

DELEGATED

AGENDA NO

PLANNING COMMITTEE

30 July 2014

**REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES**

14/0192/FUL

**P & J Shepherd, Fulthorpe Farm , Wynyard Road, Thorpe Thewles
Erection of 3 bedroom agricultural workers dwelling**

Expiry Date : 30 April 2014

SUMMARY

This application seeks consent for the erection of a 3 bedroom dwelling to serve the needs of an agricultural worker on land at Fulthorpe Farm, near Thorpe Thewles. The applicant owns a parcel of land and buildings to the east of the main farm buildings at the site. The parcel of land owned extends to approximately 4.5 acres.

The site is outside the limits to development where development is only considered acceptable if there is shown to be an essential need for the development. The applicant runs a cattle business, manages grassland and also runs a machinery contracting business. Information has been submitted in support of the application to demonstrate there is a functional need for the dwelling and financial information has been provided to show the business is profitable and can support the construction of the proposed dwelling.

Seven letters of support were submitted with the application no objections have been received from standard consultees.

The information submitted is not considered to be adequate to justify a dwelling at the present time. The calculations submitted to show the number of full time workers required include time spent on managing grassland however this aspect of the business could be managed remotely and does not require a presence on site. The financial information submitted also includes income and expenditure from the applicants machinery contracting business and no clear information has been submitted to show the cattle business is financially viable and could support the construction of the proposed dwelling. It is therefore considered that it has not been demonstrated there is an essential need for the dwelling and the application is recommended for refusal at this time.

RECOMMENDATION

Planning application 14/0192/FUL be Refused for the following reason(s)

- 01. In the opinion of the Local Planning Authority, it is considered that the submitted details provide insufficient evidence to justify the development. It is essential, as***

required by saved Policy EN13 and the National Planning Policy Framework to strictly control new development in the countryside or areas outside established towns and villages unless clearly justified and to that which contributes to the diversification of the rural economy. The evidence and information provided does not satisfactorily demonstrate to the local planning authority that a dwelling on the holding is essential therefore it is considered that there are no special circumstances relating to the proposal as defined in paragraph 55 of the National Planning Policy Framework to override the adopted policy of the Local Planning Authority. As such, the proposed development is considered to be contrary to saved Policy EN13 of the adopted Stockton on Tees Local Plan and the National Planning Policy Framework

SITE AND SURROUNDINGS

1. The application site is located on a parcel of land at Fulthorpe Farm, Wynyard Road, Thorpe Thewles. The applicant owns approximately 4.5 acres at Fulthorpe Farm to the east of the main farm dwelling and buildings. The parcel of land owned by the applicant contains farm buildings to the north with an adjacent yard/storage area and to the south is grass land. The application site is accessed via the existing farm access from Wynyard Road.

PROPOSAL

2. This application seeks permission for the erection of a 3 bedroom agricultural workers dwelling on a parcel of land at Fulthorpe Farm, Wynyard Road, Thorpe Thewles. The main floor area is 10m by 8m with a single storey off shoot to the side/rear measuring 10.5m by 5.3m. The dwelling has a ridge height of 8.85m approximately and is to be constructed from brick with a pantile roof. At ground floor the dwelling contains three reception rooms, kitchen, utility and office space and wc.

CONSULTATIONS

3. The following Consultations were notified and any comments received are set out below:-

Councillor J Gardner

No comments received

Head Of Technical Services

General Summary

Subject to the comments below the Head of Technical Services raises no objections.

Highways Comments

The site is served by an existing access and parking is provided within the site; there are no highway objections.

Landscape & Visual Comments

Should the application be approved the proposed dwelling should be enclosed by a rural type post and rail fence with a native type hedge such as a hawthorn mix or beech hedge and the existing hedge at the front of the dwelling (western elevation) should be retained and managed as required to create a solid boundary. Tree planting should be planted in the garden to soften views of the dwelling and the trees should be planted to recommended NHBC standards chapter 4.2 Building near trees and kept back from the proposed drainage system.

Northern Powergrid

No comments received

Northern Gas Networks

No objections

Northumbrian Water Limited

Thank you for consulting Northumbrian Water on the above proposed development.

In making our response Northumbrian Water assess the impact of the proposed development on our assets and assess the capacity within Northumbrian Water's network to accommodate and treat the anticipated flows arising from the development. We do not offer comment on aspects of planning applications that are outside of our area of control.

Having assessed the proposed development against the context outlined above I can confirm that at this stage we would have no comments to make.

Environmental Health Unit

I have no objection in principle to the development, however, I do have some concerns and would recommend the condition as detailed be imposed on the development should it be approved.

' Drainage - septic tank/ cesspool

The applicant shall satisfy the Local Planning Authority (LPA) of the adequacy of the proposed means of drainage prior to the development commencing. Any septic tank to be employed shall be built in accordance to BS 6297 1983 and shall discharge over a biological filter unit, the final effluent from which shall be discharged in a manner approved by the Environment Agency and the Building Control Officer. Full details of the size and manner of construction of the septic tank shall be agreed in writing with the LPA prior to development commencing. The proposed development shall not commence until a trial hole has been excavated in the region of any proposed new outfall and reveals to the satisfaction of the LPA the adequacy of the subsoil drainage in the regions of the proposed outlet, otherwise drainage to a cesspool will be required. Suitable access shall be maintained for the regular emptying of any septic tank or cesspool. Any septic tank shall be desludged at not less than 12 monthly intervals

Along with the following advisory condition:

' Unexpected land contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, works must be halted on that part of the site affected by the unexpected contamination and it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken to the extent specified by the Local Planning Authority prior to resumption of the works.

PUBLICITY

4. Neighbours were notified and comments received are set out below :-

P J Shepherd

Fulthorpe Farm Wynyard Road

Supports Application

Letters of support were also submitted as part of the application and the comments received are set out below:-

Mr Liam Gamble

Oaklands Veterinary Centre

Mr Shepherd is responsible for a herd of roughly 75 cattle. These include cows ready to give birth and young calves. Oaklands visit the yard regularly for routine health visits and emergencies.

In my opinion, as an experienced large animal veterinary surgeon, there is a need for a permanent on site presence to provide 24 hour care for farm animals at establishments of this kind. I am aware of the 'functional needs' test required by the government for on-site accommodation.

Bovine animals can require intensive observation and nursing throughout the day and night for numerous reasons; not only but including:

- In the hours prior to giving birth and during calving all cows require regular checks and a cow may need constant observation through the night. At this time any failure in supervision can result in death of the cow or calf. Only last month I visited the farm at 3am to perform an emergency caesarean – highlighting the regular need for overnight care.
- When subject to attacks of metabolic disease (such as hypomagnesaemia – a fatal disease with rapid onset).
- Multiple serious illness and conditions of more general nature (such a pneumonia)

It is, in our view essential that a suitably experienced and qualified person is available on site to prevent unnecessary distress to injured animals and to provide intensive care as and when necessary. Indeed, in our experience, the absence of such can lead to serious injury and distress to animals and ultimately (preventable) death. The on-site presence of Mr Shepherd is essential for the welfare of the animals under his care.

Mr R Harding

Coppice Farm, Blakestone Lane

I have no objection to the location and construction of the above private dwelling. The proposed property would also be an asset, by providing extra security to other properties in the area. Mr Shepherd is my neighbour and cultivates part of my land.

Mr & Mrs M Lawson

Blakeston Croft Farm, Blakeston Lane

I am writing to offer my full support to Mr Matthew Shepherd with his planning application for a permanent dwelling at Fulthorpe Farm, Thorpe Thewles.

I have known Matthew for 9 years, he is a local farmer, where his business involves breeding cattle and producing large quantities of hay and straw crops to feed his stock or sell to other stock farmers.

I myself, being a cattle breeder see it as being essential for Matthew to be on hand to see to his cattle day and night for animal welfare and security purposes as farming is far from being a nine to five job.

We have traded breeding cattle between ourselves in the past and look forward to doing business again in the future, as he expands his herd.

Mr & Mrs Steel

Bradley Farm, Sandy Lane

The following is in support of a planning application from Mr Mathew Shepherd for permission to build a dwelling on his land at Fulthorpe Farm.

My Wife and I have known him for more than 22 years, during which time he has shown himself to be an extremely competent farmer, well known for his positive attitude to farming and the care of the environment.

His animal husbandry skills have been demonstrated to us when some of his cattle have been grazed on our land and we have seen first-hand his care and attention towards them.

His application is also based on the ever increasing need for the security of his animals, thereby necessitating the need for his presence on his land both day and night thus combining welfare and security.

Kevin Mc Dermott

Wilmire House Farm, Sandy Lane West

I am writing to you regarding Matthew Shepherd whom I have known personally for over eight years.

I have known Mattie in a variety of capacities and have always known him to be an organised, responsible, and easy going individual. Mattie has rented some land from me for the past five years and has an excellent rapport with people of all ages.

In summary, I wish Mattie every success in his endeavour to seek planning permission for a new house build.

Mr A.F. Smith

Howden House Farm, Blakeston Lane

I have known Matty Shepherd for several years as he rents 15 acres of pasture land from me, for hay and grazing of his animals.

I feel it would be beneficial for the welfare of his animals if he is allowed to live on his own property, where he will be able to rear his livestock.

Mr & Mrs P Wood

Owton Grange Farm, Billingham

I have known the applicant Mr Mathew Shepherd for over 17 years. He is a lifetime farmer from a farming background and is very dedicated to his farming business.

I am writing to give full support for his planning application to be approved at Fulthorpe Farm for a house.

It is essential for him to have this at Fulthorpe Farm to run his farming business and fully support the welfare of his animals.

PLANNING POLICY

5. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan

Section 143 of the Localism Act came into force on the 15 Jan 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations

6. The following planning policies are considered to be relevant to the consideration of this application:-

National Planning Policy Framework

Paragraph 14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking;

For decision-taking this means:

approving development proposals that accord with the development without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

-any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or -specific policies in this Framework indicate development should be restricted.

Paragraph 55 states

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

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling.

Core Strategy Policy 2 (CS2) - Sustainable Transport and Travel

1. Accessibility will be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, fully integrated into existing networks, to provide alternatives to the use of all private vehicles and promote healthier lifestyles.

3. The number of parking spaces provided in new developments will be in accordance with standards set out in the Tees Valley Highway Design Guide.

Further guidance will be set out in a new Supplementary Planning Document.

Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change

1. All new residential developments will achieve a minimum of Level 3 of the Code for Sustainable Homes up to 2013, and thereafter a minimum of Code Level 4.

4. To meet carbon reduction targets, energy efficiency measures should be embedded in all new buildings. If this is not possible, or the targets are not met, then on-site district renewable and low carbon energy schemes will be used. Where it can be demonstrated that neither of these options is suitable, micro renewable, micro carbon energy technologies or a contribution towards an off-site renewable energy scheme will be considered.

8. Additionally, in designing new development, proposals will:

- _ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;
- _ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;
- _ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;
- _ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.

Saved Policy EN13 of the adopted Stockton on Tees Local Plan

Development outside the limits to development may be permitted where:

- (i) It is necessary for a farming or forestry operation; or
- (ii) It falls within policies EN20 (reuse of buildings) or Tour 4 (Hotel conversions); or

In all the remaining cases and provided that it does not harm the character or appearance of the countryside; where:

- (iii) It contributes to the diversification of the rural economy; or
- (iv) It is for sport or recreation; or
- (v) It is a small scale facility for tourism.

MATERIAL PLANNING CONSIDERATIONS

- 7. The main considerations are the principle of the development in this location, which is beyond the limits of development. Secondary considerations are the size and siting of the dwelling and the potential impact on the character of the area, amenity of neighbouring properties, and highways.

Principle of Development

- 8. Guidance contained in the National Planning Policy Framework states "Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking", one of those principles is that planning should "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable" and also "Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside; or where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or the exceptional quality or innovative nature of the design of the dwelling".
- 9. The site lies outside the limits of development and is also therefore subject to saved Policy EN13 of the adopted Stockton on Tees Local Plan, which resists residential development in these locations unless there is strong justification for a dwelling for agricultural, or forestry or other appropriate countryside use.

10. The applicant has claimed that there is a need for an agricultural workers dwelling on the site to serve the existing business and has submitted a planning statement, accounts, and other supporting documents.
11. The key word in the National Planning Policy Framework guidance is 'essential', it should not be merely convenient for the applicant to live on site. Annexe A to the PPS7 contained guidance on the methodology for assessing 'essential need'. This included a functional and financial test. No guidance is given in the NPPF as to how 'essential' need can be assessed. Nevertheless it is considered that assessing the functional requirement and satisfying a financial test is still an appropriate methodology.
12. Annex A of PPS7 states that the need must also be for a full time worker and not a part time requirement. In order to justify a permanent dwelling the applicant must demonstrate that it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times.

Assessment of the business

13. The supporting planning statement states that the applicant's primary enterprise is breeding cattle where a herd of approximately 51 head is run on the farm. The suckler cows calve throughout the year and calves from the cows are grazed before being sold. As well as grazing livestock a large volume of hay and silage is made to both support the applicant's livestock and sell throughout the winter.
14. The applicant owns a parcel of land that is approximately 4.5 acres which contains a farm building used for the storage of machinery, workshop space and cattle accommodation. The agent has confirmed that approximately 5,760 sq ft of the total 11,753 sq ft of the buildings is used for cattle accommodation. The applicant also rents a number of other parcels of land resulting in a total farm size of approximately 270 acres.
15. It is also acknowledged that the applicant runs an agricultural contracting business but it is stated this is not linked to the justification for a dwelling provided within the application.

Functional need and labour requirements of the business

16. A functional need is defined as one which establishes whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times, for example in cases where animals require essential care at short notice.
17. The proposal must clearly demonstrate an essential need for the presence of a worker to live on the site and if there is a functional need the business must demonstrate the need for a full time worker.
18. It is acknowledged that the presence of cattle on the site is an aspect of the business where emergencies could arise, such as problems during calving, which require intervention. However, the limited amount of cows/heifers calving is not considered to be of a size that warrants a worker being readily available at most times. It is important to note that a competent stock man would have a good idea of when a cow is likely to calve, and whilst many would calve during the day, if necessary he/she could return to the site to check the occasional cow that might calve at night.
19. The planning statement states that the calculations for the farming (not including any contracting activity) labour requirement shows the need for approximately 1.2 full time labour units on the holding and that more importantly the number and nature of livestock on the holding makes it imperative for at least one full time able farm worker to be available on

site at all times. However the calculation for the labour requirement includes 187 man days per year for the management of grassland and the cut for hay/silage and 41.54 man days per year for maintenance and repairs. These aspects of the business have no bearing on the essential need for a permanent dwelling at the application site as these aspects could easily be managed remotely.

20. If these aspects of the business are removed from the calculation the labour requirement for the cattle would be 0.33 employees. This concern was discussed with the agent who has stated that with significant numbers of animals and valuable crops on site for the majority of the year, the business clearly demonstrates a functional need. It is acknowledged that the presence of cattle on the site will require a level of care however the current numbers of cattle on site do not provide sufficient justification for a full time worker to reside at the site.
21. Overall, it is considered that due to the cattle numbers present on site and as the figures given by the agent do not clearly demonstrate that the cattle business has a need for one or more full time workers and it is considered insufficient justification has been submitted to show the business passes the functional test.

Assessment of the financial aspect

22. Accounts have been submitted for the last three financial years and show the business as a whole has been operating for the required 3 years and is profitable. However the figures include the income and expenditure from the machinery contracting business and do not clearly identify income and profit from the cattle business. This issue was raised with the agent who has stated that the applicant's farming and contracting operations are all ran together, both physically and financially. It is impossible to create a separate set of financial accounts for the cattle side of the business but it is stated the business is profitable. It is considered that evidence should be submitted to show the business could support enough cattle to be viable in its own right and nowhere is this set out in the evidence.
23. Taking the above into account it is considered that for the purposes of determining whether a dwelling on this land is essential and would be sustainable, the submitted information does not demonstrate that the cattle rearing business at Fulthorpe Farm would be profitable and could support the construction of the proposed house. It is therefore considered the proposal in its current form does not pass the financial test.

Size of dwelling

24. The proposed dwelling has a footprint of approximately 182 sqm. Although there is no guidance within the NPPF, it is appropriate to ensure that the dwelling is of a suitable size to serve the needs of the holding. It is considered that the floor area of the proposed dwelling would be within the upper range of what would be considered acceptable but the amount of accommodation is not considered to be excessive. There is an office and facilities provided at ground floor however these facilities are considered appropriate as they would serve the farm business.

Siting of the dwelling and the impact on the character of the area

25. The proposed dwelling would be located on an existing undeveloped area between the farm buildings and the highway of Wynyard Road. The dwelling would be set back from the highway by approximately 250m. The proposed dwelling is of a size and scale comparable to the existing property serving Fulthorpe Farm and it is considered that its introduction would not have an adverse impact on the character or appearance of the area.

Impact on residential amenity

26. It is considered that due to the location of the proposed dwelling there will not be any significant detrimental impact on neighbouring occupiers. The nearest residential property is the existing dwelling at the site and this is in excess of 80m from the location of the proposed dwelling.

Highway Impact

27. The Head of Technical Services has stated the site is served by an existing access and parking is provided within the site; there are no highway objections.

28. Taking the above into account, it is considered the proposal is acceptable in highway terms.

Residual matters

29. As stated previously the applicant purchased a parcel of land at Fulthorpe Farm. Fulthorpe Farm is owned by the applicant's parents who live in a dwelling on the site. Since purchasing the land the applicant has sited a residential caravan on the site without gaining planning approval. The agent has confirmed the caravan has been on site for approximately 3 years and this matter is being investigated by the Planning Enforcement Section.

CONCLUSION

Overall, it is considered that the principle of the development of a dwelling on this site is not acceptable as insufficient justification has been provided to prove there is an essential need for the proposed dwelling in accordance with the NPPF and Local Plan Policy EN13.

It is therefore recommended that the application be Refused for the reason(s) specified above.

Corporate Director of Development and Neighbourhood Services
Contact Officer Miss Ruth Hindmarch Telephone No 01642 526080

WARD AND WARD COUNCILLORS

Ward Northern Parishes
Ward Councillor Councillor J Gardiner

IMPLICATIONS

Financial Implications: n/a
Legal Implications: n/a
Environmental Implications: n/a

Human Rights Implications:
The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report.

Background Papers:

National Planning Policy Framework

Core Strategy Development Plan Document

Local Plan Policies

Application file 14/0192/FUL