

**Planning Inspectorate Reference  
APP/Y1138/A/12/2181807/NWF  
APP/Y1138/A/12/2181808/NWF  
APP/Y1138/A/12/2181821/NWF**

## **STATEMENT OF CASE**

**Town & Country Planning Act 1990**

**Appeal by Ecological Land Co-operative**

**Site at NGR 307117 120011  
(Greenham Reach)  
Holcombe Rogus  
Devon**

1. Use of land for siting of a temporary agricultural worker's dwelling for a period of 5 years together with an agricultural barn with PV array, W.E.T waste water treatment system and alterations to existing highway access and private ways as part of a scheme for new entrance to ecological agriculture.
2. Use of land for siting of a temporary agricultural worker's dwelling for a period of 5 years together with an agricultural barn with PV array, poultry hatchery/brooder, W.E.T waste water treatment system and alteration to existing highway access and private ways as part of a scheme for new entrance to ecological agriculture.
3. Use of land for siting of a temporary agricultural worker's dwelling for a period of 5 years together with an agricultural barn for PV array, greenhouse, W.E.T waste water treatment system and alteration to existing highway access and private ways as part of a scheme for new entrance to ecological agriculture.

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## **1 INTRODUCTION**

- 1.1 This appeal follows the refusal by Mid Devon District Council to grant planning consent for three separate applications submitted by a single applicant, Ecological Land Co-operative Ltd, on land at Holcombe Rogus, Devon. The principle behind the three applications is, in the words of one of the applicants Mark Boyle, “to establish a profitable business which not only benefits the local economy but also plays a positive roll in improving soil fertility, ecological diversity, the drawing down of atmospheric carbon and the aesthetic appearance of the site.
- 1.2 The three applications will produce three separate but integrated agricultural holdings, each dealing with different processes on the individual plots.
- 1.3 All three applications were recommended for approval by the Planning Officers but following a site inspection the Planning Committee resolved to refuse all three applications for the following reasons:
  - 1.3.1 *“The proposal is for a new isolated temporary dwelling in the countryside which should be avoided unless there are special circumstances. In the opinion of the Local Planning Authority no such special circumstances have been justified and there is no essential need for a rural worker to live on the site contrary to the National Planning Policy Framework.”*
  - 1.3.2 *“If granted based upon the supporting information submitted, the proposal would set a precedent for further dwellings in association with permaculture and agro-forestry proposals in the countryside which the Local Planning Authority would find difficult to resist.”*
- 1.4 The Local Planning Authority considers that there has been no case made for the construction on site of three temporary dwellings and there has to be an overriding essential need for such dwellings which has not been, in the view of the Local Planning Authority, satisfactorily demonstrated by the applications. The outcome of such proposals if allowed would therefore set a precedent for further such development and only in exceptional circumstances should dwellings be allowed in the open countryside. Reference will be made by the Local Planning Authority to policies within the NPPF.

## **2 PLANNING POLICIES RELATING TO THE APPEAL SITES**

- 2.1 At the time of the applications, 12 January 2012, PPS7 was relevant to any considerations. The appellants quite correctly made reference to PPS7 throughout their submissions as at the time of their submissions that document was relevant. However now PPS7 has been replaced by the National Planning Policy Framework, clearly reference now must be made to that document in the determination of this appeal. Reference will be made to the relevant paragraphs.

- 2.2 This new National Planning Policy Framework was introduced on 27 March 2012 and applied with immediate effect, with Annex 3 confirming that Planning Policy Statement 7 (PPS7) had been replaced. The thrust of the new Framework is Sustainability, as confirmed in the Ministerial foreword.
- 2.3 Paragraph 7 confirms that the three roles to development will be:
1. economic,
  2. social and
  3. environmental.
- 2.4 Paragraph 28 confirms there should be support for a prosperous rural economy, and this is relevant to the new businesses proposed. However, this is counterbalanced with regard to new rural dwellings by paragraph 55 which confirms that there still needs to be 'the essential need for a rural worker to live permanently at or near their place of work in the countryside'. This repeats the fundamental test under PPS7 and previous guidance.
- 2.5 Assessment of the proposals put forward in this case is a two stage process which examines:
1. How sustainable the business proposal is, and
  2. Is the business strong enough to justify the worker residing 'at or near their place of work'.
- 2.6 The Local Planning Authority has now published a document "Local Plan Part 3: Development Management Policies (LP3). This document has undergone its final consultation ending on 26 October 2012 prior to submission to the Secretary of State for examination. Public consultation was also carried out during August/September 2010 and April-June 2011 when the Plan was titled "The Development Management Development Plan Document (DMDPD).
- 2.7 In response to the reduced guidance in the NPPF, the LP3 contains a detailed policy to guide decision-makers on applications for rural workers' dwellings. Paragraph 216 of the NPPF provides criteria to assess how much weight should be attributed to such policies. Emerging policy DM/10 has been prepared in the light of the NPPF and is therefore considered consistent with it. The Plan has reached an advanced stage of preparation. Emerging policy DM/10 has received four representations to be considered by the Planning Inspector. None of these objections object to policy DM/10 per se. The Local Planning Authority considers therefore the policy DM/10 has to be accorded significant weight in accordance with paragraph 216 of the NPPF.
- 2.8 Details of this policy and any further update will be made available to the Inspector as soon as further updates have been made.

### **3 PLANNING HISTORY OF APPEAL SITE**

- 3.1 There is no planning history which is relevant to the consideration of the appeals by the Planning Inspector. The appeal sites have no buildings upon them and access to the whole of the site is via a single gateway. Evidence will be put before the Inquiry with respect to the physical nature of the appeal site and its ability to function as the appellants are proposing in their respective business plans.

### **4 PLANNING CASE AND POLICIES**

- 4.1 In their Proof of Evidence, the Local Planning Authority will:

1. examine the business proposals, and
2. judge how well related they are to the site and local conditions.
3. weigh the application against policies both local and national.
4. assess the proposals in respect to the character of the area.

- 4.2 They will then look at the criteria considered to be relevant to proposals for new rural dwellings and whether, in this case, the special circumstances exist for an exception to be made.

- 4.3 The Local Planning Authority believes the case to satisfy this test of 'essential need' should comprise of firm evidence to show:

1. That there is an essential need to be resident 'at or very close to the site',
2. That the labour requirement to run the business efficiently should equate to at least one full-time worker,
3. That the business is financially viable and likely to remain so,
4. That there is no other accommodation in the area that is suitable and available, and
5. That the other normal planning requirements are met.

- 4.4 Of these elements, they believe that 'the essential need to be resident' is the key element, and if that test is not satisfied, the case fails, irrespective of the other elements of the test. They do not believe that the tests outlined above should be applied any differently in this case than in other more traditional agricultural based proposals that also need to demonstrate the 'essential need to be resident'.

- 4.5 The Local Planning Authority will refer to policies within the NPPF and emerging policies that the Local Planning Authority are producing which deals with the principle of residential accommodation within the countryside and the Local Planning Authority's view is that the appellants have failed to demonstrate that there is an essential need to live on the land and the appellants have not demonstrated through their various submissions that it is essential for a worker to live on site as opposed to living in an adjacent settlement. It is the requirement of the farming business that should be tested rather than the particular personal wishes of the appellant.

- 4.6 The Local Planning Authority's view is that there are no horticultural/ agricultural operations on the land which require someone to live on the land and that all the uses which have been put forward in the three submissions could very well be administered by someone living locally.
- 4.7 The Local Planning Authority will question the ability of both conditions and the Section 106 Agreement which is being proposed to adequately control the occupation of the three dwellings. It appears to the Local Planning Authority that there is little control over the long term occupation of these temporary dwellings and details of the Local Planning Authority's concern will be put before the Planning Inspector.
- 4.8 It is the Local Planning Authority's view that the various enterprises highlighted in the three submissions would in the long-run not be viable and sustain economically three individuals, who would have to derive their main income from the land which is a test normally used to assess the essentialness of a dwelling for an agricultural worker.

## **5 CONCLUSION**

- 5.1 In conclusion the Local Planning Authority's position is that while the various land uses may well be acceptable within the open countryside, the establishment of three temporary dwellings have not been shown to be an essential requirement by the appellants and therefore the appeals should be dismissed.

## **6 DOCUMENTS**

- 6.1.1 Development Plan policies
- 6.1.2 Devon Structure Plan 2001-2016
- 6.1.3 Adopted Mid Devon Local Plan (LDF)
- 6.1.4 Mid Devon Core Strategy 2007
- 6.1.5 National Planning Policy Framework
- 6.1.6 Allocations and Infrastructure Development Plan Document 2012
- 6.1.7 Relevant plans
- 6.1.8 Photographs