

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **WEDNESDAY, 4 DECEMBER 2019**

REPORT BY: **CHIEF OFFICER (PLANNING, ENVIRONMENT AND ECONOMY)**

SUBJECT: **OUTLINE APPLICATION FOR THE ERECTION OF AN AGRICULTURAL WORKERS DWELLING AT MAES ALYN FARM, LOGGERHEADS ROAD, CILCAIN.**

APPLICATION NUMBER: **059568**

APPLICANT: **MR. S. GRIFFITHS**

SITE: **MAES ALYN FARM, LOGGERHEADS ROAD, CILCAIN**

APPLICATION VALID DATE: **8TH FEBRUARY 2019**

LOCAL MEMBERS: **COUNCILLOR W.O. THOMAS**

TOWN/COMMUNITY COUNCIL: **CILCAIN COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST IN ORDER TO RESPOND TO THE CONCLUSIONS OF THE APPRAISAL UNDERTAKEN.**

SITE VISIT: **YES.**

1.00 SUMMARY

- 1.01 This outline application with all matters save access being reserved for subsequent approval, proposes the erection of an agricultural workers dwelling on land at Maes Alyn Farm, Loggerheads Road, Cilcain. The site is located outside any recognised settlement boundary but within the Clwydian Range Area of Outstanding Natural Beauty (AONB) as defined in the Flintshire Unitary Development Plan. In this respect a new dwelling must meet an essential agricultural need which is in accord with National/Local Planning Policy and is addressed in this report.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

- 2.01
1. At this time that there is no functional and financial justification for an additional agricultural dwelling at this location. It is considered that the development would represent non-essential residential development in the open countryside. This is contrary to Planning Policy Wales (PPW) – Edition 10, Technical Advice Note 6 – Planning for Sustainable Rural Communities, Policy HSG4 of the Flintshire Unitary Development Plan.
 2. The proposed siting of the dwelling would not be closely related to the existing farm complex and appear as an isolated dwelling unit at this location. This is contrary to criterion d of Policy HSG4 of the Flintshire Unitary Development Plan and Supplementary Planning Guidance Note 10 – New Housing in the Open Countryside.
 3. The proposed siting of the dwelling would have a detrimental impact on the character of the Clwydian Range Area of Outstanding Natural Beauty (AONB). This is contrary to Criterion c of Policy GEN1, Criterion a of Policy L2 and Supplementary Planning Guidance - Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB).

3.00 CONSULTATIONS

3.01 Local Member
Councillor W.O. Thomas
Request site visit and planning committee determination in order to comment on the conclusions of the appraisal with a view to re-assessing the application.

Cilcain Community Council
Support the application.

Highway Development Control
No objection and do not intend to make a recommendation on highway grounds.

Community and Business Protection
No objection.

Natural Resources Wales
No objection to the installation of a septic tank to serve the development subject to appropriate permits/exemptions being obtained.

Clwydian Range Area of Outstanding Natural Beauty (AONB) Joint Advisory Committee

The proposed siting of the dwelling is not acceptable to the committee. It is some distance away from the main farm complex and will appear as an isolated dwelling in a sensitive area of open countryside. The siting would compromise existing landscape features and the committee would favour an alternative siting more closely related to the existing complex of farm buildings.

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification
No responses received.

5.00 SITE HISTORY

5.01 Erection of an agricultural building – Permitted 23rd December 2013.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
Policy STR1 – New Development.
Policy GEN1 – General Requirements for Development.
Policy GEN3 – Development in the Open Countryside.
Policy GEN4 – Green Barriers
Policy D1 – Design Quality, Location & Layout.
Policy D2 – Design.
Policy L2 – Area of Outstanding Natural Beauty.
Policy AC13 – Access & Traffic Impact.
Policy AC18 – Parking Provision & New Development.
Policy HSG4 – New Dwellings Outside Settlement Boundaries.

Additional Guidance

Planning Policy Wales (PPW) – Edition 10
Technical Advice Note 6 – Planning for Sustainable Rural Communities.
Technical Advice Note 6 – Practice Guidance.
Supplementary Planning Guidance Note (SPGN) 10 – New Housing in the Open Countryside.
Supplementary Planning Guidance – Clwydian Range & Dee Valley Area of Outstanding Natural Beauty (AONB).

7.00 PLANNING APPRAISAL

7.01 Introduction
This outline application with all matters save access being reserved for subsequent approval, proposes the erection of a second

agricultural workers dwelling on land at Maes Alyn Farm, Loggerheads Road, Cilcain.

7.02 It is proposed that the dwelling is sited within a field parcel to the north of the existing farm complex and the access which serves the existing farm buildings.

7.03 Although submitted in outline it is anticipated that the dwelling would be a 2 storey 3 bed farmhouse style dwelling, constructed having brick/render external walls and a slate roof. The scale parameters advanced indicate that the dimensions of the dwelling are proposed as follows:-

Minimum

10 m x 6 m x 6 m (ridge) 4.5 m to eaves.

Maximum

12 m x 7.5 m x 7 m (ridge) 4.5 m to eaves.

7.04 For Members information there is an existing dwelling at Maes Alyn which is currently occupied by the applicant's parent who are of retirement age and do not work full time on the farm unit.

7.05 The application therefore proposes a second permanent residence on the farm unit as the senior members of the family wish to pass over full management control of the business over to younger family members.

7.06 The conclusions of the submitted enterprise dwelling appraisal provided in support of the application is that:-

“Having inspected the farm and discussed the enterprise policy and practices with the applicants and considered the requirements of TAN6, we understand there to be a clear essential need for second residency on the holding to ensure that this prosperous business continues well in to the future under the applicant's management”.

7.07 Whilst the conclusions of the appraisal undertaken on behalf of the applicant are noted, the Local Planning Authority has commissioned the District Valuer to undertake an independent assessment to test those conclusions, in light of the farming practices undertaken.

7.08 It is considered that the main issues to be taken into account in assessment of this application focus on:-

- a) The principle of development having regard to the National and Local Plan Policy framework.
- b) The acceptability of the siting of the proposed dwelling relative to the existing farm complex.

7.09 National/Local Plan Policies

Consideration of the application is undertaken having regard to the National/Local Plan Policy framework in particular Planning Policy Wales (PPW) – Edition 10, Technical Advice Note 6 – Planning for Sustainable Rural Communities and Policy HSG4 of the Flintshire Unitary Development Plan.

7.10 For Members information the relevant framework, to be taken into account, is as follows and has been referenced to aid Members deliberations on the application.

7.11.1 A. Planning Policy Wales (PPW) – Edition 10

Paragraph 4.2.37 advises that All applications for new rural enterprise dwellings should be carefully examined to ensure that there is a genuine need. It will be important to establish whether the rural enterprise is operating as a business and will continue to operate for a reasonable length of time. Planning authorities should follow the guidance in Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities and in the related practice guidance with regard to the requirements for rural enterprise dwelling appraisals. Applications for rural enterprise dwellings must only be permitted where the rural enterprise dwelling appraisal provides conclusive evidence of the need for the dwelling. In order to ensure that rural enterprise dwellings are retained for their intended purpose a condition restricting the occupancy of the property must be applied. Rural enterprise dwellings should also be classified as affordable housing as defined in TAN 2: Planning and Affordable Housing, to ensure that the dwelling remains available to meet local affordable housing need should the original justification cease to exist.

7.11.2 B. Technical Advice Note 6 – Planning for Sustainable Rural Communities.

Section 4.3.1 of TAN6 notes that one of the few circumstances in which new isolated residential development in the open countryside may be justified is when accommodation is required to enable rural enterprise workers to live at, or close to their place of work whether this essential etc.

7.11.3 *Rural enterprise dwellings* include:

- A new dwelling on an established rural enterprise (including farms) where there is a functional need for a full time worker and the business case demonstrates that the employment is likely to remain financially sustainable. (See paragraph 4.4.1).
- A second dwelling on an established farm which is financially sustainable, to facilitate the handover of the management of the farm business to a younger farmer. (See paragraphs 4.5.1 - 4.5.3).

- A second dwelling on an established farm which is financially sustainable, where there is a functional need for a further 0.5 or more of a full time worker and at least 50% of a Grade 2 Standard Worker salary, as defined by the latest version of the Agricultural Wages Order, is obtained from the farm business. (See paragraphs 4.5.1 - 4.5.3).
- A new dwelling on a new rural enterprise where there is a functional need for a full time worker and the criteria in paragraphs 4.5.3 a-e are fully evidenced. (See paragraphs 4.6.1 - 4.6.2).

7.11.4 Paragraph 4.4.1 goes on to state:-

New permanent dwellings should only be allowed to support established rural enterprises providing:

- a) there is a clearly established *existing* functional need; (See paragraph 4.8.1).
- b) the need relates to a *full-time* worker, and does not relate to a part-time requirement; (See paragraph 4.7.1) (See paragraphs 4.5.1 - 4.5.3 for policy exemptions).
- c) the enterprise concerned has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job, is currently financially sound, and has a clear prospect of remaining so; (See paragraphs 4.10.1 - 4.10.3).
- d) the functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned; (See paragraphs 4.11.1 - 4.11.2),and
- e) other normal planning requirements, for example siting and access, are satisfied. (See paragraphs 4.12.1 - 4.12.2).

7.11.5 It is noted in paragraph 4.5.1 - 4.5.3 that:-

4.5.1 The Assembly Government wishes to encourage younger people to manage farm businesses and promote the diversification of established farms. To support this policy objective it may be appropriate to allow a second dwelling on established farms that are financially sustainable where the criteria set out in paragraph 4.4.1 cannot be fully satisfied. The two exceptions to the policy are:

- Where there are secure and legally binding arrangements in place to demonstrate that management of the farm business has been transferred to a person younger than the person currently responsible for management, or, that transfer of management is only conditional upon grant of planning permission for the dwelling. The younger person should

demonstrate majority control over the farm business and be the decision maker for the farm business; or,

- There is an existing functional need for an additional 0.5 or more of a full time worker and that person obtains at least 50% of a Grade 2 Standard Worker salary, (as defined by the latest version of the Agricultural Wages Order), from the farm business. Technical Advice Note 6: Planning for Sustainable Rural Communities 19

4.5.2 In these circumstances a rural enterprise dwelling may be considered favourably provided the criteria set out above and in paragraph 4.4.1 c - e are met. These special policy exceptions will only apply to the first additional dwelling to be attached to an established farm after this TAN comes into force **and not to subsequent dwellings**.

4.5.3 It must also be demonstrated that the management successor or part time worker is critical to the continued success of the farm business, and that the need cannot be met in any other reasonable way, e.g. through the re-organisation of labour responsibilities. In addition, where all the criteria specified above are met the planning authority should ensure that the new dwelling is tied to the holding by way of a legal agreement.

7.11.6 Flintshire Unitary Development Plan

Policy HSG4 - New Dwellings Outside Settlement Boundaries is referenced in paragraphs 7.11.6 – 7.11.8 as follows:-

New dwellings outside settlement boundaries will only be permitted where it is essential to house a farm or forestry worker who must live at or very close to their place of work and not in a nearby dwelling or settlement, provided that:

- a. the proposal is accompanied by an appropriately completed questionnaire, which will be the subject of an independent assessment of the functional and financial need for the dwelling in relation to the enterprise;
- b. the need cannot be met through the economic conversion and reuse of existing buildings on site;
- c. there has been no prior disposal of a dwelling or existing building suitable for conversion on the farm unit which could have been used to meet this need;
- d. the dwelling is sited so as to relate to buildings on the existing farm or forestry complex and that its design, scale, and appearance takes into consideration the landscape setting of the surrounding area; and
- e. the size, floorspace and type of proposed dwelling should be appropriate to that which the farm/forestry enterprise can sustain.

7.11.7 An occupancy condition will be imposed on the new dwelling, and the time period for an outline permission will be limited to two years, with approval of reserved matters required within two years and commencement within three years of the decision date.

Where other dwellings exist within a farm or forestry complex, the Council may seek to utilise legal agreements to control their occupancy.

7.11.8 Dwellings permitted as part of new farm or forestry enterprises where the case is not completely proven will, for a period of three years (or until the enterprise is fully established), be required to be of a temporary construction, and removed from site if the enterprise ceases.

7.12 In assessing the application in accordance with the policy requirements the Independent Agricultural Assessment on which additional information has been submitted from the agent, and taken into account following the initial publication of the report, has concluded:-

- a) That there is no existing legally binding or draft contract (conditional upon the grant of planning permission) in place to secure the transfer of the business to the applicant as required in paragraph 4.5.1 of Technical Advice Note 6.
- b) The nature of main operations being undertaken at the farm based on stock/cropping levels advanced do not meet, the functional test over a 12 month period in accordance with Technical Advice Note 6. Reference has been made in additional documents from the agent, to potential changes associated with the management of the sheep flock, and the applicant contemplating the keeping cattle but these activities are not being undertaken at present to warrant a different conclusion to be made. This however can be reconsidered/assessed if the enterprise subsequently changed in this respect.
- c) The time test for farming activities has been met in accordance with standard man day (SMD) requirements for the enterprise.
- d) Whilst the business has generated a profit capable of paying a full time wage, the return on investment/dividend on a return on capital employed, means the financial test is not completely proven.
- e) Whilst the concerns in respect of security of livestock from theft etc has been noted, there is already a dwelling at Maes Alyn occupied by others in the enterprise, to provide a deterrent/degree of security against theft.

f) Paragraph 4.4.1 (d) of Technical Advice Note 16 as referenced notes the need to consider the availability of any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned. Whilst noting the concerns of the agent that a number of properties that have been referenced for sale in the locality would be remote from the unit and a cheaper dwelling could be constructed on the site 4.4.1(d) requires an assessment to be made on any other house in the locality, rather than finding a specific suitable alternative property for the applicant.

7.13 Having regard to the above and having assessed the application in accordance with the relevant tests the independent assessment concludes that “whilst the time test can be considered to be met based on the increased stocking rates post October 2018, the functional, financial and other dwellings test are not completely proven to support a second workers dwelling at this location.

7.14 In order to assist the applicant in this respect, noting the considerations being given by the applicant to increasing stock levels for cattle and changes sheep farming practice on the unit the potential for a temporary accommodation on site was raised as a possible option at this stage. The situation could then be re-assessed over time having regard to the tests within Technical Advice Note 6. The agent has however requested that the application be determined as submitted.

7.15 Siting of Proposed Dwelling

Consideration of the acceptability of the siting of the proposed dwelling is undertaken having regard to Policy HSG4 of the Flintshire Unitary Development Plan and Supplementary Planning Guidance in addition to the conclusion of the independent Agricultural Assessment undertaken. In this respect it is considered that were the principle of development to have been supported that taking into account the above, it would be more practical and in accord with policy/associated guidance to develop any dwelling unit in closer proximity to the existing farmhouse and prevent separation by the existing and any future agricultural buildings. This is a view supported by the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) Joint Advisory Committee following the consultation exercise undertaken.

8.00 CONCLUSION

8.01 The need for a second agricultural workers dwelling at this location has been independently assessed, with it being concluded that the functional, financial and other dwelling tests are not met in accord with the requirements of Technical Advice Note 6. In addition the location of the position for the proposed dwelling should be more

clearly related to the main complex so that it does not appear in isolation to existing farming operations.

The application in its current form and at this time cannot satisfy the tests set out in TAN 6 and is in conflict with Unitary Development Plan Policy HSG4.

8.02

Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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