

Other Dwellings

4.20 This is perhaps the most important PPS7 consideration for this application. A3 (iv) of PPS7 states:

**“the functional need could not be fulfilled by another dwelling on the unit, or any other existing accommodation in the area, which is suitable and available for occupation by the workers concerned.”**

4.21 Potentially there are two interpretations of this guidance:

- i) if there is an existing house, then irrespective of its suitability that house will meet the functional need;
- ii) that the suitability and availability of any existing dwellings must be considered in all cases.

4.22 In a previous similar planning application on a different holding, we instructed a barrister, Sebastian Head, to provide legal advice on this point.

4.23 His advice was unequivocal:

- **“suitable and available”** applies to existing dwellings on the unit;
- existing dwellings cannot undermine the approval of a new dwelling if the existing dwelling is **not suitable**;
- equally existing dwellings cannot undermine the approval of a new dwelling if they are **not available**.

4.24 The existing dwelling at The Hyde is very large. It is a substantial, six bedroomed detached house. The overall floor area of the property is

approximately 580 m<sup>2</sup>, as measured by the applicants. Reading Agricultural Consultants carried out a survey in 1999 of all rural-based local planning authorities in England (297) to see how local planning authorities interpreted what was "commensurate" and if they applied specific guidelines on the maximum size of dwellings that they will permit. Table KCC 2 sets out the distribution of upper limits of sizes quoted by local authorities (only 25 local authorities had limits). The mode (most frequent response) of this distribution is 150m<sup>2</sup>, and the mean (average) is 157 m<sup>2</sup>.

**Table KCC 2 : Upper limits of maximum permitted sizes of agricultural dwellings**

Maximum Size (m <sup>2</sup> )	100	120	140	150	160	170	180	190	200	225	280
No. of responses	1	5	8	9	4	1	4	1	2	1	1

- 4.25 Based on the results of the RAC survey it is clear to see that the existing dwelling at The Hyde is not commensurate with the holding. The ground floor alone at approximately 250 m<sup>2</sup> is larger than what all but one local authority would permit.
- 4.26 In summary we conclude that the existing property at The Hyde is not commensurate with the functional needs of the enterprise. It is not of a size that makes it suitable for a farm worker employee.
- 4.27 It must also be considered whether or not the farm can, in the long-term, fund the maintenance of this dwelling. Currently Mr Windham works full-time off the holding and Mrs Windham part-time off the holding. The residential property is financed by this non-agricultural income.
- 4.28 The current farm accounts show that the farm generates a profit just in excess of the agricultural wage. The long-term maintenance of the existing house could not be achieved from the farm profits alone. Again, therefore, the house is not suitable.
- 4.29 In our opinion the existing dwelling should not prevent the granting of consent for the retention of the log cabin for occupation by a farm worker because:

- i) the existing house is not suitable for the farm because of its size; and
- ii) it is unusually large for the realistic long-term income generation of the farm;

4.30 This view has been shared by a number of Inspectors, I attach two appeal decisions at **Appendix KCC 3** that support our opinion. A summary of the decisions are included in Table KCC 3 below.

Table KCC 3 : Summary of Appeal Decisions

Appeal Ref	Property	Inspector's view
T/APP/P1805/A/98/296568/P7	Alvechurch Nurseries, Alvechurch	"In my view, the words "suitable" and available in paragraph 15 relate to existing dwellings on a holding as well as to alternative accommodation elsewhere. Shepard's Croft is a substantial house and the Council did not dispute that it is worth some £350,000. As such it could not be sustained solely by the income of Alvechurch Nurseries."
T/APP/C/97/R2330/647276	Land at Brownfield Farm, Baxendean	"In considering whether the functional needs of the enterprise can be met by the existing farmhouse I have had regard to the judgment in Keen v Secretary of State for the Environment and Aylesbury Vale District Council (1996) JPL 753 where it was that the mere existence of existing accommodation does not suffice, it should be looked at it terms of availability and suitability. Although the circumstances of that case differ in some respects from those in this appeal before me it seems unreasonable that Mr Ashburner should have to vacate his house and make it available for an agricultural worker. Even if that were done questions must be raised about the suitability of a very large house with 4/5 bedrooms and a granny annex, for occupation by an agricultural worker. A house such as this would command a high market price or rent and I doubt there would be any realistic prospect of it being bought or rented by an agricultural worker. Consequently I am not satisfied that the existing farmhouse is available or suitable for occupation by an agricultural worker."

4.31 In addition to the appeal cases set out above a Court of Appeal Case Keen v Secretary of State for the Environment and Aylesbury Vale District Council (1996) JPL 753, attached at **Appendix KCC 4**. It was held in this instance that, although accommodation might exist, its "availability" and "suitability" had to be subjected to some scrutiny.

4.32 Therefore based on our own professional experience and on the above decisions it is our opinion that no other dwelling is suitable or available to meet the long term needs of the holding.

- 4.33 With regards the proposed dwelling the log cabin is modest in size at approximately 80 m<sup>2</sup> and is in our opinion suitable for a farm worker. The cabin would be well suited to serving the farm long-term, which the current house cannot.

**Siting**

- 4.34 The log cabin is sited adjacent to the farm building complex on the site of an old Farm building and within the farm building complex. It is in a location, where the dwelling occupant can see and hear disturbances.

## 5. SUMMARY AND CONCLUSIONS

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- 5.1 This application is for the retention of a log cabin for occupation by an agricultural worker on a mixed sheep and arable unit.
- 5.2 The agricultural appraisal has examined the proposal against the criteria set out in PPS7 Annex A paragraph 3 we find that:
- a) there is a clearly established existing functional need for a worker to live on site in connection with the established sheep enterprise;
  - b) the farm is a full-time unit and therefore satisfies the full-time test;
  - c) the farm is financially sound;
  - d) no other dwelling is suitable or available to meet the long term needs of the holding. Legal advice given in a similar case has been used to define when PPS7 "suitability" and "availability" tests should be applied.  
  
In this case the existing listed six-bedroomed, country house, with outbuildings and mature gardens is not suitable for the holding long-term. It cannot be maintained from the income potential of the farm. It cannot provide accommodation suitable for an employee. It should therefore be discounted;
  - e) the log cabin is sited in close proximity to existing buildings and is in a suitable location to meet the functional needs of the holding.
- 5.3 This application is not seeking to provide a second farm workers dwelling it is seeking to provide a suitably sized dwelling for a farm worker to enable the farm to continue to be run. The existing dwelling is not suitable to meet that need.
- 5.4 All the necessary tests are therefore satisfied by the proposed development of the retention of an existing log cabin for occupation by a farm worker to serve the agricultural enterprises run from The Hyde.