

Item 7 **09/00023/FU** **Refuse Full Planning Permission**

Case Officer **Caron Taylor**

Proposal **New dwelling for agricultural workers including detached garage**

Location **Land West Of Knowleswood Wrennalls Lane
Heskin Lancashire**

Applicant **Mr And Mrs Michael Martland**

Consultation expiry: 13th February 2009

Application expiry: 10th March 2009

Proposal The application is for a new agricultural workers dwelling including detached garage.

Summary The applicants are currently living in an extended static caravan on the site, the lawfulness of which has not been established. PPS7 lays out the criteria that applications for agricultural workers dwellings should meet. The County Land Agent, who advises the Council on such matters has advised that all these criteria have not been met. While it is considered there are other issues in this case that must be considered as part of the application and the application is somewhat finely balanced because of this, overall it is not considered that the application could be supported, mainly due to failure of the financial test.

Policies Regional Spatial Strategy: RDF4
PPG2: Green Belts
PPS7: Sustainable Development in Rural Areas
Local Plan Policy DC1

Planning History The recent planning history of the site is as follows:

Background The application is for an agricultural workers dwelling. The applicant, Mr Martland his wife and three children, aged 3, 5 and 7, currently reside at the farm in a static caravan, which has been extended. It is advised that the Mr Martland and his wife have lived in the static caravan for ten years and it was extended five years ago. There is no planning permission for this static caravan.

Consultations **Lancashire County Highways**
No objection

United Utilities
No objection

Environment Agency
No objection subject to a condition relating the approval of a scheme for the disposal of foul sewage.

Coal Authority
Standing Advice

Lancashire County Council – Land Agent

Annex A to PPS7 sets out the criteria against which applications for permanent agricultural workers dwellings should be assessed. The County Councils Land Agent has provided advice on this matter (his response is in italics), with the assessment below:

- (i) there is a clearly established *existing* functional need (as set out in paragraph 4 of PPS7);

It is appreciated that the time of lambing of the sheep flock to be the period when most supervision is needed. However, lambing is seasonal and takes place for a limited period of time throughout the year. Therefore it is not considered the 'at most times' aspect of this criterion is satisfied.

- (ii) the need relates to a full-time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;

whilst it is appreciated that the applicant spends a significant amount of time at the site, there are reservations with regards to whether the applicant satisfies this criteria. This is due to the fact that the level of profit is significantly less than that of a full time minimum agricultural workers wage. In addition, it is anticipated that the level of income from the agricultural enterprise could be lower than that derived from the contracting business and hence the applicant would not be 'primarily employed' in agriculture. The principle contracting work carried out by the applicant, whilst carried out on farms, is not agricultural but mainly fencing type work.

If the planning consent was granted, it is therefore doubtful whether the applicant could satisfy the agricultural occupancy condition imposed.

- (iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;

The level of profit made by the business over the last three years has been very modest and significantly lower than that of a minimum agricultural worker's wage. It is not considered that the level of profit is capable of supporting a living and erecting a dwelling. Details have not been provided as to how the dwelling would be funded although the applicants state they would carry out as much work as possible. In addition the applicant owns none of the land on which the enterprise relies with the majority being rented on short-term agreements.

- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and

It should be noted that a dwelling is associated with the unit. The applicant's parents own the property, but so is

the land associated with the agricultural activity. Whilst this property is occupied by the applicant's family, it has traditionally served the land associated with it and cannot be disregarded.

In addition, the site is only approximately 1km from the village of Ecclestone, within which there is a range of property available (including those with shared ownership), which would allow the applicant to attend the site within a short time.

- (v) other planning requirements, e.g. in relation to access, or impact on the countryside are satisfied.

Paragraph 9 of Annex A states: 'Agricultural dwelling should be of a size commensurate with the established functional requirement. Dwellings that are unusually large in relation to the agricultural need of the unit, or unusually expensive to construct in relation to the income it can sustain, should not be permitted'.

As mentioned above, it is not considered the functional and financial tests to be satisfied. Notwithstanding this, it is estimated the proposed internal floor area to be approximately 170m². It is considered a floor area of about 120m² would be acceptable.

In summary, while the applicant's current living conditions are appreciated it is not considered there is a functional need for a worker to live on the unit. In addition, it is considered the financial test has not been satisfied and there are also other properties suitable and available.

Representations

Two letters of support have been received. They state that the applicant and his family need more space. They are hard working people and are an asset to the small community.

A letter from the applicant's father has been received stating the applicant, Mr Martland, took over the farm when he retired on health grounds in 1996 as he had to give up working. He states he has lived at the farm for over 43 years and ran it with his own parents until they passed away. The family goes back for more than four generations in farming so it is hoped that the application is approved.

A letter has been received from the property opposite the site of the proposed dwelling, Langs Farm. They state that they support the principle of a dwelling but question its proposed location. The land is a meadow of outstanding beauty adjacent woods and they believe the location would have a detrimental effect on the character of the area. It would be better located within the existing farm boundaries creating a safe environment for the workers family and providing easy access to tend livestock and much easier vehicular access using the current entrance. The proposed siting is in an elevated position in relation to Langs Farm and the dwelling would block natural daylight when the sun is lower in the winter months and would intrude greatly on their

privacy and access to their driveway. At present there are no farm vehicles that come past Langs Farm and they would not look forward to the noise of these vehicles and a further two cars owned by the applicant and his wife and their various visitors being driven past this secluded quiet part of Wrennalls Lane. They are also concerned that appropriate effluent waste facilities are provided as the current dwelling has no such facilities, which causes them problems.

Applicant's Case

The applicant has stated their case in relation to the Government guidance in Annex A of PPS7:

The farm has approximately 450 ewes from December to April and the sheep are lambed during busy periods. Someone is up nearly every hour checking the sheep through the night and during this period it is necessary to be as close as possible to them, if not there is a strong possibility that lambs could be lost, especially in cold weather. Over half the lambing sheep giving birth need help and a lot require bottle-feeding. As many as twenty sheep are helped during one night in busy times and a constant check needs to be made for the first signs of illness. If left untreated Watery Mouth can kill in less than an hour. All the lambs are checked every half hour to maintain low mortality rates.

The applicant (Mr Martland) has lived on the farm all his life, 37 years and his dream was always to follow in the family footsteps as a farmer. It is intended to expand the business and run the farm to its maximum capacity, but to do this security in the farm is needed, a proper, more permanent home for the family before more money is committed into improving facilities. The farm does not employ any staff due to cost, the applicants do everything. When lambing ends work on the farm continues such as dipping and shearing and weighing and checking the lambs.

The family currently live in a static caravan on the farm and have been for around ten years, but its condition is deteriorating. The sheep farming business is a family business that the applicant's are fully in charge of, both are full time agricultural workers as detailed above. In order to supplement their income the applicant, Mr Martland, has started erecting fencing locally which is ideal as it does not conflict with the lambing season which they stress is merely a method of supplementing earnings from the farming business and is not the primary source of income for the family. Mr Martland began this work when there was a desire to expand the sheep farming business and the requirement for expensive agricultural machinery necessitated the need for some extra financial support. There was also a period in 2001 when the applicant and his wife could not work on the farm as one of their children had open-heart surgery and the fencing work helped pay the bills, some of which are still outstanding from that period. This is seen as a sensible solution to the long-standing problem of low profit margins in the agricultural industry and is not considered to conflict with the principles of PPS7.

The account figures for the farm have been provided along with the value of the stock and it considered that these show that the agricultural activity has been established for more than three years, it has been profitable since at least 2002, the business is financially sound and has clear prospect of remaining so.

The need for a dwelling could only be met by a dwelling situated on the holding due to the need for a round the clock presence, particularly during the lambing season. A remote dwelling would not address the functional need. The existing bungalow on the farm is occupied by Mr Martland's parents and two adult brothers and is of very modest size. It would therefore be unreasonable to expect a family with three young children to move into it. The existing bungalow is not tied by condition to the farm. The proposed dwelling respects its surroundings and is in keeping with the area. Its height has been kept to a minimum.

Assessment

Green Belt

Where the criteria in PPS7 as set out below are met, new dwellings for agricultural worker can be appropriate development in the Green Belt.

Justification for an Agricultural Workers Dwelling

PPS7 states that isolated new houses in the countryside will require special justification for planning permission to be granted. Where this relates to the essential need for a worker to live permanently at or near their place of work in the countryside, planning authorities should follow the advice in Annex A [to PPS7].

Annex A to PPS7 sets out the criteria against which applications for permanent agricultural workers dwellings should be assessed. The County Councils Land Agent has provided advice on this matter (his response is in the consultations section above).

It is clear that the County Land Agent does not consider the tests in Annex A to PPS7 have been met in order to justify an agricultural workers dwelling, however it is considered important to look at what this policy is aiming to achieve in assessing the application. The aims of the policy are to ensure that the intentions of the applicant to engage in farming are genuine, they are they likely to materialise, they are capable of being sustained for a reasonable period of time and if there is the need for one or more people engaged in the farm to live nearby.

Although the County Land Agent did not consider there was a functional need for a full-time worker to be available 'at most times' due to the seasonal nature of lambing, it is clear the farm is Mr Martland's main employment (aided by his wife). Although Mr Martland has and does undertake other fencing work there were other circumstances surrounding the family situation that made this necessary over past years, such as the illness of one of their children which lead to debt and the desire to expand the business and therefore bring in other income to enable them to do this in the long-term. I am therefore sympathetic to the applicant's case in terms of the functional requirement and full-

time employment as I consider it meets the overall aims of PPS7. In addition, the provision in PPS7 that a part-time need does not justify a dwelling is somewhat modified by the statement that a worker who is '*primarily employed*' in agriculture may also comply. It is considered Mr Martland is primarily employed in agriculture.

The main issue is with the profitability of the farm, which is very modest indeed, and significantly lower than that of a minimum agricultural worker's wage. The cost of building a dwelling and the impact this could have on the business is a material planning consideration. The County Land Agent does not consider that the level of profit is capable of supporting a living and erecting a dwelling at the farm as the profit levels is so low in this case. Although the applicants state that they would carry out as much work as possible themselves, the dwelling applied for is comparatively substantial as an agricultural workers dwelling even without the cost of the land (which is owned by the applicant's father). It is accepted that profit figures are not the only indicator of viability, and sustainability is important as well in line with the aims of PPS7. It is also accepted that PPS7 advises that a realistic view of profits must be taken. However, the profit levels are particularly low in this case and although the applicants state a small mortgage may be taken out, no profit forecasts have been provided that account of the need to repay a mortgage on the new house. Taking a realistic view in line with PPS7 the figures seem very low to provide for both a family and further invest in the business as well as construct a dwelling. The applicants state they intend to expand the farm once they have more stability with their accommodation, however the policy works the other way around in that the expansion should occur first in order to justify a dwelling, although there is sympathy towards their current accommodation situation.

There is an existing dormer bungalow on the site that is currently occupied by the applicant's parents and brothers, which traditionally served the farm. The test in PPS7 is that any functional need could not be fulfilled by another dwelling on the unit, or any other existing accommodation in the area that is suitable and available for occupation by the workers concerned. There have been a number of cases (mainly based on the High Court case *Keen v SOS & Aylesbury Vale DC 1995*) where inspectors have looked at similar situations and concluded that it is not reasonable that the appellant's parents should have to sell their home and move elsewhere. This is almost an identical situation to this application and it is therefore considered that the farmhouse could not reasonably be regarded as available to meet the needs of the farm. An important factor in this case is that the current dwelling is not tied to the farm. In terms of the proximity of the farm to Eccleston, if the other tests of PPS7 were met it is not considered that a property in the village could reasonably meet the needs of the applicant in terms of the distance that would need to be travelled given the nature of the farm, for example during the crucial lambing season.

Paragraph 9 of Annex A states: *'Agricultural dwelling should be of a size commensurate with the established functional requirement [rather than the desire of the applicant]. Dwellings that are unusually large in relation to the agricultural need of the unit, or unusually expensive to construct in relation to the income it can sustain, should not be permitted'*. The aims of this criterion are two fold – to minimise harm to the rural landscape but mainly that if a request is made to remove an agricultural occupancy condition in the future, to prevent an argument that the dwelling is beyond the means of the agricultural community due to its size/expense.

The dwelling proposed would have a floor area of approximately 170m² and the County Land Agent states that a floor area of about 120m² would be acceptable (related to the needs of the holding). In the past the Local Authority has accepted agricultural workers dwellings of approximately 150m². Although the dwelling applied for is larger than the County Land Agent advises, this issue is largely related to the profitability of the farm and what the business could support, a test that it is not considered has been met. The County Land Agents recommended floor area is therefore related to the low profitability of the farm.

Fallback Position

The applicant is currently living in an extended static caravan at the site that does not benefit from planning permission. Although there is some evidence it has been on the site for a significant period of time and the Council does not consider it expedient to take enforcement action, it does not benefit from a Lawful Development Certificate. If its lawfulness were established, the size of replacement unit or dwelling policy would allow it to be replaced with (without agricultural justification), would be less than the size of the dwelling currently applied for. Therefore it is not considered that this fallback position carries such weight that it would outweigh the requirements of the criteria in PPS7.

Design and Appearance

The design and appearance of the dwelling is considered acceptable, subject to material samples. There are a wide variety of properties in the area including bungalow and houses.

Neighbour Amenity

The only two properties that would be affected by the dwelling would be Lang's Farm and Endridge, both opposite the site. The owners of Endridge have written in support of the application. The owners of Lang's Farm have not objected to the principle of the dwelling but to its position in that it will have a detrimental effect on the character of the area and block natural daylight when the sun is lower in the winter months as well as intrude greatly on the privacy of Langs Farm and access to their driveway. It is not considered that the proposed dwelling would have an unacceptable impact on this property. The position of the new dwelling would be in a field immediately adjacent to the farm, closely related to it, it is not considered that the dwelling should be positioned within the farm itself as this could lead to conflict between the activities of the farm and the domestic use of

the property, particularly as the applicant has young children. In addition there will be approximately 28m between the two dwellings and approximately 23m between the proposed dwelling and the boundary with Lang's Farm at an angle. Given the distance between the dwellings it is not considered that the proposal would block sunlight to Langs Farm in the winter months or result in an unacceptable level of privacy to this dwelling. The increase in traffic caused by one property would not result in an unacceptable loss of amenity or highway safety issues as the property has sufficient turning and off road parking space. Waste will be dealt with by a septic tank to which United Utilities have no objection.

Recommendation Refuse

Recommendation: Refuse Full Planning Permission

Reasons

1.

The proposed development would be located within the Green Belt as defined by the North West Regional Spatial Strategy Policy RDF4 and the Adopted Chorley Borough Local Plan Review. The proposed development is contrary to Policy DC1 of the Adopted Chorley Borough Local Plan Review and PPG2: Green Belts, as in the Green Belt planning permission for new dwellings will not be granted unless required for agriculture or there are very special circumstances that would outweigh the presumption against it. There are not considered to be sufficient agricultural or other very special circumstances in this instance to justify the erection of a dwelling. The proposal does not accord with the all the criteria set out in Annex A of PPS7.
