 Table 3: Planned stocking density - Year 3

Anning			
	Acreage / Headage	Standard Man Days	Total
Livestock			
Breeding ewes	270	0.5	135
Lamb followers	459	0.3	138
Breeding rams	12	0.5	6
Rearing Calves	300	1.2	360
Total livestock days labour requirements / year			639
Cropping (based on 80 acres)			
Grass seeds establishment (every 5 yrs)	20	0.6	12
Grazing only	97	0.4	39
Haylage	30	1.6	48
Total cropping days labour requirements / year			99
Sub - total (livestock plus cropping)			738
Plus general management 15%			111
Total			849
Standard working year of 275 days equals labour requirement of number of full-time workers:			3.1

Notes to the above figures:

- 1) *Calf numbers are based on numbers produced during the year. All other numbers are average numbers on the farm at any one time.*
- 2) *Aim for 200% lambing percentage and 175% lambs sold, although this varies on the season.*
- 3) *General management at 15% is a standard figure used to account for maintenance, repairs and management.*
- 4) *The labour element has not been increased to reflect the high level of labour required for TB testing (2 people, for 1 day every 12 weeks).*
- 5) *It is acknowledged that SMD data is widely used and can be outdated when compared to make commercial enterprises which have more efficient working practices, therefore requiring few SMDs per unit of output or input. This is accounted for; even if working hours could be reduced by up to 25% through efficient and modern practices, there would still be a requirement for 2 full time workers by year 3.*

- 16.6 It is accepted that 275 is the standard number of days worked per year. At the above levels of stocking there will immediately be a need for over 2 workers in the first year, and by the third year this will have increased to a need for over 3 full time workers. The applicant will meet this requirement herself and with the use of casual labour.

17.0 Essential / functional need

- 17.1 Sections 9 - 11 of this statement set out the significant management requirements of calf rearing to a high welfare standard. For the health of the calves and the viability of the business, the applicant will have to provide a high level of time and commitment in ensuring she provides the most appropriate environment and housing, feeding and veterinary regimes.
- 17.2 The calves require feeding a minimum of 3 times a day as well as lightly bedding 1/2 times daily. This work is the daily requirement for the enterprise and is in addition to regular handling and working with the calves to undertake the routine procedures. Handling the calves starts at their arrival and they will be regularly handled throughout their time on the holding for a variety of reasons, which helps them become accustomed to human contact.
- 17.3 As the calves grow the work develops to include requirements for more vaccinations and routine veterinary treatments. When the time comes for the calves to leave the holding then they must be weighed, checked for any injuries or ailments which may mean they are unsuitable for transport and again movements must be recorded. Following the movement of one batch of calves the turnaround of the site for the new calves must happen quickly. The pens must be mucked out, cleaned, disinfected and prepared for a new batch. In addition to the cleaning of the pen itself, all equipment used by the previous batch must be disinfected including feeding equipment.

- 17.4 Section 9.3 sets out some of the health issues that affect and are typical to a calf rearing enterprise, specifically pneumonia and scouring issues. Both of these issues develop very quickly and without rapid and immediate intervention and treatment, the calf will suffer and there are many knock-on effects in terms of delayed growth, reduced weigh gain etc all with financial penalties. Furthermore, both illnesses are highly contagious and without isolation the problem can quickly exacerbate, making a whole batch of calves unviable and without profit. Medication must be given as soon as symptoms are seen, leaving it a day is too long – it must be within hours.
- 17.5 Sections 12-14 provides commentary on the sheep enterprise with details of the lambing arrangements and other management requirements. Without including the lambing period over 4 months of the year, at peak times throughout the year there is a significant amount of management required to ensure sheep welfare. The welfare of the sheep is important to ensure that they are able to rear their lambs effectively and are in good condition at the end of the season.
- 17.6 With the intensive nature of the calf rearing enterprise, the vulnerable and susceptible nature of all the livestock on the holding, the functional need for a 24 hour presence at site is absolutely critical. The applicant is unable to be available on a 24 hour, 7 day a week basis without residing on site. The success of this business relies wholly on the provision of a temporary dwelling.
- 17.7 Stockmanship is more than just seeing the animals, all experienced stockmen will know it is as much about sound and instinct when something is not right. Generally, cattle are quiet animals, when one is making a sound it generally means something – a calf may be in distress, or may have got stuck, separated or escaped. In most instances you would hear these things, before seeing them. Sound is imperative for security – you would hear the calves when something is not right, or you would hear an intruder. Instinct is just as important when looking after stock; instinct and experience when something is due to calve, or something is off colour but showing no clinical signs of disease. If you weren't actually on site, i.e. within a couple of hundred metres of the livestock you wouldn't be able to hear them, and reacting to instinct when having to travel back again would be much harder. Therefore, to truly deliver excellent animal welfare, a functional requirement is for a dwelling within sight and sound of the animals.
- 17.8 Lastly the functional need is supported by the need for on-site security. Rural crime is on the increase with machinery and livestock thefts being among the most costly crimes. If there were to be any incidents of rural crime at the farm buildings during the night or even the day then those looking to carry out the act would likely to be able to access the buildings without any interruption or any other party noticing. Although the buildings are be set back form the road, they are vulnerable due to their isolation.

18.0 Alternative dwellings

18.1 The applicant has reviewed the local property market. Property prices within a couple of miles of the farm are prohibitive to being able to afford to purchase a property locally, particularly on an agricultural workers' wage. The table below gives examples of properties in the area within a 3 miles radius.

Distance from Site	Name	Guide Price	Details	Link to Particulars
0.1 miles	Springview Manor,	£1.185m	6 bedroom detached house	https://www.rightmove.co.uk/properties/112955987#/?channel=RES_NEW
3 miles	Chestnut House	£875,000	5 bedroom detached house	https://www.rightmove.co.uk/properties/107529119#/?channel=RES_BUY
2.7 miles	Tettenhall Court	£1 25m	7 bedroom detached house	https://www.rightmove.co.uk/properties/97044167#/?channel=RES_BUY
1.5 mile	Pattingham Lane	£775,000	5 bedroom detached house	https://www.rightmove.co.uk/properties/83826133#/?channel=RES_BUY
2.5 miles	The Grange	£695,000	6 bedroom	https://www.rightmove.co.uk/properties/115487057#/?channel=RES_BUY
3 miles	Haywood Drive	£669,950	4 bedroom semi-detached house	https://www.rightmove.co.uk/properties/79830659#/?channel=RES_BUY

18.2 Notwithstanding the unachievable local property prices, it is essential that the applicant is **within sight and sound** of the enterprise which she is operating which establishes the essential and functional need to reside on site, with the care of animals needed at any time of day or night, particularly where there is an emergency and they are in distress.

18.3 It is wholly unfeasible to meet the essential functional need of this business from another dwelling, which is not on site.

18.4 There are no alternative dwellings on the farm and no buildings suitable for conversion.

18.5 Alternative dwellings should not be considered in this case because it is essential for the proper functioning of the enterprise for the applicants to be readily available and on-site at most times.

19.0 Conclusion

- 19.1 The applicant has invested considerable time in researching and planning their new agricultural enterprise. She is confident it is a viable and sustainable business, but this is entirely dependent on having a suitably experienced stockperson present on site at most times of the day and night.
- 19.2 The various sections within this business plan demonstrate the very labour intensive nature of the business and how it is simply unfeasible to run this business, without significant harm and detriment to the welfare of the livestock and financial viability of the business, without on-site accommodation.
- 19.3 The business plan meets all the requirements of both the South Staffordshire District Council Development Plan and the NPPF, demonstrating a functional and essential need for at least one full time worker to be present on site at most times.
- 19.4 Already farming in a substantial way, and heavily involved in agriculture, the applicant is totally committed to her new and existing ventures. This is a very genuine proposal that will allow a rural local person to establish a new profitable farming enterprise within the SSDC area, contributing to a sustainable rural economy.

The Rural Planning Co
December 2021

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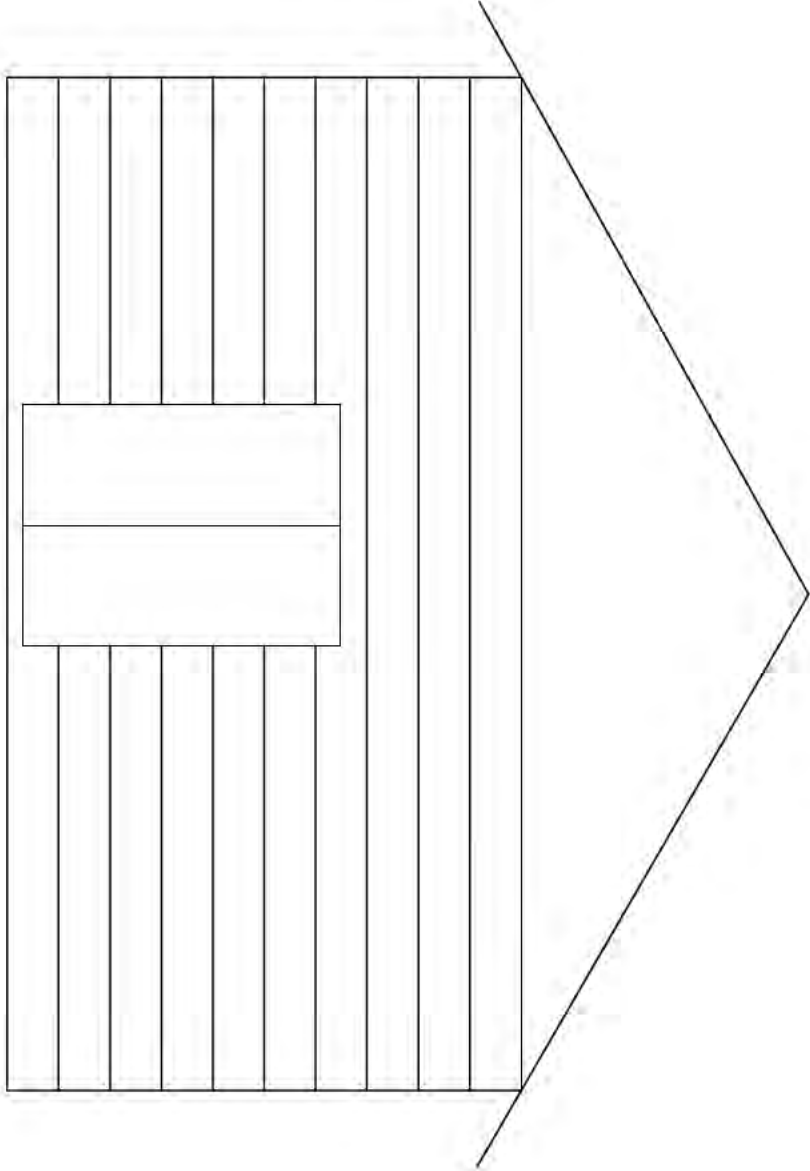
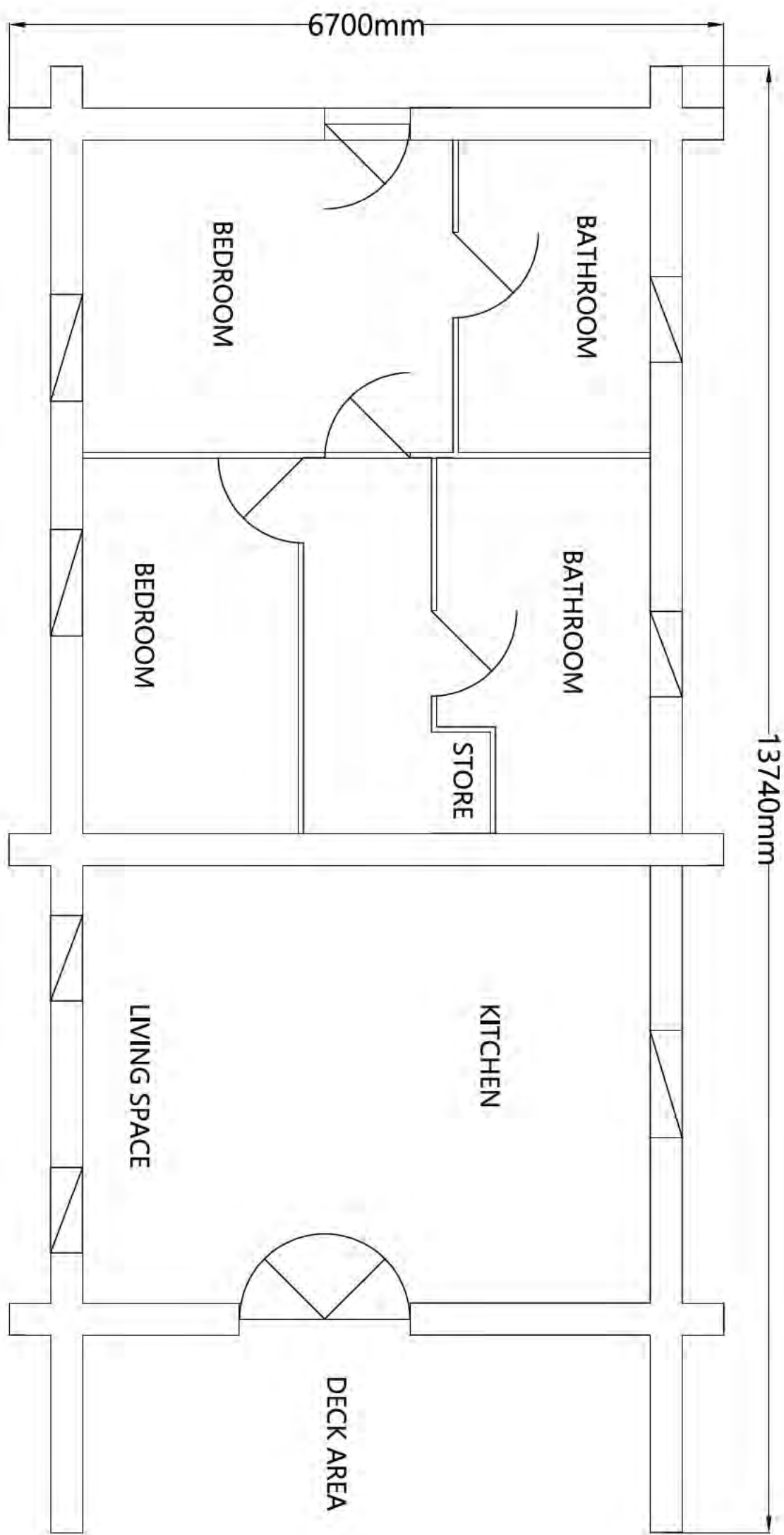
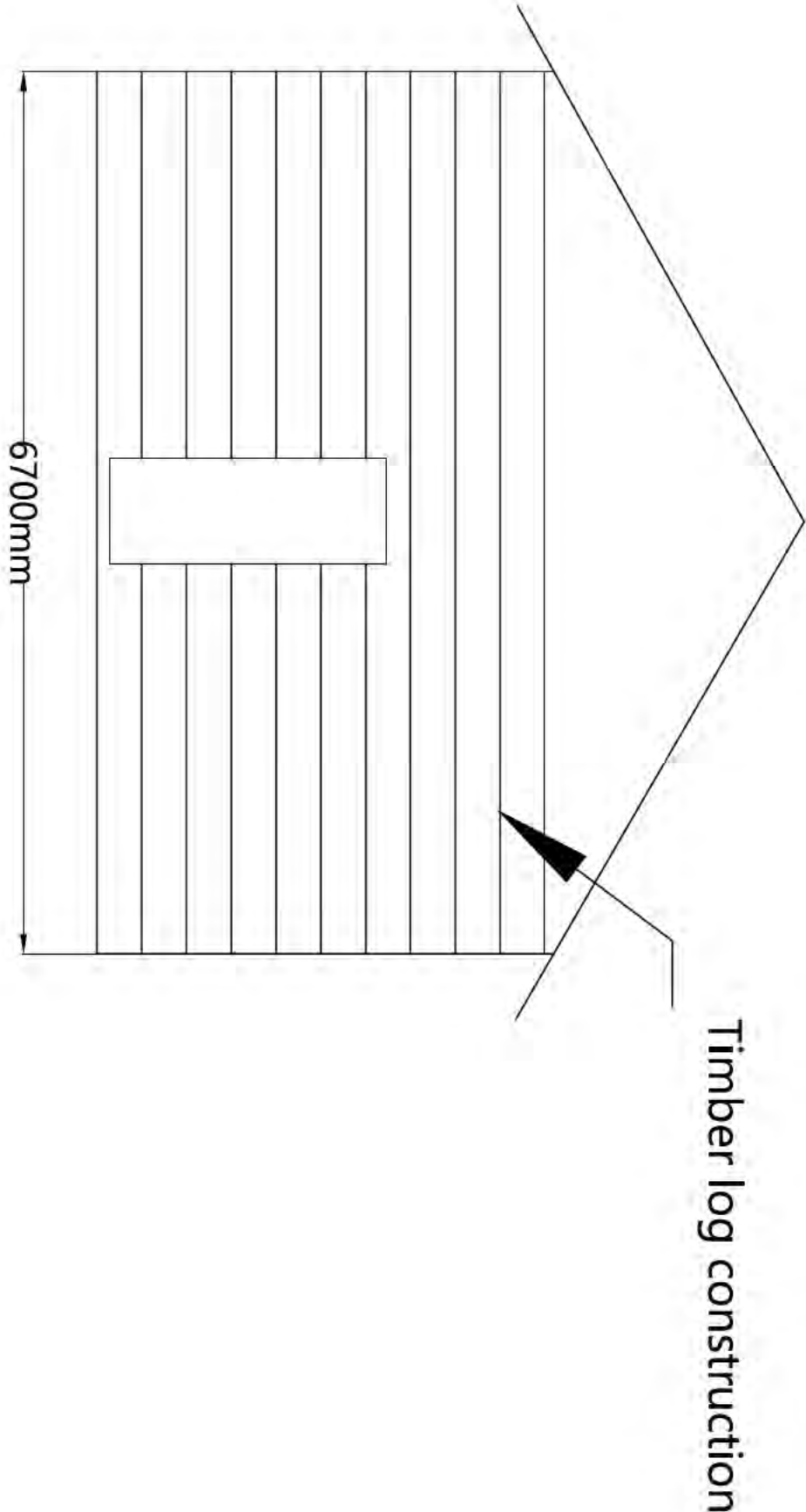
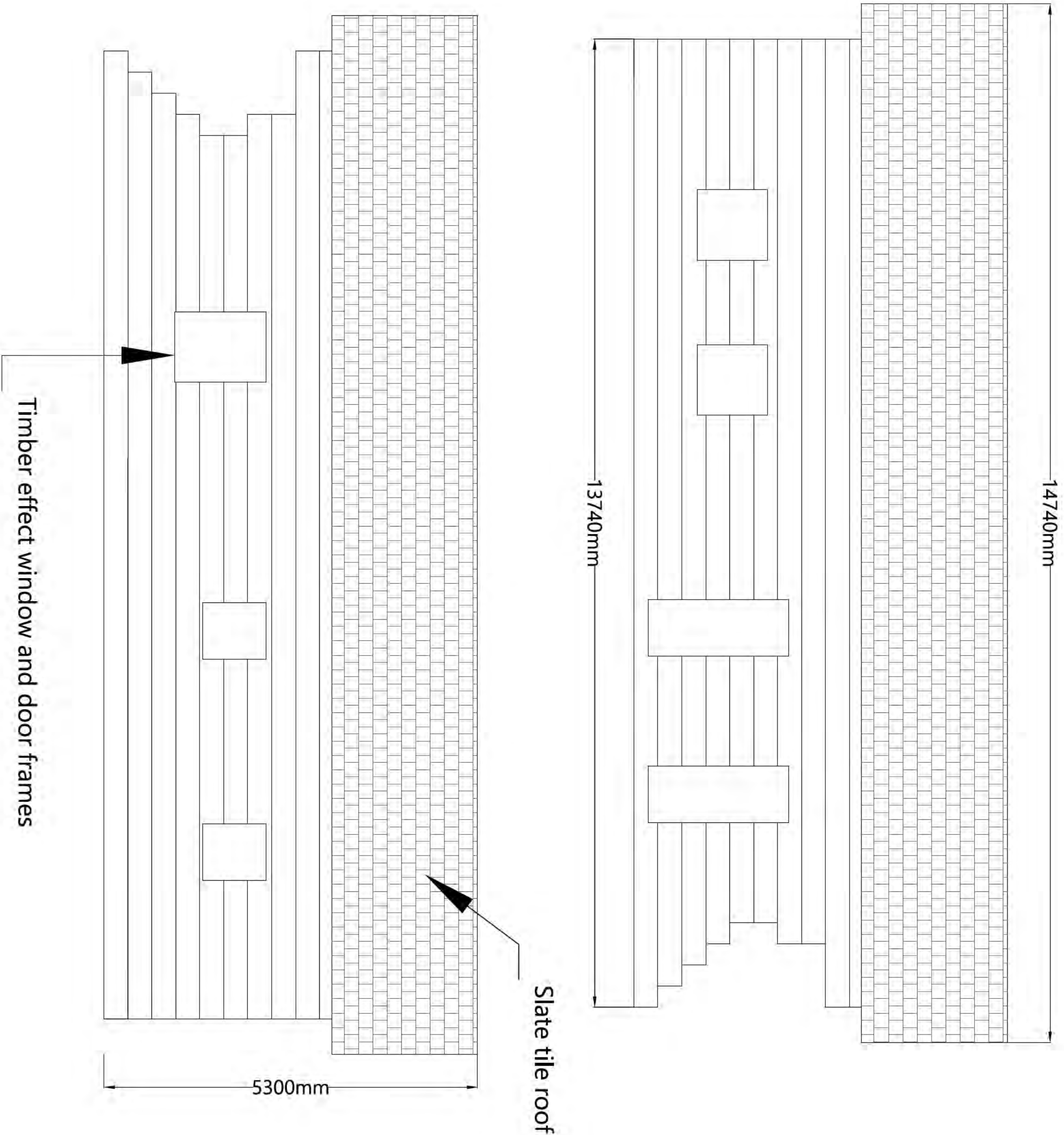
Appendix 1a Gross Margins - Private and Confidential

Appendix 1b Forecast Profit and Loss - Private and Confidential

(Submitted Separately)

Appendix 2 Supporting Letter - Private and Confidential

(Submitted Separately)



Agricultural Building at Willow Farm

This Landscaping Statement and plan has been prepared in association with an application for a temporary rural workers dwelling at Willow Farm, Hollies Lane, Pattingham and should be read in conjunction with the landscaping plan attached submitted.

A native planting scheme of hedging is proposed to provide;

- a reinforced visual screen from public and private viewpoints;
- a reinforced noise barrier
- enhanced shelter; and
- enhanced biodiversity on the application site, benefitting wild birds and other creatures.

Existing features

The application site is bounded to the north, against the roadside, by an established field boundary hedge. This is a mature, but species poor hedge, with well-established weed growth in the bottom. The majority of the wider land parcel is bounded by mature native hedgerows.

At the access point a number of mature trees are planted outside of the application site and ownership of the applicants.

A number of young ornamental trees and shrubs have been planted within the site.

All existing natural planting will be retained and maintained.

Additional Soft Planting Scheme

Southern Boundary to yard Approximately 110m of hedge along the entire length of the application site to the south will be cleared of weed growth and planted with native planting to add diversity of species on the site.

This hedge will be allowed to grow up and will be maintained at a height of 2m. The hedge will be required to cut once a year to promote thickening. This will allow the hedge to grow and thicken thereby providing a more effective screen, even during winter months. This will also contribute more effectively towards local habitat, providing better cover and potentially a higher yield in autumn berries for overwintering birds.

Access Drive Section On the approach to the access, where there are a number of mature trees planted outside of the applicant's control, approximately 15m of new additional native hedge planting will be undertaken within the application site to prevent views being opened up, into the site from the road, should those trees ever be removed.

New Planting Schedule

New hedge planting to consist of 600-900mm plants, spaced at 450-600mm centres in a double staggered row (or equivalent when incorporating existing hedge planting) and comprising the following mix;

Blackthorn (*Prunus spinosa*) 60%,

Hawthorn (*Crataegus monogyna*) 10%,

Field Maple (*Acer campestre*) 10%

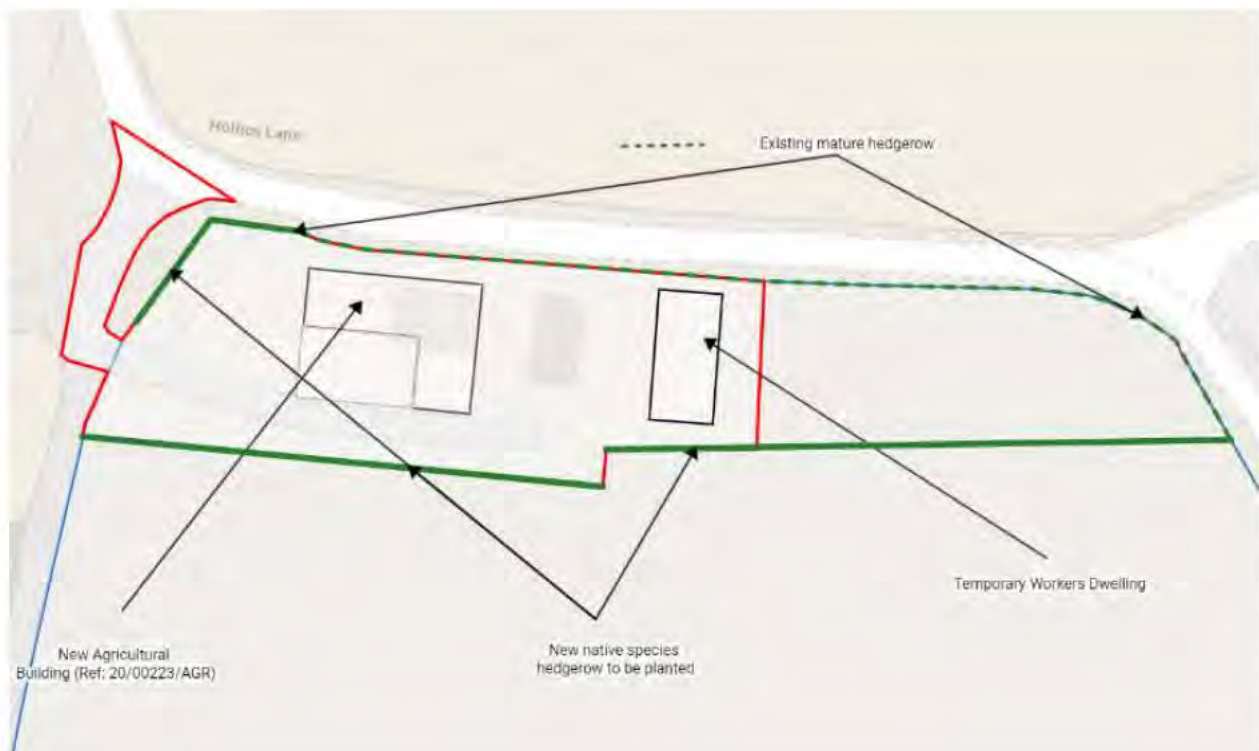
Hazel (*Corylus avellana*) 10%

Dog rose *Rosa canina* 10%

Implementation

Hedge planting will be watered and competitive weed growth controlled to encourage establishment. Any plants which die, are damaged or become diseased within 5 years shall be replaced by the end of the next planting season. Replacement trees and plants shall be of the same size and species as those lost, unless the Local Planning Authority approves alternatives in writing.

The landscaping scheme shall be completed by the end of the first planting season following completion of the development and shall remain in perpetuity.



D.P Manning & Co



9th December 2021

To whom it may concern,

Proposed Calf Rearing Unit at Willow Farm

We have been supplying calves to local farmers and rearing units in the Shropshire and Staffordshire Counties for the past 35 years. We can confirm we will supply the applicant Caroline Anning calves which will be two weeks to three weeks of age in bunches of 60 starting Spring 2022. The animals will be delivered to a rearing unit at Willow Farm, Hollies Lane, Pattingham, WV6 7HU where they will be reared and sold out as weanlings.

We consider calf rearing units to be a valuable source of rearing stock for farmers and the agricultural industry.

Yours sincerely,



Phillip Manning
DP Manning & Co



35/169/0008

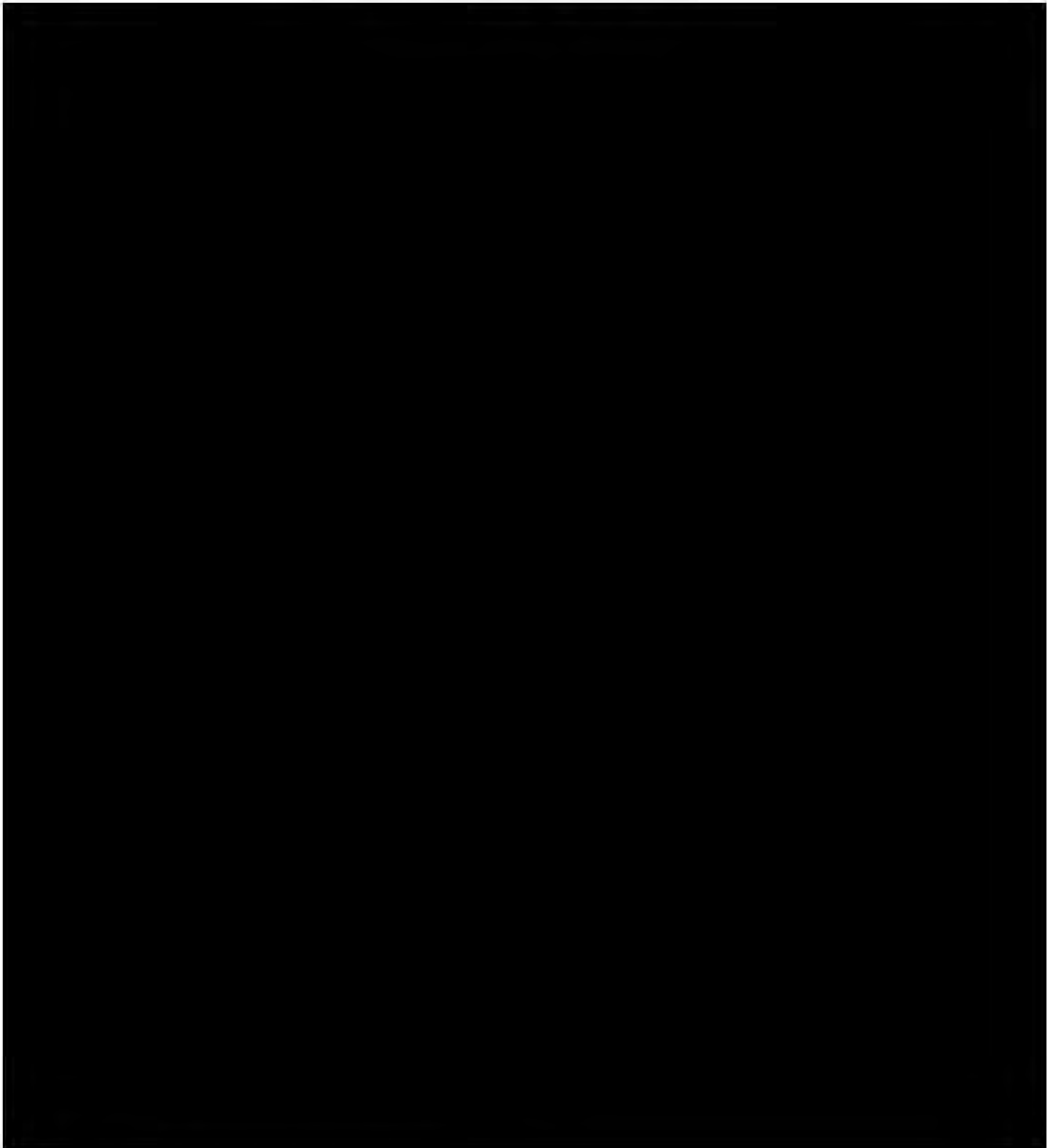
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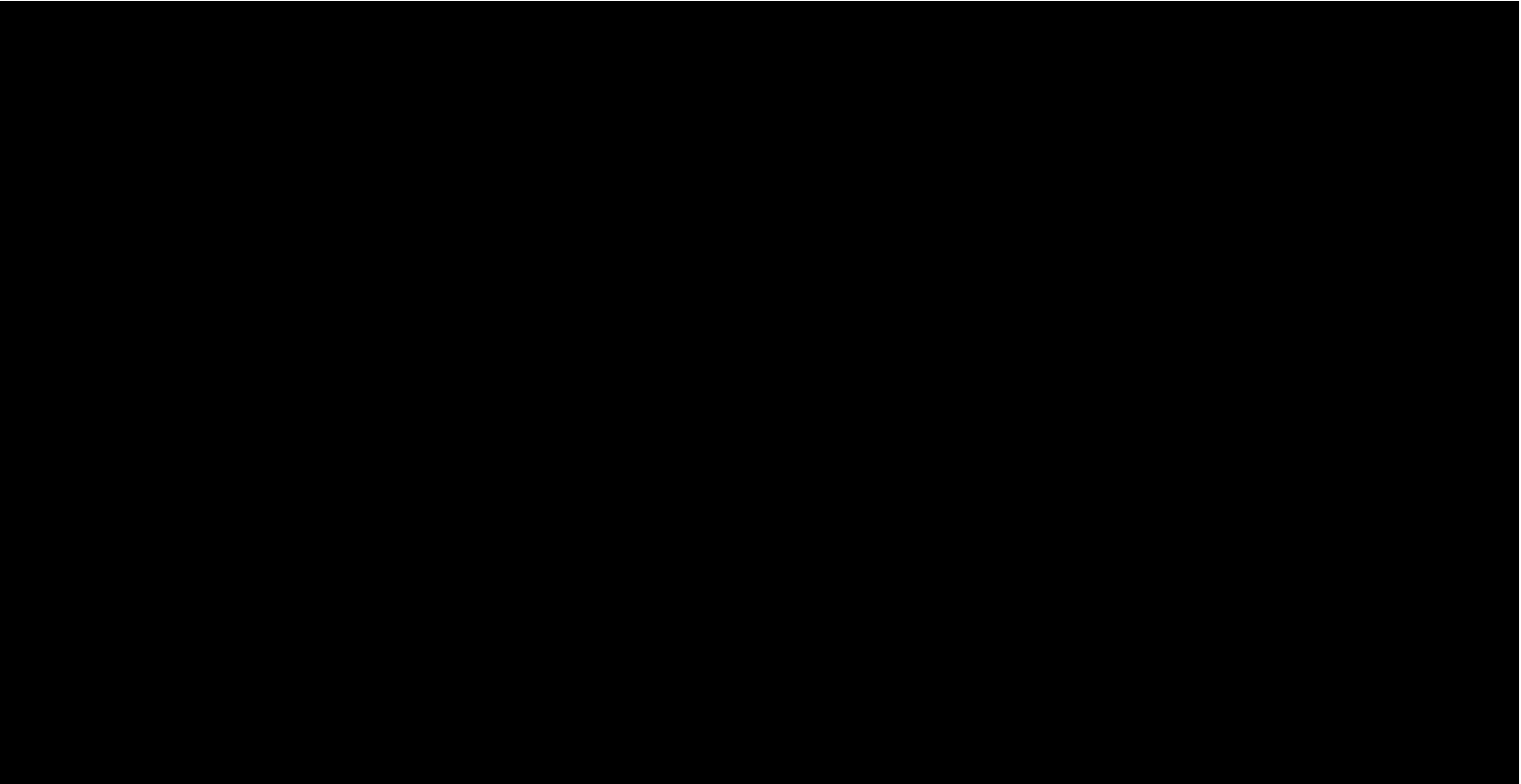
V.1



FORECAST GROSS MARGINS



*Cull ewe and replacement cost over lifespan of a ewe.



* The cattle figures show a gradual and progressive increase in numbers which will allow the business to self fund the capital investment required to purchase additional stock. The annual increase in numbers is not so vast that it risks expanding the business too quickly which could leave it vulnerable and susceptible to financial difficulty.

* The applicants are able to buy calves at a competitive price due to being in market seeing the throughput of cattle necessary to source good quality stock and also dealing with calf suppliers through the applicant's husband's meat procurement business via livestock markets

* The gross margins have been prepared using data obtained from the client, using our own benchmarking data and industry standard data. Depreciation has not been included here because this is not cashflow out of the business. The calves show a gross margin, including electric, water and mortality at 3% of £64 per calf which we consider to be a reasonable average across the board. This will vary depending on the breed of calf, the sex of calf and for what purpose they are reared.

* The total turnover in year 1 is forecast to be around £33,000 increasing to £43,000 in year 3. The profit and losses have been prepared using gross profit (which is the turnover less costs of sales) less the fixed costs / overheads. It is forecast there will be a net profit of around £19,000 in year 1, rising to over £23,000 in year 3

* The forecast budgets have been comprehensively prepared and have been forecast on the higher end of costs. The budgets show a good profit in the early period, but within three years a very healthy and realistic profit of around £23,000 is forecast. This shows the enterprises are currently financially viable and sustainable and are likely to remain so.

* Annual average minimum wage of an full time agricultural worker £18,040 based on 275 days per year at 8 hours per day.



Appeal Decisions

Site visit made on 11 July 2022

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal A Ref: APP/C3430/C/21/3288846

Appeal B Ref: APP/C3430/C/21/3288847

Land at Willow Farm, Hollies Lane, Pattingham, Wolverhampton WV6 7HJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr G S Anning against an enforcement notice issued by South Staffordshire Council. Appeal B is made by Mrs C Anning.
 - The enforcement notice was issued on 8 November 2021.
 - The breach of planning control as alleged in the notice is without planning permission:
 - i. The making of a material change of use of the Land, to Land used for the siting of a caravan with a wooden extension attached to said caravan and the siting of a container unit;
 - ii. The unauthorised material change of use of the Land, to Land used for domestic residential purpose together with unauthorised operational development to facilitate the unauthorised material change of use consisting of the erection of wooden and steel mesh fencing to separate the adjoining domestic residential planning unit from the Land as marked green on the Plan;
 - iii. The unauthorised operational development consisting of an earth bund located in the position outlined in blue on the attached plan.
 - The requirements of the notice are:
 - i Permanently cease the use of the Land for domestic residential purpose;
 - ii Permanently cease the use of the Land for the siting of a caravan and attached wooden extension;
 - iii Permanently cease the use of the Land for the siting of a container unit;
 - iv Permanently remove from the Land (a) the caravan and wooden extension (b) the container unit, (c) all domestic items to facilitate the unauthorised use including but not exclusively: patio/paving slabs, domestic plant pots, gas bottles, benches, non-agricultural vehicles and (d) the wooden and steel mesh fencing marked green on the attached plan;
 - v Permanently remove from the Land the earth bund from the location shaded in blue on the attached plan;
 - vi Permanently remove from the land all materials and waste arising from compliance with requirements (i) to (v) above and restore the Land to its original condition.
 - The period for compliance with the requirements is six months.
 - Appeal B is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act as amended. Appeal A is proceeding on grounds (f) and (g).
-

Decision: Appeals A and B

1. The enforcement notice is quashed.

Reasons

2. The land identified in the enforcement notice, outlined in red on the attached plan, includes Willow Farm and its associated land, a caravan used for

residential purposes, a barn, a storage container, sheep feeders, livestock shelters, fencing, a car parking area and fields/grazing land. As such, the land is in a mixed use of agriculture and residential. The concept of a mixed use being two or more primary uses existing within the same planning unit or unit of occupation. It is apparent, therefore, that the enforcement notice does not describe all of the components of the mixed use taking place on the site. It alleges the material change of use of the Land to a single residential use and does not account for the agricultural use. The allegation should refer to all the components of the mixed use even if only one is required to cease. This is because, where there is a mixed use, it is not open to the Council to decouple elements of it; the use is a single mixed use with all its component activities. Even if the additional components are lawful, the enforcement notice should be corrected, if possible, to describe the mixed use properly.

3. **Further, there is an inconsistency. "The Land" is that outlined in red**, but the second allegation indicates the Council considers the unit of occupation to be a smaller part of the Land towards the northern boundary, differentiated by a green line on the plan. This is reinforced in the reasons for issuing the notice which describes the part of the site where the caravan is located as separate from the **"associated arable land"**. In cases concerning a material change of use, it is necessary to establish to correct planning unit. The planning unit is usually the unit of occupation, unless a smaller area can be identified which is physically separate and distinct and occupied for different and unrelated purposes. In this case, I consider that the red line is accurate since it encompasses the agricultural holding. The land north of the green line is not occupied for purposes unrelated to the remainder of the land and so there is no logical reason why it should be considered a separate planning unit. Suggestions that it is within the notice should be corrected to avoid uncertainty.
4. The notice also targets a container and requires its removal, the inference being that it facilitates the residential use. The placing of a portable building on land may in some cases be part and parcel of a use of land or indicative of a material change of use. However, the setting up of such structures is generally regarded as a building operation. I would be minded to correct the notice to describe the container as operational development but this would require a consequential correction to specify a time limit of four years.
5. The third allegation targets an earth bund and describes it as operational development in its own right and, thus, subject to the four year rule. This is an accurate description.
6. I have considered whether I could use my powers of correction under Section 176(1) of the 1990 Act to address the misdescriptions. This would require a correction to allegations (i) and (ii) along the lines of – the making of a material change of use of the Land to a mixed agricultural and residential use; including the siting of a caravan with a wooden extension for residential purposes, fencing and domestic paraphernalia to facilitate that change of use. This would ensure the mixed use and facilitating development was properly described, without alleging it in its own right. The facilitating development would then be subject to the same timescale as a change of use under Section 171(B)(3), which is 10 years.

7. The Courts have held that an enforcement notice directed at a material change of use may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development, or they would be permitted development or immune from enforcement, so that the land is restored to its condition before the change of use took place¹. The notice could thus require the residential use to cease and the removal of the facilitating development.
8. Also, if the additional agricultural component is lawful as indicated by the Council, the requirements would not be varied to require that element of the use to cease, and the prospect of planning permission being granted by virtue of Section 173(11) would be of no concern.
9. The Council indicates that I could correct the enforcement notice to address any misdescriptions without injustice. However, the corrections would be relatively wide ranging. I have identified inaccuracies extending to the identification of the planning unit, the allegation and the time limits, and consequential corrections to the requirements. Correcting the allegation in such a case could have implications for the parties' cases on grounds (a) and (f), and there may also be additional legal grounds of appeal. On ground (a), the merits of use for a mixed use may differ from the merits of residential use alone. In relation to legal grounds, there may be issues with the alleged use of container since it seems to be used to store fertiliser etc. Changing the time limits for the container may invite an appeal on ground (d), which is also indicative of injustice.
10. Therefore, due to the extent of the required corrections, I do not consider that I could use my powers without injustice to both parties. I accept that the notice tells what the recipient fairly what they have done wrong and must do to remedy it, which is the test described in *Miller Mead*², and so the notice is not a nullity. However, it is incapable of correction and hence invalid.

Conclusion

11. For the reasons given above I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control, the steps required for compliance and the land where the breach of planning control is alleged to have taken place. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances the appeals under grounds (a), (f) and (g) as set out in section 174(2) of the 1990 Act as amended, and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended, do not fall to be considered.

Debbie Moore

Inspector

¹ *Murfitt v SSE* [1980] JPL 598, *Somak Travel v SSE* [1987] JPL 630.

² *Miller Mead v MHLG* [1963] 1 All ER 459.

EVALUATION IN RESPECT OF THE FOLLOWING APPLICATIONS

THE STATIONING OF A STATIC CARAVAN AS A TEMPORARY AGRICULTURAL
WORKER'S DWELLING AND ERECTION OF AN AGRICULTURAL BUILDING &
ASSOCIATED HARDSTANDING

AT

WILLOW FARM, HOLLIES LANE, PATTINGHAM

On behalf of:

South Staffordshire Council
Wolverhampton Road
Codsall
Wolverhampton
WV8 1PX

November 2019

Report prepared by:

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1. INTRODUCTION

- 1.1 This report has been commissioned by South Staffordshire Council following an email instruction dated 26 September 2019.
- 1.2 The purpose of this report is to carry out a National Planning Policy Framework (NPPF) Paragraph 79 assessment of the agricultural business of Mr & Mrs Anning of Willow Farm, Hollies Lane, Pattingham in relation to the stationing of a static caravan as a **temporary agricultural worker's dwelling** (application ref: 19/00462/FUL). In addition, the report and assessment considers the planning application for the erection of an agricultural building at the farm (application ref: 19/00405/FUL).
- 1.3 The preparation of this report has been carried out by Anthony Atkinson. Anthony Atkinson is a Rural Planning Consultant with Acorus Rural Property Services. He holds a BSc in Rural Enterprise and Land Management and is a Member of the Royal Institution of Chartered Surveyors, having qualified within the Rural Practice Division of the Institution.

2. ASSESSMENT

- 2.1 This assessment is based upon the information as submitted with the planning applications and further information as requested and supplied by the agent/applicant.

3. WILLOW FARM

- 3.1 The business as operating from Willow Farm is run by Mr & Mrs Anning (Gary and Caroline). The details of the business are as detailed in the Planning & Justification Statements as submitted with the two planning applications and the Business Plan and Financial Statement (submitted as a confidential document).
- 3.2 The land area as managed by the business amounts to 97.5 acres, comprising of the following: -
 - 16.5 acres at Willow Farm – which is owner-occupied. Used for grazing and mowing (hay).
 - 55 acres at Shipley – comprising two blocks of land (30 & 25 acres), which is rented for sheep grazing. A copy of the FBT (farm business tenancy) agreement has been supplied; a 5 year agreement commencing on 25 March 2018.
 - 20 acres at Halfpenny Green, Bobbington – rented for sheep grazing. A copy of the FBT agreement has been supplied; a 5 year agreement commencing on 25 March 2017.
 - 6 acres at Shipley – taken on a grazing and mowing licence. A copy of the agreement has been supplied; an 8 month agreement from 1 March 2019 to 31 October 2019.
- 3.3 It is understood that the land at Willow Farm was previously rented by the applicant (since 2007) and subsequently bought in May 2018.
- 3.4 The farm enterprises (as detailed in the submitted documents) are as follows: -

- A flock of 270 breeding ewes and 10 rams;
- A procurement activity of 200-220 animals per week (i.e. sheep and lambs).

It is understood that the enterprises as above are ongoing and that the intention is to increase the sheep flock to 350 ewes.

- 3.5 A procurement activity is not a standard farming enterprise. Albeit, the enterprise is presented on the basis that 200-220 animals per week (i.e. sheep and lambs) are bought-in and held on the farmland for several days (2-4 days, sometimes days/weeks), at Willow Farm, and then sold to buyers for slaughter.
- 3.6 Financial accounts for the business have been provided, with details for the years 2016, 2017 & 2018 (year ending 31 March). **The accounts go by the name 'G S Anning' (a Sole Trader business) and the agent has advised that the business accounts also involve a 'wider business activity'.** This wider business activity is involved in the trading of finished livestock for butchers and retailers, i.e. animals not reared on the farm and animals purchased & sold without any involvement with the farmland or buildings.

4. BUILDINGS

- 4.1 There is a pole barn structure on the land at Willow Farm. There are no further details of any other buildings associated with the business or on/within the rented land.

5. LABOUR

- 5.1 The supporting reports refer to the business being run and managed by Mr & Mrs Anning.

6. DWELLINGS

- 6.1 Mr & Mrs Anning live in the static caravan at Willow Farm, which is the subject of the planning application (ref: 19/00462/FUL). The static caravan has been at the site and occupied since 2017.

7. THE PROPOSAL

- 7.1 The planning applications relate to the siting of a static caravan (i.e. temporary residential accommodation) for use as an agricultural worker's dwelling at Willow Farm and the erection of an agricultural building with associated hardstanding.
- 7.2 The static caravan is already in-situ and occupied and therefore this represents a retrospective application. The implication of an application for a temporary dwelling (static caravan) is that it will be used for a temporary period (usually 3 years), during which time the business will be expected to develop as per a submitted business plan. Thereafter, if the temporary accommodation were approved, the applicant would potentially apply for a permanent dwelling if there was seen to be a need and requirement for a dwelling for the operation of the business (i.e. before the 3 year temporary period expires).

8. CONSIDERATION OF THE PROPOSAL

- 8.1 Having considered the submitted information and the subsequent documents provided by the applicant, it is presented that there is an ongoing business activity that is operating from Willow Farm, which as detailed above, involves the following: -
- A flock of 270 breeding ewes and 10 rams;
 - A procurement activity of 200-220 animals per week (i.e. sheep and lambs).
- 8.2 The total land associated with the business amounts to 97.5 acres (as detailed above). The majority of the land is rented (primarily within 5 year FBTs), with only the land at Willow Farm (16.5 acres) owner occupied.
- 8.3 In respect of the business, it appears that the only change for the future is an increase of the sheep flock to 350 ewes.
- 8.4 The proposed building is intended to replace the existing building (being somewhat larger than the existing building – no dimensions supplied) and is stated to be for lambing and general storage (i.e. hay, straw, feed, machinery and equipment). The building, in terms of its size, has clearly been designed to accommodate these uses and activities, albeit the building is a large structure for a land holding of 16.5 acres used for grazing sheep.
- 8.5 The **building is 18.2m x 13.7m (60' x 45') and 2.65m (8'9") to the eaves.** The building does not necessarily need to be of this size to provide facilities for straw and machinery, which can generally be stored outside. Also from a design and operational perspective, one large building to accommodate a variety of uses, most especially sheep during lambing, is not especially practical. Additionally, the height of the building would be acceptable for lambing sheep but not especially suitable for the movement and storage of hay and farm machinery.
- 8.6 Regarding the static caravan for onsite accommodation for an agricultural worker, this rests upon the nature and scale of the livestock enterprises. The concern in this regard is the extent of the land area at Willow Farm, the amount of livestock it can sustain and the extent of land which is rented (away from Willow Farm) to provide the necessary land area required for such a grazing livestock enterprise.
- 8.7 The land area at Willow Farm could accommodate around 66 breeding sheep. The remainder of the land, which is rented, is clearly required for the sheep flock and the expansion of the flock to 350 ewes.
- 8.8 It is understood from the submitted documentation that the procurement activity amounts to 200-220 animals per week (arriving and departing in batches of 40-50 animals at a time) and that this activity is solely undertaken at Willow Farm (i.e. not using the rented land).
- 8.9 In considering the use of the land at Willow Farm, it is assumed and calculated that the land cannot be used for both the breeding ewes and the procurement activity simultaneously, i.e. it can only be used for one of the enterprises.

9. EVALUATION OF THE BUSINESS IN TERMS OF NPPF PARAGRAPH 79

- 9.1 The Government introduced the National Planning Policy Framework (NPPF) on 27 March 2012, which was revised in July 2018 and February 2019. The NPPF

replaces all previous planning statements, and in this case PPS7, and therefore NPPF is the principle guidance in this case.

9.2 Paragraph 79 of the NPPF states: -

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*

9.3 The online Planning Practice Guidance (PPG) was also updated in July (2019) with the following paragraph which provides some guidance regarding the assessment and **interpretation for rural worker's dwellings**.

How can the need for isolated homes in the countryside for essential rural workers be assessed?

Considerations that it may be relevant to take into account when applying paragraph 79a of the NPPF could include:

- evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products);*
- the degree to which there is confidence that the enterprise will remain viable for the foreseeable future;*
- whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;*
- whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context; and*
- in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.*

Employment on an assembly or food packing line, or the need to accommodate seasonal workers, will generally not be sufficient to justify building isolated rural dwellings.

*Paragraph: 010 Reference ID: 67-010-20190722
Revision date: 22 07 2019.*

9.4 Additionally there is a policy in the South Staffordshire Core Strategy (adopted in December 2012), entitled Policy EV8 Agriculture, which has a section regarding agricultural/occupational dwellings.

The section regarding temporary dwellings reads as follows: -

- there is clear evidence of a firm intention and ability to develop the enterprise concerned;*

- *there is a clear functional need which cannot 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;*
- *clear evidence that the proposed enterprise has been planned on a sound financial basis; and*
- *the proposal satisfies all other normal planning requirements.*

- 9.5 The principle issue in relation to this application for the residential accommodation, in respect of NPPF (paragraph 79), PPG and the Core Strategy policy (EV8), is whether there is a clear functional need/essential need for residential accommodation in association with the proposed farming business at Willow Farm. The proposal must also be considered to be sustainable, i.e. planned on a sound financial basis.
- 9.6 Given the limited amount of land associated with Willow Farm, and that the basis of the enterprises forming the business relate to the keeping of sheep, it is considered that there is not an essential need for residential accommodation at Willow Farm. As noted above the land at Willow Farm could only accommodate approximately 66 breeding sheep (of the existing flock of 270 ewes), or the sheep/lambs relating to the procurement activity. Either of these enterprises at the site could not amount to a functional need/essential need in relation to the prevailing planning policies.
- 9.7 It is accepted that the business covers a greater land area (other than Willow Farm) and the proposal is to increase the sheep flock to 350 ewes. However, the other land needed to support the sheep enterprise is rented and amounts to several blocks of land remote from Willow Farm.
- 9.8 A business plan & financial statement were submitted with the application detailing the projected returns of the farming business (i.e. the current situation of 270 ewes and the expansion to 350 ewes, with the procurement activity being constant). Albeit there were no fixed costs for the business to detail the projected net profit.
- 9.9 As noted above, accounts for the business have been provided, with details for the years 2016, 2017 & 2018 (year ending 31 March). The agent has advised that the **business accounts also involve a 'wider business activity'**. It must be assumed that some of the sales in the accounts relate to the other trading activity and also presumably some of the fixed costs. However, the whole business entity only returned a small profit in the years 2016 & 2017 (i.e. £6,000-£7,600) and a loss of £45,000 in 2018.
- 9.10 On the basis that it is considered the business does not meet the requirement for onsite residential accommodation, the financial aspect of the business is to some degree irrelevant. However, with the information presented it is not clear or evident that the business will be profitable and sustainable, i.e. planned on a sound financial basis.

10. CONCLUSIONS

- 10.1 It is considered that the limited amount of land at Willow Farm, and the livestock enterprises that can operate from the land, do not amount to a functional need/essential need for residential accommodation at Willow Farm. The proposal to retain the static caravan at the site is therefore seen to be contrary to the NPPF (paragraph 79), PPG and Core Strategy Policy (EV8).

- 10.2 It is assessed that there is no reason why a new modern farm building (or two buildings for different uses, i.e. lambing and storage) should not be considered for the landholding at Willow Farm. However, the size and design of the building(s) should better reflect the size of the landholding and the requirements of the farming enterprises.

ANTHONY ATKINSON *BSc (Hons)* MRICS FAAV
Acorus Rural Property Services

November 2019

South Staffordshire Council
Enforcement Notice Appeals by
Mr G S Anning & Mrs C Anning
at
Willow Farm, Hollies Lane, Pattingham, Staffordshire, WV6 7HJ

Council's Statement of Case

Planning Inspectorate References: APP/C3430/C/21/3288846 &
APP/C3430/C/21/3288847

Local Planning Authority Reference: 18/00676/UNCOU

February 2022

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on behalf of South Staffordshire Council

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Appendices:

Appendix A – Midwest Planning Assessment of the Rural Enterprise

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Appendix D – (D1 to D5) Relevant Core Strategy Planning Policies.

Appendix E – Officer Report (19/00462/FUL)

1. Introduction

1.1 This Statement is submitted in response to the appeals made by Mr and Mrs Anning against the South Staffordshire Council's Enforcement Notice dated 8th November 2021, served in relation to alleged breaches of planning control consisting of:

- (i) *Without planning permission, the making of a material change of use of the Land, to Land used for the siting of a caravan with a wooden extension attached to the said caravan and the siting of a container unit.*
- (ii) *Without planning permission, the unauthorised material change of use of the Land, to Land used for domestic residential purpose together with unauthorised operational development to facilitate the unauthorised material change of use consisting of the erection of wooden and steel mesh fencing to separate the adjoining domestic residential unit from the Land as marked in green on the Plan (accompanying the Enforcement Notice).*
- (iii) *Without planning permission, the unauthorised operational development consisting of an earth bund located in the position outlined in blue on the attached plan (accompanying the Enforcement Notice).*

1.2 A copy of the Enforcement Notice is provided at **Appendix B**.

2. Site and Location

2.1 The site lies within a rural area and within the Green Belt, approximately 0.6 mile to the north-east of Pattingham and 1.5 miles to the south-west of Perton and is accessed via Hollies Lane.

2.2 The site comprises of an approximately 0.1 hectare area of land which has been fenced off from the associated arable land, located off Hollies Lane, adjacent to Grange Farm (Grange Farmhouse itself is a Grade II Listed Building). Vehicular access is via a shared driveway with Grange Farm. The site forms a small part of the wider total 6.7 hectares (16.5 acres) of agricultural land.

2.3 The site's northern boundary consists of the established mature hedgerow which runs along Hollies Lane itself. The application site is elevated above the wider adjoining

arable land which falls to the south and east. The topography is such that the application site is not readily visible from the Wolverhampton Road (to the south) which lies beyond the associated land which is understood to be in the Appellant's ownership.

3. Planning History

- 3.1 It is understood that the Appellants have been farming the 16.5 acres (6.7 hectares) at Willow Farm since 2007, initially on a Farm Business Tenancy and as owners since 2017. The Appellants rent additional grazing land elsewhere.
- 3.2 It is the case that the existing static caravan, and its use as a dwelling, which is the subject of the Enforcement Notice was first moved onto site and occupied as a residential dwelling without the benefit of planning permission, in 2017.
- 3.3 A retrospective planning application (Council ref: 19/00462/FUL, as summarised below) was subsequently submitted to the Council in June 2019 for the stationing of the static caravan as a temporary (3 years) agricultural worker's dwelling.
- 3.4 The planning application history for this site is all relatively recent and consists of:
 - 19/00462/FUL – Temporary agricultural worker's dwelling – Refused (07/20/20) and dismissed on Appeal (PINs Ref: APP/C3430/W/20/3253786).
 - 19/00462/FUL – Agricultural building and associated hardstanding – Refused (07/02/20).
 - 20/00223/AGR – Agricultural building for the storage of hay, straw, machinery and equipment (under Part 6 of GPDO) – Approved (30/04/20).
- 3.5 It was noted that, following a site visit on 03/02/22, it appeared that the aforementioned agricultural building (approved under Part 6 of the GPDO) was not being used for its intended purpose and was at the time of the visit occupied by livestock (calves) within a series of pens/enclosures, contrary to Part 6, Paragraph A.1(i) of the GPDO 2015 (as amended).

4. Previous Appeal (PINs Ref: APP/C3430/W/20/3253786)

- 4.1 The previous appeal decision (PINs Ref: APP/C3430/W/20/3253786) is of particular relevance in the context of the current appeal being made under Ground A and the Inspector's Decision Letter in that case is provided at **Appendix C**.

- 4.2 In that case, the Inspector considered the stationing of the existing static caravan as a temporary worker's dwelling in connection with the existing lambing enterprise (with the exact same number of breeding ewes as present/proposed) and a procurement enterprise, that the appellant's agent indicates is no longer operating from the appeal site (para 7.1 of appellant's statement - dated December 2021).
- 4.3 The agent's current appeal statement fails to acknowledge that proposals for a so-called beef finishing enterprise (BFE) were introduced by the appellants during the previous appeal, and that proposal was also considered and referred to by the Inspector in the Decision Letter.

5. Planning Policy

Local Planning Policy

- 5.1 The Development Plan for South Staffordshire Council consists of:
- Core Strategy (Adopted December 2012)
 - Site Allocations Document (SAD) (Adopted September 2018)
- 5.2 The following Policies of the Core Strategy are considered to be of direct relevance to the Appeal and were relied upon by the Council when refusing the previous planning application for the use of the static caravan as a temporary agricultural workers dwelling (ref: 19/00462/FUL) and the subsequent S78 Appeal, which was dismissed, as summarised above:
- GB1 (Development in the Green Belt)
 - EQ4 (Protecting and Enhancing the Character and Appearance of the Landscape)
 - EQ11 (Wider Design Considerations)
 - EV8 (Agriculture)
- 5.3 The full text of these policies is provided at **Appendix D** and as such there is no need to reproduce those in full at this point. However, it is worth restating sub-paragraph g) of Policy EV8 which is of direct relevance to the current appeal being made under Ground A (i.e. *That planning permission should be granted for what is alleged in the notice*).

Policy EV8 sub-paragraph g) reads:

“The Council will support proposals for agriculture and related development which is consistent with national policy for the protection of agricultural land and other local planning policies by:

g) supporting proposals for temporary and permanent agricultural and occupational workers dwellings provided that they satisfy the following criteria:

Temporary Dwellings:

- there is clear evidence of a firm intention and ability to develop the enterprise concerned;*
- there is a clear functional need which cannot 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;*
- clear evidence that the proposed enterprise has been planned on a sound financial basis; and*
- the proposal satisfies all other normal planning requirements.”*
(Author’s emphasis)

National Planning Policy

- 5.4 The National Planning Policy Framework (NPPF), taken as a whole, is of relevance to this appeal, and in particular Sections 6, 12, and 13.
- 5.5 The Inspector will be well aware that Para 148 (NPPF) sets a high bar and makes it clear that local planning authorities should: “ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’, will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.” (author’s emphasis).

- 5.6 Para 80 of the NPPF states that the development of isolated homes in the countryside should be avoided except in specific circumstances including where there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work (author's emphasis).

6. The Council's Case

Background

- 6.1 The Council is aware that the Appellant's previously owned and lived in a private residential property in Marlbrook Lane, Pattingham, which is little more than 1.3 miles or approximately a 5-minute drive from the Appeal site. It is understood that they lived in that property until 2017, when they sold the property and moved onto the Appeal site, without first securing planning permission. They have been living on the site ever since without the benefit of the necessary planning permission. At no point in advance did the Appellants contact or seek the advice of the Council in its role as the Local Planning Authority. Having taken such a risk, the potential consequences must have been understood.
- 6.2 Until that point, the proximity of the house in Pattingham was clearly deemed to meet their needs and that of the business enterprises(s), which are stated to have commenced in 2007. Whilst it might be dismissed as merely hearsay, the Council has been advised that the Appellants' stated intention was to build a house on their previously rented land (but subsequently purchased) at Hollies Lane (i.e. the Appeal site). A site no doubt bought on the basis of agricultural land values rather than a residential building plot.

Grounds of Appeal

- 6.3 The Appellants' have appealed against the Enforcement Notice as served under the following grounds:
- **Ground A.** – That planning permission ought to be granted for what is alleged in the Enforcement Notice.
 - **Ground F.** – That the steps required to be taken by the Notice, or the activities required by the notice to cease, exceed what is necessary to remedy the alleged breach.

- **Ground G.-** That the time period specified in the Notice falls short of what should reasonably be allowed.

6.4 Taking each of these grounds in turn, the Council makes the following comments.

Ground A: That planning permission ought to be granted for what is alleged in the Enforcement Notice.

Inappropriate Development

6.5 The Appellant's Agent has previously accepted that siting of the static caravan and its use as a temporary agricultural workers' dwelling amounts to inappropriate development within the Green Belt which is harmful, by definition. This was confirmed by the Inspector in the previous S78 Appeal Decision (see Para 4 of **Appendix C**).

6.6 Inappropriate development should not be approved except in very special circumstances (Para 147 NPPF). Such very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. (Author's emphasis) (Para 148 NPPF).

Impact upon openness and the character and appearance of the landscape

6.7 The impact of the physical structures, and in particular the static caravan and its residential use has previously been examined via the original Officer Report in respect of the earlier, refused, retrospective planning application for a temporary agricultural worker's dwelling (LPA ref: 19/00462/FUL) and this report is attached at **Appendix E**. It was further considered via the Inspector's Decision in respect of the subsequent Appeal (**Appendix C**) who commented that the caravan is: "... out of keeping with the surrounding rural character and context. Consequently, it is a discordant feature that is not sympathetic to its surroundings." (Para 7 of **Appendix C**)

6.8 The Inspector went on to observe that: "... The scheme harms the rural character and appearance of the countryside. It conflicts with Policies EQ4 and EQ11 of the CS (Core Strategy). These require, among other things, that development should be of high-quality design, making a positive contribution, taking account of the local character and distinctiveness of the landscape and its surroundings, and respecting and safeguarding visual amenity. It would also conflict with the policies in the Framework that require development to add to the overall quality of the area, to be visually

attractive, to be sympathetic to the local character including landscape setting, and to maintain a strong sense of place.” (Para 9 of **Appendix C**).

- 6.9 The residential use of the land is a form of encroachment into this part of the countryside, and conflicts with one of the purposes of including land in the Green Belt as identified in Para 138 of the NPPF. The presence of a static caravan combined with the associated timber extension and storage container erodes the openness of the Green Belt which constitutes clear and demonstrable harm to the Green Belt.
- 6.10 The surrounding area is generally open countryside, albeit pepper-potted with agricultural and residential buildings. Against this backdrop, the static caravan and associated development appears alien within its surroundings and has a materially harmful visual impact on the character and appearance of the countryside. For these reasons the development fails to accord with Policy EQ11 of the Core Strategy which, amongst other things, requires that: *“proposals should respect local character and distinctiveness including that of the surrounding development and landscape”*.
- 6.11 As previously stated, the Inspector will be well aware that Para 148 (NPPF) sets a high bar and makes it clear that local planning authorities should: *“ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’, will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”* (author’s emphasis).
- 6.12 Para 80 of the NPPF relates to the avoidance of isolated homes unless, amongst other stated circumstances: *“there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.”* It is the Council’s opinion that given the appeal site’s location and proximity to existing longstanding residential properties that this location is not an isolated location.
- 6.13 The Appellant’s substantive case under Ground A is that, in line with Paras 147 and 148 of the NPPF, very special circumstances are at play which revolve around the claimed essential need for on-site residential accommodation in relation to both the lambing and calf rearing enterprises now being presented.
- 6.14 Policy EV8 of the Core Strategy (See **Appendix D**) sets out criteria against which proposals for temporary and permanent agricultural workers dwellings will be assessed, which includes considerations of functional (essential) need for a dwelling

not just on the unit but also that which is suitable and available in the area; and evidence that the enterprise has been planned on a sound financial basis.

Whether an Essential (or Functional) Need exists

- 6.15 In this regard, the Inspector's attention is drawn to **Appendix A** (in particular paragraphs 3.6 to 3.12) which forms an integral part of, and should be read in conjunction with, this Statement of Case. It consists of an assessment of the rural enterprise at the Willow Farm in connection with this enforcement appeal.
- 6.16 With regard the sheep rearing/lambing enterprise, the previous Appeal Inspector made it abundantly clear that: "... *there simply cannot be an essential need for a rural worker to live permanently to manage the flock.*" (Para 16 of **Appendix C**). That was on the basis of the exact same flock numbers (existing and proposed) as the current appeal.
- 6.17 The Appellant's appears to go some way towards acknowledging this with their Appeal statement commenting (at Para 8.6) that: "... *the functional need for the dwelling will predominantly come from the establishment of a cattle rearing enterprise.*"
- 6.18 As with the previous S78 appeal, the Council accepts that there is likely to be a seasonal need only for a rural worker to be present during the lambing season (as also acknowledged by the previous Appeal Inspector), but no essential functional need for a worker to live at Willow Farm in that regard.
- 6.19 The Appellant's case is that the introduction of the Calf Rearing enterprise alongside the existing sheep rearing enterprise tips the balance in terms of functional need. As indicated at Para 3.11 of the Midwest planning Assessment (**Appendix A**), the calves should be fit and healthy on arrival at Willow Farm. Regular checks of the calves during the normal working day will indicate if any are starting to get sick or "doing badly". Observation during feeding times will often be the best indication of a calf not doing well, and this will take place during the normal working day. Night-time checks of calves should not be necessary as a matter of course.

Other Suitable Dwellings

- 6.20 In this regard, and notwithstanding the Appellant's claims, as is evidenced within the accompanying Midwest Planning Assessment (**Appendix A**) at Paras 3.27 to 3.31, and set out within the accompanying figures four, five and six, there are numerous affordable dwellings available for sale or rent within a five-minute drive of Willow Farm.

This is the same approximate travel time that would have occurred when the Appellants were residing at their previous property in Pattingham, and which was clearly found to be acceptable for the 10 years that the farm business was claimed to have been operating prior to the unauthorised occupation of the site for residential purposes following the siting of the static caravan in 2017.

Has the Enterprise has been planned on a sound financial basis?

- 6.21 As highlighted at Para 3.22 of the Midwest Planning Assessment (**Appendix A**), The appellants have provided enterprise gross margin budgets for calf rearing and for breeding sheep enterprises, for years 1-3, and forecast profit and loss accounts for the same period. These figures are not attributed to any particular source. Neither are the appellant's budgets based on previous trading accounts that have been submitted with this appeal. The Inspector is advised that such trading figures have been requested by the Council but had not been received by the time that this Statement was finalised.
- 6.22 The appellant's submitted budget details fail to take into account several fundamental considerations, including (but not restricted to) the true cost of acquiring the calves as well as the proposed infrastructure (i.e. the calf igloos and verandas, etc).
- 6.23 On the basis of standard published data for 2022, the farming operation will not make any profit in years one, two or three as explained at Paras 3.24 and 3.25 of the Midwest Planning Assessment (**Appendix A**).
- 6.24 Furthermore, there appears to be no realistic prospect that the business could generate a reasonable income for even just one worker. In this regard little appears to have changed since the previous S78 Appeal with the Inspector having made similar observations at Para 38 of **Appendix C**).
- 6.25 In addition, even if the Inspector were minded to allow the current Appeal under Ground A, it appears to the Council that the Appellants would be unable to finance the cost of even the most modest of permanent dwellings (as further commented at Para 3.26 of **Appendix A**). Were that to be the situation, it is respectfully suggested that a further potential temporary period would be completely unacceptable, especially given the length of time that the static caravan has already been present and occupied as a dwelling and the previous failed attempts to present a sound financial business case.

- 6.26 It appears to the Council that despite having changed the nature of the business with the introduction of the calf rearing enterprise, the Appellants, as with the previous S78 Appeal, are unable to present a robust and fully evidenced case that the business is planned on a sound financial basis.

Ground F: That the steps required to be taken by the Notice, or the activities required by the notice to cease, exceed what is necessary to remedy the alleged breach.

- 6.27 The appellants' agent suggests (at Paras 9.2 to 9.3 of the Appeal Statement) that a seasonal requirement for a caravan exists during the lambing season. Such a seasonal need was recognised by the Inspector in the previous Appeal (at Paras 16 and 46 of the Decision Letter – **Appendix C**). The Council does not dispute this, but there simply is no reasonable case for the retention on site of the current static caravan and its permanent removal as stated within the enforcement Notice is entirely justified.
- 6.28 A touring caravan, brought onto site at the start of the lambing season, and removed from site once lambing has concluded, would more than suffice for this managed and accepted seasonal lambing requirement.

Ground G: That the time period specified in the Notice falls short of what should reasonably be allowed.

- 6.29 It is the Council's position that there is no reasonable argument for extending the compliance period of 6 months, as is stated within the Enforcement Notice.
- 6.30 The Appellants' agent appears to suggest, at Para 10.2 of their Appeal Statement, that a greater period (18 months) should be permitted to "*allow further negotiations with the LPA*" (i.e. the Council) and the submission, and determination, of a further application with regard the calf rearing business, and a potential further S78 Appeal.
- 6.31 Having appealed under Ground A within this current Appeal, there is absolutely no argument or basis for the Council to entertain a further application for essentially the same proposal as the current Ground A appeal.

- 6.32 Having failed to convince the Inspector with an earlier Appeal and associated business case, the appellants are now presenting a different business case. Nevertheless, the case now being presented with regard the combination of the lambing enterprise and the calf rearing enterprise is still found wanting.

7. Conclusion

- 7.1 The Council maintains that the development amounts to inappropriate development in the Green Belt which is harmful, by definition. Very special circumstances do not exist in this case. The case for on-site living accommodation has not been sufficiently made and there is no essential need for a temporary agricultural worker's dwelling in connection with either the Lambing and/or Calf Rearing Enterprises. The evidence submitted with the Appeal under Ground a fails to demonstrate that the enterprise has been planned on a sound financial basis.
- 7.2 Furthermore, the static caravan and associated timber extension, along with the storage container, is considered to be an alien feature in the landscape and of detriment to openness and the character and appearance of the local landscape.
- 7.3 The Council respectfully requests that the Appeal under Ground A be dismissed in line with national and local Green Belt policy, as well as local policies EV8, EQ4, and EQ11.

8. Draft Conditions

- 7.1 Notwithstanding the above, should the Inspector be minded to allow the Appeal, the Council respectfully suggests that it would be appropriate to attach the following conditions to any permission that were forthcoming, along with any other conditions that the Inspector considered appropriate:
1. *The development hereby approved shall be completely removed from the site and the land restored to its former condition on or before three years from the date of this decision.*

REASON 2

The development would otherwise be inappropriate development in the Green Belt contrary to policies GB1 and EV8 of the Core Strategy.

2. *The occupation of the temporary dwelling hereby approved shall be limited to a person solely or mainly employed, or last employed, locally in agriculture, as defined in Section 336(l) of the Town and Country Planning Act 1990 (as amended); or in forestry; or other similar rural based work, employment or enterprise; or, a dependent of such a person residing with him/her (but including spouse, widow or widower of such a person).*

REASON 3

The temporary permission granted is on the basis of the very special circumstances that have been advanced by the Appellant. The occupation of the temporary dwelling for other purposes would represent inappropriate development in the Green Belt contrary to Policy GB1 of the adopted Core Strategy and the National Planning Policy Framework (NPPF).

Appendix A Midwest Assessment of the Rural Enterprise at Willow Farm

AGRICULTURAL WORKER'S DWELLING ASSESSMENT

FOR THE

FARMING BUSINESS OPERATED FROM
WILLOW FARM
HOLLIES LANE
PATTINGHAM
WV6 7HJ

OPERATED BY

MR & MRS ANNING

PREPARED ON BEHALF OF SOUTH STAFFORDSHIRE DISTRICT COUNCIL

IN CONNECTION WITH

APPEAL TO SECRETARY OF STATE

PLANNING INSPECTORATE REFERENCES: APP/C3430/C/21/3288846 &
APP/C3430/C/21/3288847

LOCAL PLANNING AUTHORITY REFERENCE: 18/00676/UNCOU

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FEBRUARY 2022

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ASSESSMENT OF THE RURAL ENTERPRISE AT THE WILLOWS IN CONNECTION WITH THE ENFORCEMENT APPEAL

1. INTRODUCTION

- 1.1 Philip Plant is the Managing Director of Mid West Planning Limited, and is a former employee of ADAS and Acorus Rural Property Services. Philip Plant has been employed in the position of Senior Consultant at the aforementioned companies for approximately twenty-one years during which time he has provided rural planning advice to both applicants and to many Local Planning Authorities including Shropshire Council, Stafford Borough Council and South Staffordshire District Council.
- 1.2 Philip Plant holds a Bachelor of Science with Honours Degree in Rural Enterprise and Land Management from Harper Adams University, and is a Rural Practice member of the Royal Institution of Chartered Surveyors.
- 1.3 This assessment is carried out on behalf of South Staffordshire District Council, without the benefit of a site visit or interview with the appellants.
- 1.4 **This assessment is in response to Mr & Mrs Anning's** Ground (a) appeal against the enforcement notice served on them, dated 8th November 2021 by South Staffordshire District Council requiring the permanent cessation of the use of land for domestic purposes, the permanent cessation of the use of land for the siting of a caravan and wooden extension, and the permanent cessation of the use of land for the siting of a container unit. The notice requires the caravan and wooden extension, and the container unit to be permanently removed from the land, along with all items associated with the unauthorised use of the land.
- 1.5 The assessment is therefore to do with the retention of the existing static caravan and wooden side extensions, and associated domestic items. This assessment is not carried out in connection with the proposed log cabin accommodation that the **appellants' appeal statement** refers to. The appeal under Ground (a) in the **appellants' appeal statement refers to the application submitted in May 2021** which was initially turned away by the Council and the appellants subsequently invited to reapply in the letter from Southern Staffordshire Legal Services, dated 23 June 2021. No such application was submitted. The Supporting Statement (Ref 7536/PS, Dated December 2021) submitted with the appeal documents appears to be the supporting statement to an application for the log cabin to be **sited for use as a temporary agricultural workers' dwelling**.
- 1.5 I have also reviewed the Appeal Statement, dated December 2021, submitted with this enforcement appeal. This appeal is submitted on grounds a, f, and g.

2. DESCRIPTION OF THE FARMING ENTERPRISE

- 2.1 The farming enterprise trades as Mr and Mrs G. S. Anning. The enterprise was **first established at the appeal site, now known as "The Willows" in 2007 when the**



appellants rented the land. Mrs Caroline Anning subsequently purchased the land in 2017 which extends to approximately 6.68 Hectares (16.5 acres) of grassland. An additional 32.78 Hectares (81 acres) of land is rented and farmed on other arrangements in the local area. The Local Planning Authority has not been provided with plans of the rented land, or precise locations or the type of tenure this land is occupied under.

- 2.2 The farming enterprise currently concentrates on finished lamb production from approximately 270 breeding ewes for the meat trade. The business previously operated a livestock procurement enterprise that sourced lambs and cull sheep **for W. & G. Yates Ltd' abattoir, at near to Bloxwich.** The latest proposal is to increase the breeding sheep flock to 350 ewes over a three-year period, and to develop a calf-rearing enterprise which will, after three years, produce 300 reared calves. The latest submissions confirms that the sheep procurement enterprise no longer operates from the appeal site. It is however unclear whether or not it is operated from another site by the appellants.
- 2.3 The land at Willow Farm is all laid down to grass and used to graze sheep and cattle with fodder conserved on the other rented land, which is also grazed.
- 2.4 Willow Farm is the centre of operations. In 2020 an agricultural prior notification was made to the LPA which resulted shortly thereafter of an agricultural storage building being erected on the northern field boundary alongside Hollies Lane. This building is approximately 28m from the nearest protected dwelling curtilage, and as such it cannot be used for continual livestock accommodation, however there are limited exceptions to this rule, one being, if there are no alternative buildings available, to temporarily accommodate animals that are normally kept out of doors if they are giving birth, or newly born.
- 2.5 Willow Farm is the location of the static caravan with timber side extension, the storage container, the earth bund, fencing and domestic paraphernalia, all of **which are required to be removed by the enforcement notice. The appellants' ground (a) appears to focus on the Council's refusal to determine the planning application that was submitted after the previous planning appeal.** It does not concern the retention of the steel container unit, the wooden and mesh fencing, the earth bund and other domestic items associated with the change of use of the land to site the caravan with the wooden extension.
- Calf Rearing
- 2.6 The calf rearing enterprise has recently been introduced to Willow Farm in a small way. It is proposed to build this enterprise up over a three-year period to 150 calves reared at year one, 240 calves reared at year two, and 300 calves reared at year three. Calves will be purchased either directly from local livestock markets, or through local livestock supplier D.P. Manning of Minsterley, near Shrewsbury. Mr Philip Manning has provided a letter confirming that he will supply Caroline Manning with the required calves at two weeks of age in bunches of 60 calves at a time.
- 2.7 The calves will arrive at Willow Farm at around 2-3 weeks of age and will be reared on replacement/substitute milk to around 8 weeks old, and then weaned over a couple of weeks. They will then be reared for another 4 weeks on dry food before being sold at around 14 weeks of age, at a weight of around 130kg. Based on this timeline calves will be on the farm for approximately 11 weeks.

Sheep Enterprise

- 2.8 There is an established sheep breeding enterprise with approximately 270 breeding ewes and 12 breeding rams, producing finished lambs for the meat trade. The intention is to increase this to 350 breeding ewes. Sheep are grazed at Willow Farm and at the other rented land at Pattingham and Bobbington. The appellants lamb their flock at Willow Farm during February to April period. Early lambing takes place inside the agricultural building. It is not clear whether or not the main lambing takes place inside the building or outside.

Fieldwork and fodder production

- 2.9 The appellants will have an element of fieldwork to carry out each year including **harrowing, rolling and fertilizing the grassland.** The appellant's Supporting Statement contains labour requirements for grassland management, re-seeding of grassland, and fodder production (haylage), however there are no details, for example of what land is re-seeded each year, or if agricultural contractors are used for some tasks.

3. ASSESSMENT AGAINST LOCAL PLAN POLICY

Relevant Planning Guidance

- 3.1 Guidance is provided in the government planning guidance website; -

"How can the need for isolated homes in the countryside for essential rural workers be assessed? Considerations that it may be relevant to take into account when applying paragraph 80 of the NPPF could include:

- evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products);*
- the degree to which there is confidence that the enterprise will remain viable for the foreseeable future;*
- whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;*
- whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context; and*
- in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.*

Paragraph: 010 Reference ID: 67-010-20190722

National Planning Policy Framework

- 3.2 The National Planning Policy Framework (NPPF) came into effect in March 2012, and was last updated in July 2021. There remains the presumption in favour of sustainable development and the obligation to approve applications that accord with up-to-date Local Development Plans, within the Framework.
- 3.3 Paragraph 80, Section 5 of the Framework, is particularly relevant to new agricultural worker dwellings, and states that the development of new isolated dwellings in the countryside should be avoided unless certain circumstances apply. One such circumstance is ***'delivering a sufficient supply of homes' includes provision for dwellings in rural locations where 'there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside'.***

Local Planning Policy

- 3.4 The Development Plan for South Staffordshire Council consists of:
- Core Strategy (Adopted December 2012)
 - Site Allocations Document (SAD) (Adopted September 2018)
- 3.5 The following Policies of the Core Strategy are considered to be of direct relevance to the Appeal and were relied upon by the Council when refusing the previous planning application for the use of the static caravan as a temporary agricultural worker's dwelling (ref: 19/00462/FUL) and the subsequent S78 Appeal, which was dismissed, as summarised above:
- GB1 (Development in the Green Belt)
 - EQ4 (Protecting and Enhancing the Character and Appearance of the Landscape)
 - EQ11 (Wider Design Considerations)
 - EV8 (Agriculture)

Assessment of Essential Need

- 3.6 The essential, or functional need as it is otherwise known, is the need for a rural worker to live permanently at, or near to their place of work, where the said need arises. In this instance the essential requirement for onsite accommodation relates to the breeding sheep and calf rearing activities and the need to react at short notice to avoid unnecessary stress or pain to livestock in the care of the applicant.
- 3.7 The need for a dwelling for rural workers, usually arises where the worker concerned needs to be on hand both night and day, sometimes at short notice. The **appellant's case is that the need arises** throughout the year in connection with the new calf rearing enterprise and the breeding sheep enterprise.
- 3.8 With regard to the sheep enterprise, the appellants Supporting Statement provides an overview of the sheep enterprise with an outline of the annual management

requirements of the flock. Due to the limited land available to the appellants at Willow Farm, the sheep have to spend much of their time on the rented land away from Willow Farm. I find it hard to accept that it is necessary to bring the sheep back to Willow Farm to carry out routine stock tasks such as worming, foot trimming and sorting out lambs for market. Clearly not all of these activities will have taken place at Willow Farm, because it is not practical to move sheep back and forth for the annual health check for example. These activities can take place in the field which will result in less time input, less stress on the animals and less cost in moving the sheep. Regular stock tasks and even dipping and shearing can quite easily take place by gathering the flock in the relevant off-lying fields. Therefore, I consider that the essential or functional need for someone to be on hand both night and day, sometimes at short notice will be a seasonal requirement at lambing time only, when ewes are giving birth and may need assistance, and when lambs are very young and susceptible to bad weather, need the first milk, (colostrum), may not be bonding with the ewe etc. and assistance is required throughout the day and night.

- 3.9 The limited land area The Willows means that the farmer will need to move the ewe and lambs off the site as quickly as possible to keep the land as fresh as possible for the next lot, therefore young lambs and ewes will be moved to the rented land after a couple of days from birth if they are healthy.
- 3.10 As yet there is no infrastructure for the calf rearing operation at Willow Farm. The calf rearing enterprise is designed to be a year-round operation, although initially it will be for 2.5 batches of 60 calves, and therefore occupy around 36 weeks of year one. Based on my labour calculation below however, for a three-month rearing period, years one and two calf numbers do not constitute a full-time worker equivalent for calf rearing. Year three calf numbers equate to a labour requirement of 258 SMDs, per year, just short of a full-time worker requirement (275 SMDs). The calf rearing operation would give rise to an essential need when fully established, and is planned to be a year-round operation, however in itself does not relate to a full-time worker requirement. Please see below for more details.
- 3.11 The purpose-built calf igloos and verandas are an ideal environment for calf rearing, being well-ventilated and easily cleaned and disinfected for each new batch of calves, both of which will minimise disease and sickness in the calves. There is no significant risk if fire or flooding of the igloos and verandas. Combine these features with the fact that the calves arrive at the farm at between 2 and 3 weeks of age, mainly from local markets and from livestock dealer, D.P. Manning and Co. they should be relatively fit and healthy on arrival. Regular checks of the calves during **the normal working day will indicate if any are starting to get sick or "doing badly"**. Observation during feeding times will often be the best indication of a calf not doing well, and this will take place during the normal working day. Night-time checks of calves should not be necessary as a matter of course.
- 3.12 It is considered that there is little essential need for a new dwelling at Willow Farm connected with the keeping of livestock on the rented land away from Willow Farm. Many farmers graze sheep (and cattle) away from home successfully and can operate by making temporary penning to gather sheep for routine stock tasks and for annual events such as dipping, shearing and introducing rams to the flock at the appropriate time.

Assessment of labour requirement

- 3.13 The appellant's agent has prepared standard labour calculations for each of the three years required to develop the enterprise with the current change in direction, as part of the business planning exercise. There are a number of anomalies in these calculations that need to be addressed. These include the separate calculation for the lambs produced, the use of Standard Man Days (SMDs) relating to hectares when acres figures are used, resulting in higher labour requirements.
- 3.14 The labour assessment below is based on current Standard Man Day figures from the 52nd edition (2022) John Nix Farm Management Pocketbook. The separate lamb SMD figure has been eliminated because it should be included with the breeding ewe. The acres figures **in the appellants' labour calculation have been converted** into hectares and apportioned the reseeding figure to one fifth of the annual requirement to take account of the quinquennial reseeding event. The calf rearing SMDs provided are for calf rearing for 0-6months, and consequently have been amended these to reflect the circa 3-month calf rearing period. The result is a labour requirement of 1.28 full time worker equivalents in year one, 1.6 in year two and 1.82 full time worker equivalents in year three including both the livestock enterprises and the fieldwork with 15 percent added for general maintenance management and repairs. Please figures one to three below for full details.

Enterprise Type	Unit	No.	SMD/Unit	Enterprise Total
Breeding ewes (incl lamb and shearing)	Head	270	0.5	135.00
Breeding rams	Head	12	0.5	6.00
Calf rearing (3-11 wks, round up to 3mths)	Head	150	0.86	129.00
Grassland Management	Ha	39.46	0.4	15.78
Haylage Production	Ha	12.14	1.6	19.42
Grassland reseeding (20 acres every 5 yrs)	Ha	1.62	0.6	0.97
Sub-total				306.18
Maintenance, Repairs and Management factor @15%				45.93
Total				352.11
Equivalent Standard Workers @ 275 days P.A. at Year One				1.28

Figure One: - Standard Labour Calculation for Year One.

Enterprise Type	Unit	No.	SMD/Unit	Enterprise Total
Breeding ewes (incl lamb and shearing)	Head	270	0.5	135.00
Breeding rams	Head	12	0.5	6.00
Calf rearing (3-11 wks, round up to 3mths)	Head	240	0.86	206.40
Grassland Management	Ha	39.46	0.4	15.78
Haylage Production	Ha	12.14	1.6	19.42
Grassland reseeding (20 acres every 5 yrs)	Ha	1.62	0.6	0.97
Sub-total				383.58
Maintenance, Repairs and Management factor @15%				57.54
Total				441.12
Equivalent Standard Workers @ 275 days P.A. at Year Two				1.60

Figure Two: - Standard Labour Calculation for Year Two.

Enterprise Type	Unit	No.	SMD/Unit	Enterprise Total
Breeding ewes (incl lamb and shearing)	Head	270	0.5	135.00
Breeding rams	Head	12	0.5	6.00
Calf rearing (3-11 wks, round up to 3mths)	Head	300	0.86	258.00
Grassland Management	Ha	39.46	0.4	15.78
Haylage Production	Ha	12.14	1.6	19.42
Grassland reseeding (20 acres every 5 yrs)	Ha	1.62	0.6	0.97
Sub-total				435.18
Maintenance, Repairs and Management factor @15%				65.277
Total				500.46
Equivalent Standard Workers @ 275 days P.A. at Year Three				1.82

Figure Three: - Standard Labour Calculation for Year Three

Assessment of sound business planning

- 3.15 It is important that the LPA has confidence that the enterprise has been planned on sound basis. The appellants should demonstrate that they have the firm intention and ability to develop the enterprises, and demonstrate that the business will become, and remain viable for the foreseeable future if a new dwelling is to be granted planning consent in the green belt. The business has operated on this site since 2007, and the appellant has owned the site since 2017. A series of applications, have all resulted in refusal, and a planning appeal for a temporary dwelling dismissed in March 2021. The appellants have changed direction allegedly in light of Brexit, market volatility and the reduction in agricultural support payments by introducing a calf rearing enterprise to the farm with the sheep breeding enterprise despite not having any infrastructure to do so. There is no detailed explanation about how these events have or will impact the business. It would be helpful to have received some evidence about how the business is impacted by these events.

3.16 The calves on the farm at present occupy the farm building, in breach of the Permitted Development criteria because the building was granted as storage building, not a livestock building, for which it is too close to other protected buildings, for example the barn conversions and many other dwellings within 400m to the west of the building. The erection of the agricultural building appears to be in breach of the restrictive covenant entered into by the appellants when the land was purchased in 2017, and the appellants have not provided any information to confirm **that they are not in breach. This calls into question the appellants' ability** to develop the business as described. Please refer to Appendix One.

3.17 The **appellant's supporting statement explains that the calves will be loose**-housed in groups of between 15 and 30 calves in calf igloos and verandas, rather than in individual calf pens. The following extract from the CalfIgloo.com website provides key information about the calf igloo and veranda system that is proposed for Willow Farm. More details at Appendix Two.

Calf Igloo specification: -

- Houses up to 15 calves
- Diameter 4.4m
- Height 2.2m
- Door height 1.4m
- Space under the Igloo 14 sqm
- Accommodates up to 15 calves
- Constructed from 3 segments
- Central hook for suspending from a loader, during mucking out.

3.18 There will be a requirement for four calf rearing igloos at the farm and they will need to be moved around the field to new ground for each batch of calves, therefore from year three, there will be 20 new sites used for igloos and verandas. There could be times in the year when the relocation of these igloos and verandas, and removal of the muck could be difficult due to wet weather.

3.19 This housing arrangement suggests that the calves will be fed milk substitute en-mass rather than individually.

3.20 The increase in breeding ewe numbers from 270 to 350 ewes will have an impact on the available space for indoor lambing, which is not explained at all. The agricultural storage building is not consented for livestock housing, other than for what I would consider to be emergency housing of livestock and is also required for hay and machinery storage, and therefore it is difficult to see how all of these uses can be accommodated in a building with a floor area of approximately 158m², comprising 74m² of open-fronted hay and straw storage, and 84m² of enclosed secure storage for machinery and equipment.

3.21 The exception to the 400m restriction relied upon, found at paragraph D.1 (3) (ii) ***"in the case of animals normally kept out of doors, they require temporary accommodation in a building or other structure because they are sick or giving birth or newly born, or to provide shelter against extreme weather conditions"***. I respectfully suggest that the purpose and intention of this exception to the general rule is to allow farmers to provide emergency, temporary shelter for animals meeting the criteria, and is not intended for a planned, seasonal requirement to house breeding sheep or for rearing calves.

Financial Planning

- 3.22 The appellants have provided enterprise gross margin budgets for calf rearing and for breeding sheep enterprises, for years 1-3, and forecast profit and loss accounts for the same period. These figures are not attributed to any particular source and do not appear to be related to the latest published data in the 2022 52nd edition of the John Nix Pocketbook for Farm Management. **Neither are the appellant's** budgets based on previous trading accounts that have been submitted with this appeal, and therefore they cannot be verified, other than by preparing budgets from the latest published data.
- 3.23 **The appellant's budget does not take into account the increase in the flock size** from 270 ewes to 350 ewes in year three, or the cost of doing so. Neither do the budgets take into account the true cost of acquiring the calves and the calf igloos and verandas etc.
- 3.24 Standard published data from the 2022, 52nd edition of the John Nix Pocketbook for Farm Management is summarised at Appendix Three. According to this data the farming operation will not make a profit based on the enterprises concerned. In year one, the farm will lose in excess of £22k. In year two this is reduced to a loss of £19k, even if the sheep number are projected to 310 breeding ewes, which is half way to the target of increase in flock size to 350 ewes. In Year three the losses are reduced to just over £16k.
- 3.25 Whilst the appellant can argue that some of the standard published data is not representative of their particular circumstances, it is clear that taken in the round the published data is a reliable guide to the likely success or otherwise of the farming business. Furthermore, the appellants have not provided their latest trading accounts to justify the budget put forward.
- 3.26 Should the Inspector decide to allow the appeal to retain the existing caravan for a temporary period of three years, it will be on the basis that the business can succeed, and that an application for a permanent dwelling will be submitted in around two **and a half years' time. The business is unlikely, in my opinion to be** able to generate a wage for one worker, let alone the two workers concerned, and will almost certainly not be able to finance the cost of a new, even modest dwelling on an annualised basis. For example, assuming a maximum, say 100m² floor area two or three bedroom dwelling is sought by the appellants in due course, based on 2021 build cost figures the capital cost could be anywhere between £187 and £234k, and therefore I consider that there is a substantial risk that the appellants will seek subsequent extensions to the temporary planning permission for the temporary dwelling at Willow Farm.
- Other suitable dwellings
- 3.27 The availability of other suitable dwellings in the locality, and on the farm need to be considered before planning permission is considered for a new build agricultural **worker's dwelling can be considered.** The appellants currently reside at Willow Farm in a static caravan, which is the subject of this appeal.
- 3.28 The proprietors of the farming enterprise previously resided at Leaton Lodge, Crab Lane, Bobbington, DY7 5DZ at the time the land was purchased, according to the land registry entry. This is located some 17 minutes from Willow Farm.

- 3.29 It is understood that the appellants sold a property at Marlbrook Lane, in Pattingham within the past four years. This property is within 1.6 miles and 5 **minutes' drive** of Willow Farm. It is considered that this property is sufficiently close enough to Willow Farm to allow proper management of the farm, when combined with seasonal overnight accommodation during the lambing season.
- 3.30 It is also noted that the appellants have provided at section 18 of the Supporting Statement a summary of 6 example dwellings sold within 3 miles of Willow Farm all being within the range, £669k to £1.25m, which are all clearly outside of the purchasing power of the appellants farming income.
- 3.31 A property search carried out for properties currently for sale within 3 miles, which represents approximately a five-minute drive to the farm, and identified 138 homes currently for sale at less than £300,000. A search for properties for rent current has identified 6 properties for rent at less than £1,000 per month. This is a snap-shot of what is available now, and illustrates how many properties will have been sold or rented since 2017. Please see figures five and six below.

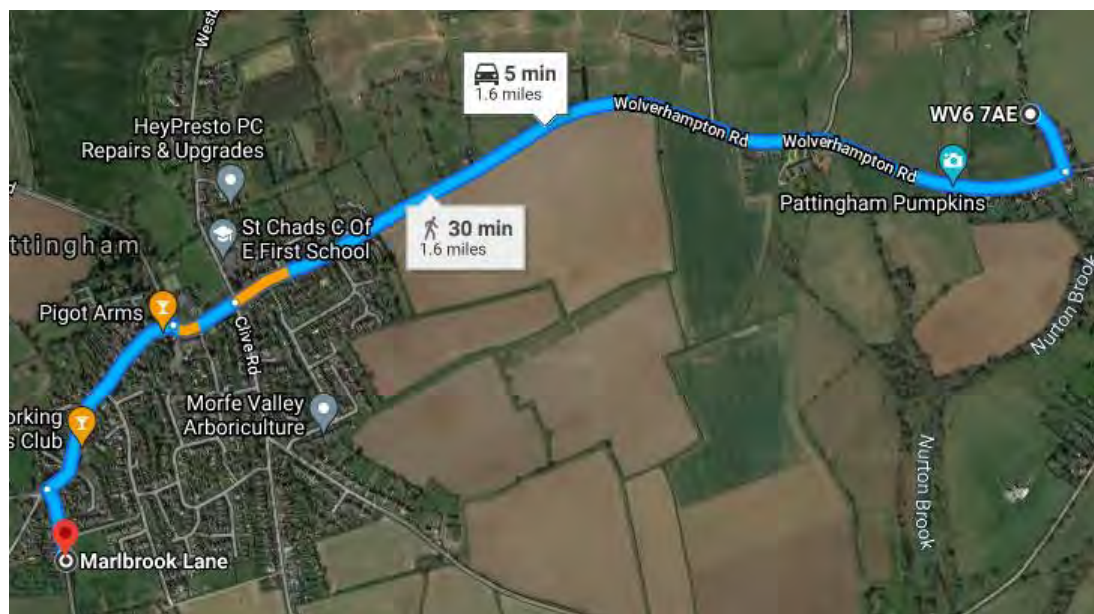


Figure Four: - Google Maps image showing the distance from Marlbrook Lane to Willow Farm.

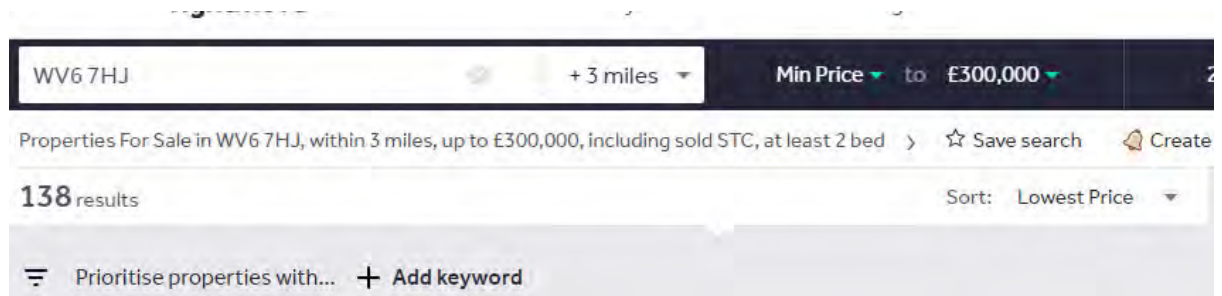


Figure Five: - Properties for sale within 3 miles of Willow Farm.

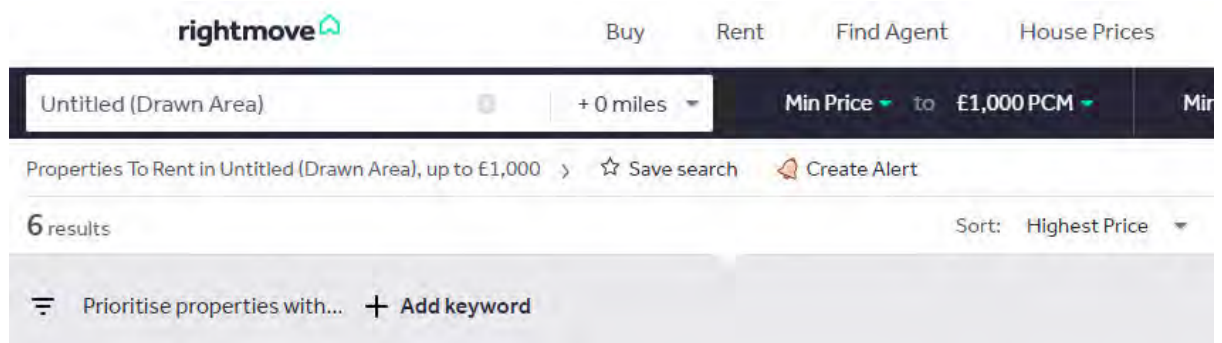


Figure Six: - Properties for Rent within 3 miles of Willow Farm.

4. CONCLUSIONS

- 4.1 If the business is developed as planned, with the introduction of the calf rearing enterprise in addition to the expanded sheep enterprise would give rise to an essential need for someone to live at, or close to their place of work. However, it is considered that this need can be met by a dwelling within the locality, and a seasonal worker touring caravan at lambing time if necessary.
- 4.2 Furthermore, it is considered that the appellants have not demonstrated that they have the clear intention or ability to develop the enterprises concerned. The existence of the restrictive covenant on the land barring the erection of the agricultural building, whilst not a direct planning matter, does pose a real threat to the farming business. Also, the reliance on the agricultural building for the accommodating of livestock, when it was clearly not granted for such use, puts the appellants' ability to develop the business at risk.
- 4.3 The forecast budgets put forward by the appellants for the enterprise do not appear to be based on standard published data, and no accounts have been received to substantiate the figures contained, therefore it is considered that the standard published data is a realistic measure of the likelihood of the business to succeed or not, and these figures indicate losses for all three years.
- 4.4 For the reasons set out above it is clear that the enterprise could operate from an existing dwelling in the locality, and that the business, based on published enterprise gross margin and fixed costs data, is unlikely to be profitable over the next three years. Therefore, it is considered that appellants have failed to demonstrate the very special circumstances for allowing the retention of the caravan at Willow Farm based on agricultural need.

LAND REGISTRY ENTRY WITH PLAN OF LAND

Title Number : SP509545

This title is dealt with by HM Land Registry, Birkenhead Office.

The following extract contains information taken from the register of the above title number. A full copy of the register accompanies this document and you should read that in order to be sure that these brief details are complete.

Neither this extract nor the full copy is an 'Official Copy' of the register. An official copy of the register is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy.

This extract shows information current on 14 FEB 2022 at 17:16:44 and so does not take account of any application made after that time even if pending in HM Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: SP509545
Address of Property	: land adjoining Fairhaven Cottage, Pittingham Road, Pittingham, Wolverhampton (WV6 7AE)
Price Stated	: £165,000
Registered Owner(s)	: CAROLINE ANNE ARNING of Leaton Lodge, Crab Lane, Bobbington, Stourbridge DY7 5DX.
Lender(s)	: None

1 of 3

Title number SP509545

This is a copy of the register of the title number set out immediately below, showing the entries in the register on 14 FEB 2022 at 17:16:44. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

This copy is not an 'Official Copy' of the register. An official copy of the register is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy. If you want to obtain an official copy, the HM Land Registry web site explains how to do this.

A: Property Register

This register describes the land and estate comprised in the title.

STAFFORDSHIRE : SOUTH STAFFORDSHIRE

- 1 (08.02.2006) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being land adjoining Fairhaven Cottage, Pittingham Road, Pittingham, Wolverhampton (WVG 7AS).

NOTE: A two yard strip of land from the existing fence between points A and B on the title plan is excluded from the title.
- 2 (08.02.2006) A Deed dated 5 October 1990 referred to in the Charges Register contains the following provision:- "IT IS HEREBY DECLARED that a strip of land measuring two yards from the existing fence between points marked A and B on the plan annexed hereto (intended to be retained as part of Grange Farm) is excluded from the Conveyance hereby made."
- 3 (08.02.2006) The land has the benefit of the following rights granted by the Deed dated 5 October 1990 referred to in the Charges Register:-

"TOGETHER WITH the right to pass and repass over and along the said farm cart road for the purpose of access to and egress from the land."
- 4 (23.03.2010) By a Deed dated 1 February 2010 made between (1) Catherine Mary Jackson and John Robert Jackson and (2) Mary Margaret McLean and John Robert Jackson the right of way referred to in the above Deed has been varied

NOTE:- Copy filed.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (18.06.2018) PROPRIETOR: CAROLINE ANNE ANNING of Leaton Lodge, Crab Lane, Bobbington, Stourbridge DY7 5DX.
- 2 (29.05.2018) The price stated to have been paid on 10 May 2018 was £165,000.
- 3 (29.05.2018) RESTRICTION: No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by John Robert Jackson and Catherine Mary Jackson of Silver Birches, Far Cross Drive, Arncliffe, LAS 0BG or their conveyancer that the provisions of Clause 3 of the Overage Agreement dated 10 May 2018 and made between (1) John Robert Jackson and Catherine Mary Jackson and (2) Caroline Ann Anning and Gary Steven Anning have been complied with or that they do not apply to the disposition.
- 4 (18.06.2018) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.

2 of 3

Title number SP509545

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (08.02.2006) By a Conveyance of the land in this title and other land dated 22 April 1966 made between (1) Laurence McLean (Vendor) and (2) Mark McLean (Purchaser) the land was conveyed subject as follows:-

Subject as to the parts thereof to the right of way and the covenants contained or referred to in the said Conveyances of the Seventeenth day of April One thousand nine hundred and forty four and the eighth day of June One thousand nine hundred and fifty one so far as the same are still subsisting and capable of taking effect and effect the property hereby conveyed.

NOTE 1: The 1944 Conveyance was made between (1) Harold William Hunt and (2) John McLean. The 1951 Conveyance was made between (1) Gwendoline Gladys Astley and (2) John McLean.

NOTE 2: No certified copies or abstracts of the above deeds were lodge on first registration.
- 2 (08.02.2006) The land is subject to the rights granted by a Deed dated 23 January 1969 made between (1) Mark McLean (Grantor) and (2) The Midlands Electricity Board (Grantee).

The said Deed also contains restrictive covenants by the grantor.

NOTE: Copy filed.
- 3 (08.02.2006) A deed of variation dated 26 March 1979 made between (1) Mark McLean and Margaret Mary McLean and (2) The Midlands Electricity Board is supplemental to the Deed of Grant dated 23 January 1969 referred to above.

NOTE: Copy filed.
- 4 (08.02.2006) A Deed dated 5 October 1990 made between (1) Mark McLean and Margaret Mary McLean (Donor) and (2) Catherine Mary Jackson (Donee) contains the following covenants:-

"The Donor with intent to bind the land into whosoever hands it may come hereby covenants with the Donee that during the lifetime of the Donors or either of them no building or structure of any kind shall be erected on any part of the land which is hatched blue on the said plan without the previous consent in writing of the Donors or the survivor of them"

NOTE: The land hatched blue has been reproduced on the title plan.
- 5 (08.02.2006) The land is subject to the rights granted by a Deed dated 17 February 1992 made between (1) Catherine Mary Jackson (Grantor) and (2) Midlands Electricity Plc (Grantee).

The said Deed also contains restrictive covenants by the grantor.

NOTE: Copy filed.
- 6 (08.02.2006) The land is subject to the rights granted in a Deed of Grant dated 7 July 2005 made between Mark McLean and Margaret Mary McLean (Grantors) and (2) Central Networks West Plc.

NOTE:- No certified copy or examined abstract was lodge on first registration.
- 7 (29.05.2018) A Transfer dated 10 May 2018 made between (1) Catherine Mary Jackson and John Robert Jackson and (2) Gary Steven Anning and Caroline Anna Anning contains restrictive covenants.

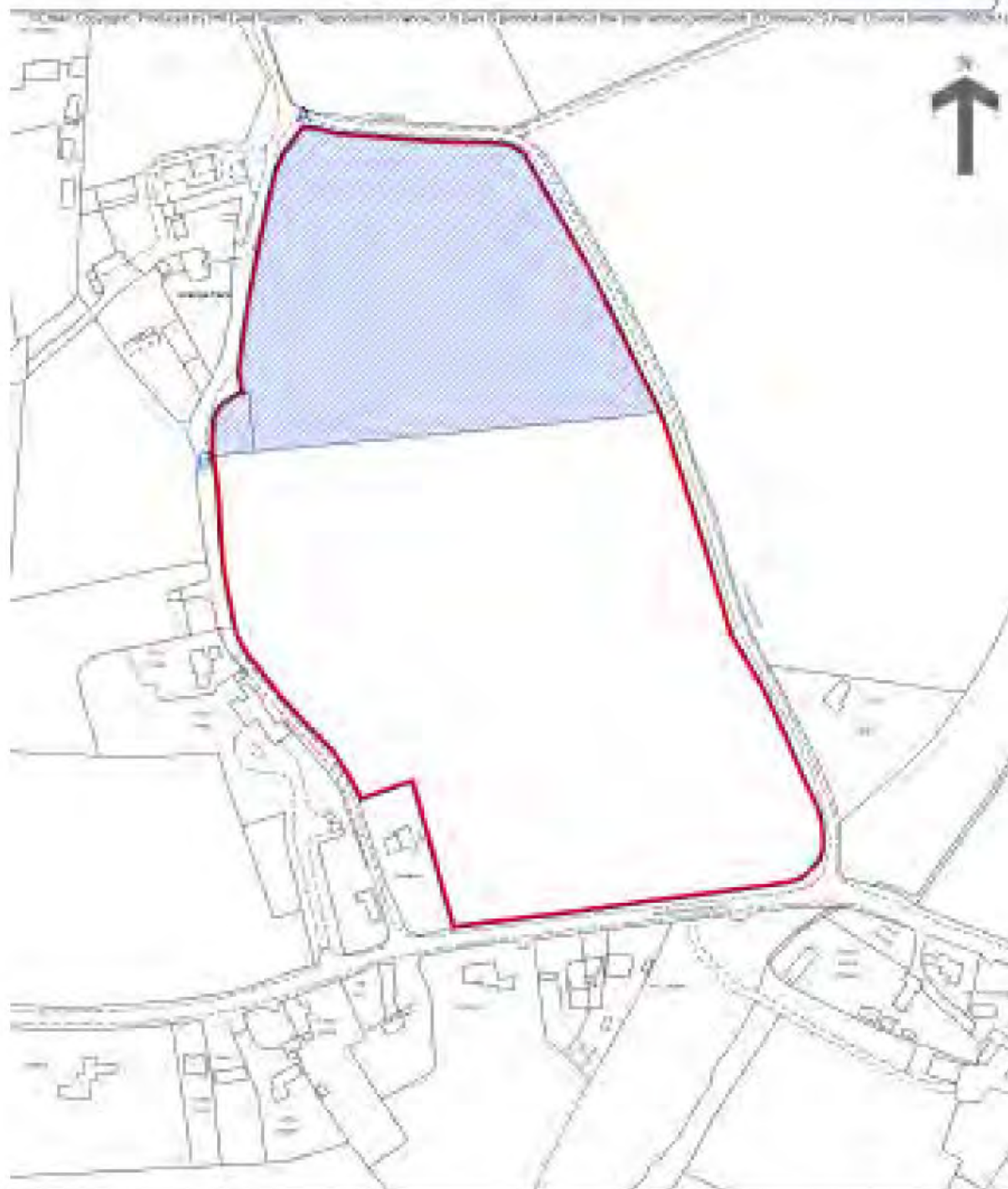
NOTE: Copy filed.

End of register

3 of 3

HM Land Registry
Current title plan

Title number **SP509545**
Ordnance Survey map reference **SO8399NE**
Scale **1:2500**
Administrative area **Staffordshire : South**
Staffordshire



CALF IGLOO AND VERANDA PRICE INFORMATION



Price List from August 2021



Emma and Joff Roberts

Uphampton Farm
Shobdon, Leominster, Herefordshire, HR6 9NE
01568 780380
07595 894602
info@calfigloo.com
www.calfigloo.com



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PLEASE NOTE ALL PRICES EXCLUDE DELIVERY AND VAT



Price List from August 2021

H&L Igloo

£2,250

Extras:

PVC Curtain	£165
Headstock Carrier	£145
Lifting Eye	£35
Ventilation Chimney	£55
Arc	£65



Technical Specifications

Dimensions (ex. of cover)	11
Bedding area	approx. 14 m ²
Length / Width / Height	20 m / 4.4 m / 2.2 m
Height of entrance	1.40 m
Volume	approx. 28 m ³
Weight	750 kg
Material	Grain-orientated glass fibre reinforced plastic
Standard equipment	4 x 10 kg food transport hook
Options	Hang up tarp at the side of the entrance for extra weather protection during extreme conditions

* Technical specifications subject to change.

H&L Igloo Veranda

£5,900 (with trough)

£5,000 (without trough)



(Please note: Picture includes igloo which is not included in price)

Extras:

Teated Bucket Support (7)	£270
Ringtype Bucket Holder (7)	£270
Hayrack	£205
Concentrate Dispenser (without L bracket support)	£510

Wind protection for Veranda	£590
Bedding Door for Igloo-Veranda	£295
Displaced Wheel Hub	£150

Technical Specifications

Dimensions (ex. of cover)	11
Basic set up dimensions	17.5 m x 4.4 m x 2.2 m
Surface area of bedding	14 x 7.5 m ²
Volume	28 m ³
Weight	750 kg (incl. tarp)
	14.4 m x 1.9 m
	2.75 m x 0.4 m

* Technical specifications subject to change.



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FARM GROSS MARGIN AND PROFIT AND LOSS FORECASTS

Mr and Mrs G. S. Anning Gross Margin and Fixed Cost Calculation Years 1-3

Sheep production and calf rearing gross margins based on standard published data - John Nix 52nd edition 2022.

Lowland spring lambing flock: Year One-Three (Average performance level)	
	£
Value of lambs per head	92
	£
Lamb sales (1.3 lambs per ewe reared and sold)	138
Wool	0.4
Less ewe and ram depreciation*	-20
Output per ewe	118
Variable costs	
Concentrated feed (ewe and lambs)	17
Vet & Medicine	10
Miscellaneous**	13
Total variable costs excl. forage costs	40
Gross Margin per ewe	78
Forage variable costs per ewe	24
Gross Margin per ewe	54

* Ewe and Ram depreciation as depicted at note 4 of page 71 of John Nix 2022.

** Misc. items to include contract shearing, tags, scanning, carcass disposal, transport etc.

170 breeding ewes x £54/head	£14,580
310 breeding ewes x £54/head	£16,740
350 breeding ewes x £54/head	£18,900

Fixed Costs per hectare farmed	£
Labour	445
Power & Machinery (incl.contract)	275
Maintenance	35
Water and electricity	75
General Overhead Expenses	60
Rent & Interest	95

Total Fixed costs per hectare farmed	985
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39 hectares farmed @ £985/Ha fixed costs	38,415
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	Gross Margin Total	Fixed Costs Total	Net farm profit (loss)
Year One	£16,230	£38,415	-£22,185
Year Two	£19,380	£38,415	-£19,035
Year Three	£22,200	£38,415	-£16,215

Calf rearing 0-3 months	
	£
Value of calf	355
Less calf purchase	222
Output per calf	133
Variable costs	
Milk Substitute	38
Concentrated feed	52
Hay	4
Vet & Medicine	17
Bedding	7
Miscellaneous	4
Total variable cost per calf	122
Gross Margin per Calf	11

150 calves x £11/head	£1,650
240 calves x £11/head	£2,640
300 calves x £11/head	£3,300

Commentary
445/ha x 39ha = £17,355 p.a. Less than minimum wage for Mr & Mrs Anning

Equivalent to £38.45 rent and interest per acre - very low.

APPENDIX THREE

HOUSE BUILD COST INFORMATION

Building a house involves a huge number of different processes, starting with surveying the site and digging the foundations. Your construction crew will need to build the substructure, lay drains and pour the floor slab.

Other works include building the external walls, installing the roof structure, insulating the property and adding internal walls. Then there are finishes, such as doors and windows, plus installing all the services and finally, landscaping and decorating.

The cost of building can vary depending on the difficulty, time required and specification of all of these different jobs. The higher quality the finish, the more the build will cost.

What else affects average building costs? You'll need to factor in your location, the size of the property, the layout and the complexity of the design.

In the UK, the average building cost per sq m is between **£1,750 and £3,000**.

	Low cost	High cost	Average cost
Building cost per sq m	£1,750	£3,000	£2,375
Average cost to build 2 bedroom house	£187,625	£281,437	£234,531
Average cost to build 3 bedroom house	£242,250	£363,375	£302,812
Average cost to build 4 bedroom house	£294,500	£441,750	£368,125
Our costs are ballpark averages – get a local tradesperson to quote now			

Source: - Checkatrade Website 17 February 2022.

Appendix B Enforcement Notice

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED

BY THE PLANNING AND COMPENSATION ACT 1991)

ENFORCEMENT NOTICE

ISSUED BY: SOUTH STAFFORDSHIRE DISTRICT COUNCIL

- (1) THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. It considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important information.

(2) THE LAND AFFECTED

Land at Willow Farm Hollies Lane, Pattingham, Wolverhampton WV6 7HJ (“the Land”) outlined in red for identification purposes on the plan attached to this Notice.

(3) THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

- (i) Without planning permission, the making of a material change of use of the Land, to Land used for the siting of a caravan with a wooden extension attached to the said caravan and the siting of a container unit.
- (ii) Without planning permission, the unauthorised material change of use of the Land, to Land used for domestic residential purpose together with unauthorised operational development to facilitate the unauthorised material change of use consisting of the erection of wooden and steel mesh fencing to separate the adjoining domestic residential planning unit from the Land as marked in green on the Plan.
- (iii) Without planning permission, the unauthorised operational development consisting of an earth bund located in the position outlined in blue on the attached plan.

(4) REASONS FOR ISSUING THIS NOTICE

Located within the Green Belt, the Land lies within what is a rural area, approximately 1 mile to the north-east of Pattingham and 1.5 miles to the south-west of Perton.

The area of Land where the unauthorised development has taken place comprises of approximately 0.1 hectare area of land which has been fenced off from the associated arable land, located at a sharp bend in the road on Hollies Lane,

adjacent to Grange Farm (Grange Farmhouse itself is a Grade II Listed Building). Vehicular access is via a shared driveway with Grange Farm. The Land site forms a small part of the wider total 6.7 hectares (16.5 acres) of land.

The material change of use of the Land together with the associated unauthorised operational development to facilitate the change of use occurred less than ten years ago and is not immune from enforcement action.

The unauthorised operational development consisting of the earth bund located on the agricultural Land to the south of the wooden and steel mesh fencing occurred less than four years ago and is not immune from enforcement action.

The Land is situated in an area of open countryside located in the South Staffordshire portion of the West Midlands Green Belt.

On 7th February 2020, a retrospective planning application was refused by the Council for the stationing of the static caravan as a temporary agricultural workers' dwelling under application reference 19/00462/FUL. The refusal to grant planning permission was the subject of an appeal.

On 15th March 2021, the Planning Inspectorate dismissed the appeal against the decision of the Council to refuse an application for the proposed stationing of a static caravan as a temporary agricultural workers dwelling reference APP/C3430/W/20/3253786), ("the Appeal").

Despite the appellant demonstrating an agricultural business operated from the Land including a sheep breeding enterprise (SBE) and a procurement enterprise (PE), with an intention to develop these elements of the business and introduce a calf rearing enterprise, the appeal inspector found at paragraph 28 that there was:

"Little compelling evidence of a functional need for a permanent rural worker to live on site"

The National Planning Policy Framework states that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Para 137 of the NPPF states that the essential characteristics of Green Belt are their openness and their permanence.

Paragraph 147 of the National Planning Policy Framework (NPPF) states that inappropriate development is, by definition harmful to the Green Belt, and should not be approved except in very special circumstances.

Paragraph 148 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Policy GB1 of the Core Strategy Development Plan states that the making of a material change of use of land will normally be permitted where the proposed use would have no material effect on the openness of the Green Belt.

Policy EQ4 states that the intrinsic rural character and local distinctiveness of the south Staffordshire landscape should be maintained and where possible enhanced and that throughout the District, the design and location of new development should take account of the characteristics and sensitivity of the landscape and its surroundings, and not have a detrimental effect on the immediate environment and on any important medium and long-distance views.

Policy EQ11 states that the design of all developments must be of the highest quality and that proposals should respect local character and distinctiveness including that of the surrounding development and landscape, in accordance with Policy EQ4.

The static caravan with wooden extension attached and container unit together with the erection of the wooden and steel mesh fence to facilitate the change of use introduces an alien feature into the landscape that is incongruous to its surroundings and which has a detrimental impact upon the openness of the Green Belt and the character and appearance of the local landscape that conflicts with the purposes of the Green Belt and is contrary to policies GB1, EQ4 and EQ11 of the adopted Core Strategy and the relevant paragraphs of the National Planning Policy Framework.

The dismissed Appeal found that the needs of the business do not outweigh the harm to the Green Belt with no other considerations that would amount to the 'very special circumstances' necessary to justify the unauthorised development. As such the development is by definition harmful to the Green Belt and is therefore additionally contrary to Policies GB1 and EV8 of the adopted Core Strategy and the relevant paragraphs of the National Planning Policy Framework.

The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development as stated in the dismissed Appeal.

(5) WHAT YOU ARE REQUIRED TO DO

- i) Permanently cease the use of the Land for domestic residential purpose.
- ii) Permanently cease the use of the Land for the siting of a caravan and attached wooden extension.
- iii) Permanently cease the use of the Land for the siting of a container unit.
- iv) Permanently remove from the Land:
 - (a) the caravan and wooden extension; and
 - (b) the container unit ; and

(c) all domestic items to facilitate the unauthorised use including but not exclusively: patio/paving slabs, domestic plant pots, gas bottles, benches, non-agricultural vehicles and

(d) the wooden and steel mesh fencing marked green on the attached plan.

v) Permanently remove from the Land the earth bund from the location shaded in blue on the attached plan.

vi) Permanently remove from the Land all materials and waste arising from compliance with requirements i) to v) above and restore the Land to its original condition.

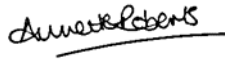
The periods for compliance

Within six months from the date the notice takes effect.

(6) WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 13th December 2021 unless an appeal is made against it beforehand.

Dated: 8th November 2021



Signed :

On behalf of Corporate Director Planning & Infrastructure

On behalf of South Staffordshire District Council
Council Offices
Wolverhampton Road,
Codsall, Staffordshire
WV8 1PX

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

Enforcement Notice relating to land and premises on Land at Goodacre Farm Lawn Lane, Coven, Wolverhampton WV9 5BA.

This local planning authority, South Staffordshire Council, has issued an enforcement notice relating to the above land and I now serve on you a copy of that notice as you have an interest in the land. Copies of the notice are also being served on the other parties listed on the Notice who, it is understood, also have an interest in the land.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on 13th December 2021 and you must ensure that the required steps, are taken within the period(s) specified in the notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 13th December 2021.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds: -

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by Section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £924.00. This amount is double the usual Planning Application fee. You should pay this fee to South Staffordshire Council (made payable to South Staffordshire Council). Joint appellants need only pay one set of fees. If you do not wish to proceed under Ground (a) then no fee is payable.

If you decide to appeal, when you submit your appeal, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

One appeal form and a copy of the Enforcement Notice together with a cheque for £924.00 made payable to South Staffordshire Council should be sent to the Council addressed to:-

Corporate Director Planning & Infrastructure
South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road,
Codsall,
WV8 1PX

If you do not appeal against this enforcement notice, it will take effect on the 13th December 2021 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the periods specified in paragraph 5 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

Planning Enforcement Contact Officer:

Mark Bray
Senior Planning Enforcement Officer

South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road
Codsall,
South Staffordshire,
WV8 1PX

Tel: 01902 696900

E-mail: m.bray@sstaffs.gov.uk

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

1. CAROLINE ANNE ANNING
Leaton Lodge,
Crab Lane,
Bobbington,
Stourbridge
DY7 5DZ
2. CAROLINE ANNE ANNING
Willow Farm
Hollies Lane,
Pattingham
Staffordshire
WV6 7HJ
3. GARY ANNING
Willow Farm
Hollies Lane,
Pattingham
Staffordshire
WV6 7HJ

LAND AT WILLOW FARM HOLLIES LANE, PATTINGHAM, WOLVERHAMPTON WV6 7HJ

RED LINE PLAN TO ACCOMPANY ENFORCEMENT NOTICE





The Planning Inspectorate

CST Room 3/13
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line 0303-444 5000
Fax No 0117-372 8782

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or
- by getting enforcement appeal forms by phoning us on 0303 444 5000 or by emailing us at enquiries@pins.gsi.gov.uk

You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:-

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

We MUST receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.

171A Expressions used in connection with enforcement.

- (1) For the purposes of this Act—
 - (a) carrying out development without the required planning permission; or
 - (b) failing to comply with any condition or limitation subject to which planning permission has been granted,constitutes a breach of planning control.
- (2) For the purposes of this Act—
 - (a) the issue of an enforcement notice (defined in section 172);
 - (aa) the issue of an enforcement warning notice (defined in section 173ZA); or
 - (b) the service of a breach of condition notice (defined in section 187A),constitutes taking enforcement action.
- (3) In this Part “planning permission” includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

171B Time limits.

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (2A) There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—
 - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
 - (b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

172A Assurance as regards prosecution for person served with notice

(1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—

(a) explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,

(b) giving the person one of the following assurances—

(i) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or

(ii) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,

(c) explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and

(d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

(3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.

(5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.】

173 Contents and effect of notice.

(1) An enforcement notice shall state—

(a) the matters which appear to the local planning authority to constitute the breach of planning control; and

(b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

(a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

(b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—

(a) the alteration or removal of any buildings or works;

(b) the carrying out of any building or other operations;

(c) any activity on the land not to be carried on except to the extent specified in the notice; or

(d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building—

(a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;

(b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;

(c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step

or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,

then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

173ZA Enforcement warning notice: Wales

(1) This section applies where it appears to the local planning authority that—

(a) there has been a breach of planning control in respect of any land in Wales, and

(b) there is a reasonable prospect that, if an application for planning permission in respect of the development concerned were made, planning permission would be granted.

(2) The authority may issue a notice under this section (an “enforcement warning notice”).

(3) A copy of an enforcement warning notice is to be served—

(a) on the owner and the occupier of the land to which the notice relates, and

(b) on any other person having an interest in the land, being an interest that, in the opinion of the authority, would be materially affected by the taking of any further enforcement action.

(4) The notice must—

(a) state the matters that appear to the authority to constitute the breach of planning control, and

(b) state that, unless an application for planning permission is made within a period specified in the notice, further enforcement action may be taken.

(5) The issue of an enforcement warning notice does not affect any other power exercisable in respect of any breach of planning control.

173A Variation and withdrawal of enforcement notices.

(1) The local planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

174Appeal against enforcement notice.

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds—

(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) that those matters have not occurred;

(c) that those matters (if they occurred) do not constitute a breach of planning control;

(d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

(e) that copies of the enforcement notice were not served as required by section 172;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—

- (a) the land to which the enforcement notice relates is in England, and
- (b) the enforcement notice was issued at a time—
 - (i) after the making of a related application for planning permission, but
 - (ii) before the end of the period applicable under section 78(2) in the case of that application.

(2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.

(2C) Where any breach of planning control constituted by the matters stated in the notice relates to relevant demolition (within the meaning of section 196D), an appeal may also be brought on the grounds that—

- (a) the relevant demolition was urgently necessary in the interests of safety or health;
- (b) it was not practicable to secure safety or health by works of repair or works for affording temporary support or shelter; and
- (c) the relevant demolition was the minimum measure necessary.

(2D) An appeal against an enforcement notice may not be brought on the ground that planning permission ought to be granted in respect of a breach of planning control constituted by a matter stated in the notice, as specified in subsection (2)(a), if—

- (a) the land to which the enforcement notice relates is in Wales, and
- (b) the enforcement notice was issued after a decision to refuse planning permission for a related development was upheld on an appeal under section 78 (and for this purpose development is “related” if granting planning permission for it would involve granting planning permission in respect of the matter concerned).

(2E) An appeal may not be brought on the ground that a condition or limitation ought to be discharged, as specified in subsection (2)(a), if—

- (a) the land to which the enforcement notice relates is in Wales, and
- (b) the enforcement notice was issued after a decision to grant planning permission subject to the condition or limitation was upheld on an appeal under section 78.

(2F) For the purposes of subsections (2D) and (2E), references to a decision that has been upheld on an appeal include references to a decision in respect of which—

- (a) the Welsh Ministers have, under section 79(6), declined to determine an appeal or to proceed with the determination of an appeal;
- (b) an appeal has been dismissed under section 79(6A).

(3) An appeal under this section shall be made

(a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or

(b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date; or

(c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—

(a) specifying the grounds on which he is appealing against the enforcement notice; and

(b) giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section “relevant occupier” means a person who—

(a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence and

(b) continues so to occupy the land when the appeal is brought.

175 Appeals: supplementary provisions.

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—

(a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;

(b) specify the matters to be included in such a statement;

(c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;

(d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.

(3B) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in Wales.

(4) Where an appeal is brought under section 174 the enforcement notice shall be subject to any order under section 289(4A) be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.

176 General provisions relating to determination of appeals.

(1) On an appeal under section 174 the Secretary of State may—

(a) correct any defect, error or misdescription in the enforcement notice; or

(b) vary the terms of the enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.

(3) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175

(1) within the prescribed period.

(4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

177 Grant or modification of planning permission on appeals against enforcement notices.

(1) On the determination of an appeal under section 174, the Secretary of State may

(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;]

(b) discharge any condition or limitation subject to which planning permission was granted;

(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

(a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

(b) references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194

(1) (a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(4A) Section 100ZA (which makes provision about restrictions on the power to impose conditions or limitations on a grant of planning permission in relation to land in England) applies in relation to conditions substituted

under subsection (4) as it applies in relation to conditions imposed on a grant of planning permission to develop land which is granted on an application made under Part 3.

(5) Where—

(a) an appeal against an enforcement notice is brought under section 174, and

(b) the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant shall be deemed to have made an application for planning permission

(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection

(2) (a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Appendix C Previous S78 Appeal Decision



Appeal Decision

Site visit made on 22 October 2020

by Sarah Manchester BSc MSc PhD MI EnvSc

an Inspector appointed by the Secretary of State

Decision date: 15th March 2021

Appeal Ref: APP/C3430/W/20/3253786

Land forming part of Willow Farm, Hollies Lane, Pattingham WV6 7HJ

- 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 and Mrs Anning against the decision of South Staffordshire Council.
 - The application Ref 19/00462/FUL, dated 24 May 2019, was refused by notice dated 07 February 2020.
 - The development proposed is stationing of a static caravan as a temporary agricultural workers dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal scheme was completed in October 2017. In addition to the static caravan, there is a wooden timber porch attached to the side elevation of the caravan. At the time of my visit, I saw that the location, size and appearance of the caravan and the porch correspond to the submitted details. However, the appeal only relates to the stationing of the caravan, which amounts to a material change of use of land. Therefore, I have determined the appeal on this basis.
3. Mrs Anning is named as the appellant in the appeal form, but the applicants are named in the application form as Mr and Mrs Anning. The agent confirmed that the appeal should proceed in the names of both Mr and Mrs Anning.

Main Issues

4. The main parties have agreed that that the proposal is inappropriate development in the Green Belt, having regard to Policy GB1 of the South Staffordshire Council Core Strategy Development Plan Document Adopted December 2012 (the CS) and paragraphs 145 and 146 of the National Planning Policy Framework (the Framework). I concur with this position given that the openness of the Green Belt is not preserved and the scheme results in encroachment into the countryside, albeit that it does not contribute to urban sprawl.
5. Therefore, the main issues are:
 - i) the effect of the proposal on the character and appearance of the area;

- ii) whether there is an essential need for a rural worker to live permanently at the site; and
- iii) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify it.

Reasons

Character and appearance

- 6. Willow Farm is located in an area of undulating countryside comprising generally large open fields with boundary hedgerows and scattered individual trees and small woodlands. It is a typically rural area with sporadic development including farmsteads and detached dwellings, some of which have been created by the conversion of traditional agricultural buildings.
- 7. Although the caravan is partially screened by the hedgerow along Hollies Lane, particularly when the hedge is in leaf, it is visible from locations around the highway access and Nurton Croft. While it would be hidden from these views by the permitted agricultural building¹, this has not yet been constructed. Irrespective, the caravan is visible from more distant locations in the surrounding countryside including the right of way from Pattingham Road along the edge of the golf course. From here, the caravan appears isolated and it is not seen as ancillary to a residential dwelling. It is out of keeping with the surrounding rural character and context. Consequently, it is a discordant feature that is not sympathetic to its surroundings.
- 8. Hedgerow planting and enhancement might provide additional screening benefits from close range, but the existing hedgerow is already well established. Moreover, there are no alternative proposal before me to illustrate how a different form of temporary residential accommodation may result in less harm to the rural character and appearance of the area.
- 9. Therefore, the scheme harms the rural character and appearance of the countryside. It conflicts with Policies EQ4 and EQ11 of the CS. These require, among other things, that development should be of high-quality design, making a positive contribution, taking account of the local character and distinctiveness of the landscape and its surroundings, and respecting and safeguarding visual amenity. It would also conflict with the policies in the Framework that require development to add to the overall quality of the area, to be visually attractive, to be sympathetic to local character including landscape setting, and to maintain a strong sense of place.

Essential need for a rural worker

Policy considerations

- 10. Policy EV8 of the CS sets out that proposals for temporary agricultural and occupational workers dwellings will be supported subject to meeting a number of criteria including: evidence of a firm intention and ability to develop the enterprise; a functional need which cannot be fulfilled by an alternative dwelling; and that the enterprise has been planned on a sound financial basis.

¹ Ref 20/00223/AGR

11. Paragraph 79 of the Framework states that the development of isolated homes in the countryside should be avoided except in specific circumstances including where there is an essential need for a rural worker to live permanently at or near their place of work. This is substantially the same as the provisions in Paragraph 55 of the 2012 version of the Framework. In this regard, my attention has been drawn to the case of Embleton², where it was concluded that the test under paragraph 55 only required an assessment of whether there was an essential need for a worker to be at or near the site.
12. Nevertheless, the Planning Practice Guidance (the PPG) sets out that the functional need and the degree to which there is confidence that the enterprise will be viable for the foreseeable future are both factors that may be relevant when considering whether there is an essential need for a rural worker. Moreover, the case law relates to the Framework and not to the development plan which was found sound and adopted subsequent to the publication of the Framework in 2012. Consequently, although the Framework is a material consideration, the starting point for decision making is the development plan.

Essential functional need

13. The appellants farm approximately 97 acres spread across several widely separated parcels of land. They have been farming the 16.5 acres at Willow Farm since approximately 2007, initially on a Farm Business Tenancy and as owner occupiers since approximately 2017 when they purchased the land **following the sale of Mrs Anning's family home in Pattingham. The remainder of the holding comprises rented grazing land.**
14. The current agricultural business operating at Willow Farm includes a sheep breeding enterprise (the SBE) and a procurement enterprise (the PE). The PE operates from the top pastures, roughly 2 acres, and the SBE utilises the lower pastures, roughly 14 acres.
 - a) Sheep breeding enterprise (the SBE)
15. The SBE has grown from an initial flock of 12 to 270 breeding ewes plus 10 rams. The acreage at Willow Farm is not sufficient to support the entire flock. Consequently, for much of the year, the flock are grazed on the tenanted land away from Willow Farm. The ewes are brought back in batches to the lower pastures from January onwards, where they lamb from February through April before being transported back to the tenanted land. The SBE lambs are finished on the holding at between 3 and 9 months old. Outside of the lambing season, the flock is brought back to Willow Farm for routine husbandry operations including shearing and foot trimming.
16. There is clearly a seasonal need for an agricultural worker to be permanently present on site for the 12 weeks or so that cover the main lambing period. However, the flock is not permanently based at Willow Farm and, even during the lambing season, only a proportion of the flock are present at any one time. Therefore, there simply cannot be an essential functional need for a rural worker to live permanently at Willow Farm to manage the flock.
17. I acknowledge that the appellants intend to increase the size of the SBE flock to 350 ewes. While this would increase labour requirements, the lambing season would still extend over 12 weeks in the spring with a relatively low

² Embleton Parish Council v Northumberland County Council [2013] EWHC 3631

number of ewes lambing outside of this period. Moreover, an even greater proportion of the flock would be away from Willow Farm on the tenanted land. Therefore, an increase in the flock size would not require a permanent agricultural workers dwelling at the site.

b) The procurement enterprise (the PE)

18. The PE has been operating at Willow Farm since approximately 2009, predominantly utilising the top pastures near to the appeal site. Lambs, cull ewes and rams are bought direct from local farmers or from livestock markets to supply fresh meat to the ethnic meat market. This is largely a reactive operation, meeting short notice orders for fresh meat. However, some livestock are bought speculatively, in order to be able to meet anticipated future orders at times of high demand such as religious festivals. Although numbers vary through the year, approximately 200-220 animals pass through Willow Farm each week in several separate loads.
19. Following purchase, the PE livestock are brought back to Willow Farm where they are checked and transferred into holding paddocks with access to food and water until such time as they are graded and sorted and taken to the abattoir. The length of stay on the holding varies from overnight for transport the following day to several days, such as over weekends when the abattoir is closed. Although some stock are held for longer periods of time, the average duration that PE livestock are kept on site is between 2 to 4 days.
20. There is a dispute between the parties as to whether the PE is a lawful agricultural use of the land. Clearly, it is not lairage for the purposes of long-distance haulage and export of livestock. Nevertheless, it is not a short-term lamb finishing unit as it is consistently described as a procurement activity. The PE livestock are purchased to order or bought in advance of expected orders from existing customers. The livestock are held on the land for short periods of time for the purpose of meeting and maintaining procurement contracts. Notwithstanding that some animals may be held for longer periods, this remains in connection with the procurement business.
21. There is no detailed historic evidence relating to the PE, although it has been operating for several years with apparently no previous or current enforcement investigations. Irrespective of whether or not it is a lawful agricultural use, given the large numbers of animals involved and the nature of the activity I am satisfied that it is a rural use. On that basis, it is appropriate for me to consider whether or not it gives rise to a functional need for a rural worker.
22. The PE enterprise involves a lot of paperwork and travelling, often with early starts and late finishes. However, long working days are part and parcel of farming and they do not of themselves demonstrate a functional need for a rural worker to live on site.
23. The livestock markets and transport will be stressful for the animals, most particularly any that might already be in poor health. Mr Anning advised that serious injury and health issues such as fly strike and severe calcium deficiency would be apparent upon arrival at the holding and could therefore be treated promptly. The relatively low number of stock displaying signs of stress are marked for ease of identification, put out with the flock to recover and monitored at intervals during the night.

24. The historically low number of livestock deaths is attributed to the high standard of husbandry including overnight monitoring. However, no detailed information is available in relation to the numbers of stock that arrive injured or ill or that have required treatment immediately or during the following night. Consequently, it is not possible to establish the number of animals that would have suffered or died if they had not been monitored overnight. In any case, given that the late finishes and early starts, it seems reasonably likely that any unsupervised overnight period would be relatively short.
25. While the PE is not a standard agricultural operation, livestock markets, handling and transport are a routine part of livestock farming. Moreover, some of the livestock come direct from farms, thereby avoiding the stress associated with commercial markets. There are apparently no industry guidelines relating to welfare following relatively short domestic journeys from markets or farms. It will be a matter for the individual farmer based on the needs of the stock, but in this case there is not an essential functional need for a worker to be present overnight in connection with non-breeding sheep that are destined for slaughter, in some cases the following morning.

c) Beef finishing enterprise (the BFE)

26. While the business plan indicates the intention to introduce a calf rearing enterprise in year 3, the appellants previously purchased a small number of calves in 2019-2020, including some that required milk-feeding and monitoring for pneumonia due to their young age. Until they were weaned, the calves were kept on the top pastures, with mobile calf hutches for shelter and they were fed 3 to 4 times a day, including overnight. Following weaning, they were moved to rented pastures for finishing at roughly 24 months.
27. There would be a need for a worker to be present to care for the calves during their early weeks, but the overnight husbandry need drops away as the calves age. There are currently no young calves at Willow Farm and there is no detailed plan for a future commercial BFE, including in terms of numbers of livestock or requirements and associated investment in additional land, livestock buildings and equipment such as automated feeders. Moreover, given that the top pastures at Willow Farm are used for the PE and the lower pastures are used for the SBE and hay-making, it is not clear that a BFE could be operated sustainably alongside the SBE and the PE at Willow Farm.
28. The evidence is that the business at Willow Farm is primarily sheep-based and there is a seasonal need for a worker to be permanently on site during the lambing season. While the PE is undoubtedly a resource intensive activity, there is little compelling evidence of a functional need for a permanent rural worker to live on site. Associated agricultural activities relating to routine animal husbandry, land management and maintenance of machinery, while time-consuming, do not require a rural worker to live on site.

d) Alternative dwellings

29. There are no dwellings on the holding or buildings that could be converted to residential use. The market dwellings in the immediately surrounding rural area are not affordable on a rural workers salary. While more distant dwellings may not meet an essential functional need, no information has been provided in terms of the type of dwelling that the business could sustain or in relation to

the affordability and availability of dwellings in nearby settlements including Pattingham and Perton.

Evidence of a firm intention and ability to develop the enterprise

30. The appellants have been farming at Willow Farm since 2007. They have also rented land to accommodate the expanding needs of the SBE and they have purchased the land at Willow Farm. They have recently placed an order for an agricultural building to replace the pole barn and they intend to increase the size of the SBE flock and to increase the lambing percentage.
31. Except for the land used for haymaking, all of the pasture at Willow Farm is permanently grazed and the high stocking densities are maintained by supplementary feeding. While Willow Farm is only a small part of the holding, it is the focus of activities and it is the most intensively used of all of the land. In this regard, any further expansion of the SBE, the PE or a commercial BFE would inevitably put further pressure on the land at Willow Farm.
32. **The appellants' have a clear intention to develop the enterprise. However, I share the Council's concerns about whether the business operations at Willow Farm are sustainable in the longer-term, taking into account increasing stocking densities, the competing pressures on the land from the various activities and the need to maintain the land in good agricultural condition.**

Has the enterprise been planned on a sound financial basis

33. Financial accounts have been provided for the years ending 2016-2019. These show small profits in 2 years, a substantial loss in 2018 and a small loss in 2019. The significant loss in 2018 is attributed in large part to the impact of the severe winter storms that year and also to investment in the business.
34. Irrespective, the business accounts are amalgamated for the SBE, the PE and a wider trading activity relating to the purchase and direct transport of livestock **to the abattoir without passing through Willow Farm. By the appellants' own admission, the financial accounts are not therefore a reliable indication of the financial viability of the agricultural operations at Willow Farm.**
35. Although some 6 months have passed since the year end, the financial accounts for 2020 are not yet available. At the Hearing, Mr Anning stated that the business made a substantial profit in the year ending 2020, due in large part to the impact on lamb prices of the coronavirus pandemic lockdown in March. However, it seems reasonably unlikely that many, if any, of the 2020 early lambs would have been ready for finished sale by the end of the financial year. Moreover, no substantive evidence was presented in terms of the numbers of SBE lambs sold at a significantly higher price or the implications of lockdown for the PE or the wider trading activity.
36. There was a discussion at the Hearing as to whether or not it would be helpful for the latest accounts to be provided. In this respect, the 2020 accounts will be combined for the various agricultural and wider trading activities. Therefore, **as with the previous years' accounts, they would not demonstrate the financial viability of the agricultural business.**
37. The business plan predicts substantial gross profits from year 1 onwards, but it does not include full details of costs such as labour or transport, legal and bank charges, land rental or capital costs. Notwithstanding the unusually large loss

in 2018, and the proposed increase in SBE flock size, it has not been adequately explained how the business would rapidly go from very modest net profits at best to significantly large sustained profits in future years. Moreover, while the static caravan is already on the site and the appellants live frugally within their means, there is little evidence that the business could sustain 1, let alone 2, reasonable living wages. Therefore, and taking account of the absence of reliable accounts in relation to the agricultural business in previous years, it is not clear that the business has been planned on a sound financial basis.

38. The appellants are seeking permission for a temporary dwelling in order to demonstrate that the business can support a permanent dwelling. Nonetheless, the business has been operating for over 10 years and the static caravan has already been on site for 3 years, which would appear to have already been a reasonable amount of time to account separately for the agricultural business.
39. Therefore, having regard to the functional requirements of the business and the financial aspects, an essential need for a rural worker to live permanently at Willow Farm has not been demonstrated. Consequently, the proposal is in conflict with the requirements of Policy EV8 of the CS.

Other Considerations

40. The nearby Grange Farmhouse Grade II listed building dates from the 17th century. It is timber-framed with painted brick infill and rendered stone or brick with a clay tile roof. The listing building is approximately 40m from the appeal site. It is set in its own grounds which are separated from the appeal site and the Willow Farm by its private access road and the vegetated field boundary. Given the degree of separation, the modest size of the caravan and the nature of the intervening land, the Council considers that the caravan does not harm the listed building or its setting and I see no reason to disagree. The absence of harm in this respect does not weigh in favour of the scheme.
41. The agricultural business provides rural employment and economic support for other rural businesses including farm contractors, feed merchants and veterinary surgeons. These benefits would have flowed from the business during the time that it operated without a rural workers dwelling. Therefore, the wider economic benefits do not appear to be dependent on the appeal scheme and therefore they carry limited weight in favour of it.
42. There would be no adverse impacts on the safe operation of the highway. Although the development has already been carried out, given the improved nature of the agricultural grassland at Willow Farm and the small scale of the development, adverse impacts on biodiversity appear reasonably unlikely. These are requirements of planning policy and they do not weigh in favour of or against the proposal. I note the concerns in relation to the highway access over third party land. However, this is a private legal matter.
43. **Following the sale of Mrs Anning's family home, the appellants** required alternative accommodation in the area. In this regard, the caravan at Willow Farm will be a convenient and cost-effective form of accommodation. **Nevertheless, the appellants' personal circumstances are not related to the** needs of the business and they do not weigh in favour of the scheme.
44. My attention has been drawn to appeal decisions relating to agricultural worker dwellings elsewhere, including in the Green Belt. The evidence concerning the

alpaca breeding business indicates that alpacas are expensive animals that breed at any time of year with potentially high mortality rates. The site was also in an area subject to thefts and dog attacks and the business was profitable and supported a full-time worker with a reasonable salary. In the case of the horse livery, it was in an isolated location where theft was a problem and there was an established essential functional need. While the livery business was not particularly profitable, the Inspector allowed a temporary log cabin to be occupied on a permanent basis subject to conditions that linked the permission to the appellant as well as to the business. Neither case appears directly comparable to the appeal scheme and they do not provide a justification for it.

Green Belt balance

45. The proposal is inappropriate development in the Green Belt and it has resulted in a small but significant loss of openness and conflict with the purposes of the Green Belt. The adverse impact on the character and appearance of the area is a modest harm that weighs against the proposal.
46. There is a seasonal need for a rural worker to be present during the lambing season, but there is no essential functional need for a worker to live permanently at Willow Farm either in connection with the SBE or the PE. While the appellants have been farming the land for several years, it has not been demonstrated that the agricultural business is financially sound. Moreover, while the business plan predicts substantial gross profits almost immediately, given that the previous years accounts are not reliable, it is not clear that the enterprise has been planned on a sound financial basis.
47. Therefore, the needs of the business do not outweigh the harm that I have found. Consequently, there are no other considerations that would amount to the very special circumstances necessary to justify the development.

Conclusion

48. For the reasons set out above, the appeal is dismissed.

Sarah Manchester

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs Caroline Anning (appellant)

Mr Gary Anning (appellant)

Mrs Melanie Holt BA (Hons) PgD MRICS FAAV (Moule & Co Ltd, Planning Agent)

FOR THE LOCAL PLANNING AUTHORITY:

Mr John Baggott MA MRTPI (Tyler Parkes Partnership)

Mr Anthony Atkinson MRICS FAAV (Acorus Rural Property Services)

INTERESTED PERSONS:

Mr DeVries (observing from the Council)

Ms Jovanovic (observing from the Council)

Mr Phillip Collins

Mr Norman Levers

Mr Mike Powell

Appendix D1 Adopted Core Strategy Front Cover



South Staffordshire Council

Core Strategy

December 2012



Further information can be found at
www.sstaffs.gov.uk



A Local Plan for
South Staffordshire

Core Strategy Development Plan Document

Adopted 11th December 2012

South Staffordshire Council

Appendix D2 Adopted Core Strategy Policy GB1

Policy GB1: Development in the Green Belt

Within the South Staffordshire portion of the West Midlands Green Belt as defined on the Policies Map, development acceptable within the terms of national planning policy set out in the NPPF will normally be permitted where the proposed development is for either:

A. A new or extended building, provided it is for:

- a) purposes directly related to agriculture or forestry; or
- b) appropriate small-scale facilities for outdoor sport or recreation, nature conservation, cemeteries and for other uses of land which preserve the openness of the Green Belt and which do not conflict with its purposes; or
- c) affordable housing where there is a proven local need in accordance with Policy H2; or
- d) limited infilling* and limited extension(s), alteration or replacement of an existing building where the extension(s) or alterations are not disproportionate to the size of the original building, and in the case of a replacement building the new building is not materially larger than the building it replaces. Guidance in these matters will be contained in the Green Belt and Open Countryside Supplementary Planning Document (SPD).

B. The re-use of a building provided that:

- e) the proposed use of any building (taking into account the size of any extensions, rebuilding or required alterations), would not harm the openness of the Green Belt or the fulfilment of its purposes.

C. Changes of Use of Land:

- f) the carrying out of engineering or other operations, or the making of a material change of use of land, where the works or use proposed would have no material effect on the openness of the Green Belt, or the fulfilment of its purposes.

D. Development brought forward under a Community Right to Build Order.

Development proposals should be consistent with other local planning policies.

**Footnote: Limited infilling is defined as the filling of small gaps (1 or 2 buildings) within a built up frontage of development which would not exceed the height of the existing buildings, not lead to a major increase in the developed proportion of the site, or have a greater impact on the openness of the Green Belt and the purpose of including land within it.*

Appendix D3 Adopted Core Strategy Policy EQ4

these conservation areas. In addition the County Council has completed a series of Historic Environment Character Assessments for 14 of the District's villages. This, together with the Council's own survey work, will help to explain how the historic built environment has evolved and to identify buildings for the local list.

- 7.19 This comprehensive evidence base will emerge as a Supplementary Planning Document which encompasses the Historic Environment, identifying the main issues, and will also be used to inform and refresh the Village Design Guide.
- 7.20 In order to ensure that buildings at risk are saved or not degraded further, sometimes 'enabling development' is the only viable option. In this case paragraph (b) of this policy will be used in conjunction with guidance 'Enabling Development and the Conservation of Significant Places' issued by English Heritage in 2008 or subsequent guidance for enabling development.

Key Evidence

Sustainable Community Strategy 2008 - 2020
Conservation Area Appraisals and Management Plans 2010
Village Design Guide SPD 2009
Buildings of Special Local Interest (on going)
Historic Environment Character Assessment 2011
Assessment of Physical and Environmental Constraints 2009
West Midlands Farmsteads and Landscapes Project 2010

Delivery and Monitoring

Through the Development Management process in consultation with English Heritage, the County Council and other partners
Conservation and Design advice
Conservation Area Management Plans
Village Design Guide SPD(or subsequent revisions)
Historic Environment SPD
LSP Environmental Quality Delivery Plan

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.

Policy EQ4: Protecting and Enhancing the Character and Appearance of the Landscape

The intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. Trees, veteran trees, woodland, ancient woodland and hedgerows should be protected from damage and retained unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved. For visual and ecological reasons, new and replacement

planting should be of locally native species.

The Council will encourage and support the creation of new woodlands and the management of existing woodlands particularly where they contribute to community forestry. Reference should be made to the Council's Tree and Woodland Strategy.

Throughout the District, the design and location of new development should take account of the characteristics and sensitivity of the landscape and its surroundings, and not have a detrimental effect on the immediate environment and on any important medium and long distance views.

The siting, scale, and design of new development will need to take full account of the nature and distinctive qualities of the local landscape. The use of techniques, such as landscape character analysis, to establish the local importance and the key features that should be protected and enhanced, will be supported.

Proposals should retain and strengthen the components of landscape character and local distinctiveness, with particular attention to the detailing of any proposal and its relationship with existing buildings, features and vegetation. Proposals within the Historic Landscape Areas (HLA) defined on the Policies Map should have special regard to the desirability of conserving and enhancing the historic landscape character, important landscape features and the setting of the HLA. The County Council's Landscape Character Assessment and Historic Landscape Characterisation will provide an informed framework for the decision making process.

Where possible, opportunities should be taken to add character and distinctiveness through the contribution of new landscape features, particularly to landscapes which have been degraded.

Development within the Cannock Chase Area of Outstanding Natural Beauty (AONB) and its setting as shown on the Policies Map will be subject to special scrutiny, in accordance with national policy and any additional guidance, in order to conserve and enhance the landscape, nature conservation and recreation interests of the area.

Proposals that contribute to the objectives of the Cannock Chase AONB Management Plan, the Forest of Mercia and other local initiatives that will contribute to enhancing landscape character will be supported.

Development proposals should be consistent with the adopted Village Design Guide Supplementary Planning Document (or subsequent revisions), the Supplementary Planning Documents on Landscape Character and Biodiversity and other local planning policies.

Explanation

- 7.21 The landscape of South Staffordshire is rich and varied and includes part of the Cannock Chase Area of Outstanding Natural Beauty (AONB). It is an important objective of the Core Strategy to protect the character and appearance of the landscape and conserve this heritage for the future. The NPPF states that the highest status of protection in relation to landscape and scenic beauty should be given to AONBs, and the extent of the Cannock Chase AONB, to which the national policy applies, is shown on the Policies Map.
- 7.22 There are 13 historic parklands and gardens in South Staffordshire, at Chillington, Enville, Four Ashes, Hatherton, Hilton, Himley/Wodehouse, Somerford, Stretton, Teddesley, Patshull, Prestwood, Wergs and Weston. The parklands at Chillington Hall, Enville, and Weston Park are of particularly high quality and have been identified as Grade ii* in the National Register of Historic Parks and Gardens by English Heritage. Patshull Hall and Himley Hall have been identified as Grade ii.
- 7.23 Historic parklands are valuable heritage assets and important to the distinctive rural character of South Staffordshire. They may contain avenues of trees, woodlands, individual veteran trees, areas of wood pasture, lakes and other water features, historic earthworks, moats, hedges, banks and green lanes which are all valuable habitats for wildlife. They also have potential for environmental education and tourism, as well as contributing to the attractiveness of the landscape.
- 7.24 The historic parklands and gardens in South Staffordshire, including those designated as Registered Parks and Gardens have been designated as 'Historic Landscape Areas' (HLAs) to protect them from inappropriate development and management. The principle of the HLAs was first established in the 1996 Local Plan and has been carried forward into the new local planning strategy to ensure that these areas are retained for the future.
- 7.25 The Council will encourage and support the conservation, enhancement and sustainable management of these heritage assets through the preparation of conservation management plans. The Council will work with landowners, English Heritage, the Staffordshire Gardens and Parks Trust, the Garden History Society, Natural England, Staffordshire Wildlife Trust and Staffordshire County Council on matters relating to historic parklands and gardens.
- 7.26 The Policy is consistent with the NPPF. Any development which will have an impact on the landscape should address the intrinsic character of its surroundings, and seek where possible to retain and strengthen the intrinsic character of areas. Landscape character analysis will be an important technique in many circumstances, utilising detailed work already undertaken by Staffordshire County Council in the Supplementary Planning Document 'Planning for Landscape Change' and work on historic landscape characterisation. More detailed guidance on landscape character will be included in a Supplementary Planning Document.

Appendix D4 Adopted Core Strategy Policy EQ11

Village Design Guide SPD 2009
Conservation Area Appraisals and Management Plans 2010
Open Space Strategy 2009

Delivery and Monitoring

Through Development Policy EQ13
LSP Environmental Quality Delivery Plan
Conservation Area Management Plans
Village Design Guide SPD (or subsequent revisions)

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.

Development Policies

7.58 The following Development Policies support Core Policy 4.

Policy EQ11: Wider Design Considerations

The design of all developments must be of the highest quality and the submission of design statements supporting and explaining the design components of proposals will be required. Proposals should be consistent with the design guidance set out in the adopted Village Design Guide Supplementary Planning Document (or subsequent revisions) and be informed by any other local design statements.

Development proposals must seek to achieve creative and sustainable designs that take into account local character and distinctiveness, and reflect the principles set out below. The Council will encourage innovative design solutions.

A. Use

- a) mixed use developments will be encouraged where the uses are compatible with and complementary to each other and to other uses in the existing community, and where the development will help support a range of services and public transport (existing or new);
- b) proposals should where possible promote a density and mix of uses which create vitality and interest where appropriate to their setting;

B. Movement

- c) opportunities should be taken to create and preserve layouts giving a choice of easy and alternative interconnecting routes, including access to facilities and public transport and offer a safe, attractive environment for all users;

- d) provision should be made, especially within the proximity of homes, for safe and attractive walking and cycling conditions, including the provision of footpath links, cycleways and cycle parking facilities, and links to green infrastructure in accordance with Policies EV11 and HWB2;

C. Form

- e) proposals should respect local character and distinctiveness including that of the surrounding development and landscape, in accordance with Policy EQ4, by enhancing the positive attributes whilst mitigating the negative aspects;
- f) in terms of scale, volume, massing and materials, development should contribute positively to the streetscene and surrounding buildings, whilst respecting the scale of spaces and buildings in the local area;
- g) development should relate to and respect any historic context of the site, including plot patterns and street layout taking account of the guidance contained in Policy EQ3;
- h) development within or adjacent to a waterway corridor should take advantage of the waterside setting with an appropriate green corridor taking account of the aims and objectives of Policy HWB2;
- i) development should take every opportunity to create good design that respects and safeguards key views, visual amenity, roofscapes, landmarks, and focal points;
- j) development should take account of traditional design and forms of construction where appropriate, and avoid the use of inappropriate details;
- k) development should incorporate high quality building design and detailing, with particular attention given to appropriately designed elements;
- l) development must ensure a high standard of access for all and that safe and easy access is available to all potential users, regardless of ability, age or gender;
- m) sustainable forms of development should be designed, incorporating renewable energy use, minimising waste production and providing opportunities for recycling, and minimising pollution. Development should seek to minimise water use including the incorporation of water recycling and harvesting, and ensure the use of Sustainable Drainage Systems (SUDS). Use or re-use of sustainable materials will be encouraged. Orientation and layout of development should maximise the potential for passive solar heating, taking account of the implications of solar heat gain;

D. Space

- n) proposals should create pedestrian-friendly places that allow for necessary vehicular access;
- o) places should be safe and secure, with effective natural surveillance;
- p) well designed private and semi-private open space should be incorporated for all buildings, appropriate to the character of the area;
- q) opportunities should be taken to support the development of a varied network of attractive, and usable publicly accessible spaces;
- r) provision for parking should where possible be made in discreet but planned locations within the development;
- s) design should seek to retain existing important species and habitats and maximise opportunities for habitat enhancement, creation and management in accordance with Policy EQ1.

The Council's Space About Dwelling standards are set out in Appendix 6.

Development proposals should be consistent with other local planning policies.

Explanation

- 7.59 The Council attaches significant importance to securing a high level of design quality in the District and this is reflected in the adopted Village Design Guide SPD (or subsequent revisions). The NPPF also refers to the importance of achieving high quality and inclusive design and the CABI publication "Making Design Policy Work" highlights a number of important issues to take into account in developing a policy approach to design.
- 7.60 The design guidance set out in the above Policy identifies the importance of local character and distinctiveness, and gives guidance on achieving sustainable development, use, movement, form and space. Achieving safe designs will be important and issues relating to community safety are addressed in Core Policy 13 and Policy CS1.

Key Evidence

Sustainable Community Strategy 2008 – 2020
Southern Staffordshire Surface Water Management Plan Phase 1 2010
Planning for Landscape Change – Staffordshire County Council SPG 1996-2011
South Staffordshire Landscape Assessment 2003
Historic Environment Character Assessment 2011
Village Design Guide SPD 2009

Appendix D5 Adopted Core Strategy Policy EV8

Key Evidence

Sustainable Community Strategy 2008-2010
Tourism Strategy 2010
Understanding the Economy of Rural Staffordshire 2009
Staffordshire Rural Forum Strategic Action Plan 2006-2009
Staffordshire Destination Management Partnership Delivery Plan 2008 - 2011
West Midlands Visitor Economy Strategy 2009/2010
WMRSS Evidence Base
Rural Evidence Base 2010

Delivery and Monitoring

Through the Development Management process

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.

Policy EV8: Agriculture

The Council will support proposals for agriculture and related development which is consistent with national policy for the protection of agricultural land and other local planning policies by:

- a) encouraging farm diversification which is complementary to, and helps to sustain the existing agricultural enterprise;
- b) supporting small scale farm shops selling local produce;
- c) encouraging the re-use or adaptation of existing farm buildings including redundant buildings, provided it would not result in a need for further agricultural buildings and is consistent with Supplementary Planning Guidance on barn conversions;
- d) encouraging sustainable forms of agriculture which include environmentally sensitive, organic and locally distinctive produce, together with its processing, marketing and retailing;
- e) encouraging the management of land for biodiversity;
- f) guiding development, including the design and siting of new agricultural buildings, including agricultural workers dwellings to the least environmentally sensitive locations.

- g) supporting proposals for temporary and permanent agricultural and occupational workers dwellings provided that they satisfy the following criteria:

Temporary Dwellings:

- there is clear evidence of a firm intention and ability to develop the enterprise concerned;
- there is a clear functional need which cannot 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;
- clear evidence that the proposed enterprise has been planned on a sound financial basis; and
- the proposal satisfies all other normal planning requirements.

Permanent Dwellings:

- there is a clearly established existing functional need which cannot 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;
- the need relates to a full-time worker;
- 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; and
- the proposal satisfies all other normal planning requirements.

Development proposals should be consistent with other local planning policies.

Explanation

- 9.38 Agriculture will continue to be an important part of the local economy of South Staffordshire and one of the most significant land uses. The NPPF provides guidance on the ways of supporting economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. Local authorities should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings. The Council will also support the changing nature of agriculture in order to make it more competitive, sustainable and environmentally friendly. This may involve adaptation to new markets and ways of operation, and diversification of activities including opportunities to grow crops for biomass.
- 9.39 The operational needs of agriculture, as well as the environmental and economic aspects and the need to protect the countryside and amenity of local residents will be taken into account in considering proposals for agricultural development. Should any applications for large scale pig or poultry units come forward, these will have to be subject to the Habitats Regulations Assessment (HRA) process to ensure that there are no significant effects on internationally important wildlife sites. The Policy expands on the guidance contained in the NPPF and provides specific local guidance relevant to

South Staffordshire, to help achieve more sustainable development. Proposals for dwellings for workers associated with agriculture or forestry are an established feature in South Staffordshire, and such development will be supported as far as possible because of their contribution to the local economy. However, the impact of such development on the character and appearance of the countryside and other environmental implications will require careful consideration in accordance with other local planning policies.

Key Evidence

WMRSS Evidence Base
Rural Evidence Base 2008

Delivery and Monitoring

Through the Development Management process
Working with Economic Development partners

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.

Sustainable Community Facilities and Services

Introduction

- 9.40 Ensuring that local communities in the District thrive and develop in a sustainable way is an important aspect of achieving a sustainable future for South Staffordshire and this is reflected in Strategic Objective 12.
- 9.41 Access to the services and facilities people need is one of the important determinants of quality of life particularly in rural areas. Basic facilities such as local shops/convenience stores, village/community halls, schools, places of worship, public houses, doctor's surgeries, post offices, and banks are important to local communities and have a social and cultural role with other services which are essential to people such as the elderly. Such facilities can add vibrancy to communities and provide a focus for activities and foster community spirit and cohesion.

Core Policy 10: Sustainable Community Facilities and Services

The Council will support proposals and activities that protect, retain or enhance existing community facilities and services or lead to the provision of additional facilities that improve the wellbeing and cohesion of local communities and ensure that communities are sustainable.

The Council will support the co-location of facilities (shared use of buildings) where it

Appendix E Officers Report 19 00462 FUL

19/00462/FUL

Mr And Mrs Anning

PATTINGHAM & PATSHULL

Willow Farm Hollies Lane Pattingham WOLVERHAMPTON WV6 7HJ

Stationing of a static caravan as a temporary agricultural workers dwelling (retrospective)

1. SITE DESCRIPTION AND PLANNING HISTORY

1. BACKGROUND

The application before me appears to have come about as a direct result of the intervention of the Council's Planning Enforcement Officers in respect of allegations of an unauthorised residential static caravan, storage containers, animal shelters and access track.

This application relates to the static caravan ONLY and seeks to regularise the stationing of said caravan which I understand has been stationed on the site since 2017 without the benefit of the necessary permission. This application seeks permission for a temporary (3-year) period going forward.

A separate, but linked, planning application for the erection of an agricultural building (to replace the existing assortment of unauthorised structures) and associated hardstanding has also been submitted under a separate application (Council Ref: 19/00405/FUL).

2. SITE DESCRIPTION AND PLANNING HISTORY

Site Description

Located within the Green Belt, the application site lies within what is a rural area, approximately 1 mile to the north-east of Pattingham and 1.5 miles to the south-west of Perton. The site lies in Flood Zone 1 and is therefore not at risk from fluvial flooding.

The site comprises of an approximately 0.1 hectare area of land which has been fenced off from the associated arable land, located at a sharp bend in the road on Hollies Lane, adjacent to Grange Farm (Grange Farmhouse itself is a Grade II Listed Building). Vehicular access is via a shared driveway with Grange Farm. The site forms a small part of the wider total 6.7 hectares (16.5 acres) of land owned by the applicant.

The site's northern boundary consists of the established mature hedgerow which runs along Hollies Lane itself. The application site is elevated above the wider adjoining arable land which falls to the south and east. The topography is such that the application site is not readily visible from the Wolverhampton Road (to the south) which lies beyond the associated land which is in the applicant's ownership.

Planning History

There appears to be no planning history in respect of the application site apart from the previously mentioned application currently under consideration by the Council for the proposed agricultural building and associated hardstanding (ref: 19/00405/FUL).

3. APPLICATION DETAILS

The application as submitted seeks retrospective permission for the stationing of a static caravan to be occupied on a temporary (3-year) basis as an agricultural workers' dwelling, in association with the applicants' stated agricultural business which is summarised as follows:

A Lambing Enterprise, which has grown over the years with the applicant's now owning their own flock of 270 breeding ewes (and 10 rams), which they lamb between February and April every year. I am advised that this enterprise started with just 12 ewes and the desire is to increase the flock to 350 ewes.

A Procurement Enterprise, which I understand involves the procurement of livestock to fulfil orders for the meat market. In this regard I am advised that the applicants have 20-30 regular customers and that orders received need to be fulfilled within 48 hours, requiring immediate procurement action. Most animals, mainly from livestock markets, are brought back to Willow Farm for grading and sorting before being taken to abattoir - such activities will vary within the week and time of year. Typically, 200-220 animals pass through the holding on the procurement basis each week.

At this point, I must make it clear that I do question whether the Procurement Enterprise as it has been described within the planning submission truly amounts to an agricultural use. I address this issue later within this report.

The total land area as managed by the business amounts to some 39.6 hectares (97.5 acres) which consists of the 6.7 hectares at Willow Farm which is stated as being used for grazing and mowing (hay), along with other land rented at Shipley (22.2 hectares used for sheep grazing); Halfpenny Green (8.7 hectares used for sheep grazing); and, a different site at Shipley (2.3 hectares for grazing and mowing for hay).

The application has been accompanied by, amongst other supporting documents, a Planning & Justification Statement which sets out in more detail the associated management requirements for both enterprises and the claimed essential functional need. The Statement confirms that the applicants have been farming the land since 2007; that they have a registered agricultural business with the Rural Payments Agency (RPA); and, that the land has its own County Parish Holding number (CPH).

The submitted Statement, along with subsequent additional supplemental information (including a confidential Business Plan & Financial Statement), has been assessed and evaluated by the Council's own appointed Agricultural Consultant, and such matters are addressed later in this report.

I noted at the time of my visit that as well as the static caravan, there was a make-shift timber structure attached which appeared to form some type of porch/boot store. There is no mention of that structure on the application forms and the applicants' Agent has acknowledged that this structure does not meet the definition of a caravan and may need to be removed in the event that planning permission were to be granted for the static caravan. The Agent suggests that a suitably worded planning condition would suffice.

3. POLICY CONTEXT

Within the Green Belt

The National Planning Policy Framework (NPPF) taken as a whole, and in particular Sections 4, 6, 12, 13, 12 and 16. The National Planning Practice Guidance (NPPG).

Adopted Core Strategy

Core Policy 1: The Spatial Strategy

Policy GB1: Development in the Green Belt

Core Policy 2: Protecting and Enhancing the Natural and Historic Environment

Policy EQ1: Protecting, Enhancing and Expanding Natural Assets

Policy EQ3: Conservation, Preservation and Protection of Heritage Assets

Policy EQ4: Protecting and enhancing the character and appearance of the Landscape

Policy EQ9: Protecting Residential Amenity

Core Policy 4: Promoting High Quality Design

Policy EQ11: Wider Design Considerations

Policy EQ12: Landscaping

Core Policy 9: Rural Diversification

Policy EV5: Rural Employment

Policy EV8: Agriculture

South Staffordshire Design Guide (SPD)

Green Belt and Open Countryside Supplementary Planning Guidance

4. CONSULTATION RESPONSES

No Councillor Comments.

Pattingham and Patshull Parish Council - No comments received.

County Highways - No objection.

Conservation Officer - No objection subject to suitable conditions.

County Ecologist - No objection subject to suggested conditions.

Third Party Representations - 4 no. letters of objection have been received, 3 no. from individual neighbours raising the following concerns:

Applicants sold their house in Pattingham and moved onto site without planning permission

and the current occupation of the site is unauthorised;

Hollies Lane is unsuitable for the size of vehicles associated with the business;

There is no justification or need for residential occupancy of the site;

Low numbers of sheep present on site and assume that the keeping of most of the stated flock and associated lambing occurs at other rented sites;

Burning of plastic and general unpleasant smells emanating from the site;

Animal welfare - numerous occurrences of sheep escaping from the site and wandering down Hollies Lane and onto other properties;

General eyesore nature of the site.

Applicants have no rights of access onto the site from the driveway serving Grange Farm (Officer comment: This is a legal matter between the relevant parties).

The 4th, extremely detailed, letter of objection has been prepared by a consultant acting for, and submitted on behalf of, the owners/occupiers 9 no. nearby properties raising the following additional issues to those already summarised above:

Various procedural issues and deficiencies with the application as originally submitted (Officer comment: These matters have since been satisfactorily addressed);
Inappropriate development in the Green Belt;
Very Special Circumstances have not been demonstrated or otherwise exist that would clearly outweigh the harm to the Green Belt;
The Procurement Enterprise does not amount to an agricultural use and as such the exceptions listed under paragraph 145 of the NPPF cannot be relied upon;
No foul sewerage details provided;
Sheep breeding and rearing enterprises rarely justify the need for an agricultural dwelling;
Any functional need is seasonal only (i.e. lambing) and a small temporary touring caravan would suffice;
If permission is refused, would wish to see the Council take prompt action to secure the removal of the static caravan and other unauthorised development.

5. APPRAISAL

The main issues in this case are, in my opinion:

Whether the proposal is inappropriate development in the Green Belt;
The impact on the proposal on the openness of the Green Belt and the character and appearance of the countryside;
If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations which amount to very special circumstances necessary to justify the development;
The impact of the development on the character and appearance of the area and the residential amenities of nearby residents; and
Other material considerations.

Whether the proposal is inappropriate development in the Green Belt

Paragraph 145 of the NPPF indicates that, apart from a small number of exceptions, the construction of new buildings within the Green Belt should be regarded as inappropriate. Exceptions to this include buildings for agriculture.

The existing enterprise operated from the site comprises of an agricultural use (Lambing Enterprise) along with the Procurement Enterprise which based upon the information before me appears to be a holding or 'lairage' type of operation, taking animals bought from market, sorting them and keeping them on site for a short period of time before transporting them to an abattoir. That is to say animals raised elsewhere, not at Willow Farm. That part of the overall business is not, to my mind, covered by the definition of agriculture as it appears at Section 336 of the Town and Country Planning Act 1990, which defines agriculture as including: 'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly'

Given the nature and scale of the Procurement Enterprise, I do not consider that it either amounts to an agricultural use or could be in anyway considered as being ancillary to the agricultural use of the associated land. This view is supported by the Council's Agricultural Consultant, who states that: 'A procurement activity is not a standard farming enterprise'

I am of the view that a change of use of the land for that business operation would be necessary. This has not been sought and to my mind that element of the business operation, as with the existing static caravan and various buildings, appears to be unlawful.

As a counter to my expressed view above, the applicants' Agent, within a supplemental statement, claims that the Procurement Enterprise carried out at Willow Farm does not constitute lairage. It is stated that the applicants purchase the animals themselves and whilst done with a number of potential customers in mind the applicants are the keepers of the animals, albeit for a relatively short period in many cases (2-4 days at peak efficiency). Once purchased, the animals are delivered to Willow Farm where they are sorted, checked and put out to grazing until required and taken to the abattoir. The Agent maintains that against this backdrop the enterprise may be considered as a 'short-term finishing unit' and thereby an agricultural use.

However, on the basis of what is before me, and notwithstanding the Agent's references to what they consider to be relevant planning appeal cases elsewhere, I do not share this view. In one of the cases presented by the Agent (PINs ref: APP/F1610/W/3169188), at Paragraph 24 the Inspector states that: 'Lairage can generally be described as a place where livestock (usually cattle or sheep) are held, rested and cared for, either on their way to abattoir for slaughter, or to or from market'. This appears to me to precisely describe the nature of the applicants' Procurement Enterprise.

The static caravan provides residential accommodation for the applicant. Whilst this would in part support the purposes of agriculture, the proposed static caravan would not in itself be a building for agricultural purposes. Consequently, the proposal would amount to inappropriate development in the Green Belt.

Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 (of the NPPF) advises me that I must give substantial weight to such harm to the Green Belt. In this regard, the development would also not comply with Policy GB1 of the Core Strategy which accords with the NPPF in seeking to protect the Green Belt from inappropriate development.

Impact on the Openness, character and appearance of the Green Belt and the Countryside

Impact on Openness

Openness is an essential characteristic of the Green Belt. The static caravan and associated paraphernalia have been located on site since 2017 without the benefit of the requisite planning permission, however planning guidance allows for the fair and unbiased consideration of this retrospective application in the same way as if the development had not already occurred.

That being the case, I must consider the impact upon openness in the same way as if the static caravan had not already been brought onto site and as such can only draw one conclusion - that the development has an adverse and detrimental impact on openness of the Green Belt.

The residential use of the land is a form of encroachment into this part of the countryside, and conflicts with one of the purposes of including land in the Green Belt as identified in paragraph 134 of the NPPF. I find that presence of a static caravan combined with the associated paraphernalia erodes the openness of the Green Belt, identified in paragraph 133

of the NPPF as one of its essential characteristics. This, to my mind, constitutes clear and demonstrable harm to the Green Belt.

Impact on Character and Appearance of the Countryside

The static caravan is located on the southern side of Hollies Lane, with a mature hedgerow defining the northern boundary of the site adjacent to the highway, such that the site is partly screened from public view. The caravan is visible from the gated access adjacent to Grange Farm and the residents thereof, albeit partially screened by the existing associated unlawful agricultural structures.

The surrounding area is generally open countryside, albeit pepper-potted with agricultural and residential buildings. Against this backdrop, to my mind the static caravan appears alien within its surroundings and has a materially harmful visual impact on the character and appearance of the countryside. For these reasons I have concluded that the development fails to accord with Policy EQ11 of the Core Strategy which, amongst other things, requires that: 'proposals should respect local character and distinctiveness including that of the surrounding development and landscape'.

Do very special circumstances exist

For the reasons already set out above, I find that the static caravan amounts to inappropriate development in the Green Belt and is therefore harmful by definition. Against this backdrop, I must consider whether very special circumstances have been presented or otherwise exist, which might clearly outweigh the substantial harm to the Green Belt (as required by Paragraph 144 of the NPPF).

The Applicants' case boils down to an argument that there is an essential need for them to live on the site, both in terms of the lambing and procurement activities which currently take place thereon (the latter of which, for the reasons I have set out previously, does not appear to me to be an agricultural use of the land).

The NPPF does not provide guidance on what constitutes an essential need. It seems to me that in order to determine whether a need is essential it is necessary to establish whether there is a physical need for someone to be on site most of the time (e.g. to care for animals), and whether the business operation itself has reasonable medium to long term prospects of success.

Policy EV8 of the Core Strategy sets out a set of criteria which proposals for temporary agricultural and occupational workers must satisfy, which provides a useful starting point in this regard, these being:

There is clear evidence of a firm intention and ability to develop the enterprise concerned;
There is a clear functional need which cannot be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area;
Clear evidence that the proposed enterprise has been planned on a sound financial basis;
The proposal satisfies all other normal planning requirements.

I start my assessment of essential need with some more general observations. It is the case that the applicants, whilst owning the application site and adjoining land at Willow Farm (amounting to 6.7 hectares/16.5 acres), are heavily reliant upon rented land elsewhere, as previously summarised under Section 3 of this report, for grazing and hay production.

At the time of my visit to the application site, I witnessed only a very small number of sheep on the land - certainly nowhere near the existing number of ewes (270 no.) as stated within the application submission. I was advised by Mrs Anning that the majority of the flock were located on the alternative rented land at the time of my visit.

I accept that the number of sheep kept on the land at Willow Farm will fluctuate, with peak numbers likely to be at lambing time. Setting that aside for the time being, the Council's Agricultural Consultant has suggested that given the area of land at Willow Farm it could only accommodate approximately 66 breeding sheep if used for grazing/rearing purposes only. That is before the Procurement Enterprise is factored-in, which I understand from the submitted information only operates from the land at Willow Farm and not from the other land rented elsewhere. The Council's Agricultural Consultant suggests that it would be unrealistic to accommodate both breeding sheep AND the animals brought to site associated with the Procurement Enterprise. This being the case, to my mind that seriously calls into question the actual extent of grazing of the applicants' own flock at Willow Farm throughout the year, with only the lambing season likely to see a significant number of the applicants' flock grazing on the land. Furthermore, whilst the other sites are not owned by the applicants, there appears to be no reason why lambing could not take place at those sites as well/instead. In my opinion, all of this has significant implications for the consideration of the essential need for an agricultural worker's dwelling when considered against Core Strategy Policy EV8.

Is there clear evidence of a firm intention and ability to develop the enterprise

The application has been accompanied by, amongst other things, a 3 year Business Plan and Financial Statement which includes both the aspirations to grow the existing Lambing Enterprise with the flock increasing from the current 270 breeding ewes to 350 ewes, as well as the aspirations in terms of the Procurement Enterprise. The submitted Statement suggests an anticipated gross profit in year one (actual figure is submitted within confidential papers), with additional growth in years two and three, which it is stated will enable the business to service borrowing to invest in a permanent residence at the site. Whilst noted, it is respectfully suggested that this might be considered somewhat overly aspirational at this stage and, dare I say, rather premature. Notwithstanding this, there does appear to be a stated intention to invest in the development of the enterprises.

All that said, and as I comment further below, the 3 year Business Plan and suggested gross profit does appear to me to be somewhat optimistic against the backdrop of extremely modest profits made in 2016 and 2017 and the more significant losses in 2018, as set out in the confidential Accounts and Balance Sheets provided by the applicants. The Agent puts those losses in 2018 down to what they refer to as 'an unprecedented year for purchase costs of ewes and lambs' and rent increases in respect of the other land used by the applicants for grazing and mowing elsewhere. The Agent appears confident that the costs will have gone down in 2019, but there is no evidence before me to substantiate this view.

Is there is a clear functional need which cannot be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area

Paragraph 79 a) of the NPPF makes allowance for rural workers' accommodation in the countryside, with the online (National) Planning Practice Guidance (NPPG) providing some guidance in terms of the assessment and interpretation for a rural worker's dwelling, which calls for, amongst other things:

'evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products).'

The applicants' Agents state that the functional operations at the site are such that a full time presence on site is now necessary, having previously relied on a touring caravan on the site to assist with seasonal lambing and the applicants' family home at other times of the year. However, the level of activity on the site is such that more comfortable and year around accommodation is required. It is also suggested that the applicants' family home may no longer be available long term due to personal/family circumstances. There is no other existing dwelling on the land owned by the applicants, and I saw no evidence of any other substantial building which might lend itself to conversion to residential accommodation.

In respect of other alternative accommodation, given the confidential financial information which has been provided, and notwithstanding the applicants' anticipated profits in years 1 to 3 of their business plan which I do question, there does not appear to be any available and affordable accommodation in the vicinity of the site which could fulfil the functional requirements of the business.

Nevertheless, it strikes me that, taking the Lambing Enterprise in isolation, the need for on-site year around accommodation must be questionable. It is my understanding that, generally speaking, sheep breeding and rearing would not necessitate the provision of an on-site dwelling, with the only potential need realistically being around the lambing season for obvious reasons. In such cases a touring caravan is often more than adequate, as has been employed on this site previously as I understand it.

Similarly, I do question (regardless as to whether it is considered to be an agricultural use or not) whether the Procurement Enterprise use truly warrants permanent accommodation on the site. As I have highlighted previously, the land at Willow Farm is only capable of accommodating approximately 25 percent of the current breeding sheep owned by the applicants, or the sheep/lambs associated with the Procurement Enterprise, but not both.

The applicants' Agent acknowledges that the essential need associated with the Lambing Enterprise is seasonal, and thereby presumably concurs with my views on this matter. The Agent however seeks to make a case that the Procurement Enterprise requires year around presence on site to prepare, receive, care for, check, monitor, sort and load animals. On site presence is also claimed to be necessary in order to deter would-be intruders from stealing associated equipment and food. However, I am not at all convinced by these arguments.

The Council's Agricultural Consultant has fully considered the evidence submitted, much of which is confidential in nature, and I defer to him as appropriate. His view regarding the residential accommodation provided by the static caravan rests upon the nature and scale of the livestock enterprises, with concern expressed regarding the extent of the land at Willow Farm and the actual amount of livestock it can maintain. It is assumed, and calculated, that the land at Willow Farm cannot be used for both breeding ewes and the procurement activity simultaneously, and it appears to me that the Procurement Enterprise holds sway on this land.

In any event, due to the limited amount of land at Willow Farm and the nature of the livestock operations that can operate from the land this does not to my mind amount to a functional/essential need for residential accommodation at Willow Farm. The application is therefore found to be at odds with Paragraph 79 of the NPPF and Policy EV8 of the Core Strategy.

Is there clear evidence that the proposed enterprise has been planned on a sound financial basis

As touched upon already, I am not convinced that the proposed Business Plan is financially sound based upon the previous 3 years' minor profits and more significant losses, and in the absence of any evidence and/or justification I don't share the Agent's confidence that the costs encountered in 2018 were an anomaly or 'blip' and should be ignored or otherwise treated as unrepresentative.

The business accounts as they have been submitted are not separated out to enable a clear appreciation of the profitability, or otherwise, of the separate enterprises. The Agent has advised that the business accounts include a 'wider business activity' and it must therefore be assumed that some of the sales in the accounts relate to the other trading activity and presumably some of the fixed costs. In any event, as I have previously indicated, on the basis of the information presented it is not clear or evident that the business as a whole will be profitable and sustainable, and I therefore consider it appropriate to conclude that, on the basis of what is before me, the business does not appear to me to be planned on a sound financial basis. Again, therefore, the application fails to meet the requirements of Paragraph 79 of the NPPF and Policy EV8 of the Core Strategy.

Whether the proposal satisfies all other normal planning requirements.

Although there are no saved local plan or national policies concerning the scale of rural workers dwellings, it is still necessary to consider whether the size of the proposed dwelling is commensurate with functional need of the enterprise. It is important to note that it is the requirements of the enterprise, rather than those of the owner or occupiers, that are relevant in determining the appropriate size of an occupational workers dwelling.

The dwelling is a reasonably sized 2-bedroom static caravan. Given the modest scale and nature of the accommodation, this is not considered excessive in this location. However, this does not circumvent or otherwise 'trump' the previously stated issues regarding need and justification.

Conclusion on essential need

It is acknowledged that Paragraph 83 of the NPPF provides support for rural businesses of all sorts, with Paragraph 84 recognising that such business ventures will, in many cases, be located in rural areas beyond a recognised settlement as in this case. Locally, Core Policy 9 and Policies EV5 and EV8 of the Core Strategy provide support for the application, at least in principle.

However, for the reasons set out above, I conclude that an essential need for a full-time worker to reside on the site in connection with the business enterprise as a whole, or taken separately, has not been demonstrated and a question mark remains regarding the financial viability of the business in the medium to long term. That being the case, I conclude that the application falls short of the requirements of Policy EV8 of the Core Strategy and Paragraphs 79 and 143 of the NPPF in this regard.

The impact of the development on the character and appearance of the area and the residential amenities of nearby residents; and

The site lies within open countryside with domestic dwellings and farm buildings pepper-potted within the landscape. The nearest domestic residences are those at Grange Farm, located some 40 metres to the west of the static caravan itself, and immediately adjacent to the application site. These include dwellings created through traditional barn conversions. It is these properties that are, to my mind, most directly impacted upon in terms of their outlook which previously would have been over an open pastureland.

There is no doubt in my mind that the various unauthorised buildings and general paraphernalia on the site have had a detrimental impact upon the visual appearance of the site and in turn visual amenity of the area, however those structures are not part of the current planning application, which as previously stressed is for the static caravan only. Even so, whilst I do not consider there to be a direct adverse impact upon residential amenity (when considered against Policy EQ9 of the Core Strategy), I do find that the static caravan appears as a somewhat alien feature within the landscape and out of character with existing development in the area and the landscape.

The static caravan appears somewhat incongruous within what was previously an open field and fails to satisfy the requirements of Policy EQ4 of the Core Strategy in that no account appears to have been taken of the characteristics and sensitivity of the landscape.

The introduction of the static caravan, to my mind, appears out of character with the surroundings; existing development within the immediate vicinity; and, the local landscape and I find that the application is at odds with Policies EQ4 and EQ11 of the adopted Core Strategy

Therefore whilst the proposal would be acceptable with regard to Policy EQ9 of the Core Strategy, I do find the application fails to satisfy the requirements of Policies EQ4 and EQ11 of the Core Strategy and Paragraph 127 of the NPPF which, amongst other things, seeks to ensure that development is sympathetic to its surroundings.

Other material considerations

Access to the site is via a single gate via the shared driveway which also serves Grange Farm. I have no details before me regarding the applicants right (or otherwise) to use this driveway. In any event, that would be a private matter between the interested parties.

This access is utilised both for access to the static caravan and the pastureland, as well as being relied upon for the Procurement Enterprise. Nevertheless, no objections have been raised by County Highways in respect of the current application for the static caravan. Notwithstanding the comments raised by interested parties, the proposal would therefore accord with paragraphs 108 and 109 of the NPPF and there would not be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

A Heritage Statement has been provided to support this application (and the application for the agricultural building (Council ref: 19/00405/FUL). which assesses the impact upon nearby statutory and non-statutory heritage assets, including Grange Farm. It concludes that there would be no adverse impact upon such heritage assets arising from the proposed

development. The Council's Conservation Officer concurs and as such, in terms of heritage impact the application is found to be acceptable and in line with the requirements of the NPPF (Section 16) and Policy EQ3 of the adopted Core Strategy.

A confidential Preliminary Ecological Appraisal has also been submitted to serve both applications, with no evidence of protected species having been identified nor any significant adverse impact upon flora and fauna. This has been assessed by the County Ecologist, who is satisfied that the findings of the Appraisal confirm that the development would not be at odds with the NPPF (Section 15) not Policy EQ1 of the adopted Core Strategy.

As I have already mentioned, the Agent has referenced a number of appeal decisions elsewhere which are considered by them to support, in some way or another, the arguments presented with the current application. I do not have the full details and papers for those cases before me and in any event in each case those dwellings which were permitted would have been based on the individual circumstances of each enterprise.

Unlike the dwellings referred to in those appeal decisions, for the reasons set out above, in my view the applicant has failed to demonstrate that there is an essential need for a dwelling on site in connection with the enterprises at Willow Farm. As such, I take the view that there are clear differences between the current application and those cases cited by the Agent.

7. CONCLUSIONS

I am required to give substantial weight to the inappropriate nature of the development in the Green Belt and harm to openness. As such, there is clear conflict with Policy GB1 of the Core Strategy and the NPPF. In such circumstances paragraph 143 of the NPPF states that inappropriate development in the Green Belt should not be approved except in very special circumstances.

The applicant has advanced a case that there is an essential need for an occupational worker to reside on site in connection with the business enterprise (consisting of the Lambing Enterprise and Procurement Enterprise) at Willows Farm. However, based on the submitted evidence and my own observations, along with those of the Council's Agricultural Consultant, I do not consider that a compelling case based upon essential need has been demonstrated in support of the temporary dwelling (i.e. the static caravan). I do not, therefore, consider that the very special circumstances demanded by paragraph 143 of the Framework have been demonstrated or otherwise exist in this case. That being the case, the harm to the Green belt by inappropriateness has not been clearly outweighed by other considerations and as such the application fails to meet the requirements of Paragraph 144 of the NPPF and Policies GB1 and EV8 of the Core Strategy.

The static caravan is an alien form of development within what would previously have been an open field and has an adverse impact upon the openness of the Green Belt and the character and appearance of the local landscape and is thereby also at odds with Policies EQ4 and EQ11 of the Core Strategy.

7. RECOMMENDATION - REFUSE

Subject to the following condition(s):

Reasons

1. The proposed development amounts to inappropriate development within the Green Belt, which is harmful by definition and should not be approved except in very special circumstances. Having assessed the case advanced by the applicant, including confidential financial details and three year business plan, the Council does not consider that there is an essential need for an occupational workers' dwelling (i.e. the static caravan) to be present on site in connection with the Lambing Enterprise and Procurement Enterprise as described within the application submission, either taken individually or combined. Consequently, very special circumstances have not been demonstrated in this case. As such, the development is contrary to Policies GB1 and EV8 of the adopted Core Strategy and the National Planning Policy Framework.
2. The static caravan introduces an alien feature into the landscape which has a detrimental impact upon the openness of the Green Belt and the character and appearance of the local landscape, contrary to policies GB1, EQ4 and EQ11 of the adopted Core Strategy and the National Planning Policy Framework.
3. Proactive Statement - Whilst paragraph 38 of the National Planning Policy Framework (2018) requires the Local Planning Authority to work with applicants in a positive and proactive manner to resolve issues arising from the proposed development; in this instance a positive solution could not be found and the development fails to accord with the adopted Core Strategy (2012) and the National Planning Policy Framework (2018).

Appeal Decision

Hearing Held on 18 April 2018

Site visit made on 18 April 2018

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 17th May 2018

Appeal Ref: APP/B3410/W/17/3185558

Manor House Farm, Quixhill Lane, Prestwood, Uttoxeter ST14 5DD

- 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 Mrs Alethea Blant against the decision of East Staffordshire Borough Council.
 - The application Ref P/2016/00840, dated 16 June 2016, was refused by notice dated 30 March 2017.
 - The development proposed was originally described as "*retrospective planning permission for a static caravan in order that we can live onsite while developing our farm business. Retrospective planning permission for a fenced area split into 3 parts, 2 for plant cultivation/plant nursery and one to surround the caravan to make it a safe space for our 2 year old while we work on site in the fenced area next to it. Retrospective planning permission for a small eco campsite of approximately 5 tent pitches with a compost toilet and solar shower both with no solid foundations. Retrospective planning permission for a small greenhouse with no solid foundations, sited direct on the soil within the plant nursery fenced areas used for the propagation of plants for the farm business*".
-

Decision

1. The appeal is allowed and planning permission is granted for retention of the siting of an existing static caravan for use as a temporary agricultural workers dwelling and office building for a temporary period, retention of two greenhouses and fencing, eco campsite for 5 tents including eco compost toilet and solar shower with the erection of an additional eco toilet at Manor House Farm, Quixhill Lane, Prestwood, Uttoxeter ST14 5DD in accordance with the terms of the application, Ref P/2016/00840 , dated 16 June 2016 , subject to the conditions in the attached schedule.

Preliminary Matters

2. For the reasons of clarity and accuracy I have utilised the description of development from the agreed Statement of Common Ground in the formal decision above.
3. I noted that the majority of the development except for one of the greenhouses, which suffered from storm damage and has temporarily been removed, and one eco toilet has been implemented and as such I have determined the appeal on the basis that part of the development has already occurred.

Main Issues

4. The main issues are: -

- Whether there is an essential need for a dwelling to accommodate a rural worker; and
- The effect of the development on the character and appearance of the area.

Reasons

Background

5. The **appellant's father owns Manor Farm and the appeal site and an additional 75 acres are owned by him.** It is proposed that once the outcome of this **appeal is known the land would be transferred to the appellant's ownership.** The majority of the additional 75 acres is presently rented out to another farmer but notice has been given to that farmer and all the land would be available to the appellant from September 2019. The whole of this area of land is known as Farm on the Hill.
6. The appellant has been running a number of operations from the site since at least 2016. These include a campsite for 5 pitches with shower and eco toilet buildings, a plant nursery, willow trees and living structures, and the production of herbs and vegetables. There is also an orchard and 40 allotments within the Manor Farm holding. The whole operation is based on permaculture which is a form of organic farming that utilises no ploughing once established and is based on creating ecosystems of planting.
7. The appellant is in the process of converting the land to become certified as organic and as no animal products would be used on the site the plants produced would be available as Vegan compliant. The appellant is employed within the business on a full-time basis and her partner on a part-time basis. They live in the static caravan with their young child. The appellant, her partner and child were living with her father at Manor Farm. However, that property is run as a bed and breakfast and the introduction of a baby was not conducive to the running of that business.
8. At the Hearing the appellant submitted a revised income projection statement which indicates that in 2017 the total operation at Farm on the Hill produced a net profit of around £16,500. However, no wages for the appellant or her partner are included in the 2017 figures. It is clear from the evidence provided that the business is presently run at a subsistence level on a low environmental impact basis.

Policy background

9. There is no dispute that the site is not within a settlement boundary and that due to its siting it is physically separate from a settlement and is in an isolated location.
10. Strategic Policy 8 of the East Staffordshire Local Plan (LP) relates to development outside of development boundaries. It states that development outside settlement boundaries will not be permitted unless, amongst other things, it is essential to the support and viability of an existing lawful business or the creation of a new business appropriate in the countryside in terms of type of operation, size and impact and supported by relevant justification for a rural location.
11. LP Strategic Policy 14 relates to the rural economy and states, amongst other things that permission will be given for new employment development outside

strategic or local service villages and rural industrial estates if it meets the criteria of Strategic Policy 8, or there are exceptional reasons why it cannot be located in these villages or in established urban employment locations. It also states that where a new rural business enterprise requires onsite residential accommodation the Council may grant permission for temporary residential accommodation only (e.g. a mobile home or caravan) for a temporary period only in order to allow time to assess the viability of the business.

12. LP Detailed Policy 1 relates to the design of new development and seeks development that responds positively to the context of the surrounding area and in itself exhibits a high quality of design. There are also a number of relevant policies within the made Denstone Neighbourhood Plan (NP).
13. Paragraph 55 of the National Planning Policy Framework (the Framework) seeks to avoid isolated new dwellings in the countryside unless there are special circumstances, which include amongst other things, the essential need for a rural worker to live permanently at or near their place of work in the countryside.
14. It was agreed at the Hearing that LP Detailed Policy 3 and Strategic Policies 16 and 18 and Section 12 of the Framework were not specifically relevant to this appeal.

Essential need

15. In order to determine whether the need is essential, it is necessary to establish whether there is a physical need for someone to be on-site at most times. In addition, it is also necessary that there is some evidence that the enterprise has a reasonable prospect of success and will endure the lifespan of the permission sought. Although both parties have referenced the tests in Annex A of Planning Policy Statement 7, its replacement by the Framework means that it can no longer be relevant to the appeal outcome. However, I take the view that despite its lack of status, Annex A is still a potentially useful tool in assessing whether an on-site dwelling is justified.
16. The Council do not dispute that the labour requirements of the business equates to at least one full-time worker. At the Hearing and within her evidence the appellant set out in some detail why she believes a constant on-site presence is necessary. The reasons are wide ranging and include the need to pick slugs and snails from plants and seed trays late at night. The propagating and rearing of plants in the greenhouse/s requires constant supervision to ensure adequate ventilation to avoid a build-up of heat which left unchecked could result in the loss of an entire crop of seedlings. The weather can damage plants through frost, wind, heavy rain and hail. The greenhouse/s themselves are prone to damage in adverse weather conditions particularly high winds and therefore an on-site presence is needed to respond to such situations. The irrigation of the plants is best done in the late evening or early morning. Damage from other pests such as rabbits, birds and mice is also cited.
17. The operation of the campsite she considers also needs an onsite presence to ensure the safety and security of campers, monitor the general behaviour and noise from the campers, operate a site office and offer a better service to their customers. It was agreed at the Hearing that the other parts of the business do not require a permanent on site presence.
18. I accept that in themselves none of the reasons cited amount to special circumstances. However, the modus operandi of the business at present is to

produce many different crops in relatively small quantities and it is fairly experimental at the present time. It is labour intensive and relies in no small measure upon the **appellant's knowledge of the land**, the business and her willingness to work extremely long hours. Due to the small profit margins, the enterprise is less resilient to loss than larger commercial ventures meaning it is imperative that crops are protected. Moreover, the proximity of the caravan to the plant nursery etc. allows the appellant to work long hours whilst sharing childcare duties with her partner. In my opinion when taken together the reasons provided by the appellant provide sufficient justification for her to reside on-site.

19. The Council accept that the nearest affordable home to rent or buy would be in Ashbourne which is an appreciable drive from the site. As the appellant does not drive living at such a distance away would not enable the appellant to respond adequately to emergencies when they were to occur. Additionally, the business is in its infancy and is being presently operated on a subsistence basis. It is therefore inconceivable that the business could afford to pay out money each month for rent or mortgage payments. The appellant and her family would therefore be without this income and the business that has been built up over the last few years would cease. This would be contrary to the **LP's and Framework's aim of promoting the development of agricultural businesses** and supporting a prosperous rural economy. I do not consider that the functional need could be satisfied through other accommodation.
20. In terms of future prospects, the appellant confirmed at the Hearing that the revised Income Projection Statement included the actual income and costs for 2017 and covers the period 2017 to 2021. **The appellant's financial forecast** was discussed in detail at the Hearing and the Council raised concern about the subsistence level of the business which would not be able to provide a minimum wage income for the appellant for some time. Moreover, it also raised concern about assumptions that are included within the financial forecast such as glamping pods which do not have the benefit of planning permission. Whilst, some of the items do not have planning permission it would appear based on the evidence before me that the horticultural/agricultural side of the operation combined with the existing campsite could provide an income to support a full-time worker by the end of 2021.
21. **Throughout, I was struck by the appellant's determination to make a success of** the business. Whilst, her aspirations are ambitious and involve experimental farming techniques undertaken largely on her own nothing I have heard or read leads me to doubt that the business is not planned on a sound financial basis.
22. To my mind, the enterprise has shown it can return a profit albeit limited, despite its infancy and experimental nature. The enterprise is therefore already showing signs it could be viable. It is evident to me that the appellant is committed to making a success of the business and is willing to make significant sacrifices to this end. Under these circumstances, I see no reason not to grant a temporary planning permission until the end of 2021. This then gives the Council the opportunity to review the state of the enterprise at the end of that temporary period and assess whether the enterprise has continued to grow in a manner which proves its longer term viability.

I thereby conclude that given the particular circumstances of the appellant and the business, that there is an essential need for a dwelling to accommodate a rural worker. As such, special circumstances do exist to justify a temporary

permission for the retention of the static caravan. It follows that there is and would be no conflict with LP Strategic Policies 8 and 14 or paragraph 55 of the Framework.

Character and appearance

23. The appeal site lies at the top of a hill and the surrounding area is characterised by rolling countryside interposed by a network of hedges and tree plantations. I acknowledge that static caravans, given their form and colour, normally white or a light colour can have a negative visual impact on the character and appearance of the area. The static caravan is located within close proximity of Quixhill Lane, a narrow country lane.
24. However, the caravan has a green external paint finish and between the caravan and the lane are a mature hedge and an appreciable belt of young trees. In combination, these features effectively screen the caravan in views from the lane. Nevertheless, a public footpath traverses the site and the caravan is visible from it. The appellant has planted a living willow fence that will eventually assist in minimising the impact of the caravan on the character and appearance of the area.
25. Furthermore, the temporary residential caravan is sited to overlook the plant nursery and fields and the site is a working horticultural/agricultural unit. In this setting it is not intrusive visually because of its position and location and its overall impact is modest. It was agreed at the Hearing that the development does not and would not have an impact on the key views detailed in Appendix 2 of the NP.
26. The Council have stated that the retention of the fencing, greenhouse and the eco campsite and its associated structures are well screened and have little impact on and are appropriate to their function and location within the countryside. Based on my observations at the site visit I have no reason to disagree with these findings. The additional greenhouse and eco toilet would have a similar impact to the existing structures.
27. In conclusion, the siting of the static caravan and the other parts of the scheme do not and would not have a harmful effect on the character and appearance of the area. As such, it would comply/complies with LP Detailed Policy 1 and NP Policies DP1, BE1 and LE1. The NP policies seek development that is appropriate in terms of scale, location and design that protects the rural setting of the parish and the local landscape. It follows that the scheme would also comply/complies with the guidance in the East Staffordshire Design Guide Supplementary Planning Document that advises that development should respond to its context.

Conditions

28. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance and the Framework. In the interests of conciseness and enforceability the wording of some of the conditions has been amended.
29. As only part of the development is retrospective a commencement condition is required. In order to provide certainty as to what has been permitted I have imposed a condition specifying the relevant drawings.
30. There is a proven essential need for one rural worker to live permanently at this site. It was agreed at the Hearing that if I was minded to allow the appeal that a condition limiting the residential use and retention of the caravan until the end of 2021 would be reasonable. This would ensure that the appellant

would be able to produce 3 years of accounts that could demonstrate whether the business is viable.

31. A condition relating to the occupancy of the dwelling by an agricultural worker or in forestry or the campsite are needed to ensure that the special circumstances under which the application is being granted remain in place for the duration of the permission.

Conclusion

32. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be allowed.

D. Boffin

INSPECTOR

- Attached Schedule -

APPEARANCES

FOR THE APPELLANT:

Mrs Alethea Blant

FOR THE LOCAL PLANNING AUTHORITY:

Kerry Chaloner

Planning Officer

Naomi Perry

Principle Planning Officer

Howard Elliott

Associate - Reading Agricultural Consultants

DOCUMENTS SUBMITTED BEFORE THE HEARING BY THE COUNCIL

- 1 Financial Submissions with the planning application
- 2 Policies of the East Staffordshire Local Plan

DOCUMENTS SUBMITTED AT THE HEARING BY THE APPELLANT

- 3 Updated 2018 - Income Projection Statement

SCHEDULE OF CONDITIONS

- 1) The additional greenhouse and eco toilet 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 for the location of the static caravan without measurements, Site Plan for the location of the static caravan with measurements, Site Plan of toilet and shower for the campsite without measurements, Site Plan of toilet and shower for the campsite with measurements, Plant nursey area showing location of greenhouses, Location Plan of camping pitches, Site Plan of Greenhouses, Fence Enclosure, Greenhouse Side Elevations Existing, Greenhouse Side Elevations Proposed, Greenhouse Elevations Existing and Proposed.
- 3) The residential use hereby permitted shall be for a limited period being until the 31 December 2021. The static caravan hereby permitted shall be removed and the land restored to its former condition on or before 31 December 2021 in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
- 4) The occupation of the static caravan shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry or the campsite hereby permitted or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

Appeal Decision

Hearing Held on 13 November 2018

Site visit made on 13 November 2018

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2018

Appeal Ref: APP/N1025/W/18/3199408

Land West of Home Farm Close, Ockbrook DE72 3SQ

- 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 H Fitzhugh against the decision of Erewash Borough Council.
 - The application Ref ERE/0917/0026, dated 10 July 2017, was refused by notice dated 24 November 2017.
 - The development proposed is described on the Notice of Decision as "erection of a bungalow to act as a permanent agricultural workers dwelling and the retention of an existing sow farrowing house".
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a bungalow to act as a permanent agricultural workers dwelling and a sow farrowing house at Land West of Home Farm Close, Ockbrook DE72 3SQ in accordance with the terms of the application, Ref ERE/0917/0026, dated 10 July 2017, subject to the conditions in the Schedule attached to this Decision.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.
3. The description of the development varies between the application form and subsequent documents. The description in the heading above has been taken from the Council's Notice of Decision which is also reflected in the Statement of Common Ground. However, that description refers to the "*retention of an existing sow farrowing house*". In granting planning permission, I have removed the reference to "*...retention of an existing...*" as this is not an act of development. In any event, I saw that the sow farrowing house was in place at the time of my site visit.

Application for costs

4. At the Hearing an application for costs was made by Mr H Fitzhugh against Erewash Borough Council. This application is the subject of a separate Decision.

Main Issues

5. The proposed development is within the Green Belt. I therefore consider that the main issues in this appeal are:
- Whether the proposal is inappropriate development in the Green Belt and the effect on openness;
 - Whether there is an essential agricultural need for a dwelling on this site; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether Inappropriate Development and Openness

6. The appeal site is in the open countryside and is located within the Green Belt. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. In addition, Paragraph 79 of the Framework seeks to avoid the development of isolated homes in the countryside, unless, amongst other things, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
7. As a new residential building in the Green Belt, the proposed dwelling would be inappropriate development. Although modest in scale, the proposed dwelling and associated parking would reduce the openness of the Green Belt. I note that the Council consider that the dwelling would not have an adverse impact on the landscape or the character and appearance of the area, but this would not outweigh the harm that would arise in respect of openness and the purposes of the Green Belt.
8. Under the terms of paragraph 145 of the Framework, the farrowing house is not inappropriate development in the Green Belt as it is a building for agriculture.

Agricultural Need

9. **The appellant's livestock farming business operates from a number of separate locations.** The appeal site is part of a parcel of land at Ockbrook, which also includes a cattle building as well as the breeding of sheep and pigs. The management of livestock includes the movement of cattle close to calving from land at Borrowash where they can then be housed and supervised in the building at Ockbrook. After calving, the mother and calf are then moved back to Borrowash **when they don't need such close supervision.**
10. A temporary 3 year planning permission¹ has been granted for a mobile home at Ockbrook. Whilst this permission has expired, I note that the temporary permission was granted on the basis of advice from **the Council's agricultural** consultant that a viable business had not been proven at that time but that the

¹ Application ref: ERE/0514/0001

business had the potential to become viable. In this regard, I note that the **appellant's agricultural** consultant has stated that financial results confirm that the business is now viable and that profitability is sufficient to justify the modest scale of the proposed dwelling². Whilst the nature of the business may have changed from that proposed some time ago, this does not negate the evidence that the ongoing business is viable.

11. The Council consider that the case for an agricultural workers dwelling is driven by the cattle operation of the business. There was some debate at the Hearing about the number of cattle associated with the operation, including reference to Defra monitoring **data**. **However, the Council's agricultural** consultant accepted that even with a reduced number of cattle, the provision of a dwelling should be actively considered. I also note that the Council has queried the extent of calving at the appeal site, although it has not provided substantive evidence to contradict the evidence provided by the appellant. On the basis of the evidence before me, I find that a dwelling is justified in respect of the cattle operation of the business.
12. The Council does not accept that the pig and sheep operation at Ockbrook justifies an agricultural workers dwelling. However, even if I were to accept **the Council's position on this issue, this does not negate the** requirements of the cattle operation.
13. **A central tenet of the Council's case is that there are dwellings available** elsewhere which could meet the operational requirements of the agricultural enterprise. The Council has highlighted a planning permission for a dwelling on land at Borrowwash. However, this permission is of some age, and although it was stated at the Hearing that development of the dwelling may have commenced, it was confirmed that it was not completed as the site was affected by flooding. This reflects what I saw when I visited the land at Borrowwash. At the Hearing, the Council accepted that the permission at Borrowwash had lapsed and that the site was in an area at risk of flooding. The evidence therefore suggests that the site at Borrowwash does not represent a suitable alternative to the appeal scheme due to the status of the planning permission and issues of flood risk.
14. The Council has also referred to dwellings available in villages in the vicinity of the various plots of land which make up the business, particularly at Ockbrook **and Borrowwash**. **However, the Council's agricultural consultant confirmed that** these dwellings would not be suitable as they would not be within sight and sound of the livestock.
15. The potential to provide a dwelling on land at Belper has also been considered. However, this would not be as suitable as the appeal site due to the resulting transportation distance for cattle. It was also emphasised by the appellant that there were problems of capacity at that site.
16. Drawing the above together, on the basis of the evidence before me there is a clear operational requirement for a dwelling at the appeal site to support an ongoing and viable agricultural enterprise. I therefore conclude that an essential agricultural need for a dwelling on the site has been demonstrated.

² e-mail from David Hughes to Graham Wraight, 13 October 2017.

Overall Conclusions and Green Belt Balance

17. The proposed dwelling constitutes inappropriate development in the Green Belt, and would reduce the openness of the Green Belt. In accordance with paragraph 144 of the Framework, I give substantial weight to the harm to the Green Belt. However, based on the evidence before me, there is an established essential need for a permanent residential presence on site. The proposal would therefore meet the circumstance of Paragraph 79(a) of the Framework in respect of isolated homes in the countryside, and would also comply with the policies of the Framework in respect of supporting a prosperous rural economy. I attach very substantial weight to this essential requirement and the benefits arising from the proposal.
18. I find that the other considerations in this case, namely the essential need for a rural worker to live on the site, clearly outweigh the harm to the Green Belt I have identified. Very special circumstances necessary to justify the development have therefore been demonstrated. The proposal would therefore not conflict with Policy 3 of the Erewash Core Strategy 2014 with regard to consideration of the statutory purposes of the Green Belt and saved policies GB1 and GB8 of the Local Plan 2005 in respect of very special circumstances and agricultural development in the Green Belt. Due to the identified very special circumstances, the proposal would also not conflict with the Framework in respect of protecting Green Belt land.

Other Matters

19. Access to the appeal site is via a track which passes between two dwellings on the residential estate of Home Farm Close. Comments raised locally have referred to issues of access and parking. However, the identified issues relate to traffic generated by the existing farming operations. There is no substantive evidence that either the farrowing house or the proposed dwelling would lead to a material increase in traffic movements. I also note that the Highway Authority has not objected to the proposal. On the basis of what I have seen and read, the matter of access and parking does not weigh against the proposal. I also note the concerns in relation to noise and disturbance associated with the construction of the dwelling, however this would be temporary in nature and can be mitigated by a condition limiting the hours of construction activity.
20. I have had regard to the concerns expressed in relation to a history of odour as well as problems arising from animals kept in fields adjacent to housing and other properties. However, these matters relate to the management of the farm and do not fall within the remit of this planning appeal.
21. Concern has also been raised that the proposal would establish a precedent for future development within the Green Belt. However, each proposal should be assessed on its particular merits, and due to the specific issues raised by this proposal it would not necessarily establish a precedent for the consideration of other development.

Conditions

22. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance and retained Annex A (model conditions) of former Circular 11/95: Use of Conditions in

Planning Permission. As a result, I have amended some of them for clarity, including specific reference to the proposed dwelling where appropriate.

23. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of good planning and certainty. Conditions requiring details of materials to be used in the construction of the dwelling as well as landscaping and boundary treatment are required in the interests of character and appearance. Controls over the hours of construction and delivery are required in the interests of the living conditions of nearby residents. The provision of gas protection measures is appropriate in the interests of health and safety. The provision of car parking is appropriate in the interests of highway safety.
24. The dwelling has been permitted on the basis of an essential agricultural need, and it is therefore necessary to restrict its occupation in respect of that purpose. A condition to remove permitted development rights for the dwelling is also appropriate in the interests of character and appearance and due to the exceptional circumstances arising from the countryside location of the development in the Green Belt.

Conclusion

25. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be allowed.

David Cross

INSPECTOR

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 1: 2500 dated May 2017
 - Block Plan 1: 500 dated May 2017
 - Proposed Elevations, Drawing Number HF17/1
 - Farrowing Unit Floor Plan and Elevations dated May 2017.
- 3) Construction of the dwelling above slab level shall not commence until details of the proposed materials to be used in the external construction of the dwelling have been submitted to, and approved in writing by, the local planning authority. The development shall then only be undertaken in accordance with the materials so approved.
- 4) The dwelling shall not be occupied until full details of both hard and soft landscape works including a programme for implementation have been submitted to, and approved in writing by, the local planning authority. The works shall be carried out as approved. Any trees or plants which, within a period of 5 years from the completion of the development or the approved scheme (whichever is the later) die, are removed or become

seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 5) The dwelling shall not be occupied until a detailed scheme for the boundary treatment of the site, including position, design and materials (and to include all boundaries or divisions within the site) has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be completed before the dwelling is first occupied or such other timetable as may first have been agreed in writing with the local planning authority and shall be retained on site as approved throughout the lifetime of the development.
- 6) Construction work and/or deliveries to the site shall take place only between 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7)
 - a) The dwelling hereby approved shall be provided with basic gas protection measures to comprise a minimum 2000 gauge polyethylene membrane (resistant to carbon dioxide and methane) with all seams taped. The membrane shall be taken across the wall cavity, fitted with a cavity tray and all services passing through the membrane will be sealed to the membrane.
 - b) Prior to the dwelling being brought into use a validation report detailing that the above gas protection steps have been taken shall be submitted to the local planning authority.
- 8) The dwelling shall not be occupied until space has been laid out within the site for 2 cars to be parked, and that space shall thereafter be kept available at all times for the parking of vehicles.
- 9) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 10) Notwithstanding the provisions of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) the dwelling shall not be extended or altered externally nor shall any incidental building, structure, or means of enclosure be erected without the prior grant of planning permission.

End of Schedule

Appearances

FOR THE APPELLANT:

Philip Hulland BSc(Hons) MRICS
Ruth Woodcock

Bagshaws
Neil J Bland Ltd

FOR THE COUNCIL:

Steven Mott BA(Hons) DipTP MRTPI
David Hughes

Erewash Borough Council
Agricultural Consultant

INTERESTED PERSONS:

Elizabeth Ison

Carly Fitzhugh

Documents Submitted at the Hearing

1. Highlighted extracts of correspondence from the Council's Agricultural Consultant, provided by the appellant.
2. Letter from Scarsdale Vets (undated).
3. 3 years Farming Accounts.

Documents Received Following the Hearing (by request of the Inspector)

4. Letter from Scarsdale Vets, dated 7 November 2018.
5. Copies of the plans considered by the Council.
6. Confirmation from the appellant in respect of the correct plans, dated 19 November 2018.

Costs Decision

Hearing Held on 13 November 2018

Site visit made on 13 November 2018

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2018

Costs application in relation to Appeal Ref: APP/N1025/W/18/3199408 Land West of Home Farm Close, Ockbrook DE72 3SQ

- 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 H Fitzhugh for a full award of costs against Erewash Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for development described on the Notice of Decision as “erection of a bungalow to act as a permanent agricultural workers dwelling and the retention of an existing sow farrowing house”.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mr H Fitzhugh

2. The need for an agricultural workers dwelling was established in 2014. The question then was whether the business was viable in order to allow the use to continue. Expert evidence from Neil Bland and the expert appointed by the Council both agree that on-site presence is needed and that the business is viable.
3. In e-mail correspondence from the Council to Neil Bland of 19 October 2017, it is reported that the Council’s agricultural consultant has advised that in his opinion the number of cows stated justifies a permanent residence at Home Farm Close in the absence of a dwelling at Borrowash. This is also reflected in the comments from the Council’s agricultural consultant to the Council in his e-mail of 3 November 2017.
4. So, given the acknowledgement on the need for a dwelling, agreement as to the viability of a business and the Council’s apparent unwillingness to accept the expert advice, we would like to seek a full award of costs.
5. The situation is exacerbated by the unwillingness of the Council to inspect stock when questioning the numbers.
6. Unreasonable behaviour has been demonstrated by going against expert opinion and misleading comments in respect of the previous consent in respect of viability.

The response by Erewash Borough Council

7. The Planning Practice Guidance states that we should all meet our own costs.
8. The Council has engaged positively and proactively at all stages from validation through to consultation, encouraging the appellant to submit further evidence to justify his case.
9. In respect of the requirement for an agricultural workers dwelling in 2014, it **wasn't clear how the business case behind that approval, or how the business itself, had evolved or changed.** Expert evidence has been discussed at length in respect of need and viability of the business. This is the reason for having a Hearing and it is only after discussion and questioning that comments have **been made by the Council's expert witness.**
10. The application was very complex with numerous sites which are intricately linked. We have to base the decision on the evidence before us and, as **articulated by the Council's expert witness, there are clear matters** within the submission to justify the decision. The Council did take on board the full comments of the expert witness in the planning balance.
11. To conclude, the Council has evidenced, rationalised and defended its decision. It has acted in a cooperative manner with appropriate dialogue. Therefore an award of costs is requested to be refused.

The response for Mr H Fitzhugh

12. Any ambiguity as to the position in relation to the 2014 consent is due to the local planning authority. The suggestion of being positive and proactive was also made in 2014, which has not been the case in this instance.
13. **The Council's expert witness' comments here reflect the views expressed in e-mails previously.** The suggestion of the case being particularly complex is questionable. For that reason the Council engaged an agricultural advisor and the suggestion of an evidenced decision seems at odds with the advice received by the Council.

Reasons

14. The Planning Practice Guidance (the 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.
15. In support of the proposal, evidence had been provided by the applicant to **demonstrate the viability of the business. This was accepted by the Council's** agricultural consultant during the course of the application and this was restated during the Hearing. Whilst there may have been some variation from the business case relating to the 2014 permission, this does not negate the viability of the agricultural enterprise.
16. **The Council's agricultural consultant advised** that a dwelling could be justified during the course of the application. **The Council's reliance on the availability** of alternative options in respect of living accommodation was not supported by its own consultant in respect of dwellings in nearby villages or the evidence in respect of the dwelling at Borrowash.

17. While the Council is not bound by the advice of its consultees, establishing agricultural need is an area of expertise and any departure from expert advice should be robustly justified. Whilst there are some complexities arising from the operation of the business, this does not introduce such a degree of uncertainty as to **justify the Council's stance**. In submitting its case, the Council has presented no substantive evidence to override that provided by the applicant or the advice of its own agricultural consultant.
18. I am therefore of the opinion that the refusal of planning permission was ill-founded, and that the decision was based on vague and inaccurate assertions unsupported by an objective analysis of the evidence on agricultural need and viability **available prior to the planning application's determination**. I therefore consider that the refusal of planning permission amounted to unreasonable behaviour with regards to the Guidance.
19. I conclude that it was unreasonable of the Council to have refused planning permission on the issue of essential agricultural need, with the result that the applicant has directly incurred unnecessary and wasted expense in submitting their appeal. Having regard to the provisions of the Guidance, a full award of costs is therefore justified.

Costs Order

20. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Erewash Borough Council shall pay to Mr H Fitzhugh, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
21. The applicant is now invited to submit to Erewash Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Cross

INSPECTOR

3. STANDARD MAN DAYS

Standard Man Days (SMD) is a general estimate of the farm labour requirement per enterprise. A Standard Man Year is 2,200 hours. This is 45 weeks' work of 39 hours (after holidays, illnesses etc. have been deducted), plus an average of 10 hours overtime per week ($45 \times 49 = 2,205$). These total hours are converted into 275 notional 8-hour Standard Man Days. This figure includes an assessment for overtime but can be increased by further overtime working.

Every farm enterprise requires a number of SMDs per unit of key input (per hectare, per cow etc.). The total SMD requirement for each enterprise is therefore calculated by multiplying by the size of the operation. The total labour needed on the holding is the sum of all the individual enterprises. An additional 15% has then traditionally been added to account for general maintenance, repairs and management. The total SMD requirement is then divided by 275 to find the number of full-time employees that will be required. This system can work when the labour requirement is constant during the year – e.g. some livestock enterprises. However, when labour use is seasonal, e.g. most field operations, it does not show the 'peaks and troughs' that are crucial in labour planning. It also fails to reflect that daylight hours, soil conditions, rainfall etc. will alter the amount of time available for fieldwork during the course of the year. SMD does not recognise the efficiency of larger units, so SMD requirements fall per unit as the enterprise grows. Equally, this data is designed to reflect commercial scale agriculture so will be of limited value to smallholder scale production operations.

Livestock (per head) (1)

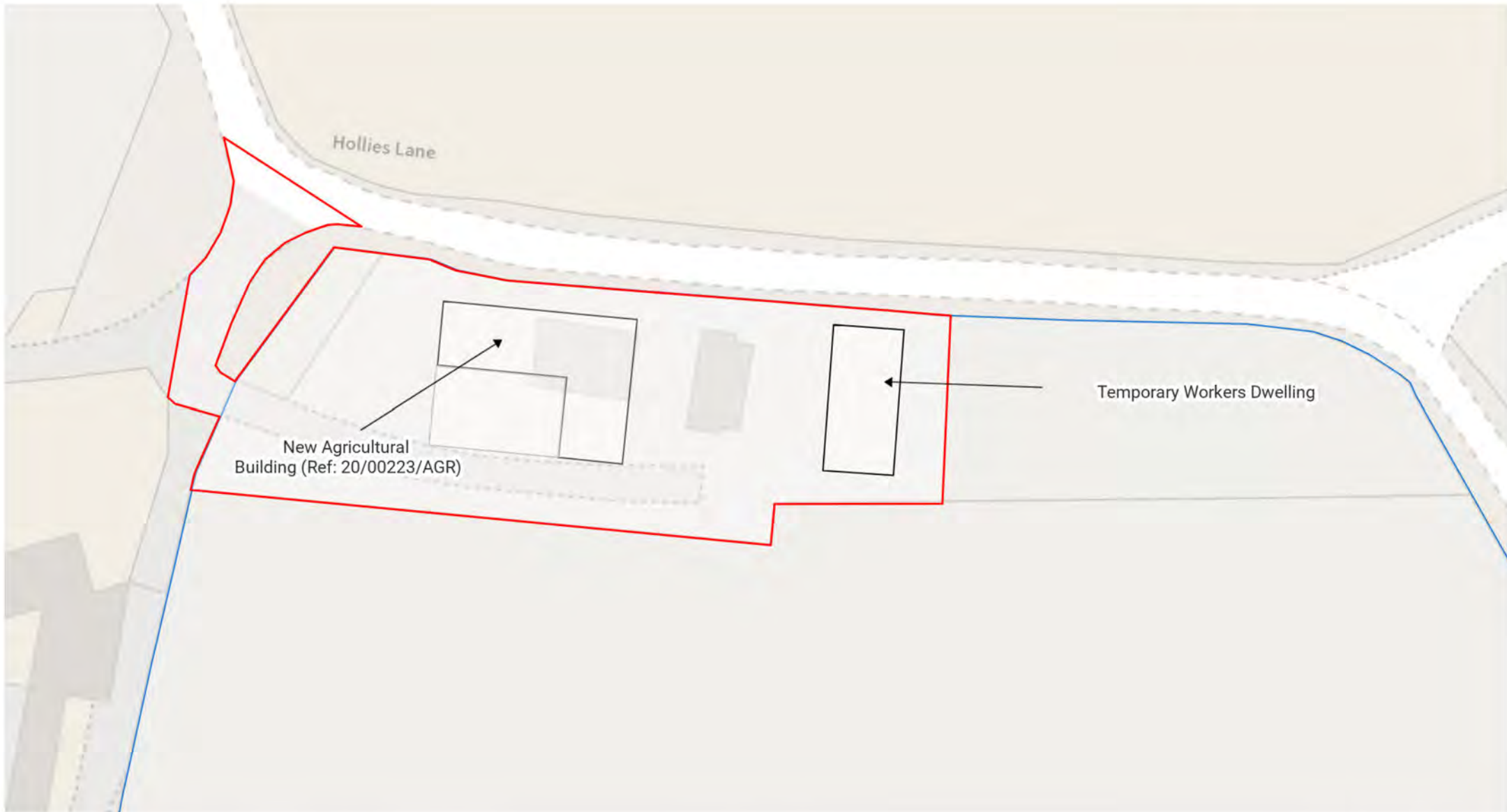
Dairy Cows.....	4.00
Bulls	3.50
Beef Cows (single suckler including calf):	
lowland.....	1.35
upland/hill	1.68
Cereal Beef (0-12 months) (2)	1.90
18-month Beef (2)	1.60
Grass Silage Beef (2).....	1.90
Finishing Suckler bred stores:	
Grass	1.10
Winter	1.10
Calves; to 6 months (2).....	1.20
Ewes: lowland.....	0.50
upland.....	0.45
hill.....	0.40
Rams.....	0.50
Winter Finishing Store Lambs	0.30
Sows (including weaners to 30kg)	2.25
Boars	2.00
Other Bacon Pigs.....	0.25
Laying Birds: battery cages.....	0.017
free range	0.06
Pullets reared (2).....	0.005
Broilers (2)	0.002

Sugar Beet	5.50 (4)
Herbage Seed (Ryegrass)	3.00
Hops	1.40
Kale (grazed)	9.50 (4)
Silage:~ one cut	1.40
two cuts	1.60 (5)
Grazing only	2.80 (5)
Hay for sale	0.40 (5)
Let Keep	1.80 (5)
Bare fallow / set-aside	0.40 (5)
Rough Grazing	0.20
	0.20

1. Note that for grazing livestock, the S.M.D.s per head exclude field work, e.g. grass production and silage making, i.e. the labour for these has to be added to give total labour for these enterprises.
2. For these livestock, S.M.D. per annum should be based on numbers produced (sold) during the year. For all other livestock, average numbers on the farm at any one time during the year should be used (i.e. average of numbers at end of each month).
3. 1.15 if straw ploughed in; 1.75 if straw harvested. Highly mechanised larger farms will require no more than 0.75 S.M.D./ha of direct labour for cereals and other combinable crops (assuming straw ploughed in).
4. Excludes casual labour for harvesting.
5. Excludes any reseedling carried out – this is likely to be around 0.6 S.M.D./ha in the year reseedling is carried out.

'Other Cattle' can refer to both beef animals and dairy followers (ref. detail on page 172).

Please note, that whilst this data is widely used, it is rather dated and many commercial enterprises will have more efficient working practices, requiring fewer SMD per unit of output or input (hectare or head).



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED

BY THE PLANNING AND COMPENSATION ACT 1991)

ENFORCEMENT NOTICE

ISSUED BY: SOUTH STAFFORDSHIRE DISTRICT COUNCIL

(1) THIS IS A FORMAL NOTICE which is issued by the Council because it appears to them that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. It considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important information.

(2) THE LAND AFFECTED

Land at Willow Farm Hollies Lane, Pattingham, Wolverhampton WV6 7HJ (“the Land”) outlined in red for identification purposes on the plan attached to this Notice.

(3) THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

- i) Without planning permission, the making of a material change of use of the Land, to a mixed use for residential and agricultural use together with the siting of a caravan with a wooden extension to facilitate that material change of use.
- ii) Without planning permission, unauthorised operational development consisting of an earth bund.

(4) REASONS FOR ISSUING THIS NOTICE

Located within the Green Belt, the Land lies within what is a rural area, approximately 1 mile to the north-east of Pattingham and 1.5 miles to the south-west of Perton.

The area of Land where the unauthorised development has taken place comprises of approximately 6.7 hectares (16.5 acres) of land area of land which is located at a sharp bend in the road on Hollies Lane, adjacent to Grange Farm (Grange Farmhouse itself is a Grade II Listed Building). Vehicular access is via a shared driveway with Grange Farm. The caravan and wooden extension is located to the upper northern area the site.

The material change of use of the Land together with the siting of a caravan with a wooden extension to facilitate that material change use took place less than ten years ago and is not immune from enforcement action.

The unauthorised operational development consisting of the earth bund located on the Land took place less than four years ago and is not immune from enforcement action.

The Land is situated in an area of open countryside located in the South Staffordshire section of the West Midlands Green Belt.

On 7th February 2020, a retrospective planning application was refused by the Council for the stationing of the static caravan as a temporary agricultural workers dwelling under application reference 19/00462/FUL. The refusal to grant planning permission was the subject of an appeal.

On 15th March 2021, the Planning Inspectorate dismissed the appeal against the decision of the Council to refuse an application for the proposed stationing of a static caravan as a temporary agricultural workers dwelling reference APP/C3430/W/20/3253786). ("the Appeal").

The National Planning Policy Framework states that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 130 of the National Planning Performance Framework, (NPPF), states that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

Para 137 of the NPPF states that the essential characteristics of Green Belt are their openness and their permanence.

Paragraph 138 c) of the NPPF states that one of the five purposes of the Green Belt is to assist in safeguarding the countryside from encroachment.

Paragraph 147 of the National Planning Policy Framework (NPPF) states that inappropriate development is, by definition harmful to the Green Belt, and should not be approved except in very special circumstances.

Paragraph 148 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Policy GB1 of the Core Strategy Development Plan states that the making of a material change of use of land will normally be permitted where the proposed use would have no material effect on the openness of the Green Belt.

Policy EQ4 states that the intrinsic rural character and local distinctiveness of the south Staffordshire landscape should be maintained and where possible enhanced and that throughout the District, the design and location of new development should take account of the characteristics and sensitivity of the landscape and its surroundings, and not have a detrimental effect on the immediate environment and on any important medium and long-distance views.

Policy EQ11 states that the design of all developments must be of the highest quality and that proposals should respect local character and distinctiveness including that of the surrounding development and landscape, in accordance with Policy EQ4.

The static caravan with wooden extension and earth bund are incongruous to their surroundings and have a detrimental impact upon the openness of the Green Belt and the character and appearance of the local landscape that conflicts with the purposes of the Green Belt and are therefore contrary to policies GB1, EQ4 and EQ11 of the adopted Core Strategy and the relevant paragraphs of the National Planning Policy Framework.

Policy EV8 of the Core Strategy Development Plan states that the Council will support proposals for agriculture and related development which is consistent with national policy for the protection of agricultural land and other local planning policies by:

- a) encouraging farm diversification, which is complementary to, and helps to sustain the existing agricultural enterprise;
- c) guiding development, including the design and siting of new agricultural buildings, including agricultural workers dwellings to the least environmentally sensitive locations.

The dismissed Appeal found that the needs of the business do not outweigh the harm to the Green Belt with no other considerations that would amount to the 'very special circumstances' necessary to justify the unauthorised development. As such the development is by definition harmful to the Green Belt and does not accord with policy EV8 of the adopted Core Strategy and the relevant paragraphs of the National Planning Policy Framework.

The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development outlined in the dismissed Appeal.

(5) WHAT YOU ARE REQUIRED TO DO

- i) Cease the use of the Land for domestic residential purposes.
- ii) Remove the caravan and wooden extension from the Land, (shaded blue in the approximate position shown on the red line plan).

- iii) Remove from the Land all materials and waste arising from compliance with requirement ii) above.
- iv) Remove the unauthorised operational development consisting of the earth bund from the Land, (shaded green in the approximate position shown on the red line plan).

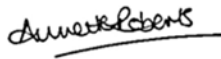
The periods for compliance

Within six months from the date the notice takes effect.

(6) WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 3rd September 2022 unless an appeal is made against it beforehand.

Dated: 2nd August 2022



Signed :

On behalf of Corporate Director Planning & Infrastructure

On behalf of South Staffordshire District Council
Council Offices
Wolverhampton Road,
Codsall, Staffordshire
WV8 1PX

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

Enforcement Notice relating to land and premises on Land at Willow Farm Hollies Lane, Pattingham, Wolverhampton WV6 7HJ.

This local planning authority, South Staffordshire Council, has issued an enforcement notice relating to the above land and I now serve on you a copy of that notice as you have an interest in the land. Copies of the notice are also being served on the other parties listed on the Notice who, it is understood, also have an interest in the land.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on 3rd September 2022 and you must ensure that the required steps, are taken within the period(s) specified in the notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 3rd September 2022.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds: -

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by Section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £924.00. This amount is double the usual Planning Application fee. You should pay this fee to South Staffordshire Council (made payable to South Staffordshire Council). Joint appellants need only pay one set of fees. If you do not wish to proceed under Ground (a) then no fee is payable.

If you decide to appeal, when you submit your appeal, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

One appeal form and a copy of the Enforcement Notice together with a cheque for £924.00 made payable to South Staffordshire Council should be sent to the Council addressed to:-

Corporate Director Planning & Infrastructure
South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road,
Codsall,
WV8 1PX

If you do not appeal against this enforcement notice, it will take effect on the 3rd September 2022 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the periods specified in paragraph 5 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

Planning Enforcement Contact Officer:

Mark Bray
Planning Enforcement Consultant

South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road
Codsall,
South Staffordshire,
WV8 1PX

Tel: 01902 696900

E-mail: m.bray@sstaffs.gov.uk

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

1. CAROLINE ANNE ANNING
Leaton Lodge,
Crab Lane,
Bobbington,
Stourbridge
DY7 5DZ
2. CAROLINE ANNE ANNING
Willow Farm
Hollies Lane,
Pattingham
Staffordshire
WV6 7HJ
3. GARY ANNING
Willow Farm
Hollies Lane,
Pattingham
Staffordshire
WV6 7HJ

LAND AT WILLOW FARM HOLLIES LANE, PATTINGHAM, WOLVERHAMPTON WV6 7HJ

RED LINE PLAN TO ACCOMPANY ENFORCEMENT NOTICE

