

## UTT/21/1108/FUL

**Call in request by Councillor Tayler if recommended for refusal – reason: “This is a complex application which aims to support the sustainability of a significant local business, namely a 500-acre farm, which has impacts on the local economy, rural landscape, biodiversity and local food production”.**

<b>PROPOSAL:</b>	<b>Demolition of existing hay barn and erection of new farmhouse</b>
<b>LOCATION:</b>	<b>Land at Lodge Farm, Bardfield End Green, Thaxted, CM6 3PZ</b>
<b>APPLICANT:</b>	<b>Mr T Magness c/o David Magness Farms Ltd.</b>
<b>AGENT:</b>	<b>Donald Purkiss &amp; Associates LLP.</b>
<b>EXPIRY DATE:</b>	<b>25.05.2021 (Extension of time agreed until 08.10.2021)</b>
<b>CASE OFFICER:</b>	<b>Mr C Theobald</b>

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### **1.0 BACKGROUND**

- 1.1 Members will recall that the above planning application was reported to Planning Committee on 4 August 2021 for their consideration when Members were advised that the applicant had chosen not to submit an agricultural workers dwelling application through the promotion of land management to enable the local planning authority to assess essential agricultural need and whether the existing agricultural unit was capable financially of supporting such a dwelling (the two tests), primarily as it had been stated that the applicant would not be able to secure a commercial mortgage for such a status of dwelling thus making borrowing difficult and expensive. As such, the applicant had requested instead that the application be determined on its wider planning merits, principally whether the proposal amounted to a presumption in favour of sustainable development for the reasons as summarised in the original Committee Report to Members for this application (**See Appendix A attached to this Addendum Report**).
- 1.2 The original Committee Report considered by Members concluded that Officers were unable to properly determine evidence of the necessity for a rural worker to live on the site to ensure the effective operation of the agricultural enterprise, whether the farming business would be able to sustain a dwelling of the size proposed at the present time and the degree to which there was confidence that the enterprise would remain viable for the foreseeable future as a result of the application not being submitted on the basis of the promotion of land management under normal planning requirements. As such, it was considered by Officers based upon the nature of the application submission that the development represented a form of inappropriate development in the countryside, and additionally, that the proposal would not amount to a presumption in favour of sustainable development as the site was considered to be poorly served by public transport and not within walking distance of local services, meaning that there would be a reliance upon the motor car to access these services contrary to national and local planning policy. Accordingly, the application was recommended for Refusal.

- 1.3 However, and after giving due consideration to the planning merits of the application proposal, Members resolved to defer the application for a Members Site Visit and for further consideration and clarification surrounding the issue of the agricultural requirements of the proposal to be sought to enable the application to be reported back to Committee for further consideration.

## 2.0 SUMMARY OF FURTHER EVIDENCE SUBMITTED

- 2.1 Further to Members' deferment of the application at their meeting of the 04<sup>th</sup> August 2021, a Supplementary Planning Statement has since been submitted by the applicant's planning agent, which provides a brief resume of the national and local planning policies relevant to the submitted proposal, and how the application is considered to accord with these policies **(See Appendix B attached to this Addendum Report)**.
- 2.2 The Supplementary Planning Statement accepts that it cannot be proven within the planning application submission that agricultural justification of need and demonstration of a functional requirement of the applicant to be on site "24 hours a day, 7 days a week" exists, and adds that as the livestock at the site has recently been introduced, that a functional need cannot be demonstrated,; although it states that the applicant does not wish to live in a mobile home and wishes to be treated "*like every other applicant*". The Statement goes on to say that the site cannot be defined as an isolated home in the countryside by definition under paragraph 80 of the NPPF (as revised July 2021) that encompasses agricultural dwellings, where clarity on this issue has been sought in the Court of Appeal which has ruled that 'isolated' means 'physically isolated' and that there is no need to take into account 'functional isolation' as well (i.e., whether the proposed dwelling would be isolated relative to services and facilities). In this context, it is asserted that the site is not physically isolated given that it is adjacent to an existing dwelling under separate ownership just north of the site (The Lodge), and that there are further dwellings at the end of the approach drive to the site, namely Lodge Cottages. As such, it is further contended that the planning merits of the farmhouse proposal as submitted should be considered under the provisions of paragraph 11 of the NPPF and not under paragraph 80.
- 2.3 The Supplementary Planning Statement requests again that the Council is invited to grant planning permission for the proposed development under the provisions of paragraph 11 of the National Planning Policy Framework (NPPF), as revised July 2021, which states that plans and decisions should apply a presumption in favour of sustainable development, whereby the Statement reiterates the economic, social and environmental case for the development. In this regard, the Statement makes reference again to the single detached dwelling which the Council has approved for Mill Hill Farmhouse, Cutlers Green, Thaxted (UTT/18/1686/FUL) where it is stated that "*The site has virtually the same location and site characteristics as Lodge Farm on the western side of Thaxted, except the plot occupied a paddock and the proposal did not infer the demolition of an existing building*". As such, the Supplementary Planning Statement re-asserts that it has been demonstrated that the proposal meets all three strands of sustainability under the provisions of the NPPF, adding that paragraphs 11 d) (i) and (ii) of the NPPF are triggered as the Council does not have an up-to-date Local Plan or a 5-year housing supply (the 'tilted' planning balance). Notwithstanding this, the Statement recognises that the site is not within a sustainable location, although sets out again why the development would be sustainable for other reasons under the economic, social and environmental objectives of the NPPF **(see summary of benefits listed at page 3 of the Statement for fuller reasonings and explanation)**. Accordingly, it is contended that the benefits of the proposal

demonstrably and significantly outweigh “*the very small harm*” identified with the proposal whereby paragraph 11 of the NPPF is engaged and that planning permission should be granted.

### **3.0 APPRAISAL OF FURTHER EVIDENCE SUBMITTED**

- 3.1 The original Committee Report for this proposed farmhouse application concluded that both vehicular access arrangements and the design of the proposed dwelling were considered acceptable, notwithstanding the relatively large size of the dwelling intended to accommodate a local farm worker showing four bedrooms, whilst Place Services Ecology have confirmed that the development would not have a harmful impact on protected or priority species. The main issue remains as with the original committee report assessment as to whether the development is acceptable in principle, namely whether the proposal would amount to a presumption in favour of sustainable development under paragraph 11 of the NPPF (as revised 2021) in the *tilted planning balance* given that the application has not been promoted for land management.

#### **Whether the proposal would represent a presumption in favour of sustainable development**

- 3.2 It is clear from the applicant’s Supplementary Planning Statement that there would be economic benefits arising from the proposal in that the development would support a prosperous rural economy and local food production given that the dwelling is intended as a farmhouse for the applicant who would be overseeing the day to day management of Lodge Farm comprising 214 ha., at what is described as the centre of the farming operations, and which now includes a livestock operation as part of a proposed farming diversification of the business and also an intended regenerative approach to farming. Additionally, the applicant would be residing at his place of work, therefore reducing the number of vehicle movements made to and from the site each day/week as well as providing welfare facilities for existing farmworkers. In terms of the social benefits, the dwelling would meet the needs of the existing farming enterprise and the ongoing stewardship of the land and would also count towards the Council’s current housing supply deficit, albeit in a very insignificant way as a single dwelling proposal.
- 3.3 However, it is still considered that the site is located within an unsustainable location relative to local services, a position accepted by the applicant, where, as previously noted for the original Committee Report for this application, that the site / Bardfield Road is not served by any regular bus service (a bookable DART minibus is available in the area), and there are no pavements or street lighting given the site’s rural position where the relative remoteness of this outer section of Bardfield Road from Thaxted village centre was a cited reason for the dismissal at appeal for a single dwelling proposal at Pathwoods situated adjacent to the entrance to the site along the Bardfield Road frontage (UTT/20/1627/FUL refers – APP/C1570/W/20/3259894).
- 3.4 The Inspector remarked for this dismissed appeal that the site should not be considered as isolated in terms of paragraph 79 of the Framework (now paragraph 80 within the July 2021 NPPF revision update) given the presence of neighbouring development and having regard to established case law. It must follow from this that the site at Lodge Farm cannot be described as being isolated also (see applicant’s reference to the Court of Appeal case above). However, the Inspector for the dismissed Pathwoods appeal considered that this did not automatically equate to the site being an accessible or suitable location, adding at paragraph 20 of the decision letter that;

*“The appeal site is somewhat remote from the rural services and facilities in Thaxted. There are some opportunities for pedestrians and cyclists, but these are unlit and narrow rural roads and footpaths. Both are unlikely to be a realistic option other than for experienced walkers and cyclists. Such a journey would also not appeal at all”.*

Whilst noting the proposed farmhouse scheme at Lodge Farm would include the provision of an electric charging point, the Inspector for the dismissed Pathwoods dwelling scheme added that whilst noting that electric vehicle usage is increasing that the wider infrastructure *“was not sufficient to make any determinative impact or demonstrate it would be taken up other than on a limited individual basis”*. Such is also considered to be the case by Officers for the current Lodge Farm application.

- 3.5 It is accepted by Officers that there are similarities between the cited Council approved single market dwelling proposal at Mill Hill Farm, Cutlers Green, Thaxted situated on the west side of the village and the single market dwelling farmhouse proposal at Lodge Farm currently before Members, namely that the two sites are the same distance to Thaxted village centre, albeit on different sides to the village, and that both dwelling schemes incorporate similar sized cross-winged 1½ storey dwellings. However, the notable difference between the two sites as noted for the original Committee Report for the current Lodge Farm proposal is that the approved dwelling at Mill Hill Farm would be within walking distance of bus routes running through Cutlers Green, namely the No.6 Stansted Airport - Saffron Walden hourly bus service (Mon-Sat), the No.313 Great Dunmow - Saffron Walden two hourly bus service (Mon-Sat) and the 451/453 school bus service between Felsted/Wimbish and the Joyce Frankland Academy at Newport. As such, the principle of a new dwelling at Mill Hill Farm was considered acceptable by officers at the time of consideration of application UTT/18/1686/FUL on the basis of its favourable location in terms of accessibility to public transport whereas this favourable advantage does not exist for Lodge Farm.
- 3.6 The original Committee Report for the current planning application for Lodge Farm stated that the proposed dwelling would have approximately one fifth of the footprint compared to that of the hay barn to be demolished, thereby representing a significant local environmental gain through net building loss. The Report assessed from this that the introduction of a new dwelling at the site would thus have a lessened impact on the local landscape than the current large agricultural structure and arguably would lead to an environmental improvement at the site and its immediate surroundings. As such, it is reaffirmed by officers that the proposed development would meet the environmental dimension of the NPPF.

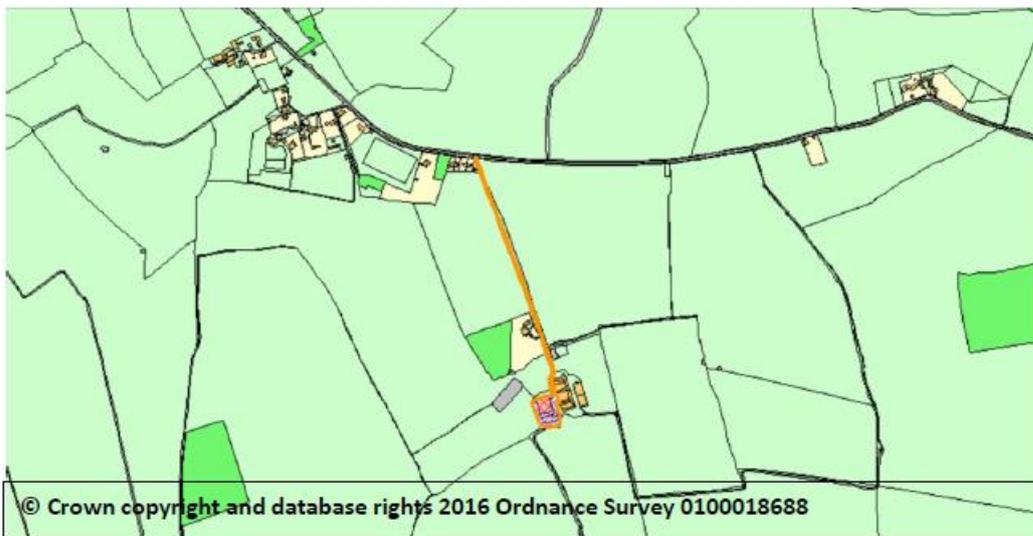
#### **4.0 CONCLUSION**

- 4.1 The applicant's submitted Supplementary Planning Statement has been noted. However, it is considered by your Officers that the arguments put forward within it in support of the application proposal are not persuasive enough to warrant a change in the original Officer recommendation, whereby the proposal has not been promoted for land management under the normal planning requirements for an agricultural workers dwelling whereby the Local Planning Authority is unable to properly determine evidence of the necessity for a rural worker to live on the site to ensure the effective operation of the agricultural enterprise, whether the farming business would be able to sustain a dwelling of the size proposed at the present time and the degree to which there is confidence that the enterprise would remain viable for the foreseeable future. Furthermore, it is considered that the proposal would not amount

to a presumption in favour of sustainable development in the tilted planning balance for the reasons as set out in the original Committee Report and as reaffirmed in this Addendum Report.

## RECOMMENDATION – REFUSAL

1. The development has not been promoted for land management under the normal planning requirements for an agricultural workers dwelling whereby the local planning authority is unable to properly determine evidence of the necessity for a rural worker to live on the site to ensure the effective operation of the agricultural enterprise, whether the farming business would be able to sustain a dwelling of the size proposed at the present time and the degree to which there is confidence that the enterprise would remain viable for the foreseeable future. Therefore, the development represents a form of inappropriate development in the countryside contrary to paragraph 79 of the National Planning Policy Framework (revised July 2021), Policies H12 and S7 of the Uttlesford Local Plan (adopted 2005) and Policies TX LSC1, LSC2 and HD1 of the made Thaxted Neighbourhood Plan.
2. The proposal would not amount to a presumption in favour of sustainable development as the site is poorly served by public transport and is not within walking distance of local services meaning that there would be a reliance upon the motor car to access these services. The proposal is therefore contrary to the National Planning Policy Framework (revised July 2021) which seeks to contribute to the achievement of sustainable development.



Organisation: Uttlesford District Council

Department: Planning

Date: 20<sup>th</sup> JULY 2021