PLANNING STATEMENT

PROPOSED RURAL WORKERS DWELLING

HOME FARM, CHEVERELL ROAD, WORTON, WILTSHIRE SN10 5UL

ON BEHALF OF R J GOSS AND SON

AUGUST 2023

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004

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1. INTRODUCTION

1.1 This Planning Statement has been prepared by RAW Planning Ltd to accompany a planning application for a rural workers dwelling on behalf of R J Goss and Son ("The Applicant"). The application relates to Home Farm, Worton, Wiltshire ("The Application Site").

1.2 R J Goss and Son are a family farming partnership, which has been running for 3 generations and has farmed in Worton for over 100 years. Home Farm is a livestock farm focussed on the purchase, calving and resale of heifers for the dairy industry. The business has been located at Home Farm for just over 10 years. The farm has three business partners. Mrs S A Goss is aged 90 and has recently moved into a nursing home. Nicholas Goss is aged 64 and currently lives at the farm, however he intends to retire when he turns 65. Robert Goss is Nicholas's son and he currently works within the farm and will be taking over from his father shortly to run the business on a full time basis. The proposed rural workers dwelling is to accommodate Robert, his wife and their family and to enable Nicholas Goss to continue living in the existing rural workers dwelling on site as a retired worker as allowed for by condition 3 of planning permission ref: 15/01509/FUL.

1.3 This application is submitted pursuant to the withdrawal of application ref: PL/2023/03315 for a rural workers dwelling at Home Farm in an alternative location to the north of the farm buildings. The LPA accepted that there is an essential requirement for a worker at the farm and that the existing dwelling at the farm will not be available to meet the essential need due to its continued occupation by a retiree. Notwithstanding their acceptance of the need for a rural workers dwelling the LPA raised concern about the siting of the dwelling and as such this application seeks to address those concerns by siting the dwelling closer to the existing agricultural buildings.

1.4 This Planning Statement is submitted in support of the application and provides a summary overview of the application proposals as well as identifying the Planning Policy Framework within which it should be considered.

1.5 Section 2 provides a description of the application site and the surrounding area. Section 3 sets out the development proposals. The Planning Policy Framework that is applicable to the application is provided in Section 4. Section 5 provides a reasoned justification for the development being proposed and Section 6 sets out a summary and conclusions.

2. THE APPLICATION SITE AND SURROUNDINGS

2.1 Home Farm extends to 240 acres and is a livestock farm focussed on the purchase, calving and resale of heifers for the dairy industry. The farm provides 2,047 sq. m of livestock housing plus a straw and hay building and silage storage and concrete yard. There is an existing rural workers dwelling located to the south of the agricultural buildings within which Nicholas Goss (who will shortly be retiring) lives.

2.2 The Applicant has farmed at Home Farm for just over 10 years with the farming business itself having been farming in Worton for over 100 years.

2.3 Home Farm is located to the south east of the village of Worton on the western side of Cheverell Road that runs in a north – south direction from the High Street to the north west of the farm to the A360 to the south east of the farm.

2.4 The application site (i.e. the site of the proposed rural workers dwelling) is located to the west of the existing agricultural buildings as shown on the aerial photos below.





2.5 The application site itself is relatively flat and is located immediately to the west of the existing agricultural buildings and a mature hedgerow that runs along the western boundary of the agricultural buildings. Access to the application is via the farms existing access onto Cheverell Road to the east and as identified on the aerial photo above.

2.6 The photo below identifies the broad location of the application site.



2.7 The application site is not located in any statutory landscape, heritage or ecological designations. The site is located in the Environment Agency mapping flood zone 1 which has the lowest probability of flooding.

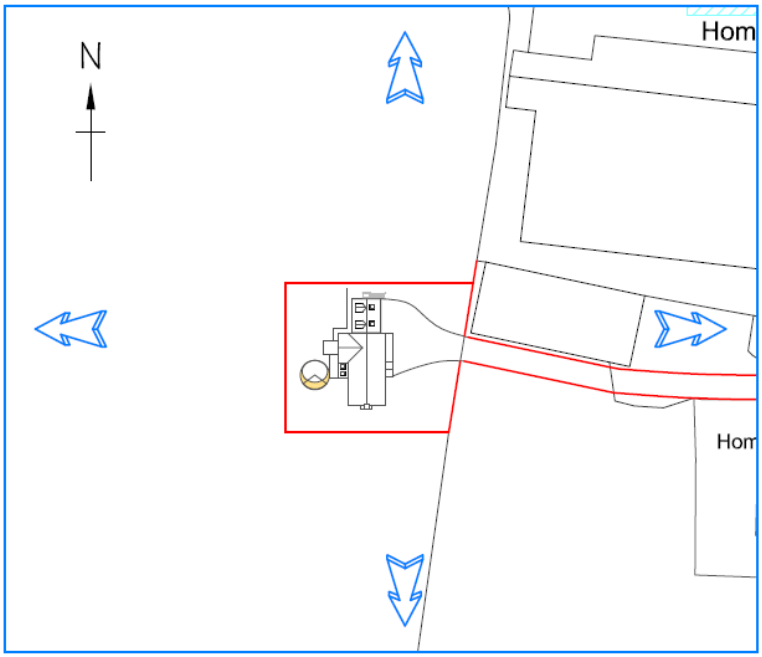
2.8 There is a Public Right of Way (PRoW) number: WORT30 to the west of the application site that runs in a north west – south east direction across land farmed by the Applicant as shown on the extract from Wiltshire Council mapping below.



3. THE APPLICATION PROPOSALS

3.1 Full planning permission is sought for the erection of a rural workers dwelling.

3.2 The dwelling is proposed to be sited to the west of the existing agricultural buildings as shown on the Proposed Site Plan below.



3.3 The design rationale for the dwelling is a traditionally designed two storey double fronted property. The property would be constructed of reclaimed style brick and a slate roof and a timber porch. Internally the property would provide a floor area of 187 sq. m providing a lounge and open plan kitchen / living / dining area and utility room at ground floor level and 4 bedrooms (one ensuite) and a family bathroom at first floor level. A double car port is proposed to adjoin the dwelling providing parking for 2 vehicles and with a farm office (extending to 30 sq. m) above. The ridge height of the carport would step down from the main dwelling and the farm office would be served by dormer windows to the rear and roof lights to the front. The farm office would be accessed via an external staircase to the side of the car port. The farm office would be constructed of timber boarding so as to contrast with the brick built dwelling.

3.4 An extract of the proposed front elevation is inserted below:



3.5 A modest sized garden would be provided to the rear of the property extending across the width of the property and the garage. A detailed landscape scheme is submitted as part of the application demonstrating how the proposed dwelling and its curtilage would be integrated into the wider landscape.

3.6 The property would be accessed via the existing vehicular access from Cheverell Road with a driveway provided to the south of the agricultural buildings and to the front of the dwelling.

4. RELEVANT PLANNING POLICIES

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is considered to be a material consideration which attracts significant weight.

4.2 This section refers to relevant national planning policy and guidance as well as Development Plan policies that provide the planning policy framework for this appeal that should be considered. It deals with the following layers of policy and guidance:

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- The Development Plan (including Neighbourhood Plans)

National Planning Policy Framework (NPPF)

4.3 The NPPF outlines national guidance and the Government's policies on the many different aspects of planning. A second version of the NPPF was published in July 2018, and a slightly amended version issued in February 2019.

4.4 Paragraph 2 explains that planning law requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

4.5 Paragraph 11 highlights that plans and decisions should apply a presumption in favour of sustainable development and that for decision-taking this means approving development proposals that accord with an up-to-date development plan without delay.

4.6 Paragraph 80 (under the chapter heading "delivering a sufficient supply of homes") promotes sustainable development in rural areas directing new housing to locations where it will enhance or maintain the vitality of rural communities avoiding new isolated homes in the countryside unless there are specific circumstances, including the essential need for a rural worker to live permanently at or near their place of work in the countryside.

4.7 Paragraph 84 (under the chapter heading "building a strong, competitive economy) the NPPF states that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas, both through conversion of existing buildings and well-designed new buildings.

4.8 Paragraph 126 (under the chapter heading "achieving well-designed places") explains that good design is a key aspect of sustainable development. Paragraph 127 sets out that planning policies and decisions should ensure that developments will add to the overall quality of their area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Planning Practice Guidance (PPG) 'Housing Needs for Different Groups'

4.9 Paragraph 010 (reference ID: 67-010-20190722) of the PPG outlines the considerations that may be relevant to take into account when applying Paragraph 80(a) of the NPPF, including:

- **evidence of the necessity for a rural worker to live at, or in close proximity to their place of work to ensure the effective operation of an agricultural, forestry or similar land based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal with emergencies that could cause serious loss of crops or products.**
- **The degree to which there is confidence that the enterprise will remain viable for the foreseeable future;**
- **Whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;**
- **In the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.**

The Development Plan

4.10 The Statutory Development Plan covering the application site comprises the:

- Wiltshire Core Strategy (adopted January 2015)
- Kennet Local Plan 2011 Saved Policies. There are no saved policies relevant to the application proposals.

Wiltshire Core Strategy (WCS)

4.11 The WCS was adopted in January 2015. The application site is identified as lying in the designated countryside (i.e. outside the limits of development) within the Devizes Community Area. The site is not identified as being subject to any other designations.

4.12 The most relevant policies in the consideration of this application are as follows:

4.13 **Core Policy 2 (Delivery Strategy)** sets out the Housing Delivery Policy for Wiltshire, stating that other than in circumstances as permitted by other policies within the WCS development will not be permitted outside the limits of development, as defined on the policies map.

4.14 **Core Policy 48 (Supporting Rural Life)** allows for dwellings required to meet the employment needs of rural areas, stating that outside the existing built areas of Small Villages, proposals for residential development will be supported where these meet the accommodation needs required to enable workers to live at or in the immediate vicinity of their place of work in the interests of agriculture or forestry or other employment essential to the countryside. The Policy continues to state that proposals for accommodation to meet the needs of employment essential to the countryside should be supported by functional and financial evidence.

4.15 **Core Policy 51 (Landscape)** requires development to protect, conserve and where possible enhance landscape character and to not have a harmful impact upon landscape character with any negative impacts mitigated as far as possible through sensitive design and landscape measures.

4.16 **Core Policy 57 (Ensuring high quality design and place shaping)** requires a high standard of design in all new developments with development expected to create a strong sense of place through drawing on the local context and being complementary to the locality.

5. PLANNING ASSESSMENT

Principle of Development

5.1 The NPPF provides support for sustainable growth and expansion of all types of businesses in rural areas, together with support for the provision of new dwellings in the countryside where there is an essential need for a rural worker to live permanently on the site. The NPPG also provides support for additional rural workers dwellings on sites where such provision is essential for the continued viability of a farming business through the farm succession process. National planning policy is reflected in Core Strategy Policy CP48.

5.2 Home Farm is a longstanding local farming business having operated in the Worton area for over 100 years and at its current location for just over 10 years. The business has been operated by 3 generations of the Goss family and Robert Goss will now take over the day to day running of the farm following the imminent retirement of his father; Nicholas. Nicholas Goss lives in the existing rural workers dwelling at Home Farm

5.3 In order to meet the continued 'essential need' for a qualified agricultural worker to live at Home Farm full planning permission is sought for a rural workers dwelling at the site.

5.4 The Report prepared by the Farm Consultancy Group submitted in support of the application sets out the 'essential need' for onsite accommodation at Home Farm which centres around the calving of heifers all year round. The cattle due to calve and all youngstock require close supervision at all times. It is necessary to continuously monitor animals when they are giving birth and to foster young onto their mothers whilst observing the young to check they are healthy. The calves are required to be fed colostrum within the first couple of hours of birth and will require milk replacement at two days old. It is important to be able to spot stress in calves from when they change from whole milk from the cow to a bucket feeding system. It will prove vital that all housed calves are regularly inspected and monitored as their welfare depends on frequent human attention. Calves are susceptible to a number of health problems that require rapid attention such as viral diseases, pneumonia, bloat and scour, all of which need to be detected early and immediately treated if losses are to be avoided. The Code of Recommendation for the Welfare of Livestock (Cattle) states that 'it is particularly important that you watch calves regularly for signs of diarrhoea or respiratory disease.

5.5 The Farm Consultancy Group report refers to the Farm Assurance Codes of Practice that requires that a suitably trained person is available 24 hours a day and the Government's Strategy for Food and Farming states that high standards of animal health and welfare are important because they are a vital part of producing safe food and because we acre about how animals are treated. High standards are also essential for the economic success of the industry. The presence of Robert (a suitably skilled

worker) on site will mean that he is available at short notice to manage the animals' health and welfare as referred to above. The Code of Recommendation for the Welfare of Livestock (Cattle) states that 'no matter how acceptable a system may be in principle, without competent, diligent stockmanship, the welfare of animals cannot be adequately cared for'.

5.6 As part of the recently withdrawn planning application the LPA consulted an agricultural consultant (Mr A. M Coke) on the proposals, His report concluded that *"there is an essential requirement for a worker on the holding at most times; the most recent profit and loss accounts indicate the business is profitable and in my view the level of profit is sufficient to achieve viability".*

5.7 Whilst it is acknowledged that there is an existing rural workers dwelling at Home Farm this will continue to be occupied by Mr Nicholas Goss who is retiring from the business and will therefore not be available to the business. Condition 3 of planning permission ref: 15/01509/FUL for the existing rural workers dwelling at Home Farm limits occupation of the dwelling to *"a person solely or mainly working, **or last working**, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependents"* (our emphasis). Inclusion of persons 'last working' in agriculture or forestry within the wording clearly identifies the intention of the condition to allow retired workers to continue living in such tied dwellings.

5.8 Whilst Mr Nicholas Goss could continue to live in the existing dwelling on site and cease trading of the business it is very successful and has been in operation for over 100 years and as such it is intended to continue the operation of the business with Mr Robert Goss taking over.

5.9 Continuation and growth of the business is entirely in accordance with the NPPF which makes it clear that the Government is committed to ensuring the planning system does everything it can to support sustainable economic growth through the planning system. In particular, the NPPF makes it clear that planning should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development and that the sustainable growth and expansion of all types of business and enterprise in rural areas should be encouraged. The NPPG also provides support for the provision of an additional dwelling at a site where this is an essential need for the continued viability of a farming business through the farm succession process.

5.10 There is clear and specific case law which make it clear that it is unreasonable to require an owner to just give up an existing house and that personal circumstances can be a material consideration. The particularly relevant case is *Keen v Secretary of State for the Environment [1996] 2 PLR 8* (a summary of which is provided at Appendix 1). The case surrounded an application for an agricultural workers dwelling for a full time stockman following the appellants decision to withdraw from the practical side of farming. The LPA refused the permission on the grounds that the appellants already lived close to

the farm buildings and that the full time stockman could be accommodated in the appellants property (either by way of the appellant vacating the property or on a part time basis). The court held that the Inspector:

> ***"had failed to consider properly whether accommodation existed that was both suitable and available. The mere existence of accommodation did not suffice and it was not reasonable to expect that, in the circumstances where a clear need had been established, the appellant should leave his house and presumably buy another one somewhere else for his wide and family. As for the proposition that the house could be shared , no rational consideration had been given as to whether this could work in reality".***

5.11 The findings of the ***Keen*** case were later endorsed at paragraph 29 *in* ***JR Cussons & Son v Secretary of State for Communities and Local Government*** (a copy of which is attached at Appendix 2), where the Inspector had in any event (and importantly) accepted that it was not appropriate for a senior family member (who for health reasons was no longer able to undertake physical activity on the farm) to surrender occupation of a dwelling on the farm in order to accommodate an additional worker.

5.12 The report by the Council's agricultural consultant confirmed that *"the existing dwelling at the unit will not be available to meet the essential need due to its continued occupation by a retiree, as substantiated under Case Law".*

5.13 The principle of a new permanent rural workers dwelling at Home Farm is therefore considered to be acceptable with both functional and financial evidence submitted in accordance with WCS Policy 48 and the principle of the dwelling supported by the NPPF and NPPG. Furthermore, the Council's agricultural consultant has already confirmed the acceptance of the principle of a rural workers dwelling at Home Farm.

<u>Design and Landscape and Visual Impact</u>

5.14 The Applicant gave careful consideration to the siting of the proposed permanent dwelling as part of the withdrawn application with the farm experiencing a number of constraints as to where a dwelling could be accommodated. Whilst the previously proposed siting was considered to be the optimal location the Applicant has sought to work with the LPA to identify an alternative location that would meet the needs of the farm business and address the LPAs previous concerns.

5.15 The farm is adjoined by Cheverell Road to the east which prevented the siting of a dwelling in this direction. Immediately to the north of the existing farm buildings is a calving paddock and land within flood zone 3 and the LPA raised concern regarding the location of a dwelling in this direction beyond flood zone 3 as part of the withdrawn application. The existing rural workers dwelling is located to the

south and as such the only feasible direction is to the west. Home Farm is a successful farming enterprise and whilst there is a need for a rural workers dwelling to secure the future viability of the business it is also necessary to consider the future expansion of the business. It is therefore proposed to locate the rural workers dwelling to the south west of the agricultural buildings so that the farm can continue to extend westwards in the future (subject to any necessary permissions). The principle of locating the dwelling in this location has been discussed with and broadly accepted by the LPA.

5.16 The proposed dwelling has been designed to provide a family dwelling for the Applicant, his wife and family who will take over managing the farm. The dwelling therefore needs to be of a standard suitable to accommodate a farm manager and not simply a farm worker. Internally the dwelling would provide a lounge and open plan kitchen / dining / family area and utility room at ground floor level and four bedrooms (including one ensuite) and family bathroom at first floor level. The dwelling would have an internal floor area of 187 sq. m. A farm office would be located above an attached double carport with external stairs so that visitors do not need to enter the family home.

5.17 The size of the proposed dwelling is considered to be commensurate with that expected by a farm manager and is consistent with others permitted in the Wiltshire Council jurisdiction (under the adopted Wiltshire Core Strategy) a number of examples of which are provided below (copies of applications can be supplied although as all applications were submitted to Wiltshire Council they should be readily available to Officers):

- 15/08248/FUL – A permanent rural workers dwelling was permitted at Knights Leaze Farm, Urchfont. The Officers Report makes no reference to the size of the dwelling in their assessment, although the CIL liability notice on the online file refers to a floor area of 240 sq. m.

- 16/02736/FUL – A permanent rural workers dwelling was permitted at By the Mill Farm, Potterne, Devizes. The dwelling extended to 186 sq. m plus a double carport with space above. The Officers report noted that originally submitted plans were unnecessarily large but that the reduction to 186 sq. m was considered acceptable.

- 16/03119/REM and 17/07311/REM – Reserved matters approval was granted for a permanent rural workers dwelling and a subsequent application was approved during construction. The Officers Report and planning documents do not provide a floor area for the dwelling, however scaling from the approved plans shows the dwelling is circa 220 sq. m in floor area. The Officers Reports make no assessment of the size of dwelling proposed which is clearly larger than this application proposes and larger than the majority of the examples provided here.

- 19/12094/FUL – An extension to a rural workers dwelling was permitted at Allspheres Farm, Upper Minety on appeal. The existing rural workers dwelling measured 137.5 sq. m and the proposed extension would have resulted in a dwelling measuring 203 sq. m. The appeal Inspector noted that there was no national or local policy stipulating the size of a rural workers dwelling once the threshold of establishing an essential need is met. Paragraph 8 of the Inspectors decision went onto state:

  "The Council's agricultural advisor considers that approximately 150 sq. m of floor space would generally be sufficient to meet an essential need for a rural worker. At the hearing he expressed it as an objective professional view which allows for a degree of flexibility. This s acknowledged by the Council's reference to it as a rule of thumb rather than a maximum amount. As guidance of limited status, it carries a commensurate amount of weight".

  The Inspector also noted that whilst the layout moderately exceeded the 150 sq. m suggested (particularly when the farm office, WC and utility were deducted) the proposed layout showed rooms that although generously proportioned would not be lavish in number or function in terms of a family dwelling (paragraph 11).

- 20/05046/FUL – A permanent rural workers dwelling was permitted at Marsh Farm, Lydeway. The dwelling had a floor area of 280 sq. m. The Officers Report noted that the dwelling was large offering four large ensuite bedrooms, living room, kitchen/diner, utility, home office and integral garage but it went onto state that whilst the property would be large it could also be argued that it would remain subservient when compared to the neighbouring storage barns. The Report also noted that the Applicant was reluctant to reduce the scale so as to avoid subsequent applications for extensions at a later date. The Officers Report concluded that the property will provide all necessary facilities for a family and it is unlikely that the proposal as a whole could be refused on that basis alone.

- PL/2021/06675 – A permanent rural workers dwelling was permitted at Boomerang Stables, Chilton Foliat, Hungerford. The dwelling had a ground floor living area of 194 sq. m with a first floor mezzanine and business office measuring 97 sq. m. The Officers Report noted that the dwelling was fairly sizeable in terms of its footprint but that it included a managers office at the mezzanine level and when the space given over to the office was subtracted the size of living space (194 sq. m) was not considered to be excessive.

- PL/2021/07530 – A permanent rural workers dwelling was permitted at Top Farm, Calne. The Officers Report refers to the dwelling extending to approximately 170 sq. m (excluding the utility ad office space) and refers to the aforementioned appeal decision for Allspheres Farm.

The Officer considered the dwelling at Top Farm to be broadly consistent with that at Allspheres Farm and to therefore be acceptable.

5.18 The application site is located within the Bristol and Avon Clay Landscape Character Area (as defined by the Wiltshire Landscape Character Assessment (LCA) 2005) and more particularly within the 'Enclosed farmland with intact hedgerow structure' landscape type. The LCA identifies that 'small scale', sensitively designed development, associated with existing built form' can potentially be successfully accommodated within the landscape, with the landscape type being capable of accommodating essential rural development that does not compromise the rural, unspoilt character.

5.19 The main visual receptor of the proposed dwelling is PRoW WORT30 to the west with the dwelling being screened from Cheverell Road by the existing farm buildings. The proposed dwelling would be located immediately adjoining the existing farm buildings of Home Farm although within a field beyond the existing hedgerow boundary that demarcates the western boundary of the farm buildings. PRoW WORT30 runs through the wider large field within which the dwelling is proposed to be located. A detailed landscape scheme is submitted as part of the application which provides for new boundary treatment around the proposed residential curtilage so as to assimilate the dwelling within the wider landscape and connect into the hedgerow boundaries along the west of the farm buildings. The proposed dwelling would be sited so as to be clearly physically related and subservient to the existing farm buildings in views from PRoW WORT30 and the landscaping scheme would help to soften views of the dwelling.

5.20 In summary, the design and siting of the proposed dwelling together with proposed boundary landscaping would be compatible with the sites rural setting and as such the dwelling would protect and conserve the landscape character of this part Wiltshire and complement the locality in accordance with Core Strategy Policies CP51 and CP57.

<u>Impact on Neighbour Amenity</u>

5.21 The closest residential property would be the existing rural workers dwelling circa 70m to the east. Given the distance between the properties and the fact that this dwelling would remain in the ownership of the farm there is not considered to be any harm to the residential amenity of the existing properties.

<u>Highway Impact</u>

5.22 The proposed dwelling would utilise the existing farm entrance onto Cheverell Road which provides good visibility in both directions.

5.23 In terms of trip generation, Mr Robert Goss who will occupy the dwelling currently travels to the farm multiple times a day, seven days a week, 52 weeks of the year. These trips would be removed if the proposed dwelling is constructed as he will be living on site. Whilst the dwelling itself would generate vehicular trips these would be minimal and are likely to be outweighed by the reduction in vehicular trips by Mr Robert Goss resulting in a net reduction in vehicular movements.

6. SUMMARY AND CONCLUSION

6.1 Full planning permission is sought for a permanent rural workers dwelling at Home Fam, Cheverell Road, Worton, SN10 5UL.

6.2 Home Farm is a livestock farm focussed on the purchase, calving and resale of heifers for the dairy industry. R J Goss and Son are a family farming partnership, which has been running for 3 generations and has farmed in Worton for over 100 years. The farm is currently run by Mr Nicholas Goss who is aged 64 and looking to fully retire in the next year. It is therefore proposed that his son; Robert Goss will take over the full time day to day running of the farm. In order for Robert Goss to be able to meet the continuing essential need for someone to live on site a permanent rural workers dwelling is proposed.

6.3 A report prepared by the Farm Consultancy Group sets out the essential need for someone to live on site. The NPPG allows for the provision of additional dwellings to enable the continued viability of a farming business and there is clear and specific case law which makes it clear that it is unreasonable to require an owner to give up an existing house following retirement and that personal circumstances can be a material consideration. The principal of a second rural workers dwelling at Home Farm therefore fully complies with the NPPF, NPPG, Core Strategy Policy CP48 and relevant case law which assists with the interpretation of Policy. Furthermore, the Council's Agricultural Consultant has accepted the essential requirement for a worker on the holding at most times as part of a previously withdrawn application.

6.4 The siting of the dwelling to the west and adjacent to the existing farm buildings would ensure that it is closely related and subservient to the existing built form of the farm. The siting together with the traditional appearance of the dwelling and a detailed landscape scheme would ensure that the dwelling is compatible with the sites rural setting and that the dwelling would protect and conserve the landscape character of this part of Wiltshire and complement the locality in accordance with Core Strategy Policies CP51 and CP57.

6.5 The proposals comply with the NPPF, NPPG and the Wiltshire Core Strategy in terms of their support for the local rural economy and rural workers dwellings (including those to enable succession planning) as well as delivering high quality design and protecting and conserving the landscape character of Wiltshire. It is therefore respectfully requested that planning permission is granted subject to appropriate conditions, including a condition limiting occupation of the dwelling to a rural worker and their dependents.



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APPENDIX 1

320070984P

HC/280 KEEN v SSE & AYLESBURY VALE DC

(May 1995, CO/304/95) Deputy Judge Eyre

Key Features

1. agricultural dwelling - whether present house could be used to meet acknowledged need - perversity

The planning application

2. Erection of an agricultural worker's dwelling for a full-time stockman. The appellant was a part-time farmer who wished to withdraw from the practical side of farming. The farm had expanded and was continuing to do so. The LPA refused permission on the grounds that the appellants already lived close to the farm buildings used for calving.

Inspector's decision

3. There was no dispute that the farm needed one worker living at or very close to the farm. The Inspector's main issue was whether the need justified the erection of the proposed dwelling or whether the need could be met by the appellant's present house.

4. The Inspector said he was in no doubt that it would be possible for the appellant to meet the requirements of the enterprise by making the house or part of it available, if only at the most critical time of year, to whomever was appointed to take over responsibility for the stock. He noted that this could cause the appellants substantial inconvenience or financial loss but nevertheless dismissed the appeal.

Grounds of challenge

5. The Inspector's decision was Wednesbury unreasonable.

Court judgement

6. It was held that the Inspector had failed to consider properly whether accommodation existed that was both suitable and available. The mere existence of accommodation did not suffice and it was not reasonable to expect that, in the circumstances where a clear need had been established, the appellant should leave his house and presumably buy another one somewhere else for his wife and family. As for the proposition that the house could be shared, no rational consideration had been given as to whether this could work in reality.

7. The Court came to the conclusion that this was a decision no Inspector acting reasonably could have come to. The decision was quashed.

APPENDIX 2

Neutral Citation Number: [2008] EWHC 443 (Admin)

CO/8706/2007

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2

Date: Wednesday, 20th February 2008

BEFORE:

MR JUSTICE SULLIVAN

JR CUSSONS & SON

Applicant

-v-

SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
First Respondent

NORTH YORK MOORS NATIONAL PARK AUTHORITY
Second Respondent

(Computer-Aided Transcript of the Palantype Notes of
Wordwave International Limited
A Merrill Communications Company
190 Fleet Street London EC4A 2AG
Tel No: 020 7404 1400 Fax No: 020 7831 8838
Official Shorthand Writers to the Court)

Mr Timothy Hartley (instructed by Messrs Pinkney Grunwells Lawyers LLP, Scarborough YO11 1TS) appeared on behalf of the **Applicant**
Ms Lisa Busch (instructed by Treasury Solicitor, Planning Section, One Kemble Street, London WC2B 4TS) appeared on behalf of the **First Respondent**

JUDGMENT

1. MR JUSTICE SULLIVAN: This is an application under section 288 of the Town and Country Planning Act 1990 for an order quashing the decision of an inspector appointed by the first respondent. The inspector's decision is contained in the decision letter dated 23rd August 2007, following a hearing on 14th August 2007 and a site visit on the same day.

2. The inspector dismissed the applicant's appeal against the second respondent's refusal to grant planning permission for the change of use of an existing office/washroom/store at Howdale Farm, Fylingdale, Robin Hood's Bay, Whitby, to a dwelling for the accommodation of an additional agricultural worker.

3. The applicant's farming enterprise is run by Mr Cussons senior, who is now 60 years old, and his son in partnership, with the assistance of the wife of Mr Cussons senior. It was common ground that the agricultural enterprise was financially viable and likely to remain so.

4. The applicant's agricultural holding comprises three farms: Howdale Farm, where the appeal site is located; Bridge Farm, about half a mile to the north; and Woodside Farm, which is some 2 miles to the south-west on the other side of the A171 Road. The inspector described the farming enterprise as:

> "... essentially livestock, primarily cattle but with some sheep, and totals some 110 hectares, about half of which is located at Woodside Farm."

5. There were 130 suckler cows, accordingly to an agricultural report in evidence before the inspector, and calving took place at both Woodside and Howdale Farms. There were also some breeding ewes, which it seems were at Woodside Farm.

6. In paragraph 8 of the decision letter the inspector said:

> "On Bridge Farm is located the main farmhouse, a 4-bedroom dwelling granted planning permission some 20 years ago; outline planning permission for a 3-bedroom house at Woodside Farm, together with the temporary siting of a residential caravan, was granted on appeal in July 2006."

7. Woodside Farm was first rented by the applicant in 2000 and was purchased by the applicant in 2003. At the time of the hearing Mr Cussons junior either had just moved or was just about to move out of the farmhouse at Bridge Farm, where he had lived with his parents, to Woodside Farm, leaving Mr Cussons senior and his wife in the farmhouse at Bridge Farm.

8. The inspector said in paragraph 18:

> "I note that the indoor accommodation for the livestock is split between the 3 sections of the holding, with the larger facilities being located at Howdale and Woodside Farms. With the existing house at Bridge Farm and the outline planning permission for a dwelling at Woodside Farm close supervision in relation to the needs of animal husbandry can be

available at those sites. It is contended that similar supervision is required at Howdale Farm, and that it is not possible to provide cover from persons resident on the other sites."

9. In its statement for the hearing the second respondent had contended that there was no need for a third dwelling because, in summary, it considered that there was no need for an additional agricultural worker. There was therefore a need for only two dwellings, for two agricultural workers, and that need was being met by the farmhouse at Bridge Farm and the planning permission at Woodside Farm.

10. The applicant contended that there was a need for an additional worker.

11. On behalf of the first respondent, Ms Busch accepts that the inspector found that there was such a need. In paragraph 13 he said:

> "In relation to the first issue I understand that the holding is operated by the Appellants with the help of Mrs Cussons. Statistical calculation of the labour requirements would indicate a need for perhaps 3 standard labour units [SLU] for the current level of activity. Due to ill-health Mr Cussons Senior seeks to take a less active part in the physical activities of the enterprise."

In paragraph 20 he said:

> "I accepted that, on the basis of the calculation of SLU, additional labour may be required in order to operate the holding effectively in the light of the reduced input from Mr Cussons Senior. However, the fundamental questions are whether it is essential for that additional labour to be resident on the holding, and whether additional housing is required."

12. That need having been accepted by the inspector, he had to consider at the hearing an issue which the second respondent had not addressed: was there a requirement for the additional worker to be accommodated at Howdale Farm?

13. The inspector said this in paragraphs 14 and 15 of the decision letter:

> "14. It has been argued that the nature of the stock-rearing activity requires close supervision of the animals especially during calving and lambing — which can occur over some 6 months of the year. It is contended that this requires an additional worker to live close to the livestock accommodation. While accepting the desirability and convenience of such an arrangement, national and local planning policy require that the need is *essential*. I am aware that many livestock farms operate without all workers being resident on the holding.
>
> 15. Mr Cussons Senior's medical condition has, according to the information supplied, been a factor since 1999 and in the intervening period the holding has operated successfully without someone resident at Howdale Farm. Even after the initial renting and subsequent purchase of

the land at Woodside Farm, and the erection of livestock buildings there, the enterprise operated effectively with no one at Howdale Farm."

14. The inspector referred to 1999 because in that year planning permission had been refused on appeal for the use of the appeal building for residential purposes.

15. The inspector's decision letter noted that there had been a history of enforcement action in respect of the appeal building, culminating in an appeal decision in 1997 upholding an enforcement notice which had required the cessation of the use of the building for residential purposes, with the removal of all residential fixtures, fittings and furniture.

16. In paragraph 8 of the 1999 decision, dated 22nd June 1999, the inspector had said:

> "For the appellant, it was submitted that only on-site living accommodation at Howdale would meet the needs of the enterprise. However, the Authority was able to demonstrate to my satisfaction that a combination of living accommodation at Bridge Farm and the continued authorised use of the appeal building as an office to provide occasional warmth and shelter in winter conditions would adequately meet the needs of the enterprise as it now operates. Although the track between Bridge and Howdale Farms is in places steep and narrow, it is only some 10 minutes' walk uphill and clearly far quicker by vehicle. The Authority's undisputed evidence is that this would not be an uncommon situation on farms, even where there was no on-site office available. Moreover, the use of additional surveillance, such as CCTV appears practical in that only those few cows closest to calving at any one time need the closest attention."

17. The inspector dealing with the 1999 appeal also noted, in paragraph 10 of that decision letter:

> "The ADAS appraisal places particular emphasis on the personal skill of the appellant as a farmer in making this holding viable. Unfortunately, he is unwell and is able to do less of the physical work but that role is being increasingly undertaken by his 19 year old son and the appellant intends to continue to manage the business."

18. However, it is important to bear in mind that those conclusions were reached on the basis of the enterprise as it then operated. Woodside Farm had not been acquired and it is clear that the agricultural business was less developed. In 1999 it was common ground between the parties that there was an existing functional need for one agricultural worker to be housed on the holding. That need was met by Mr Cussons senior, who was living at Bridge Farm and who could go to Howdale Farm as necessary.

19. In relation to paragraph 15 of the decision letter dated 23rd August 2007, Mr Hartley pointed out on behalf of the applicant that Mr Cussons junior continued to live at Bridge Farm after 1999, and he had only recently moved or was about to move to Woodside Farm and so would no longer be available at Bridge Farm.

20. Moreover, although the appellant had not produced any formal medical report, he had described his own medical condition to both the second respondent and the inspector, and it would appear that his evidence in this respect, at least, was not challenged. His evidence was that since 1999:

> "... I have had a double heart by-pass operation and remain on medication and as a result of the rigours of many years of outside physical work in all weather extremes I am the sufferer of severe arthritis. Having farmed independently from the age of 16 and will be 60 next year I am facing reality in that I am no longer able to work in excess of normal hours."

21. In his pre-hearing representations to the inspector, he had said:

> "As I explained in my letter to the planning officer, since 1999 I have had a double by-pass heart operation and remain on medication and having to continue to work in the cold, damp night air which brings on angina pains is an unacceptable situation.
>
> As the application has been refused I am again having to take responsibility for the livestock at Howdale. I have taken the decision not only in the interests of my health but with that of my family who share the workload of the business, that this will be the last time that I am prepared to put my health at risk. The calving period which has started in October this year and will extend to possibly May 2007 will be the last I will supervise. ..."

22. If that evidence was accepted, it meant that Mr Cussons senior would no longer be physically fit enough to oversee the livestock at Howdale Farm from his base at the farmhouse at Bridge Farm. The obvious consequence of this in terms of the need, which the inspector apparently accepted for someone to be in reasonable proximity to the animals at Howdale Farm, was not grappled with in the decision letter. In saying that I do not criticise the inspector. The applicant was represented by Mr Cussons senior, with the assistance of his wife. Judging from the tenor of the correspondence between Mr Cussons senior and the second respondent, he probably did himself no favours when seeking to explain his case to the inspector at the hearing.

23. Nevertheless, it is unclear whether the inspector accepted that there had been a material change of circumstances since 1999. In paragraph 23 of his decision letter, he said:

> "I accept that Mr Cussons Senior's health may make it more difficult for him to play as active a role as previously, but his health condition appears to have been a factor since at least 1999. Again I have no evidence that in the period since then significant problems have occurred, nor has any more recent medical evidence been submitted."

24. Again, Mr Hartley pointed out that the lack of significant problems was explained by the continued presence of Mr Cussons junior at Bridge Farm until relatively shortly before the hearing, and that there had indeed been more recent medical evidence if the appellant's own evidence about his own health was accepted, namely that he was a

60-year-old, who had had a double bypass heart operation and continued to be on medication.

25. I say that the inspector appears to have accepted that there needed to be someone in reasonable proximity to the animals at Howdale Farm who could look after their needs, because he considered in paragraphs 24 and 25 three methods by which that might be achieved by the additional worker. Howdale Farm, according to the agricultural reports before the inspector, is in a remote location. There is no discussion in the documentation of available alternative accommodation away from the immediate vicinity of Bridge Farm/Howdale Farm.

26. In paragraphs 24 and 25 of the decision letter, the inspector said this:

> "24. I also accept that it is not appropriate to require Mr Cussons Senior to surrender occupation of the house at Bridge Farm in order to accommodate an additional worker. However, national and local policy requires that alternatives to an additional dwelling should be investigated. From my site inspection I noted that the house at Bridge Farm is quite large and that it could accommodate, permanently or temporarily as needed, an additional worker, certainly now that Mr Cussons Junior is resident at Woodside Farm. While this may not be appealing to Mr and Mrs Cussons it is not unknown for an additional worker to be accommodated in this way.
>
> 25. In addition the appeal premises themselves could provide temporary accommodation for a worker at those specific times when close animal supervision is essential. I also understand that the original farmhouse at Howdale Farm has been vacant for some time, but I have no evidence that the possible rental or purchase of that dwelling has been investigated."

27. In respect of the first of those three suggestions, Mr Hartley submitted that the inspector fell into the same error that caused the inspector's decision letter to be quashed in Keen v Secretary of State for the Environment [1996] 2 PLR 8, a decision of Sir Graham Eyre QC, sitting as a deputy High Court judge. In that case the applicant was a part-time farmer who proposed to withdraw from farming. He wanted to employ a full-time stockman, for whom he required a dwelling. The inspector accepted that there was a need for an agricultural worker, and that the financial and functional tests set out in Annex E to PPG 7 had been met, but he dismissed the appeal against a refusal of permission to erect an agricultural dwelling on the grounds, *inter alia*, that the applicant had failed to show an agricultural need because of his existing dwelling. What the inspector had said was:

> "I have no doubt that it would be possible for your client and his wife to meet the requirements of the enterprise by making the house or part of it available, if only at the most critical time of year, to whomever is appointed to take over responsibility for the stock. ...
>
> I appreciate that moving from Brookside Farm, or adapting the property so that part could be made available to an employee could result in

substantial inconvenience or financial loss, and any adaptation of the house might itself require planning permission, depending on what was proposed." (see page 14)

28. Sir Graham Eyre said on pages 17 to 18:

> "The effect is to require a part-time farmer, who has built up a successful and still expanding agricultural enterprise, on which amimals require skilled on the spot care and where the need for a full-time specialist stockman living on or very close to that enterprise is not in dispute, to move out or share his imposing and spacious four-bedroom family house in order to accommodate that stockman. Having established the need, it is reasonable to expect clear-cut planning reasons as to why it should not be met in the way proposed unless other available and suitable accommodation exists. ...
>
> I seek to identify with a little more precision the respects in which I believe the inspector has gone wrong. The policies require that in order to test the need the question whether there exists accommodation which is both suitable and available must be answered. Accommodation may *de facto* exist but its availability and suitability must be subjected to some scrutiny. The decision letter does not disclose the basis upon which this exercise was carried out. While purporting to acknowledge the approach in para 6, the inspector fails to gather the relevant information and identify the considerations on which he relies. There is no material disclosed in the decision letter as to whether, applying the ordinary canons of commonsense, the house or any part of it was or would be available as a matter of fact. As I have indicated, its mere existence cannot suffice. What other demands are being made or are likely to be made on it? Nor is there any material or any sufficient material to justify a conclusion, which *prima facie* flies in the face of good sense, that a house of this kind is suitable. Relevant unanswered questions abound. Is it really to be expected that, in the circumstances where a clear need has been established, the applicant must leave his house and presumably buy another house elsewhere for his wife and family? How are the sharing operations to operate in reality in the various hypotheses that the stockman may be single, married or married with children. Does the house lend itself to sharing? What is the position with regard to common use of the bathroom facilities and kitchen accommodation? Does the house reasonably lend itself to adaptation? I have only given some indication of the multiplicity of matters that would require rational consideration."

29. While it is true that the inspector in this case recognised that it was not appropriate to require Mr Cussons senior to surrender occupation of his house, his suggestion that it is quite large and could accommodate permanently or temporarily as needed an additional worker suffers from the same deficiencies as the inspector's decision in the Keen case.

30. In a witness statement, belatedly filed on 11th February 2008, the inspector explained that:

"The possible use of Bridge Farm to accommodate an additional worker temporarily or permanently was raised by me at the site visit. Mr Cussons' response was that he did not want to use the property and thought it unreasonable and that Bridge Farm was too far away to provide close supervision. However, the ability of Bridge Farm to provide accommodation to satisfy the need to supervise stock at Howdale Farm was a feature in the case for the [local planning authority] and indeed had been asserted by Mr Cussons when an application was made for planning permission for the dwelling of Bridge Farm."

31. I merely note that that assertion by Mr Cussons had been some 20 years previously, when physically he was able to deal with operations at Howdale Farm from Bridge Farm. Plainly circumstances had changed since then.

32. For the reasons given by Sir Graham Eyre, if the suggestion in paragraph 24 of the decision letter was to be relied on, then there was a need to explore the practicalities of that suggestion in greater detail. If what was being proposed was conversion or adaptation of Bridge Farm to provide a further dwelling house for permanent occupation, then that use of a single dwelling house as two dwelling houses would require planning permission, for example.

33. Part of the difficulty stems from the uncertainty, on a fair reading of the decision letter, as to the extent to which the inspector did or did not accept the claimant's case that the additional worker was required to be on hand to deal with the animals at Howdale Farm. The difficulty is illustrated by the second suggestion that the appeal premises themselves could provide "temporary accommodation for a worker at those specific times when close animal supervision is essential."

34. It is one thing, as was the position in 1999, for Mr Cussons senior living at Bridge Farm to walk down the track and make occasional use of the office in the appeal building for emergencies. It is another to suggest that the additional worker, who would presumably be living elsewhere, would use the appeal building on a "temporary basis". As Mr Hartley pointed out, that suggestion begs the question of how "temporary" would such a use be. There was evidence before the inspector as to the needs of the cattle. In an agricultural appraisal that had been prepared for the purposes of the appeal in respect of Woodside Farm, the business insofar as it involved the keeping and breeding of cattle to provide high quality beef for a local wholesaler was described:

"Looking after cattle, particularly when calving, and particularly on an upland farm, where the elements are often against you, and where urgent action is often required much more quickly, is clearly established as satisfying the functional need.

With cattle being kept inside for calving during the period October through to May, the bulls being kept inside all year round, and the local working hours throughout the summer months, when all cattle still need checking twice a day, the functional need lasts throughout the year.
It is well known that when looking after cattle, particularly during calving

times, it is essential to inspect stock last thing at night and first thing in the morning and often throughout the night. It is also considered good practice to continue with this level of management when looking after finishing cattle.

Being within earshot of the animals not only makes it more convenient when going out to inspect stock at all hours, but also assists as stock in distress usually make noise which then alerts the stockman to investigate the cause of the noise. ..."

35. There was also a letter from a vet which appears to have been written in connection with an earlier appeal, which said:

> "The Cussons have been clients of our veterinary practice for a number of years. They currently run one hundred and thirty suckler cows between the two farms at Wragby [Woodside Farm] and Howdale. During calving time cows need almost continuous observation to spot any problems before they become too advanced and this would be greatly facilitated by a property at the farm buildings at Wragby. The Cussons currently travel back and forwards to provide this observation as the farm at Howdale does not have sufficient capacity for 130 cows and calves. It is against government welfare guidelines to transport cows within 72 hours of calving so it is not possible to keep moving cows as they calve to create more space. Cattle tend to live in groups with a regimented social structure and it is wise not to move cows between groups once this is established as it leads to fighting and bullying.
>
> ... I believe it is in the interest of the welfare of all stock to have as near continuous observation as possible to spot disease and injury as quickly as possible and to provide feed, water and bedding as often as possible."

36. If that evidence as to the needs of the animals was accepted, and there is no indication that it was not, it is not clear what the inspector had in mind when he referred to the provision of temporary accommodation at specific times when close animal supervision was essential. In his witness statement the inspector says:

> "This issue was in fact raised and examined at the hearing, and the [local planning authority] agreed that temporary use for occupation, while needed for livestock supervision outside usual working periods during calving and lambing, could be acceptable. The appeal building which is described as an office/store/general purpose building, contains a fully fitted kitchen, a fully fitted bathroom, together with five further rooms. All the interior walls are plastered. The [local planning authority] had also previously taken enforcement action against use of the building for permanent residential occupation and an appeal had been dismissed."

37. Mr Hartley pointed out that this somewhat tentative and presumably non-binding statement by the local planning authority that some form of "temporary use" "could" be acceptable certainly required further exploration before it could be relied upon. After all, the local planning authority had taken enforcement action to prevent the residential use of the appeal building, so presumably any temporary use would have to be very

temporary indeed, if it was not to revive the local planning authority's objections. There is no indication as to whether such a temporary use would be sufficient to meet the needs of the animals over the calving period between October and May, as described in the evidence dealing with that issue.

38. This question would have to be addressed bearing in mind the fact that although Mr Cussons senior would continue to live at Bridge Farm, he had given evidence that, for medical reasons, he would not be able to attend the animals outside normal hours while they were calving.

39. Thirdly, in respect of the suggestion that the original farmhouse at Howdale Farm could be considered the inspector said in his witness statement:

> "The availability of the original Howdale Farm was specifically raised by me during the hearing. Mr Cussons' response was that he did not get on with the current owner. Clearly, no attempt had been made to clarify the possible availability of the premises, even though they were vacant."

40. Again, this was a matter that if it was to be relied on required further exploration, even if it was not possible to resolve the matter. If Mr Cussons senior did not get on with the current owner, then there was at least a prospect that the current owner would not be prepared to either rent or sell that property to the applicant, in which case it would not for practical purposes be available.

41. Ms Busch submitted, in essence, that these difficulties were entirely due to the applicant and to the manner in which the applicant had advanced his case. The inspector was simply responding to the way in which the applicant was arguing his appeal. I accept that there is some force in that submission. It is plain that the inspector had to deal with a new situation "on the hoof" during the course of the hearing and at the site visit. He had to do that because the second respondent had not addressed the question where a third worker might need to be accommodated because it had not accepted that there was a need for a third worker, and had contended that the three farms could continue to be managed from Bridge Farm and Woodside Farm.

42. However, once the need for a third agricultural worker was accepted, the question whether that worker needed to be accommodated at Howdale Farm had to be addressed. If Mr Cussons senior's description of his own medical condition was accepted, then he, as a 60-year-old on medication after a double heart bypass operation, could no longer reasonably be expected to look after the stock at Howdale Farm from his home at Bridge Farm. I do not suggest that the inspector was required to accept that evidence, but there needed to be clear findings as to whether it was accepted and, given the acceptance of the need for the third agricultural worker, clear findings, if the claimant's contention was not accepted, that the animals' welfare, bearing in mind Mr Cusson senior's health, could be adequately looked after by the additional worker on a non-resident basis.

43. It appears to be implicit in the decision letter that the inspector accepted that the additional worker was required to be on or in close vicinity to Howdale Farm, because he then went on to consider three ways in which that might be achieved.

44. Once those issues were raised, the inspector had to grapple with them. In my judgment, the reasoning in the decision letter does not adequately respond to the situation which confronted the inspector once he had accepted, contrary to the second respondent's case, that there was indeed a need for an additional agricultural worker on the holding. There was a large number of livestock to be looked after at Howdale Farm. Given that Mr Cussons junior was now at Woodside Farm, and in the light of the evidence of Mr Cussons senior as to his health, who was going to look after them, and could that person do it effectively if they were not in reasonable proximity to Howdale Farm? These questions, in my judgment, are not adequately answered in the decision letter.

45. It follows that the decision letter must be quashed on the ground of inadequate reasons.

46. For completeness, I should mention that Ms Busch submitted that the applicant's challenge was academic because there was a second reason for refusal in paragraph 29 of the decision letter. In that paragraph the inspector said this:

> "In relation to the effect of the proposed change of use on the character and appearance of the landscape of the National Park, I recognise that the building exists and in many ways presents the appearance of a residential dwelling. Nevertheless I consider that permanent residential occupation would have an impact, particularly in relation to the miscellaneous structures and activities commonly found in and around dwellings. Such increased domestication of the local landscape would be readily visible from the public rights of way in the area, especially that which passes along the lane immediately to the west of the building. I consider that this would be harmful to the more rugged landscape of the National Park and thus fail to comply with Local Plan policies GP1 and F1."

47. Ms Busch submitted that even if the inspector's conclusions as to the lack of an essential need for an additional worker to be resident on Howdale Farm were in some respect legally flawed, then it was plain that the inspector would have dismissed the appeal in any event for that second reason. Thus the court should as a matter of discretion refuse to grant any relief.

48. I do not accept that submission. If the inspector had concluded that there was indeed not merely a need for an additional worker, but an essential need for that worker to be resident on Howdale Farm, then the question would inevitably have arisen: would it be better to use the existing appeal building or to erect new residential accommodation? The impact of the latter on the national park might well be greater than the impact of the former. Whether that would be the case would of course be a matter for the inspector to assess. But it cannot be assumed that the second reason on its own would be sufficient to justify a refusal of planning permission if there had been a proper analysis of the first issue, namely whether there was an essential need for the additional agricultural worker to be accommodated on the holding.

49. For these reasons, the application succeeds and the decision is quashed.

50. Yes, thank you.

51. MR HARTLEY: My Lord, I would ask for an order for costs.

52. MR JUSTICE SULLIVAN: Yes.

53. MR HARTLEY: My Lord, there should be before your Lordship a statement of costs prepared by those instructing me. If not, your associate has, if it has not --

54. MR JUSTICE SULLIVAN: I think it has just reached me.

55. MR HARTLEY: That must be the copy I gave to your associate earlier.

56. MR JUSTICE SULLIVAN: Yes. It is difficult to read the numbers. £9,129.68, is that what is claimed?

57. MR HARTLEY: Yes, it is, inclusive of value added tax.

58. MR JUSTICE SULLIVAN: Shall we just see what Ms Busch says about principle and the detail.

59. MS BUSCH: My Lord, I accept that and I only have one comment as to the detail of the costs --

60. MR JUSTICE SULLIVAN: Yes.

61. MS BUSCH: -- which is about VAT, because one would assume that the solicitors in question are VAT registered.

62. MR JUSTICE SULLIVAN: Is that a fair point, Mr Hartley?

63. MR HARTLEY: If the applicant is VAT registered, as he probably is, my Lord it is a fair point.

64. MR JUSTICE SULLIVAN: Given we are told it is a viable agricultural enterprise and so on, it would be pretty surprising if he was not. I am sure he is very anxious to get his VAT back on all sorts of things.

65. MR HARTLEY: My Lord, I would have thought so. It would be unusual for a North Yorkshire farmer or any farmer.

66. MR JUSTICE SULLIVAN: Can I leave it like this. Would you please and/or Ms Busch work out — have you worked out what the amount is?

67. MR HARTLEY: It is £7,829.58 inclusive of VAT.

68. MR JUSTICE SULLIVAN: I see, nice simple, is it not?

69. So that is a point, is it, Ms Busch?

70. Then the application is allowed; the first respondent is to pay the applicant's costs, those costs are summarily assessed in the sum claimed, less VAT, which is £7,829.50.

71. MR HARTLEY: My Lord, just out of an abundance of caution, would your Lordship say that unless the applicants are not registered for VAT, in which case they should pay the full sum?

72. MR JUSTICE SULLIVAN: Yes. That is perfectly reasonable, is it not Ms Busch, unless they are not registered for value added tax.

73. MR HARTLEY: My Lord, those instructing me I think did seek advice, I meant to mention it earlier, from the Court Office as to whether they needed to be here, and indeed asked me. My Lord, they intended no disrespect to your Lordship, but they were anxious to save costs if possible.

74. MR JUSTICE SULLIVAN: That is quite all right.
