

UTT/0458/12/OP (Hadstock)

**(Call in request by Councillor A Ketteridge whatever the recommendation
Reason: Impact of development on the countryside)**

PROPOSAL: Outline proposal for replacement of existing mobile home with agricultural workers dwelling.

LOCATION: Little Bowers Farm, Bowers Lane, Hadstock

APPLICANT: Mr C Barker

AGENT: RSP Planning & Development

GRID REFERENCE: TL 566-433

EXPIRY DATE: 11 May 2012.

CASE OFFICER: Mr C Theobald

1.0 NOTATION

1.1 Outside Development Limits / Listed building adjacent.

2.0 DESCRIPTION OF SITE

2.1 The site is situated within a relatively isolated position at the end of Little Bowers Lane adjacent to Little Bowers Farmhouse and comprises a twin unit three bedroomed mobile home with single garage currently occupied by two agricultural workers employed at Little Bowers Farm, a combined farming enterprise consisting of a free range and organic poultry business (11,000 hens) and established fruit orchards within a stated holding area of 11.3 ha (28 acres). The site is accessed by an unmade farm track leading up from the lane to two poultry units that stand on open and slightly higher ground behind the farmhouse and opposite the mobile home.

2.2 Little Bowers Farmhouse (falling outside the application site) comprises a Grade II listed period dwelling with yard and outbuildings, including a range of former stables converted to four holiday lets which have planning permission to be converted to separate dwellings Little Bowers Farmhouse is currently occupied by the applicant, whom it is stated is semi-retired from the farming enterprise, although the farmhouse and its immediate curtilage, including the aforementioned outbuildings have recently been sold by the applicant subject to contract to a third party who is not employed in farming.

3.0 PROPOSAL

3.1 This application seeks outline planning permission for the removal of the existing mobile home and its replacement with a three bedroomed agricultural worker's dwelling with all matters reserved except consideration of access and layout. Indicative plans show that the dwelling would be of chalet style appearance at 1½ stories with a plain tiled clay tile roof with smooth rendered walls with associated low

fenced curtilage The plans show that the dwelling would have a ridge height of 6 metres with a hipped end roof.

4.0 APPLICANTS CASE

4.1 Two accompanying reports accompany the application, namely a planning statement prepared by RPS and an agricultural appraisal prepared by Acorus Rural Property Services Ltd.

4.2 Summary (RPS)

- The applicant retired from running the farm full time in 2005.
- The existing mobile home on the site is considered to be functionally unsuitable for the manager and his family.
- The main farmhouse provides residential accommodation for the applicant and is therefore not available to the farm manager.
- A manager is required to be available on the farm at all times to take deliveries and manage the welfare and security of the hens. The applicant had previously performed this role, but since retirement this has been the duty of the farm manager
- The converted outbuildings (holiday lets) are under separate ownership from the applicant and therefore are not available to the farm manager currently living in the mobile home.
- Circumstances have materially changed since the 2004 dismissed appeal for an agricultural workers dwelling, most notably that the applicant has now decided to retire full time from the business. There is therefore a demonstrated functional need for a worker on the site where the farm is effectively being solely run by the farm manager and his family from the mobile home.
- The proposed dwelling would be modest in size with its design taken from the existing farmhouse, whilst its siting would make best use of existing boundary screening.
- The farming enterprise at Little Bowers has been established for more than 15 years and has every prospect of remaining economically viable and in profit, even with the additional wages being paid to the farm manager and the applicant's pension payments.
- The farm has previously been identified from the 2004 appeal as being financially sustainable where the accompanying Acorus report states that levels of net profit are such to fund the size of the proposed dwelling.
- The holiday lets provide a valuable source of income for the applicant. Further, were these to be rented out, they would not provide any long term security for the farm manager and his family where the manager would not be able to afford the commercial rents which these lets could now attract and make him no better off. Neither are they designed for long term family use.
- There is a clear and proven need for a full-time agricultural worker (manager) to be on the site.

4.3 Summary (Acorus)

- The unit is well established, having been considerably expanded since the mid 1990's.
- Currently, there are 8,000 free range birds and 3,000 organic birds on the site.
- The fruit orchards comprise top fruit and soft fruit over 2.8 hectares (7 acres) with the balance of the land set to soft fruit and also to grass for the birds to roam.

- The 2 full time employees occupying the mobile home are responsible for both the poultry and fruit operations. In addition, there are 2 full time casual employees during peak hours. This all necessitates a suitably qualified person with both practical and technical knowledge to be available at most of the times of the day and night throughout the year.
- Farm accounts available for inspection show that the farm has been viable with turnover in 2009 of £405,339 and 2010 of £348,620. The levels of net profit are ample to fund the size of dwelling proposed whilst covering any element of unpaid labour input.
- Accommodation needs to be within sight and sound of the poultry enterprise to fulfil functional requirements. The previous appeal decision in 2004 made reference to Little Bowers Farmhouse. This, however, is not available since it is in separate ownership and not in the farm's control as is the case with the former holiday lets. Also, the farm proprietor has recently retired. Furthermore, there are no other suitable dwellings available locally to rent.

4.4 Letter received from applicant dated 9 August 2012:

"The farmhouse, stables and orchard view were jointly owned by myself and my second wife. Following her tragic and sudden death in March 2011, her 50% share was inherited by her two children. I am under considerable pressure from them to sell the property so that they may realise their inheritance. This part of the estate will be uninhabited shortly as I cannot resist this situation any longer. You are aware that test marketing was carried out following my wife's death. Response was poor, but some interest was shown in the farmhouse etc, and some interest also in the farm as a separate let depending on planning permission being granted for a dwelling. I am the sole owner of the farm, but believe it to be unsaleable without planning. I have read the Council's agricultural consultant's report and agree that the last four years show a declining farm profit. This is partly due to market forces where high feed prices and low egg prices have lead to tighter margins. The market has now recovered and profit margins are good. It is also partly due to my own retirement; I do not believe that this is the sort of business that can be run by a manager. I feel that my investment in the infrastructure of this farm can lead to a profitable lifestyle for a dynamic young couple. There are very few lower rings on this agricultural ladder and it would be a shame if this opportunity was denied by a failed planning application".

- 4.5 An email communication has been received from the NFU dated 25 October 2012 subsequent to the submission of the application supporting the applicant's proposal where it is stated that the farming enterprise is commercially viable and that there appears to be evidence of a functional need for a new dwelling on the farm. A copy of this email is attached to this report item for Members' information.

5.0 RELEVANT SITE HISTORY

- 5.1 Outline planning permission was refused in 2003 for the erection of an agricultural workers dwelling at Little Bowers Farm as the applicant had failed to demonstrate that the agricultural holding had an existing functional need for an additional full-time worker to be resident on the site and that the function could not be fulfilled by other existing accommodation in the area. As such, the proposal was considered to be contrary to Policies H11 (H12) and S7 of the local plan in force at that time and national policy guidance (UTT/1497/03/OP) - appeal lodged. In considering the appeal, the appointed Inspector held the opinion that the main issue to be decided was whether or not the proposed dwelling was essential to the agricultural activities

on the holding. In applying the five criterion contained within Annexe A to PPG7 (PPS7), the Inspector considered whether the applicant had met the required thresholds in terms of both the “functional test” and the “financial test”. The Inspector acknowledged that there appeared to be a requirement for a competent person to be available at most times on the holding regarding the running of the poultry business. However, he did not accept that there was justification for a further dwelling on the holding where this would be essential for the proper functioning of the enterprise. In terms of the financial test, the Inspector reasoned on the basis of the details submitted that in general terms the free range egg production business had every chance of remaining profitable given consumer demand at that time and met this test in this respect.

- 5.2 However, in considering the applicant’s employment position, the Inspector commented, *“I consider that, notwithstanding the appellant’s stated intention to retire, the existence of the farmhouse cannot be discounted when assessing the availability of existing accommodation on the holding. The farmhouse appears to have traditionally fulfilled the functional need for accommodation on the holding and, taking into account the needs of the enterprise, it is therefore a farm management decision as to who should occupy it. Furthermore, even if there was an exceptional reason why the farmhouse should not be made available to meet the needs of the enterprise, I share the Council’s view that part of the existing holiday accommodation near the farmhouse could be utilised for this purpose”, adding “It appears to me that one of the larger holiday units could provide adequate accommodation without the need for costly alterations”*. The Inspector concluded on this basis that the appellant had failed to demonstrate that the functional need of an additional agricultural worker could not be fulfilled by existing accommodation on the holding and that the appellant had not clearly demonstrated that the proposed dwelling was essential for the proper functioning of the enterprise or that the existing functional need could not be fulfilled by existing accommodation on the unit.
- 5.3 A revised outline planning application for an agricultural workers dwelling at the site running concurrent with the appeal was refused in 2004 for the same policy reasons (UTT/0594/04/OP). Planning permission was granted in 2011 for the removal of condition C.90A imposed under application UTT/1363/93/FUL to allow the use of 4 No. previously approved holiday lets at Little Bowers Farmhouse as 4 No. separate residential units meaning that the outbuilding range is now able to be utilised for full-time residential use, although it is understood that this permission has yet to be implemented.

6.0 POLICIES

6.1 National Policies

- National Planning Policy Framework (NPPF).

6.2 East of England Plan 2006

- Policy SS1: Achieving Sustainable Development
- Policy ENV7: Quality in the Built Environment

6.3 Essex Replacement Structure Plan 2001

- None

6.4 Uttlesford District Local Plan 2005

- ULP Policy H12: Agricultural Workers Dwellings
- ULP Policy S7: The Countryside
- ULP Policy GEN1: Access
- ULP Policy GEN2: Design
- ULP Policy ENV2: Development Affecting Listed Building

7.0 PARISH COUNCIL COMMENTS

7.1 Hadstock Parish Council:

Comments not received.

7.2 Ashdon Parish Council: Object - The site is located outside development limits. The erection of a dwelling in this situation would therefore set an unacceptable precedent.

8.0 CONSULTATIONS

Thames Water:

8.1 No comments.

National Grid:

8.2 High or Intermediate pressure (above 2 bar) Gas Pipelines and associated equipment has been identified as being within the vicinity of the proposed development.

Environmental Health Officer:

8.3 No comments.

UDC Access Officer:

8.4 The internal layout of the proposed dwelling will need to comply with the requirements of the SPD on Lifetime Homes. If approved, this advice will need to be reflected in the design of the DFO application.

9.0 REPRESENTATIONS

9.1 None received. Notification period expired 11 April 2012. Advertisement expired 26 April 2012. Site Notice expired 27 April 2012.

10.0 APPRAISAL

10.1 The issues to consider in the determination of this application are:

- A Whether sufficient justification has been put forward in terms of essential need to warrant the granting of an agricultural worker's dwelling at this location (NPPF and ULP Policies H12 and S7);
- B Whether access arrangements would be satisfactory (ULP Policy GEN1);
- C Whether layout details as shown would be satisfactory (ULP Policy GEN2);

- D Whether the proposal would have any detrimental effect on the setting of the adjacent listed building (ULP Policy ENV2).
- 10.2 The National Planning Policy Framework (NPPF) which has replaced PPS1 (Delivering Sustainable Development) and PPS7 (Sustainable Development in Rural Areas) has limited guidance on the issue of agricultural workers dwellings where it states that LPA's should avoid granting new isolated homes in the countryside unless there are special circumstances where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
- 10.3 In the absence of any detailed national policy guidance, the advice contained within Annex A of PPS7 relating to agricultural workers dwellings is still considered relevant and the thrust of this policy advice is reflected within ULP Policy H12 of the Council's adopted local plan. ULP Policy H12 itself states that new dwellings for agricultural workers may be permitted if a) it can be demonstrated that there is an essential need for someone to live permanently on site to provide essential care to animals or processes at short notice and b) that the scale of the proposed dwelling relates to the needs of the agricultural enterprise. ULP Policy S7 is also relevant to the proposal, which states that the countryside will be protected for its own sake and that planning permission will only be given for development that needs to take place, or is appropriate to, a rural area.
- 10.4 The main consideration concerning the merits of this proposal is therefore whether or not there have been any material changes in circumstances since the 2004 refusal/appeal as referred to above to argue that both the functional and financial tests for an agricultural workers dwelling at this location have now been met in order to comply with national policy advice and ULP Policies H12 and S7 sufficient for planning permission to be granted.
- 10.5 It is the applicant's case as previously described that there have been sufficient material changes in circumstances at the site to warrant a grant of planning permission with the current application, notably the pending retirement of the applicant from the farming business, the imminent sale of Little Bowers Farmhouse to a non-agricultural worker where no agricultural restriction exists on this property where a farm manager would be very unlikely to afford the purchase price (£680,000), and the inability of the applicant to be able to rent out one of the four holiday lets adjacent to the farmhouse which have planning permission to use them as separate dwellings as these are not within his ownership or control. It is stated that the applicant would fund the construction costs of the dwelling himself (estimated at £125,000) where the dwelling would remain in the ownership of the farm.
- 10.6 Rural Planning Limited (RPS) has been instructed by the Council to provide consultancy advice on the application proposal in response to the submitted information and technical reports, including disclosed trading accounts and has provided a detailed response. In its initial assessment on the merits of the proposal, RPS advised that the most recent available trading figures are not indicative of a sufficient net farming income to support the cost of the proposed permanent replacement agricultural workers dwelling at the site. Furthermore, it commented that the current sale of the farmhouse and yard in order to establish marketability and use value introduces at the very least a further element of uncertainty as to the future management and associated accommodation needs of the farm enterprise. The report concluded that:

“Recent events over the last year or two, including the applicant’s full retirement and consequent management changes, the changes in ownership of part of the overall

property, the decline in egg sales and overall profitability during 2010/11, the lack of any submitted financial results since then, and the marketing of the property, combine to signify that there is, at present, no sufficiently clear indication of present and prospective financial soundness to support the provision of the proposed permanent dwelling. On this basis, I would suggest that the application appears, at best, premature as matters stand”.

- 10.7 The report also concludes that there is a suggestion that the current mobile home on the site is “functionally unsuitable”, but makes the observation that this would not in itself be a reason for replacing it with a permanent dwelling as opposed to an upgraded temporary home given the higher quality specifications which are now available and where this would allow the ongoing needs of the farming enterprise to be met for the time being. A copy of this report is attached to this report item for Members’ information.
- 10.8 In response to further details requested by the Council from the applicant, including a request for financial returns for 2011-12, the Council’s consultant has since advised that these show a trading loss and another reduction in the egg sales total being supplied to the applicant’s wholesale supplier, John Bowler Eggs, and, as such, do not superficially assist the applicant’s case; rather that they confirm its previous advice that there is no sufficiently clear indication of present and prospective financial soundness to support the provision of a permanent dwelling and that even after taking into account fluctuations in wholesale free range egg prices where these have begun to rise again after both a sharp price fall and national over-supply, these lower prices alone do not account for the continued decline in egg sale income on this holding in each year after 2008/09 and where budget margin forecasts may have proven over-optimistic. The updated advice from the Council’s consultant based upon the new information received, including draft accounts received for 2011-2012 and with reference also to the preceding financial year concludes that;
- “Whilst budgeting may assist in assessing whether a business is likely to become financially sound, a financial case for a new permanent dwelling has to be based on the latest proven results. On the basis of the last two financial years, Little Bowsers Farm has not returned a sufficient net farming income to support the cost of the proposed dwelling, or indeed (taking the two years together) a net profit at all”.*
- 10.9 This advice expands upon and reinforces the previous advice given and updates the findings of Acorus where the disclosed results of the returns for the years 2009 and 2010 state that the farm has been financially viable during this period, but without recourse to later financial returns now available to the Council. Whilst it is appreciated that trading figures over a three year accounting period (the minimum period required to be able to make a proper financial assessment as required under the old PPS7, Annex A) is likely to show profit and loss cycles, the Council’s consultant nonetheless has highlighted sufficient deficiencies in the applicant’s case, including changed circumstances, to cast doubt over whether the farm is likely to be sufficiently financially viable enough to support a new dwelling even if the functional need can still be proven. A copy of this further report is attached to this report item for Members’ information.
- 10.10 In this respect, a crucial additional factor is the fact that since receipt of the current planning application, the applicant has wound down the stock of 11,000 birds on the site pending the outcome of his dwelling proposal. The applicant has stated that this action is due to the uncertainty with regard to the outcome of his proposal and that the site would be restocked for next year should planning permission for the dwelling be forthcoming. Whilst this action to withhold from any further stocking commitment

at the present time is seen as being understandable, it provides another element of doubt surrounding the applicant's case for "essential existing functional need" where this "forced" action will in the Council's opinion have a negative impact on the farm's profit margins for this year (2012-13) where eggs are not currently being produced on the unit. It is also a moot point as to whether the applicant's actions would have arisen in any event due to his stated pending retirement from the farming business at the site.

- 10.11 Given this latest development and also the pending sale of Little Bowsers Farmhouse etc, it is too speculative at the present time for the Council to place any weight on whether or not the situation could change under new management at some indefinite date in the future in the context of the current application. In the circumstances, it is considered that the applicant has failed to demonstrate that a clear need presently exists for a new agricultural workers dwelling to be provided at this site notwithstanding the sale of Little Bowsers Farmhouse where sufficient doubts have been highlighted in the Council's consultant report as to whether the new dwelling could be financially sustained on the holding. As such, it is considered that the proposal would be contrary to the tests required to be met under ULP Policy H12 and where this would also be contrary to the countryside protection aims of ULP Policy S7.

B Whether access arrangements would be satisfactory (ULP Policy GEN1)

- 10.12 The existing mobile home is served by an unmade private single track farm access leading up from Little Bowsers Lane. Given that the proposal is for the replacement of the mobile home with a single dwelling, the proposal would not result in any intensification of use of the access and no highway objections are raised where this is required to be considered for this outline application under ULP Policy GEN1.

C Whether the layout details shown would be satisfactory (ULP Policy GEN2)

- 10.13 The proposed dwelling would be sited within a protected corner of the farm holding adjacent to other farm buildings, albeit on rising ground from the road but at a lower ground level than the poultry units and more open land beyond and where it would be positioned centrally within its plot. No objections are therefore raised to the layout of the new dwelling as shown where this is required to be considered for this outline application under ULP Policy GEN2.

D Whether the proposal would have a detrimental effect on the setting of the adjacent listed building (ULP Policy ENV2)

- 10.14 The application site is situated some 70 metres away from Little Bowsers Farmhouse located to the immediate south-west. It is considered from this that the setting of this listed building would not be diminished by this proposal under ULP Policy ENV2.

11.0 CONCLUSION

- 11.1 The following is a summary of the main reasons for the recommendation:

It is considered from the information submitted and evidence currently available to the Council that the applicant has failed to demonstrate that there is an essential existing need for someone to live permanently on the site to provide essential care to animals or processes at short notice and that the scale of the proposed dwelling relates to the needs of the agricultural enterprise. Whilst the changed personal circumstances of the applicant are noted, it is considered that these are not sufficient

in themselves to warrant the granting of an agricultural workers dwelling at this relatively isolated site.

RECOMMENDATION - REFUSAL

ULP Policy H12 of the Uttlesford Local Plan (adopted 2005) states that new dwellings for agricultural workers may be permitted if a) it can be demonstrated that there is an essential need for someone to live permanently on site to provide essential care to animals or processes at short notice and b) that the scale of the proposed dwelling relates to the needs of the agricultural enterprise. The applicant has failed to demonstrate that there is an essential existing functional need for an agricultural workers dwelling at this site location where there is no sufficiently clear indication of present and prospective financial soundness to support the provision of the proposed permanent dwelling. It is considered from this that the application is premature and that the proposal would be contrary to ULP Policy H12 and also contrary to ULP Policy S7 which states that the countryside will be protected for its own sake and that permission will only be granted for development that needs to take place there.