

Officers Report

Planning Application No: 140150

PROPOSAL: Planning application for 1 no. agricultural workers dwelling

LOCATION: Land at South Carr Brandywharf Road Waddingham

Lincolnshire DN21 4SW

WARD: Waddingham and Spital

WARD MEMBER: Cllr J J Summers

APPLICANT NAME: Darryl Tutty

TARGET DECISION DATE: 11/12/2019 (Extension of time agreed until 6th February 2020)

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Vicky Maplethorpe

RECOMMENDED DECISION: Refuse permission

This application has been referred to the Planning Committee at the request of the Ward Member.

Description:

The application site is located in the open countryside, approximately 2 miles to the east of Waddingham and currently comprises of three farm buildings. The site is accessed from Brandy Wharf Road. Fen Cottage and South Carr Farm (house) are located directly adjacent the farmyard. The surrounding area is open agricultural land.

The site is within Flood Zone 3 (high probability).

The application seeks planning permission for 1 dwelling in connection with an existing agricultural business on site.

The proposed dwelling is two storey with integral garage. It measure 31m in width and 13.6m overall width. The plans indicate over 325 square metres gross internal area (GIA).

Relevant history:

139242 - Outline planning application to erect 1no. dwelling in connection with an agricultural business with all matters reserved - resubmission of 138517, Refused 17/5/19.

138517 - Outline planning application to erect 1no. dwelling in connection with an agricultural business, all matters reserved, Refused, 7/12/18.

Representations:

Chairman/Ward member(s): Comments received from Cllr Summers on 25/11/19 *'This application is due to the expansion of this now very large agricultural business spanning Nth Lincolnshire, farming in excess of 5000 acres. . Based on the practice of contract farming , Mr Tutty is also a farm owner. The contracts last for several years. Specialising in the growing of combinable crops and sugar beet. The operation is based around a fleet of very large and very expensive machines working day and night on occasion but housed at Sth Carr Farm when not in use. Lincolnshire police have admitted they cannot appropriately police the rural countryside. (eg. Caistor post office was burgled last year and the Police didn't visit the scene.) i know this is not a planning consideration but businesses need to protect their assets.*

At present Mr. Tutty lives in Waddingham and has a serious need to better protect his assets! The size of his business also has a great need to employ several local people. The proposal is in flood zone three but as described in the EA report this can be mitigated for by adding 0.3 of a metre to the height of the damp proof coarse and associated works. The proposal is of a family house , with office space to accommodate there needs and nothing more. i can support this progressive family and respectfully ask if you are minded to refuse this application, i request it is considered by the planning committee.'
NOTING POLICIES. LP1. LP5. LP 10. LP55.

Waddingham Parish Council: 'Waddingham Parish Council fully support this application.'

Local residents: None received

LCC Highways: No objections, request informatives on the formation of the new vehicular access.

Environment Agency: *'We have reviewed the FRA submitted and consider that it satisfactorily addresses our earlier concerns. Subject to the condition below, we therefore withdraw our previous objection, dated 06 November 2019. **Environment Agency position** The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.*

Condition *The development shall be carried out in accordance with the submitted flood risk assessment (ref: J3689) dated 08 October 2019 and the following mitigation measures it details:*

- Finished floor levels shall be set no lower than 800mm above existing ground level*
- The development shall have at least two storeys*
- Flood resilience and resistance measures to be incorporated into the proposed development as stated'*

Archaeology: None received

Relevant Planning Policies:

Planning law requires that planning decisions are made in accordance with the development plan, unless there are material considerations to indicate otherwise. Here, the relevant part of the development plan is the Central Lincolnshire Local Plan.

Central Lincolnshire Local Plan

Policy LP2: The Spatial Strategy and Settlement Hierarchy

Policy LP13: Accessibility and Transport

Policy LP14: Managing Water Resources and Flood Risk

Policy LP17: Landscape, Townscape and Views

Policy LP26: Design and Amenity

Policy LP55: Development in the Countryside

With consideration to paragraph 213 of the National Planning Policy Framework (July 2018) the above policies are consistent with the NPPF (July 2018) and full weight can be attached to them.

Waddingham and Brandy Wharf Neighbourhood Plan

Draft Plan published 31st March 2019.

Paragraph 48 of the NPPF states:

Local planning authorities may give weight to relevant policies in emerging plans according to:

- (a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- (b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- (c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

The First Draft of the NP was published 31st March 2019 (reg 14 stage) and is yet to be submitted to the Local Planning Authority (reg 16). It therefore remains at an early stage, and only limited weight should be attached to the NP at this time.

National Planning Policy Framework and Planning Practice Guidance

Main issues

- Principle
- Impact on neighbouring properties, streetscene and countryside
- Flood risk
- Highways

- Drainage

Assessment:

Principle

The site is within the countryside therefore tier 8 of policy LP2 applies. It permits development demonstrably essential to the effective operation of agriculture or proposals falling under policy LP55.

Policy LP55 Part D relates to new dwellings in the countryside and states;

“Applications for new dwellings will only be acceptable where they are essential to the effective operation of rural operations listed in policy LP2. Applications should be accompanied by evidence of:

- a. Details of the rural operation that will be supported by the dwelling;*
 - b. The need for the dwelling;*
 - c. The number of workers (full and part time) that will occupy the dwelling;*
 - d. The length of time the enterprise the dwelling will support has been established;*
 - e. The ongoing concern of the associated rural enterprise through the submission of business accounts or a detailed business plan;*
 - f. The availability of other suitable accommodation on site or in the area; and*
 - g. Details of how the proposed size of the dwelling relates to the enterprise.*
- Any such development will be subject to a restrictive occupancy condition.”*

PPS7 was also used previously to assess agricultural workers dwellings and whilst this was revoked with the introduction of the NPPF, in the appeal decision of APP/N2535/A/12/2186890 the inspector stated that “Various appeal decisions made since the Framework was published suggest that the PPS7 tests could be a material consideration when determining whether a worker’s dwelling would meet an essential need.”

Submitted information relevant to each element of Part D of LP55 is set out below;

a) The submitted appraisal states that the rural operation, DT Contracting Beet Ltd is a substantial mixed arable farming enterprise which specialises in growing sugar beet across northern Lincolnshire; this extends to 6000 acres of land in the region, with a base at South Carr, Waddingham. The business specialises in all aspects of sugar beet and fodder beet growing from land preparation through to harvesting. The company also looks after cultivations for maize crops which is a rapidly increasing part of the local agricultural scene. Since the determination of the last application, 139242, the situation has changed and the applicant has now joined his parents in running of South Carr Farm where cereal crops are grown and grazing provided for sheep with approx. 30-40 ewes.

b) The appraisal states there is a need for someone to be on site most of the time. This is because much of the work is carried out beyond the normal working day. There is regular evening work doing routine and emergency

maintenance or repairs. Most of which is undertaken by the applicant, Mr Tutty.

Since the refusal of application 139242 the applicant now runs his business in conjunction with the family farm which includes livestock in the form of 30-40 ewes. Within the appraisal it states 'livestock rustling is an increasing problem and that the presence at night of a resident employee will greatly reduce the risk of disruption to the business as well as ensuring the welfare of livestock'. The protection of livestock from theft or injury may contribute to the need for an agricultural workers dwelling, however it is not by itself sufficient to justify one.

It is accepted that the nature of farming requires work throughout the day and night. However, the applicant currently only lives approx. 4 miles (a 9 minute drive) from the site and although it would be more convenient for a farm worker to live next to the farm, convenience is not an "essential" need. It is understood that the applicant previously lived in Waddingham, just a 5 minute drive from the site but has since sold this property and moved further away to Atterby.

The appraisal also states that by providing a new dwelling it will also provide good facilities for the employees. There are already buildings on site that could provide employee facilities - it is not essential to have a new dwelling to do this.

The submitted appraisal also states that machinery used in the business is highly specialised and expensive and that it is stored outdoors in the farmyard and that just in excess of £1 million has been invested in machinery alone in recent years. It goes on to say that the two neighbouring dwellings are not part of the business and that the farmyard is in a remote rural location. The farmyard is not fully remote as there are two dwellings directly adjacent the farm buildings. One is the farm house originally associated with South Carr Farm and lived in by Mr Tutty's brother, who has his own farming business and the other dwelling is Fen Cottage which is unrelated to the farming business. Even though these dwellings are unrelated to the business both are a physical presence immediately adjacent the farmyard and therefore form a habitable presence at the site to some degree.

In the appeal APP/N2535/A/12/2186890, this was for a proposed dwelling for a farm of 505 acres. In this appeal the inspector attached "little weight to the argument that the development is required for security reasons". The appellant had also "not shown that there is an essential need for a rural worker to live permanently at or near this place of work." It is accepted that there are difficulties with policing rural areas and that there would be some security benefits of having a day and night presence at the site – however, the erection of a new dwelling does not secure a 24/7 security presence (and an empty house in a remote location, in itself may form a target as much as a deterrent). Furthermore, there are already two dwellinghouses adjacent the site – it is not therefore demonstrated that it is necessary to have a third dwelling in order to "secure" the site. The financial value and nature of the

machinery is substantial to the business and any set back could endanger its viability, however 'security reasons' do not constitute an essential need in planning terms. Furthermore no information has been provided as to what current security measures are on site or what security measures have been explored for example CCTV could manage security remotely.

The appraisal goes on to state that the dwelling proposed seeks to protect vulnerable human beings who otherwise would often be working remotely, using large pieces of modern and very powerful agricultural equipment. A letter from NFU Risk Management Services has been provided with the application supporting the proposed dwelling.

Unfortunately, many farmers and farmworkers have accidents while working on their farms, the consequences of which would be less serious if someone else was around to help. However, there can be no guarantee that someone would be around to help, even when a farm has more than one worker. The reality is that most farmers and farmworkers have to spend long hours working alone.

It is considered that the existing dwelling in Atterby, currently occupied by the applicant, meets the needs of the enterprise, and there is insufficient evidence to demonstrate, however desirable, that there is an essential need for a new dwelling on the site.

c) Mr Tutty and his family will occupy the dwelling.

d) and e) The submitted appraisal states that the business has been operating for twenty years and since those early days the business has continued to be a profitable and growing business. Originally operating from the family farmyard at South Carr Farm, since 2014 Mr Tutty has operated separately from, and now is based in a premises purchased from the family at South Carr, Waddingham.

The business supports four full time employees and three part time employees.

f) The agent confirmed that the applicant and his family currently live in Atterby just under 4 miles away from the site which equates approximately to a 9 minute car journey. The applicant already lives close to the site. It is not felt that an essential need has been demonstrated to live directly on site. The NPPF seeks to avoid isolated homes in the countryside (paragraph 79) unless certain criteria are met such as where "there is an essential need for a rural worker, including those taking majority control of a business to live permanently at or near their place of work in the countryside". The applicant already lives nearby.

The case officer also undertook a search on property website "Right Move" on 09/01/20 for properties within a 1 mile (approx) radius of the site. No properties were available, however increasing the radius to 3 miles encompasses the villages of Waddingham, Snitterby, South Kelsey and North Kelsey. Within this 3 mile search area 15 properties were available ranging from 6 bedrooms to 2 bedrooms. Ranging in price from £945,000 to £125,000 within the nearby villages including 2 dwellings with agricultural ties. Some of

the houses for sale appear to be affordable and in reasonably close proximity to the site. There are also 3 plots of land for sale in South Kelsey ranging in price from £100,000 - £110,000. It should also be noted that the applicant has recently moved from Waddingham and currently lives in Atterby, slightly further away from the site but still within 4 miles. Therefore it is considered that there are other housing alternatives available.

g) The proposed dwelling is a 3 bedroomed farm house, incorporating a farm office and decontamination accommodation in the form of large utility room and shower room. Within the Planning Statement it states that 'the enterprise can support the size of dwelling proposed' but no details have been submitted on how the size of the dwelling relates to the enterprise.

There is no dispute that it would be more convenient for a farm worker to live next to the farm, convenience, however, is not an "essential" need, and while security and employee health and safety contribute to the need for an agricultural dwelling they are not sufficient reasons to justify one. The farm has operated successfully for 20 years without the need for a dwelling on the site. The support of the Local Ward Member and Parish Council is noted, however the principle of the proposal cannot be supported as it is contrary to policy LP55 Part D of the Central Lincolnshire Local Plan and the provisions of the National Planning Policy Framework.

Policy LP55 is consistent with paragraph 79 of the NPPF which states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

(a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

Policy LP55 can therefore be attached full weight.

Therefore it is considered that no significant justification has been provided as to why it is essential for a new dwelling on the site in this open countryside location.

The draft Neighbourhood Plan is at an early stage and can only be afforded limited weight. However, draft policy 3 only gives support to "small scale infilling and the conversion of existing buildings" and does not appear to include any policies that would support the proposal.

Impact on neighbouring properties, streetscene and surrounding countryside
The dwelling is located within a large plot over 70m from Fen Cottage and South Carr Farm house, therefore there will be no adverse impacts expected on the residential amenities of the neighbouring houses and the development would comply with policy LP26 in this regard.

The dwelling is a large (the plans indicate over 325sqm GIA) 3 bed property and includes an office and double garage. It is to be constructed from brick and tile and will be 8.1m high. The dwelling is to be located within a field over 30m to the rear of the existing farm yard. The proposed dwelling would appear detached from the group of farm building and existing farm house and bungalow when viewed from the surrounding countryside and would appear as a prominent and incongruent feature within the landscape and would therefore be contrary to policy LP26 in this regard.

Flood risk

The site is located within Flood Zone 3 (high probability). A Flood Risk Assessment (FRA) has been provided with the application. This general approach to flood risk is to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible. This is done through the application of the Sequential Test. The submitted FRA states that 'The proposal is for a dwelling in conjunction with the agricultural business operated from the site.' However, despite there being no objections from the Environment Agency and as concluded above no 'essential' need has been proven and other properties for sale have been identified which are at a lower risk of flooding.

It is considered therefore that, without compliance with policy LP55 to demonstrate an essential need for an agricultural worker, the development of a single dwelling would also fail to comply with the policy LP14 Sequential Test.

Highways

Access will be via the existing farm road off Waddingham Road. There are no concerns regarding highway safety.

Drainage

The Internal Drainage Board have stated that 'The application may increase the impermeable area to the site and the applicant will therefore need to ensure that any existing or proposed surface water system has the capacity to accommodate any increase in surface water discharge from the site.' Any planning permission will be condition to ensure adequate surface water drainage facilities are provided to serve the site.

Conclusion

It is considered that it has not been demonstrated that there is an essential need for a new dwelling in this open countryside location. There is not sufficient justification for a worker to be present permanently on site and that the proposed dwelling is otherwise essential to the efficient and operational running of the enterprise. The proposal is therefore contrary to policy LP55 of the Central Lincolnshire Local Plan and paragraph 79 of the National Planning Policy Framework.

The proposed dwelling, by virtue of its physical detachment from the existing farm yard; and the introduction of a new dwelling in this location would result

in significant harm to the character and appearance of the surrounding countryside.

The proposed dwelling is located within Flood Zone 3 (High Probability of Flooding). The submitted Flood Risk Assessment (FRA) fails to demonstrate that there are no alternative sites reasonably available to accommodate the applicant, which are at a lower risk of flooding. The proposal therefore fails to meet the provisions of the Sequential Test and the Exceptions Test contrary to policy LP14 of the Central Lincolnshire Local Plan and the National Planning Policy Framework.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report.