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# Appeal Decision

Hearing held on 10 November 2009

Site visit made on 10 November 2009

by **A J A Ritchie MA(Oxon) LARTPI**  
**Solicitor**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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**Decision date:**  
**30 November 2009**

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**Appeal Ref: APP/Y3940/A/09/2111039**

**2 Mudmead Lane, Common Hill, Steeple Ashton, Trowbridge, Wiltshire  
BA14 6EE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Carol Watt against the decision of Wiltshire Council.
  - The application Ref W/09/00267/FUL, dated 19 January 2009, was refused by notice dated 22 May 2009.
  - The development proposed is the siting of a temporary agricultural worker's mobile home.
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## Decision

1. I dismiss the appeal.

## Main issues

2. I consider that the main issues are:

(i) whether the agricultural case in support of the proposed dwelling is sufficient to justify an exception to policies designed to protect the countryside from development, with particular reference to whether it is essential for the proper functioning of the appellant's alpaca enterprise for a worker to be readily available at most times and

(ii) the implications of the proposal for highway safety, particularly in relation to visibility at the junction of Mudmead Lane and Common Hill.

## Reasons

### *Agricultural case & countryside protection policy*

3. The application is a full application for the siting of a mobile home with a condition limiting the life of the permission to 3 years. The Council have no objection to the design of the proposal and are satisfied that it could be removed after the expiry of the 3 year period. The proposed site for the dwelling has been moved at the Council's instigation to a position more closely related to existing stables and other buildings on the site.
  4. The appeal site is in open countryside outside any settlement and is beyond the limits of the village of Steeple Ashton. Although it would be screened by hedges from views from Mudmead Lane and Common Hill, the dwelling would be visible from fields and countryside over a wide area. The siting of a dwelling in such a position would breach Policies C1 and H19 of the West Wiltshire District Plan First Alteration (the Local Plan); the former seeks to protect the quality of
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the countryside through control of development and the latter does not permit new dwellings in the countryside unless justified in connection with the essential needs of agriculture. The proposal would also go against the advice in Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS7); this says that the focus for most additional housing in rural areas should be our existing towns and identified service centres and that new house building (including single dwellings) in the countryside away from established settlements or from areas allocated for housing in development plans should be strictly controlled<sup>1</sup>.

5. Nevertheless, PPS7 acknowledges in paragraph 10 that it may be possible for isolated new houses in the countryside to be permitted if there is special justification in the form of the essential need for a worker to live permanently at or near their place of work in the countryside. This coincides with Policy H19 of the Local Plan. The case for any agricultural justification falls to be considered in accordance with the guidance in Annex A of PPS7.
6. The appellant has commenced an alpaca rearing enterprise on the appeal site which she operates along with her husband. This is their main source of income. Since the alpaca activity has only been commenced relatively recently, the Council considered the application as a new farming activity under the terms of paragraph 12 of Annex A; under this paragraph, a new dwelling should for the first 3 years be a temporary structure and should satisfy a number of criteria. Apart from normal planning requirements (which, leaving aside the highway safety issue to which I shall turn later, the Council confirmed would be met), these criteria provide that both a *financial* test and a *functional* test should be met.
7. The financial test requires clear evidence of a firm intention and ability to develop the enterprise and clear evidence that it has been planned on a sound financial basis. The Council have accepted throughout that, on the basis of the business plan submitted with the application, this test has been met and they confirmed this at the hearing. Since there is no reason for me to take a contrary view, I will give no further consideration to this aspect of the justification.
8. The functional test requires me to be satisfied that there is a functional need for one or more workers to be readily available at most times for the proper functioning of the enterprise<sup>2</sup>. It is also necessary to establish that the functional need could not be fulfilled by another existing dwelling on the unit or any other existing suitable accommodation in the area.
9. Regarding the first part of this test, annex A gives 2 examples of where a requirement might arise if workers are needed to be on hand day and night: (i) in case animals require essential care at short notice and (ii) to deal with emergencies that could otherwise cause serious loss. In the case of alpacas, the need would generally arise either when the animals are giving birth either to assist the calving process or to support the cria (young alpaca); it would also arise when the security of the animals is prejudiced.

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<sup>1</sup> Paragraphs 8 & 9(ii).

<sup>2</sup> Paragraph 4 of Annex A

10. The appellant's experience has so far been that intervention at calving was needed only in a single instance to bottle feed a cria – feeding was required every 4 hours. In this, the appellant considered that she has been fortunate, as other alpaca farmers have experienced losses and the need to assist with difficult births. It is generally accepted that, since the animals have high values, the loss of even a single example may have serious consequences for the viability of the business. Nevertheless, I heard from the Council's agricultural adviser, Mr Coke, that births generally occur during the daytime, that multiple births with the associated complications are rare and that human intervention is not always required and may even add to the stress suffered by the mother. On the other hand, the view of the appellant's agricultural consultant, Mr Warren, is that night time alpaca births are now occurring and that perinatal issues are a real risk.
11. In relation to difficulties and emergencies associated with calving, I accept that the enterprise is only young, but only 6 births have so far taken place at Mudmead Lane and the experience of the appellant so far does not appear to justify someone to be living on site to deal with these. There are presently 15 alpacas in the appellant's herd together with another 4 kept on a livery basis and it is proposed that this number will hardly increase so that there will be no more than 20 or so alpacas on the land. The relatively limited projected number of animals does not indicate to me that the risks associated with calving will significantly increase.
12. Apart from the need for care around the birth of the cria, I have examined the other justification put forward by Mr Warren for someone to be living on site. Whilst a site presence is clearly necessary for a range of purposes relating to the health and welfare of the alpacas, including to deal with the recent threat of tuberculosis within the herd<sup>3</sup>, I am not convinced that this need extends beyond a requirement for a regular presence on site during the day. The appellant makes frequent visits to the site (during a 12-month period from April 2008 to April 2009 the appellant visited the site on average over 5 times per day) for purposes such as clearing manure, clipping nails and regular injections, shearing, mating and building maintenance. In my view, visits for these purposes can generally be described as more in the nature of routine visits rather than essential time-critical visits.
13. Paragraph 6 of Annex A says that the protection of livestock from theft or injury by intruders may contribute to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one. The appellant and her husband have fears as to security; some years ago a horse box was stolen from the site and more recently the yard was entered and the gate and padlock damaged but the intruders were disturbed before any property was stolen. However, paragraph 6 is concerned with theft or injury to livestock and I heard no evidence of any attempt to steal or injure animals. Whilst, given the value of the animals, it is natural for the appellant and her husband to be fearful as to security, the security issue does not in my view add significant weight to the agricultural case in this instance. In reaching this view, I have taken account of the fact that a public footpath crosses the site, but it is presently fenced off from the alpaca grazing areas and, in any event, any problems caused by walkers and their dogs could be addressed by a daytime presence.

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<sup>3</sup> Within alpacas generally and not the appellant's herd specifically

14. In my view, the need for a regular presence on the site is currently being met by the appellant and/or her husband making up to 6 daily visits to the site and spending some 26-30 hours per week there. However, I consider that the need that has been demonstrated falls short of it being essential for a worker to be resident on the site and thus "readily available at most times" as required by Annex A.
15. Even if I had reached a different conclusion on this point, I would still need to be satisfied that the functional need could not be fulfilled by another dwelling in the area. The Council produced details of a number of properties for sale or let in Steeple Ashton, but I need not consider the suitability of these since the appellant and her husband already have a house in the village. This is only some 1.6km (1 mile) from the appeal site, a journey which would take no more than about 5 minutes by car over a relatively uncomplicated route, except on a few occasions when narrow lanes in the village are temporarily blocked by service vehicles.
16. Therefore, if I have underestimated the need for presence on site, I consider that the location of the appellant's house is such that any additional need for site attendance could be met by visits from there. I appreciate that it is not possible to see the appeal land from the appellant's house, and CCTV, although considered by the appellant, is not an option at present; nonetheless, I consider that calving and general health problems amongst the herd could generally be picked up via the regular attendance on site and where particular problems are detected or anticipated, the number of visits could if necessary be stepped up. I understand that it cannot be reliably predicted when alpacas will give birth as the gestation period for cria is variable, also that alpacas often disguise health or birthing problems, but this would still hinder detection of and attention to problems whether or not the appellant was living on site.
17. In considering whether the functional test is met, I have considered a number of appeal decisions that have been brought to my attention and I acknowledge that some Inspectors have concluded that with alpaca enterprises there is an essential need as per Annex A. In particular, in a 2008 appeal relating to a site near Camborne, Cornwall<sup>4</sup>, the Inspector accepted that there was a functional need (although the herd was to be increased to 25-30 breeding females, somewhat larger than the herd proposed in the present appeal) and would not be met by the appellant's house some 1 mile away. A similar finding was made in a 2009 appeal at Husthwaite, near Thirsk<sup>5</sup>. However, in another recent appeal<sup>6</sup>, the Inspector found that most of the problems likely to rise with the alpaca herd at Valley View Farm near Canterbury as well as routine care could be dealt with by a non-resident worker. In another appeal decision concerning the Chestnut Alpaca Farm at Girton, near Newark<sup>7</sup>, the Inspector found a lack of conclusive evidence to show that it was essential to live on-site and considered that the appellant's home some 2.5 miles from the site would have met the need.
18. I have also taken into account that the Council's predecessor, West Wiltshire District Council, granted temporary planning permission in 2002 for an

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<sup>4</sup> Appeal Ref:APP/Y0815/A/08/2075800

<sup>5</sup> Appeal Ref:APP/G2713/A/08/2080523

<sup>6</sup> Appeal Ref:APP/J2210/A/08/2067457

<sup>7</sup> Appeal Ref:APP/B3030/A/08/2090569

agricultural worker's dwelling at an alpaca enterprise at Bratton, a village not far from Steeple Ashton. However, this decision was made some years ago and I note that it was against the advice of the Council's agricultural adviser who considered that the functional need did not equate to a requirement for an essential presence on the holding at most times. Although the applicants in that case lived in the village, their home was said to be some 1.5 miles from the site.

19. Whilst these appeal decisions (and the Bratton permission) are material considerations in the present appeal, they are not binding upon me and I have considered the present appeal proposal on the basis of its own circumstances and, in particular, in the light of the evidence submitted at the hearing and in writing. Although I have only a summary and no details of the evidence submitted in other appeals, I note that evidence of varying types and from different sources has been submitted and considered.
20. The Council's evidence informed me that the appellant and her husband owned other land at Southbrook Lane, Steeple Ashton which might be more suited to the alpaca enterprise; I have not given weight to this suggestion since it is a matter for the appellant as to where to establish the enterprise and I am obliged to consider the appeal in the light of the circumstances applying to the appeal site. In any event, the 2 sites are said to be equidistant from the appellant's home and therefore there would be no benefit in terms of proximity.
21. I therefore conclude that it is not essential for the proper functioning of the appellant's enterprise for a worker to be readily available on the site at most times and that the functional test in Annex A of PPS7 is not met. Therefore the agricultural case for the proposal is not sufficient to justify the siting of a new dwelling in the open countryside in breach of Policies C1 and H19 of the Local Plan and the advice in PPS7.
22. In reaching my conclusion, I have borne in mind the benefits that would arise from the reduction or elimination of car journeys to the site from the appellant's home, but the development plan and PPS7 require me to consider whether the development can be justified on agricultural grounds. There may be some scope under the current arrangements for limiting the number of journeys without reducing the time spent on site but, in any event, I do not consider that the balance of environmental advantage is necessarily with the appeal proposal, given that it would harm the quality of the countryside by introducing a dwelling, albeit temporary, in an isolated location.

#### *Highway safety*

23. The access to the appeal site is onto Mudmead Lane, an unmade road which leads into Common Hill, the main route leading northwards out of Steeple Ashton. An aerial photograph produced by the highway authority representative at the hearing demonstrated the potential for vehicle conflict at this junction. Also, there are shortcomings in terms of the sight stopping distance and forward visibility for vehicles turning right into Mudmead Lane from Common Hill, since the distances recommended in Manual for Streets<sup>8</sup>

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<sup>8</sup> Department for Transport 2007

(MfS) are not met. This could prejudice the ability of vehicles to make the right turn safely in the face of oncoming traffic, but the highway authority accepted that the discrepancy is not great (39m actual distance at 30mph as opposed to 43m recommended). In addition, the northwards visibility for vehicles emerging from Mudmead Lane is clearly substandard, but this can be significantly improved by vehicles using the southerly arm of the split junction instead of the northerly one<sup>9</sup>.

24. The Steeple Ashton Parish Council have long had concerns over highway safety at this junction and Mr & Mrs Strange who live opposite have witnessed a number of accidents at the junction which are detailed in a letter recently forwarded to the Council. However, neither the dates of the accidents nor the time frame over which they occurred are stated in the letter, and there are no police or highway authority records of accidents at this location.
25. The appellant does not contest the technical shortcomings surrounding the junction as set out by the highway authority, but relies on the curtailment of the numerous journeys to and from the site if the dwelling were to be allowed. This would substantially reduce the number of vehicle movements at the junction. There was some discussion at the hearing as to the actual overall reduction that would occur. The appellant considered that there would be a reduction of some 5 or 6 journeys per day in connection with the alpacas, together with a further reduction resulting from the phasing out of the livery stabling for horses. The Parish Council and interested persons thought there would be more service deliveries to the site, but many of these are already taking place. However, there would undoubtedly be a significant number of comings and goings associated with a domestic presence on the site, TRICS suggesting 8-10 movements per day being generated from a single residential unit.
26. In my view, bearing in mind particularly the size of the proposed dwelling which would have only 1 bedroom and thus be unsuitable for family occupation, if there is an overall increase in traffic using the junction it would be very modest. Traffic conditions at the junction are not in my opinion so compromised that such a modest increase in movements cannot be accommodated without undue risk. I therefore conclude that the proposal does not have unacceptable implications for highway safety. Nevertheless, my finding on this issue does not outweigh my conclusion on the first main issue and the appeal therefore fails.

*A J A Ritchie*

**INSPECTOR**

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<sup>9</sup> It was accepted by all present at the site visit that this would be within the law.

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