

Planning Statement

Incorporating Rural Enterprise Dwelling Appraisal:

**Application for Removal of Condition 4 of Planning Permission ref: 2019/0250 to
allow the retention of the log cabin on a permanent basis**

**Cat Hill Livery
Cawthorne View
Firs Lane
Cat Hill
Hoylandswaine
Sheffield S36 7JG**

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1.0 Introduction

- 1.1 An application is being submitted for the removal of Condition 4 of planning application 2019/0250 to enable the retention of the log cabin on a permanent basis Cat Hill Livery, Cawthorne View, Firs Lane, Hoylandswaine, Sheffield S36 7JG, by Ms Kelly Oxtoby. This report incorporates an appraisal of the application for a rural enterprise dwelling to support the established enterprise.
- 1.2 I am a rural planning consultant specialising in rural enterprise dwellings and the commercial equestrian development sector. I hold BSc Equine Welfare with Business Management, LL Dip Law degree and PgC Agricultural Law. I advise planning authorities throughout the UK, preparing independent appraisals and attending appeal hearings and public inquiries. I have an in depth knowledge of the equine industry and equine welfare.
- 1.3 With formal academic qualifications in law, business management, equine science and behaviour, I act as expert witness in litigation and prepare expert reports for solicitors in relation to personal injury cases, disputes and veterinary negligence.
- 1.4 The applicant was granted planning permission for a temporary dwelling, in the form of a log cabin, on the 22nd January 2020. The applicant is now seeking to retain the log cabin on a permanent basis. This report examines the case for a dwelling in the context of local and national planning policies. In particular, whether there remains an essential need for accommodation on site and whether the business remains viable and sustainable in the long term.

2.0 Background

- 2.1 The 10-acre site was purchased in 2014, having initially been rented, by the applicant Ms Kelly Oxtoby. A full-livery yard was established, providing care of clients' horses. Over the last three years, since planning approval for the residential use was granted, the business has been able to develop to become a

profitable and sustainable rural enterprise. It now provides clients' horses with rehabilitation services.

- 2.2 As detailed previously, Ms Oxtoby is a highly skilled and experienced equestrian having been in the industry for more than twenty years. She has provided the following background to her equestrian career:

‘My career with horses began when I was 8 years old having riding lessons at the local farm. For my 12th birthday I was bought my first pony which I looked after myself, competed and took part in many Pony Club/Riding Club activities including camps and rallies. I competed in the Pony Club Dressage Championships at Weston Park for several consecutive years. During this time I started working for Hannah and Becky Moody on a weekend, looking after their competition horses.

When I turned 16 and out of ponies, I bought a young, well-bred Dutch dressage horse who I trained and competed up to Prix St George level, competing successfully at the Nationals. I was asked to be a ‘guinea-pig’ rider in several British Dressage Judge and Trainer forums in the North. I continued to work for Moody Dressage, riding and producing their horses. Hannah and Becky have a yard of 30 horses, most of which are horses on full competition livery. Ranging from 3 year olds to be backed up to Advanced horses on the World Class Training Programme partly funded by the Lottery. Becky has numerous National Championship titles and her aim is for the Olympics in Tokyo in 2020 with her top horse Carinsio.

At 23 I moved to America for a year to teach horse riding in West Virginia. When I returned I started riding, competing and selling horses for several clients. Alongside this I went back to work for Hannah and Becky, doing all the administration for their livery business and I was the main driver and competition groom for Becky for several years whilst she competed at International level. I have been all over Europe caring for the Small Tour and Big Tour horses including the European Championships in Poland, Germany and France. I was also part of team who took 4 horses to the World Young Horse Championships in Verden. I had 2 horses of my own training and

competing, from Young Horse Classes through to Advanced Medium level at Regional and National Championships. I also competed in several Premier League competitions qualifying my young horse for the 6 year old International Championships. I backed and competed, winning 2 Regional titles on a client's pony who has now gone on to be on the Great Britain European Pony team.'

3.0 Planning History

- 3.1 The relevant planning permissions, since the applicants' purchase of the site, are detailed below:

2022/1095 Erection of storage barn and extension to access track in connection to equestrian use of the site – Approved

2021/0709 Erection of barn for equine water treadmill and facilities - Approved

2020/0687 Erection of barn/turnout pen for use ancillary to the commercial equestrian livery and rehabilitation – Approved

2019/0250 Siting of log cabin as a temporary rural enterprise dwelling for three years to support an existing business – Approved

2018/1420 Retrospective application for open-fronted barn - Approved

2018/0949 Certificate of Lawfulness for use of the site for livery - Granted

2018/0638 Temporary rural enterprise dwelling in the form of a log cabin - Withdrawn

4.0 The Site

4.1 The site, known as Cat Hill Livery, is situated approximately 1.5 miles from the village of Hoylandswaine, approximately 7 miles from Barnsley, approximately 15 miles from Sheffield and approximately 6 miles from Junction 7 of the M1.

4.2 The site comprises approximately 10 acres (4 hectares) of gently sloping pastureland enclosed by post and rail fencing, stock fencing, trees and hedging. The buildings and structures on site are in close proximity to each other creating a compact holding that is well screened from the highway by thick hedging. There are no residential properties adjacent to the site or properties that look directly on to the site. The local area is characterised by small equestrian sites with stabling and ancillary facilities.

4.3 The following buildings/structures are on site:

- Barn of block and steel construction with corrugated roof, approx 45ft x 30ft, with internal stabling
- Open fronted barn of block construction, Yorkshire boarding with box profile roof, approx 45ft x 30ft, used for storage;
- Row of block stabling creating five boxes approx 10ft x 14ft, each with rubber matting and automatic water
- Large area of hardstanding adjoining barns to provide parking and turning area
- Log cabin
- Barn/turnout pen 75ft (22.8m) x 35ft (10.6m), 12ft (3.6m) to the eaves and 16ft (4.9m) overall height to the ridge.

- Barn with equine water treadmill 60ft (18.28m) x 26ft (7.92m), 10ft (3.04m) to the eaves with a mono pitch roof to 12ft (3.6m) overall height

- Turnout Pen

- 4.4 There is a plentiful supply of good quality grazing to sustain more than the number of horses that will be kept. A surplus of grass allows for hay to be produced each year.

5.0 The Enterprise

- 5.1 The enterprise specialises in providing full livery services and rehabilitation treatment and care to clients' horses. Since obtaining consent to live on site, the applicant has been able to develop the business to increase the number of clients' horses, both for full livery and rehabilitation.

- 5.2 Over last three years, the business has developed its rehabilitation services and made considerable investment in infrastructure. A barn for use as a safe turnout area for rehabilitation cases has been built, as well as a second barn with the provision of an equine water treadmill. This has increased revenue and profitability to become a very successful rural enterprise.

6.0 Planning Policy

6.1 The relevant national and local policies in examining this application are set out below:

- National Planning Policy Framework (NPPF) 2021
- Planning Practice Guidance July 2019
- Barnsley Local Plan, Adopted January 2019

6.2 NPPF Section 5. 'Delivering a sufficient supply of homes' addresses the exception to policy that accepts that there can be special circumstances when a dwelling should be allowed:

Rural housing

78 In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs and consider whether allowing some market housing on these sites would help to facilitate this.

79 To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

80 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; (my definition)

6.3 The essential need remains, as determined with the previous application, and set out in this report.

- 6.4 Planning Practice Guidance ‘Housing Needs of Different Groups’, published July 2019, provides additional guidance:

How can the need for isolated homes in the countryside for essential rural workers be assessed?

Considerations that it may be relevant to take into account when applying paragraph 79a of the NPPF could include:

- *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 quickly 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;*
- *whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context; and*
- *in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.*

Employment on an assembly or food packing line, or the need to accommodate seasonal workers, will generally not be sufficient to justify building isolated rural dwellings.

- 6.5 This Planning Practice Guidance provided updated advice on the appraisal of the workers’ dwellings, clarifying the intention of paragraph 79. Whilst the NPPF has been updated in July 2021, it remains relevant. This confirms continued national planning policy support for applications such as this.

6.6 Barnsley Local Plan, Adopted January 2019, allows for the need of rural workers to live on site where it is genuinely necessary to support their business. Generically, reference is made to agricultural or forestry workers, however, the paragraph below at 18.11 refers to ‘...*farming, forestry or rural enterprise...*’

6.7 Barnsley Authority’s most relevant policy is Local Plan Policy **GB4 Permanent Agricultural and Forestry Workers Dwellings:**

Proposals for agricultural and forestry workers dwellings will be allowed provided that:

- *They support existing agricultural or forestry activities on well-established agricultural or forestry units;*
- *There is clearly an established existing functional need which relates to a full time worker;*
- *The unit and the agricultural activity concerned have been established for at least 3 years and profitable for at least one of them, are currently financially sound and have a clear prospect of remaining so; and*
- *The functional need could not be fulfilled by another existing dwelling on the unit or in the area which is suitable and available for occupation by the workers concerned.*

Development will be expected to:

- *Be of a size commensurate with the established functional need;*
- *Be sited directly adjacent to existing buildings wherever possible;*
- *Be of a high standard of design and respect the character of its surroundings, in its footprint, scale and massing, elevation design and materials; and*
- *Have no adverse effect on the amenity of local residents, the visual amenity of the area, or highway safety.*

Where permission is granted we may remove permitted development rights, and impose occupancy conditions as appropriate.

18.11 One of the few circumstances in which isolated residential development may be justified in the Green Belt is when it is required to enable agriculture and forestry full time workers to live at or near their place of work. The aim of this policy is to ensure that such dwellings are genuinely linked to the farming , forestry or rural enterprise which is likely to materialise and capable of being sustained for a reasonable period of time and that the workers are required to live nearby.

18.12 If a new dwelling is essential to support a new farming activity it should normally, for the first 3 years, be provided by temporary accommodation such as a caravan or wooden structure which can be easily dismantled.

18.13 In the case of a temporary building, significant investment in new farm buildings will be taken as a good indication of intentions and ability to develop the enterprise concerned.

18.14 The information that needs to be provided by an applicant relating to establishing functional need, and demonstrating profitability and financial soundness is relevant for both permanent and temporary buildings.

18.15 A functional test is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. This may arise for example if workers are needed on hand day and night in case animals or agricultural processes require essential care at short notice, or to deal quickly with emergencies that could otherwise cause serious loss of crops or products (such as frost damage or the failure of automatic systems). We will consider whether any dwellings (or buildings suitable for conversion to dwellings) have recently been sold or separated from the farmland concerned. Such a sale would constitute evidence of a lack of agricultural need. The protection of livestock from theft or injury may contribute to the needs for a new agricultural dwelling, but will not by itself be sufficient to justify one. Requirements arising from food processing cannot be used to justify an agricultural dwelling.

18.16 A financial test is necessary to establish whether the farming enterprise is economically viable and to provide evidence of the size of the dwelling which the unit can sustain. Levels of profitability will be considered realistically taking into account the nature of the enterprise concerned. Agricultural dwellings should be of a size commensurate with the established functional requirement. Dwellings that are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income it can sustain in the long term, will not be permitted.

- 6.8 Both the NPPF paragraph 80, PPG and GB4 support the exception to policy that permits a dwelling where it can be shown that it is essential to the operation of the business. This is referred to as the ‘functional test’.
- 6.9 The dwelling has been shown to be essential to the operation of the enterprise and therefore ‘Very Special Circumstances’ required of NPPF paragraph 148 exist. (7.0 The Functional Test)
- 6.10 The National Planning Policy Framework (NPPF) supports rural enterprise and growth. Section 6. ‘Building a strong, competitive economy’

Supporting a prosperous rural economy:

84. Planning policies and decisions should enable:

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; (my definition)

b) the development and diversification of agricultural and other land-based rural businesses; (my definition)

c) sustainable rural tourism and leisure developments which respect the character of the countryside; and

d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

85. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

6.11 NPPF Section 13. Protecting Green Belt land:

Proposals affecting the Green Belt

147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;*
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*

6.12 Barnsley Local Plan, under '8. Economy', highlights:

The Challenge:

- Developing the Barnsley economy to meet local needs and to provide local job opportunities*
- Enabling appropriate rural diversification*
- Maintaining sustainable rural communities and viable villages*

Policy E6 Rural Economy

We will encourage a viable rural economy by allowing development in rural area if it:

- Supports the sustainable diversification and development of the rural economy:*
- Results in the growth of existing businesses*
- Is related to tourism or recreation; or*
- Improves the range and quality of local services in existing settlements.*

Development in rural areas will be expected to:

- *Be of a scale proportionate to the size and scale of the settlement;*
- *Be directly related, where appropriate, to the needs of the settlement;*
- *Not have a harmful impact on the countryside, biodiversity, Green belt, landscape or local character of the area;*
- *Consider the re-use of existing rural buildings in the first instance; and*
- *Protect the best quality agricultural land, areas of lower quality land should be used for development in preference to the best and most versatile land.*

8.32 *It is important that the Local Plan plays a role in maintaining and enhancing sustainable rural communities. To do this we need to balance the potentially conflicting demands on rural areas. This policy seeks to support the diversification and strengthening of the rural economy and revitalisation of rural villages and to improve the range and quality of local services available to rural communities. This however must not be at the expense of maintaining the character and quality of Barnsley's environment. Development in rural areas must have due respect to the character of the landscape, biodiversity, and the Green Belt.*

8.33 *Rural diversification should relate primarily to business and employment development, rather than residential development, with priority given to the re-use of existing buildings rather than the construction of new ones. Small businesses, self employment and home based work are particularly important in rural areas and will be supported, as will opportunities to increase the availability of high speed broadband internet services in rural areas.*

- 6.13 The applicant's business represents the '*sustainable growth and expansion of ... business in rural areas*' and '*the development and diversification of agricultural and other land-based rural businesses;*' as a long-established rural enterprise at the site. It will continue to support the local rural economy by purchasing all feed and supplies from local suppliers, as well as the services of veterinary practices, veterinary physiotherapists, and other equestrian professionals.
- 6.14 The business as it currently operates provides full-time employment for two workers, including the applicant, as well as two part-time self-employed workers. This makes a valuable contribution in a rural area where employment opportunities are scarce. Local vets and colleges regularly contact the applicant for work experience opportunities with equine hydrotherapy.

Appraisal

7.0 The Functional Test

- 7.1 The appraisal of the functional test is prepared in my capacity as an expert in equine welfare.
- 7.2 There are typically between 8 and 10 horses stabled on site. There are currently two permanent full-liveries, including a mare that is due to foal in May 2023. The mare will foal at the site, which will require additional close supervision to ensure that any birth complications are dealt with as an emergency. Once born, the foal will require constant monitoring. This mare originally arrived at the site with a requirement for treatment following a head injury and had to be medicated and monitored closely.
- 7.3 Typical conditions of the horses staying for rehabilitation have been injuries and/or post operative care. These have included: kissing spine surgery; stifle surgery; hock surgery; DDFT injuries; splints; laminitis; navicular; chest and shoulder injuries.
- 7.4 These conditions require that the applicant works closely with vets and physiotherapists. Many of these cases are referred from vets and physiotherapists. This requires that the applicant works with insurance companies in relation to claims, which includes the hydrotherapy treatments.
- 7.5 Over the last seven months, since the installation of the equine water treadmill in May 2022, the number of horses arriving to have the water treadmill treatment has gradually increased. The length of stay of these rehabilitation cases has ranged from four days to up to three months, depending on their fitness and rehabilitation needs.
- 7.6 Typically, the short-term liveries are horses that are very fit and are being competed at a high level. A European Eventing Team pony has recently stayed and will be returning in February. Clients include William Whitaker, Becky Moody and Kristina Hall-Jackson, all of whom own extremely valuable horses.
- 7.7 Horses that have been ill or have leg injuries cannot be exercised, significantly increasing the risk of colic and other digestive and circulatory

complications. In addition, if their movement is severely restricted they can become very anxious and distressed. It is essential that they have skilled attention and care and constant monitoring for changes to vital signs or of behaviour that might indicate deterioration or complications. In all cases, whether needing post operative care or box rest, the required level of skilled management and constant supervision is extremely high.

Animal Welfare Law

- 7.8 Animal welfare legislation, and specifically equine welfare, has been updated and significantly extended in recent years. The Code of Practice for the Welfare of Horses, Ponies, Donkeys and their Hybrids, presented to Parliament pursuant to Section 15 of the Animal Welfare Act 2006, was published in December 2017.

- Animal Welfare Act 2006

- Code of practice for the welfare of horses, ponies, donkeys and their Hybrids December 2017

- 7.9 The specific conditions, injuries and illnesses that are typical of the horses on site have a much higher requirement for immediate care and supervision than ordinary horses. The law relating to the responsibility for maintaining equine welfare and the prevention of pain and distress is clearly stated:

7.10 Animal Welfare Act 2006:

S9 Duty of person responsible for animal to ensure welfare

(1) A person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.

(2) For the purposes of this Act, an animal's needs shall be taken to include—

(a) its need for a suitable environment,

(b) its need for a suitable diet,

- (c) its need to be able to exhibit normal behaviour patterns,*
- (d) any need it has to be housed with, or apart from, other animals, and*
- (e) its need to be protected from pain, suffering, injury and disease.*

7.11 These issues are specifically relevant when dealing with horses that are already recovering from illness, disease or injury, in particular, the on-going control of pain.

7.12 **Code of practice for the welfare of horses, ponies, donkeys and their hybrids**, December 2017:

Under the Act animal owners and keepers are under a legal duty of care for the animals for which they are responsible on a permanent or temporary basis. A person could therefore be responsible for an animal if they own it or are in charge of it.

Responsibility for an animal includes having an understanding of the specific welfare needs, including health, of the animal and having the appropriate knowledge and skills to care for the animal.

Those responsible for animals will also have to comply with the legislation and should be aware of this Code of Practice.

7.13 The legislation clearly sets out the duty of care owed by the person looking after the horses. Given the injuries and conditions of the horses that will be referred by vets, the duty of care in respect of this particular type of business is extremely high.

7.14 **Threat to continued viability** - If a client owned horse suffered an injury or illness that was not identified sufficiently early, confidence in the business would be severely undermined. The reputation of the livery and rehabilitation services would be severely damaged. This would seriously impact on the viability of the business.

- 7.15 It is my opinion that the functional test is fulfilled. There is a continuing functional need for a suitably skilled person to be on site 24-hours per day. Without continued supervision, undoubtedly most of the clients would be lost. The provision of skilled supervision around the clock is essential, not only for the welfare of the horses, but to ensure the future of the business. The essential need for supervision, the functional test, is acknowledged as representing the 'Very Special Circumstances' required of NPPF paragraph 148.

8.0 The Financial Test

- 8.1 The business has now been established for a number of years and has made a profit each year. The applicant has been living on site for almost three years. Accounts are being submitted on a confidential basis.
- 8.2 The confidential accounts and financial analysis sets out that the business is viable and sustainable in the long term.
- 8.3 In my opinion, the financial test is met. The business is currently financially sound and by being able to live on site the business has become more profitable and sustainable in the long term.

9.0 Conclusion

- 9.1 The functional need was established with the approval of the temporary dwelling. There continues to be a need for on-site accommodation, which is essential to the running of the business both in terms of equine welfare and the viability of the business.
- 9.2 The particular needs of the horses on site have been clearly shown to have an essential need for 24-hour supervision, which constitutes 'Very Special Circumstances', required of inappropriate development in the Green Belt.
- 9.3 The business has developed since the applicant has been able to live on site, in spite of the difficult trading conditions imposed by Covid19. The enterprise is

clearly viable and sustainable for the long term but will remain reliant on the applicant being able to live on site.

- 9.4 The application to retain the log cabin complies with local and national planning policies.