

REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	15 th December 2010		
Application Number	10/03454/FUL		
Site Address	Grove Farm, Ashton Road, Leigh, SN6 6RF		
Proposal	Erection of agricultural workers dwelling and garage (revision to 08/02633/FUL)		
Applicant	Mr Bowley		
Town/Parish Council	Leigh Parish Council		
Electoral Division	Minety	Unitary Member	Councillor Carole Soden
Grid Ref	404633 192078		
Type of application	FULL		
Case Officer	S T Smith	01249 706 633	Simon.smith@wiltshire.gov.uk

Reason for the application being considered by Committee

This application has been referred to the Development Control Committee at the request of Councillor Soden so as to enable full and open consideration of the form of development in the context of previous decisions on the site.

1. Purpose of Report

To consider the above application and to recommend that planning permission to be GRANTED, subject to planning conditions.

No letters of objection have been received from members of the public. The Parish Council have objected to the application.

2. Main Issues

The application is for the erection of a new agricultural workers dwelling. It follows a grant of planning permission for the erection of an agricultural workers dwelling on the site and a subsequent refusal (and dismissal at appeal) for an application to amend the scale and appearance of that permitted dwelling. The key points to consider are as follows:

- Implications on DC Core Policy C3 and Housing Policies H3, H6
- Principle of development

3. Site Description

Grove Farm is situated some 2.0km south of the boundary of Ashton Keynes village in the open countryside.

The land immediately adjoining the application site extends to some 12.0Ha owned freehold by the applicant. There are four purpose-built agricultural building at Grove Farm. It is understood that

the applicant also farms 81.0Ha at Church Farm, Ashton Keynes. It is understood that in addition to the existing horticultural business run from Grove Farm, the applicant intends to establish a beef rearing enterprise. It is proposed that a total of 185 head will be reared through the farm annually.

An agricultural workers dwelling has been constructed on the site. That dwelling is current unlawful and is the matter this application seeks to address.

4. Relevant Planning History		
Application Number	Proposal	Decision
04/02137/FUL	Stationing of mobile home	Permission
06/03076/FUL	Agricultural workers dwelling	Permission
08/02633/FUL	Erection of agricultural workers dwelling (revision to 06/03076/FUL)	Refused 20/04/09 Appeal dismissed 2/11/09

5. Proposal

The application seeks to retain the substantive part of the agricultural workers dwelling constructed unlawfully on the site. It proposes an amended scheme, taking account of the conclusions drawn by the appeal Inspector under reference 08/03076/FUL.

The constructed dwelling is of a three floor design (ie the top floor being accommodation in the roofspace), whereas the permitted dwelling (under 06/03076/FUL) was of a two storey design. Its siting and footprint is as permitted.

6. Consultations

Leigh Parish Council

"2.6 states cattle will be kept for 12 months

3.3.states all cattle will be housed all year round

2.2 states the two livestock buildings are 480m². It also states in several places that the average number of cattle at any one time will be 185.

Farm assurance standards and rules say 185 cattle weighing an average of 200kg would need 3.00m² each = 555m². The average weight is sure to be much higher than that so the buildings are not big enough for his projected budget to work.

There are no farm buildings at Church Farm

3.4 talks about the grass and maize silage that will be fed to the cattle. When we visited on 28-09-10 there were just a few wrapped bales; you would expect a large heap by now. The maize has been harvested but none has been stored on site and there is no provision to do so. There is no provision to store neither any muck nor any system to contain any dirty water runoff that we could see.

3.5 states that Piers Bowley is currently looking after the cattle on site, but when we visited there were no cattle to be seen.

The original planning permission that was given was that calves were being weaned on site.

2.6 states that animals 3 months old would be purchased, in other words already weaned.

This application was also granted for an Agricultural farm worker. Mr Bowley states in the report that he would employ a contractor to feed animals, thus meaning that this application is really not for a worker but a land owner contradicting the previously approved application.

Planning policy guidelines recommend any agricultural worker's dwelling does not exceed 120 m²; this application already exceeds this.

Mr Bowley claims in his report that he farms over 200 acres; can he prove this?

Church farm is not a working farm.

As I write this letter to yourselves I am aware that all the fodder produced off this land (hay, silage, maize) this year is up for auction.

This application is a complete shambles and the reports do not justify what is happening at Grove Farm.

Mr Bowley when building this house decided to bluntly ignore the plans that had been passed in the original application.

Leigh parish council recommends that the council REFUSES this application and insists that Mr Bowley follows the conditions imposed at the appeal and reduces the roof height etc."

Council's Agricultural advisor –

Concludes that the proposed dwelling is not unusually large or expensive in the context of the range of floorspace usually considered appropriate for agricultural workers dwellings. There is no available record of the proposed beef enterprise attaining financial viability, from the submitted business plan, it does at least appear that the proposed venture has been planned on a sound financial basis. The proposal would not meet the functional test since the enterprise has yet to come into existence.

7. Publicity

The application was advertised by site notice, press advert and neighbour consultation.

No letters of letters of objection have been received

8. Planning Considerations

Background

The application for revision to the permission granted under 06/03076/FUL. That permission allowed for the creation of a permanent agricultural workers dwelling of some 120 sqm gross floorspace. The dwelling was, at the time, justified on the applicant's then dairy enterprise.

Subsequent to that permission, the applicants enterprise substantially altered in both scope and scale, thereby removing the original justification for the dwelling in the first place. As is common, that 2006 permission did not tie the permitted dwelling or its occupation to either the land holding or the enterprise it was justified upon. As such there is no ability for the Council to insist that the dwelling be demolished, merely that it must be occupied by persons employed in agriculture.

The 2006 appeal was fought over proposed revisions to the scale of the permitted dwelling. That 2006 appeal proposed both accommodation in the roof space (providing for two additional bedrooms) plus a single storey addition to the rear (providing for an office and boot room). The floorspace of that appeal proposal was 205 sqm gross.

The appeal was lost on the basis that the proposed dwelling was larger and in the absence of an established enterprise required by Annexe A to PPS7, was therefore not justified by or commensurate with the established functional requirements of the holding. The Inspector advised

that the appropriate time for the applicant to consider whether there is a functional need for a larger dwelling would be when and if a viable enterprise is established since it is the requirements of the enterprise, not the owner or occupier, that is the determining factor.

Nevertheless, in coming to this view the Inspector noted two issues. Firstly that the existing planning permission for an agricultural workers dwelling is a significant material planning consideration; and secondly that the increased height and prominence in the landscape of the proposed dwelling, in itself, would not be a reason to refuse planning permission.

In this context, the three floor dwelling constructed on the site remains unlawful.

Acceptability of proposal

This is a revised proposal seeking to address the conclusions of the previous Inspector and the present situation whereby a dwelling which could be lawfully constructed no longer has a justification as would be required guidance in PPS7.

The application provides no further evidence in respect of the functional requirement for additional accommodation. Indeed, it is understood that the planned beef enterprise has still yet to be established, although the horticultural enterprise is already operating from the site.

What the application does do is to propose a dwelling that is of a reduced scale. Whilst continuing to propose accommodation across three floors (accommodation in the roof space), it omits the previously proposed office and boot room to the rear. This results in a dwelling of some 189 sqm gross floorspace (compared with 120 sqm as consented and 205 sqm as dismissed at appeal).

Clearly, this is still a substantial dwelling and does propose a five bed dwelling (ie. irrespective of the labelling on the submitted plans and omission of previously proposed rooflights, there would be no reasonable (or at least, enforceable) way for planning conditions to ensure that the rooms in the roofspace could not be used as bedrooms) compared with the consented three bedroom dwelling. Nevertheless, as the previous Inspector noted, the increase in height alone is not objectionable and the existence of the previous permission must be acknowledged as a significant material planning consideration – irrespective of the fact that there is no agricultural enterprise to justify its existence at all.

Largely because of the background, it is considered that this proposal is now in a format that could not be reasonably resisted. The alternative would be to take enforcement action to require the removal of the top floor of the dwelling.

The comments of the Parish Council are noted, but largely relate to matters that the previous planning Inspector has concluded upon or are discussed above.

9. Conclusion

The existence of the 2006 permission is a significant material planning consideration. Although the Council's Agricultural advisor concludes that the functional and financial tests set out in PPS7 are not met, in the above context, it is considered reasonable to grant planning permission for a dwelling that is not of an inappropriate scale.

10. Recommendation

Planning Permission be GRANTED for the following reason:

In the context of the existence of a previous planning permission, it is considered reasonable to grant planning permission for this agricultural worker's dwelling as it would comply with the provisions of Policies C3, H6 and NE15 of the adopted North Wiltshire Local Plan 2011.

PLANNING PERMISSION BE GRANTED subject to the following conditions:

- 01 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 02 The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture (as defined in Section 336(1) of the Town and Country Planning Act 1990 or in any provision equivalent to that Act in any statutory instrument revoking and re-enacting that Act with or without modification), or in forestry, or a widow or widower of such a person, and to any resident dependants.

Reason: The site is in an area where residential development for purposes other than the essential needs of agriculture, or forestry, is not normally permitted.

- 03 Prior to the commencement of the development hereby permitted, details of materials to be used externally shall be submitted to, and approved in writing by, the local planning authority. The development shall be built in the materials approved.

Reason: In the interests of visual amenity.

- 04 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) there shall be no extension or external alteration to any building forming part of the development hereby permitted.

Reason: In order to safeguard the amenity of the area by enabling the local planning authority to consider individually whether planning permission should be granted for extensions and external alterations and so as to ensure the dwelling remains at a size commensurate to the functional requirement of the holding.

- 05 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), other than the garage shown on the approved plans, no other garages, sheds or other ancillary domestic outbuildings shall be erected anywhere on the site edged in red on the approved plans.

Reason: In the interests of the amenity of the area.

- 06 At no time shall any business activities be carried out from the agricultural holding and/or dwelling (including providing any Bed and Breakfast accommodation) other than the agricultural operation to which the dwelling hereby approved relates, without the prior written approval of the local planning authority in the form of a planning permission in that behalf.

Reason: To ensure that the access to the site from Ashton Road is not used for vehicular traffic over and above that associated with the agricultural enterprise.

07 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

Appendices:	None
Background Documents Used in the Preparation of this Report:	

