

Appeal to the Secretary of State

Against the:

**Refusal of a proposed permanent rural workers dwelling
and enforcement against the operational development of a
residential dwelling on**

**Land at The Old Quarry, Broadwell, Gloucestershire
by Cotswold District Council.**

**Planning Application reference 15/03931/FUL
LPA Enforcement reference DS.16.249.SG**

Written Statement of Appeal

10th February 2017

MOULE  CO

Moule & Co Ltd, The Farm Office, Millridge Farm, Parsons Lane, Hartlebury, Worcs, DY11 7YQ

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1.0 Introduction

- 1.1 Melanie Holt of Moule & Co Ltd has been instructed by Mr Edward Gilder of Edward Gilder Transport to appeal against the refusal issued by Cotswold District Council (hereafter referred to as the LPA) of a full planning application for a;

"Proposed permanent rural workers dwelling at the Old Quarry, Broadwell, Gloucestershire."

- 1.2 The planning application was submitted via the planning portal on 9th September 2015, validated on 28th October 2015 and subsequently given the reference 15/03931/FUL.

- 1.3 In accordance with the LPA's scheme of delegation, the planning application was heard at their Planning Committee on 10th August 2016. The application was presented to the Planning Committee with a recommendation for approval by the LPA's Planning Officer. Despite this the Planning Committee resolved to refuse the application. The decision notice was issued by the LPA on 10th August 2016 (document A06), confirming the single reason for refusal as set out below:

'Insufficient justification has been provided in terms of evidence to demonstrate that the provision of a permanent rural workers dwelling is necessary. The evidence submitted fails to sufficiently demonstrate that there is a functional justification for the proposed rural workers dwelling in association with the applicant's lairage business, which operates at the site known as The Old Quarry. The information and documentation that has been provided is therefore considered to fail to satisfy the test set out under section/paragraph 55 of the National Planning Policy Framework in relation to special circumstances for isolated homes in the countryside.'

- 1.4 The refusal decision is therefore being appealed under Section 78 of the Town and Country Planning Act 1990 and on the basis that planning ought to have been granted. The decision notice is submitted (document A01).

- 1.5 This statement also relates to an appeal against an Enforcement Notice dated 1st February 2017 served by Cotswold District Council against a material change of use to an unrestricted residential use by the erection of an unauthorised building/dwelling on Land at The Old Quarry, Fosseyway, Broadwell, Gloucestershire (document A02).

- 1.6 The grounds on which the Enforcement Notice is appealed are;
a) that, in respect of any beach of planning control which may be constituted by the matters stated in the notice, planning consent ought to have been granted; and

g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

1.7 Wishing to maintain an appeals process that is appropriate and proportionate, we request that the appeal is determined by written representations on the basis that this is a minor application that was refused on a single 'planning' ground and sufficient detail can be provided and adequately dealt with through the exchange of written representations. Similarly the enforcement appeal solely relates to the same dwelling and is appealed on the same basis and so the two appeals can be linked and dealt with together.

1.8 All documents relating to this appeal, the original application and subsequent correspondence with the LPA have been referenced and clearly set out within an attached 'List of documents' (document A0).

2.0 Relevant Planning History

2.1 The below sets out the relevant planning history at the site:

12/01922/FUL Approved 17 th July 2012	Retention of residential caravan for overnight accommodation for stockperson and erection of lairage building.
15/00984/FUL Approved 13 th July 2015	Improved access (part retrospective)
15/00289/FUL Approved 9 th December 2015	Erection of an agricultural muck store
15/03075/FUL Approved 9 th December 2015	Erection of general purpose building for use as agricultural lairage and associated fodder storage
15/03100/FUL Approved 10 th August 2016	Retention of residential caravan for overnight stockperson

3.0 Planning policy

3.1 The development plan consists of saved policies from the Cotswold District Local Plan 2001 – 2011 (adopted April 2006) and the National Planning Policy Framework (NPPF).

The following local policies are relevant to the proposed development:

LPR05 Pollution and Safety

LPR15 Conservation Areas

LPR19 Develop outside Development Boundaries

LRP 24 Employment Uses
LPR38 Accessibility to & within New Develop
LPR42 Cotswold Design Code
LPR 45 Landscaping in New Development
LRP 46 Privacy & gardens in residential development

The following government policies are relevant to the proposed development:
National Planning Policy Framework 2012
Planning Practice Guidance Rural Housing

- 3.2 An assessment of the proposed development against the relevant planning policies can be found in the original planning application submission Planning Statement (document B13) and the planning officer's report recommending approval of the application (document A04). In the interests of keeping this statement succinct, this is not repeated here.

4.0 Site description and development proposal

- 4.1 The Old Quarry is situated in the civil parish of Broadwell within the Ward of Fosseridge, located approximately 1.5km north of the town of Stow on the Wold and less than 1km from the village and conservation area of Broadwell. The site is within the Cotswold Area of Outstanding Natural Beauty (AONB).
- 4.2 The small triangular parcel of land which fronts the A429 Fosseyway, extends to approximately 0.4ha and benefits from planning consent for use as an agricultural lairage. There is situated on the land, an existing steel portal framed building utilised as a lairage and agricultural store, a caravan for residential use has been on site and in use since 2003 and in 2012 planning consent for its retention in connection with the lairage use of the site was granted. Further planning consents have subsequently been granted for an additional lairage building, muck store and improved access.
- 4.3 Elevated from the roadside the site is accessed via a sloping drive and bounded by mature coniferous planting. A substantial area of neighbouring deciduous woodland further screens the site from the south and coniferous planting along the northern boundary effectively screens the site from the otherwise open agricultural landscape, which falls away to the east.
- 4.4 The description of the development given with the planning application was: 'proposed permanent rural worker's dwelling at The Old Quarry, Broadwell'. The planning application sought consent for a permanent rural worker's dwelling. This would be in

substitution for the temporary residential caravan accommodation on site and subject to a similar condition, limiting occupation of the dwelling to "persons solely or mainly employed in the day to day management of animals utilising the lairage site" as per consents granted under application numbers 12/01922/FUL and 15/03100/FUL.

5.0 Business Operations

5.1 Brief History

5.1.1 Edward Gilder is a third-generation livestock haulier and the family's history within the agricultural and livestock haulage sector dates back over 150 years in the Gloucestershire area.

5.1.2 They have been involved in some highly specialist livestock haulage projects over land to Russia; transporting the first ever black rhinos bred in captivity for release in Africa; and exporting animals to Saudi Arabia for the Saudi royal family, however their main area of expertise is in the transportation of live animals for agriculture.

5.1.3 Edward Gilder Transport have an excellent reputation for providing a professional, high quality service in both national and international livestock haulage. They pride themselves on maintaining the highest standards of equipment, facilities, bio security and most importantly animal welfare.

5.2 Business current position

5.2.1 At the time of preparing the application, the business was turning over in excess of £2,000,000. The company has since sold off the refrigerated transport side of the business to concentrate on livestock haulage. The 2015 accounts still show a turn-over of £1.5 million and profits in three out of the last four years provided. The business still employs 15 full-time equivalent staff and is a significant contributor to the local rural economy.

5.2.2 The company's main operating base is at Bourton on the Water with vehicles ranging from 3 tonne rigid base to 44 tonne articulated two, three and four deck trailer units. All the company's drivers are fully trained with competence certification and experienced in animal welfare and stockmanship, which includes; the fitness of livestock for travel, loading, unloading, handling, feeding and watering intervals, journey times and rest periods, space allowances and livestock movement records.

5.2.3 The livestock haulage business typically runs 5,000 vehicles movements per annum, carrying several hundred thousand head of livestock.

5.2.4 The application site provides a number of different functions in its role as an agricultural lairage for the benefit of the wider livestock haulage business, of which it forms an integral part.

5.2.5 The lairage is therefore not run as an independent 'business' and cannot be separated. As a minor point, the decision notice acknowledges the existing lairage use of the site however reference to 'lairage business' should perhaps read 'lairage operations'.

6.0 Functional operation of the site

6.1 The general word 'lairage' is used throughout this application, however the activities undertaken within this definition are quite broad ranging. Generally they fit into lairage and procurement however the services have expanded since the application site and now can be broken down (for the purposes of explaining the business operations) into 5 distinct purposes. Copies of approval notices and site licences etc. can be found at documents ~~E06-E09~~ inclusive.

- a) Procurement lairage
- b) Collection centre
- c) Assembly centre
- d) Staging post
- e) Holding site

6.2 Each of these uses are explained in greater detail in the sections below along with examples, and where useful, evidence of such uses submitted.

6.3 For the purposes of explaining the various functions and physical activities on the site, it is helpful to view the 2016 calendar - ~~document E01~~ - which demonstrates the types and frequency of movements.

7.0 Procurement lairage

7.1 Edward Gilder is retained by several meat processors, abattoirs, butchers and other meat retailers (to name a few - Yorkshire County Meats, Skegness; Ludgate Catering Butchers, Theme; Walkers Butchers, Moreton) to procure livestock to fulfil their orders, his largest customer being Dunbia. Dependent on the orders, he attends one or more markets a week as well as having a database of over 200 farmers and producers to contact in order to meet his orders.

7.2 The advantage Edward Gilder has over his competitors is that by offering the lairage facilities (facilities where the livestock can be held for a short period of time before

slaughter) means the meat processors and so on are able to have significantly more flexibility in killing and slaughter times, thus enabling their own systems to run more efficiently. This is obviously complemented and integral with the fact that Edward Gilder also runs his own transport and so can offer a flexible and integrated service which is highly valuable to his meat processing clients.

- 7.3 The activities vary within the week, and again within a year – the orders being seasonable. The lairage is generally busiest at the start and middle of the week, tailing off by Friday and Saturday as generally abattoirs don't kill on Saturdays and Sundays so they have no need for livestock in the day or so preceding the weekend. Occasionally Edward Gilder has animals in over a weekend or a Sunday so as he can arrange early delivery on a Monday morning ready for killing to start again. Over the year the demand for red meat varies and so this knocks onto how busy this aspect of the business is. For example in December coming up to Christmas the lamb and beef trade is very slow (consumers generally don't eat much lamb at Christmas and any beef is killed by first/second week of December). Additionally the company spends a lot of time transporting turkeys during December so is otherwise busy. A further example is that the British season for spring lamb is March – June (when the current seasons lambs become fat) and so this is always a very busy period for sheep, that generally tails off in numbers again by September-October.
- 7.4 In practical terms, to fulfil his orders Edward Gilder must often source from several locations and different producers. He will contact farmers whom he knows may have livestock ready (he will know who lambs when, and when their lambs will be coming ready) and often either pick up or arrange for the farmers to deliver directly to The Old Quarry. So regularly there are small batches of lambs arriving at the site, to be made up into larger or appropriate loads for Edward Gilder Transport to deliver directly to the abattoir.
- 7.5 Whilst he procures, lairages and transports for a number of processors and butchers, his main contract is with Dunbia. Dunbia is one of the largest red meat processors in the UK and Northern Ireland with a turnover of £800 million and accounting for 24% of the national kill and processing of red meat.
- 7.6 Edward Gilder provides both livestock transportation and a procurement service to Dunbia and in 2016, was contracted to increase procurement in the Cotswolds area to assist the company's national target growth of 250,000 animals. The Dunbia abattoir in Llanbydder, Wales, process 30,000 lambs per week for a number of leading supermarkets.



Edward Gilder
Procurement officer

Dunbia (Llanbydder), Tilly Park, Llanwern Road,
Llanbydder, Carmarthenshire, Wales, SA40 9EE

- 7.7 Edward Gilder is responsible for the procurement of livestock from local farms and estates and with his 200 local farmer contacts from whom he regularly procures lamb for Dunbia, he supplies into the Sainsburys 'taste the difference' range amongst others.
- 7.8 Dunbia will contact Edward Gilder with their requirement for the number, weight and specification (organic or standard) of lambs required. Similarly to above, Mr Gilder will then contact those producers and farmers who he knows will have the correct specification to fill the order.
- 7.9 For this part of the service, it is quite normal for livestock to arrive at The Old Quarry in the early hours of the morning. When they arrive they need to be unloaded into freshly cleaned and bedded pens, checked over for welfare and signs of ill health, provided with fresh water and sometimes feed. Any animals that are stressed or injured must be treated promptly. The stockman must then check and deal with the relevant paperwork, which needs to be completed and ready for the next morning. If the animals come on earlier in the day, the stockman will still undertake the same routine and will then also have a final check around at about 10-11pm. Animals that have been in market or being transported for several hours are highly susceptible to stress and need a significantly increased level of observation and stockmanship than perhaps an animal in calm surroundings on the farm would need.
- 7.10 Most abattoirs start killing at 6am and therefore depending on where the lambs were being taken, a stockman would be required to get ready to load at between 1 and 4am the following morning, checking the stock are fit to travel and ensuring all paperwork is completed and ready to travel with the animals.
- 7.11 Following departure, the building is cleared out of straw and muck, the building, feeders and troughs are thoroughly cleaned and disinfected ready for the next consignment.
- 7.12 Whilst this provides a highly useful service, it is also highly unsociable for the stockman on site as livestock are delivered at all times of day and night, dependent on when the abattoir needs them in. These are constantly moving and evolving targets and deadlines, for example if an abattoir has a breakdown and cannot take them they must stay on site until they can. Furthermore, apart from the long-haul haulage and regular work, much of the transport logistics have to be done with very little notice and with only perhaps a few hours to plan journeys. For example Edward Gilder might go to market on a Monday planning on buying 200 lambs, is only able to buy 100 (perhaps because the trade is too high or there is not enough stock in market) so he must immediately plan on going elsewhere to source the livestock. This changes his haulage plans and means unscheduled driving and pick-ups.

- 7.13 Of particular importance to his Dunbia contract, is Mr Gilder's ability to hold the animals and then transport them at a time issued and requested by the abattoir. The Llanybydder abattoir kills 6000 sheep a day, but only has its own lairage capacity for around $\frac{1}{3}$ of that number. This means that deliveries of large loads from elsewhere, at an allotted arrival time are crucial to the throughput and efficient functioning of the abattoir. In the event of a mechanical breakdown at the abattoir or such like, then they do not have the capacity to lairage animals on site and as additional consequence, lairage time at the Old Quarry may be extended unexpectedly.
- 7.14 There are significant benefits to a wide number of business throughout the supply chain, from the farmers who are able to benefit from more cost-effective transport and competitive prices for their livestock to the processors and abattoirs who need the flexibility Mr Gilder can offer to run their own businesses.
- 7.15 The lairage facilities on offer at this site are highly integral to this service, without them the other aspects such as the procurement or the transport would not work. The lairage facilities are a key part of the red meat supply chain.
- 7.16 Evidence of Example sheep movements of this nature are referenced at document E02.
- 7.17 There are countless examples of this type of movement that can be viewed throughout the 2016 calendar.

8.0 Collection centre

- 8.1 Individual local farmers deliver their own, small numbers of livestock for 'collection' at the Old Quarry, which will then be combined as a single load for Edward Gilder Transport to deliver to the nearest livestock market for sale at auction which again adds to the efficiency of farm businesses utilising the service, reducing transport costs for individual farmers and carbon footprints.
- 8.2 A typical routine for the collection centre would be as follows. In the morning, typically between 7-9am, the stockman will prepare the livestock housing, making sure that it has been washed down and disinfected since the last load (usually undertaken immediately after stock have left). The internal arrangement of pens within the lairage building will be prepared to suit the number, type and grouping of livestock due. Animals from different farms will be penned separately and some may require individual penning, particularly a more 'lively' or potentially dangerous beast that has perhaps had little handling.
- 8.3 Once the internal gates and divisions are secure, the pens will be bedded down with straw and clean, fresh water made available to each pen.

- 8.4 Individual local farmers will deliver their own, small numbers of livestock to the Old Quarry for 'collection'. Where possible these loads will be planned to avoid clashes and to ensure the stockman is on hand to assist in the unloading for health and safety reasons.
- 8.5 During the unloading, ear tag numbers of each bovine animal will be checked against the animals passport, or for sheep their ear tags against the sheep licence that accompanies them. The animals will be checked for lost tags in transit and new tags will have to be ordered immediately if required to enable delivery in time for onward travel and slaughter. Animals that are presented for slaughter missing a tag cannot enter the food chain and so are worthless.
- 8.6 The site gates will be opened for entry, closed during unloading and opened for exit/entry of the next load. The stockman will assist in the wheel washing of vehicles in and out of the premises as part of the biosecurity standards.
- 8.7 The animals have to be delivered to market in the best possible condition for sale as this will affect their value. The applicant is therefore providing much more than a transport service and is responsible for the animals' welfare whilst at the Old Quarry.
- 8.8 After each load is unloaded at The Old Quarry, the animals are individually checked by the stockman for signs of stress or injury and general health and welfare. Food and water is provided.
- 8.9 Once all stock are on site, the gates are shut and locked, the animals will all be physically inspected and checked regularly, for general welfare and for signs of delayed stress. The stock will be sorted into lots ready for loading, fed and checked again for a final time that evening at around 10-11pm.
- 8.10 If any of the animals are showing signs of stress, injury or of being unfit, then the animal may have to be isolated, requiring an additional pen, physically separate to the other stock, to be made up, and additional monitoring, assessment and veterinary intervention as required together with any additional biosecurity measures activated and reporting obligations to the Animal and Plant Health Agency observed.
- 8.11 The relevant paperwork is prepared and completed in advance of the movement off the holding to market. For cattle this means that the passport is stickered to record that the animal has been on the holding recording the date that it moved on and off. This movement is reported to the British Cattle Movement Service (BCMS). For sheep, they move under paper licence/EID (electronic identification tags) and reported on line. Paper licences are completed to record the movement off the holding, the destination, date and number of sheep. Once the movement is complete these are submitted to the Animal Reporting & Movement Service (ARAMS).

- 8.12 Stock has to be delivered to market between 6-7am to enable lotting before the sale starts at 9.30am.
- 8.13 Suitably sized vehicle/s will be dispatched to arrive at the Old Quarry at 4am. The stockman will then assist the driver in loading the stock onto the vehicle and checking each animal's identification against the paperwork. The lorry will be loaded and ready to depart at around 5am.
- 8.14 Once the lorry has left the premises, the gates are shut and locked and the buildings is cleared out of straw and muck, the building, feeders and troughs are thoroughly cleaned and disinfected. This typically takes approximately 3 hours for one man. Trading standards can arrive unannounced to inspect the site at any time, therefore it imperative that the correct standards are adhered to at all times.
- 8.15 The lairage will be ready to accept is next consignment by 9.30am. Typically on a market day, the lairage facility will be utilised again over night on the Monday into Tuesday morning in connection with the applicant's procurement service, with stock arriving back at the Old Quarry from 2-3pm in the afternoon.
- 8.16 An example of this type of movement can be seen on 10th January 2016 in the calendar. We have already provide samples of the sheep movement licences in section 7.0, and so in the interests of concision have not submitted further copies of (the non legible) sheep licences again.

9.0 Assembly centre

- 9.1 The Old Quarry is used as an assembly centre for the international export of live cattle. All animals are generally high value breeding stock, either rare breed or dairy heifers. Animals are required to be assessed by a vet on two separate occasions before they can be certified fit to travel. Cattle from a number of holdings will be 'gathered' at the old quarry for blood testing and inspection as a whole consignment rather than visiting numerous different farms across the country.
- 9.2 Prior to collection, 10 days' notice is given to DEFRA of the proposed export, providing movement and journey log, identifying the collection destination, ear tag numbers, countries of transit and planned arrival destination.
- 9.3 Records are required identifying designated areas for overalls and wellington boots and disinfectant purchases. The stockman is responsible for keeping these records up to date.
- 9.4 A DEFRA registered vet will inspect the premises to ensure the correct standards of cleansing and disinfecting have been met.

- 9.5 In practical terms all of the same activities and routine as the previous sections apply – the livestock needs to be unloaded, checked, treated, bedded, fed, watered and closely monitored. The animals that come through the assembly centre for export are generally very high value animals and so a full-time presence and close monitoring is absolutely critical. The transport experience together with unfamiliar surroundings and being grouped with unfamiliar livestock can cause stress, which can in turn affect the condition of the animal and in worst cases cause females to abort or make them more susceptible to infection and illness. Groups of breeding bulls from different holdings require individual penning and constant monitoring to prevent injury from fighting.
- 9.6 Once all the animals for the consignment are gathered, the stockman will be required to be on hand to assist in the individual handling of each animal for the purposes of blood tests, which are carried out by a DEFRA approved vet and any associated paper work completed.
- 9.7 The blood results take 24-36 hours to come through and the stock are housed within the lairage building for all of this time. Following the blood test results, the vet is required to visit the site for a second time to inspect the animals before issuing the Health Certificate and Intra Trade Certificate allowing the animals to travel within a period of 24 hours.
- 9.8 The stockman is required to be on hand to assist in the handling of the animals at each of the vet's visits and at most times, day and night during the animals stay to feed, water and regularly check and monitor the animals for health and welfare issues, intervening where necessary to administer medicine, isolate an animal or provide additional care.
- 9.9 BCMS are provided with an inventory of animals passing through the site in this way, however they are not recorded as movements on and off the holding in the same way as domestic cattle movements.
- 9.10 Evidence of example cattle movements export can be found at document E04.
- 10.0 Staging post**
- 10.1 The Old Quarry is certified as a lairage/staging post to rest cattle whilst in transit for import or export. These cattle are typically high value breeding cattle and dairy heifers, which require short rest breaks and milking before their onward journey.
- 10.2 Cows and heifers arrive from France, Holland, Denmark and Germany via ports at Hull and Dover. Dairy cows are only allowed to travel for a maximum of 12 hours before needing to be milked. Any livestock can only be transported for 14 hours (from first loading) before requiring a minimum 1 hour break to be rested, fed and watered. Livestock that has been in transit for 28 hours requires a minimum 24 hours rest break.

- 10.3 The Old Quarry is utilised as the first destination on arrival as a short stop resting site, to allow dairy cows to be unloaded and milked or as a rest break destination before moving on to their final destination.
- 10.4 The stops are usually short, typically between 1 and 2 hours. Ferry crossings are often overnight and therefore stock usually arrives at The Old Quarry between 1am and 10am. For dairy cows, the stockman is required to prepare suitable accommodation, ensuring that it is cleansed and disinfected for milking, organise and prepare the mobile milking equipment, which will require approximately 2 hours to set up in advance of the stock arriving.
- 10.5 Once the lorry has arrived, the stockman will assist in the unloading of cattle, check their general health and welfare and undertake the milking of each cow. A typical load of 34 would take approximately 2 hours. He is then required to feed and water the stock before assisting in the reloading of the lorry.
- 10.6 For the short rest-break facility, depending on the length of travel prior to arriving at The Old Quarry, these can be as little as 1 hour on the vehicle, with the stockman required to be on site to provide entry, to feed and water the stock whilst on the lorry.
- 10.7 Longer rest breaks for animals that have been in transport for 28 hours are a minimum of 24 hours, often 48 hours and the stockman is required to prepare the accommodation with fresh bedding, feed and water, assist in the unloading and handling of the animals, check for health and welfare, dealing with any issues that might arise, organise the vet to make a site visit to health check the animals and certify them fit for onward travel before assisting again in the loading of the livestock, checking identity tags and completing any paperwork, ready for departure.
- 10.8 Certification recording these stops are completed but are not required to be reported to BCMS in the same way as domestic cattle movements.

11.0 Holding site

- 11.1 In conjunction with the large amounts of haulage the business undertakes, sometimes it is not possible to make a livestock movement in one day. For example if Edward Gilder Transport are contracted to pick up and deliver a number of animals, there can be several reasons why they cannot be delivered until the following day and so the business is able (subject to complying with movement restrictions and keeping his main contracts such as Dunbia happy) to offer overnight accommodation in association with a transport movement. Such examples would be on a long journey where either the drivers hours or the animals transit hours are up. It might be that the destination cannot take the animals for another day or it might need to coincide with a return journey to make economic

sense from the transport angle. There are several reasons, but the buildings, welfare facilities and a full-time stock person makes this a useful service.

11.3 An example of this type of movement is given at E03.

12.0 Evidence update

12.1 Given the delay in determining the application and time lapsed since that determination, it is felt necessary to update the 'evidence' on the continued use of the lairage site and need for a permanent rural workers' presence on site, on most days of the week throughout the year and at most times of the day and night.

12.2 This is presented this in the form of a calendar appeal document E01 for ease of reference, which covers the calendar year for 2016. In conjunction with the sections above we also provide an additional small amount of evidence for the purposes of demonstrating how movements work.

12.3 Since making the application, Edward Gilder has also since won a contract with Buitelaar as outlined at section 13.0 below, which supports the growing demand and need for the extended lairage facility and associated workers' dwelling. This further supports the onsite need for a stockman.

13.0 Additional functional duties – Buitelaar contract

13.1 Edward Gilder has recently (since the refusal of the planning permission) been awarded a contract with Buitelaar Trading who supply McDonalds with beef and contracts with numerous farms across the country for calf rearing or cattle feeding.

13.2 Buitelaar specialises in marketing in the red meat supply chain, integrating the various stages of rearing cattle from baby (pre-weaned) calves through to slaughter, with a network of specialist rearers across the UK. The job of rearing baby calves to weanling stage is highly specialised and generally undertaken by competent specialist calf rearers. The Buitelaar system takes a baby calf from the dairy industry (ie born out of a dairy cow), batches it with other similar stock, transports it to a specialist rearer for around 15 weeks and until around 150kg. After that the weaned animal is moved again into a rearing or fattening unit.

13.3 Edward Gilder has won the contract for transporting and providing the facilities for sorting and grading both the baby calves and at the second time of handling when moved again.

- 13.4 The job will involve collecting multiple smaller loads of baby calves from dairy farms across the region and bring them back to the Old Quarry. From there they will be graded by Buitelaar and organised into batches for distribution to individual specialist calf rearers across the country.
- 13.5 The stockman will prepare the pens and accommodation, assist in the unloading of the calves, checking identity tags against their paperwork on arrival as well as individually checking the health and welfare of each animal.
- 13.6 Baby calves need to be fed milk 2-3 times a day, therefore will require individual bottle feeding whilst on the premises and regular monitoring as young calves are particularly susceptible to illness and can deteriorate quickly if not attended to.
- 13.7 Once graded, the stockman will sort the livestock into loads to be delivered to the different calf rearing farms and assist in the loading of the livestock vehicle, checking the identity tags and completing the necessary transport paperwork and movement records.
- 13.8 The baby calves are anticipated to be in the lairage for 24 hours. This is planned for to be a weekly arrangement taking place every Wednesday commencing later this year.
- 13.9 Once the calves are weaned by the calf rearer and at a size of approximately 130-150kg, Edward Gilder Transport will collect the weaned cattle from the various calf rearing units and bring them back to the Old Quarry, where they will be graded again by Buitelaar and allocated into even batches for onward distribution to farms contracted to fatten the cattle to finishing. The stockman will be involved in the sorting of cattle into batches, inspection for health and welfare, monitoring, watering and feeding, checking identity tags against paperwork, preparing and completing the transport paperwork and reporting the movements on and off the holding.
- 13.10 The weaned calves are anticipated to be in the lairage for 24-48 hours, and this will be approximately once a week.
- 13.11 This process is repeated once again for finished cattle, which will be collected from the various farms by Edward Gilder Transport, collected at the Old Quarry for rest food and water before being transported to Woodheads abattoir at Spalding for slaughter.
- 13.12 The finished cattle are anticipated to be in the lairage for between 8-12 hours and moved off the same day.
- 13.13 As a condition of the contract, the facilities must be Red Tractor Assurance Scheme approved, and the Old Quarry premises has recently added the collection and assembly centre holding numbers to their existing Red Tractor scheme approval (see document E10-C).

- 13.14 Again should there be a problem or capacity issue with the abattoir for any reason the length of lairage will be extended with little notice.
- 13.15 This contract is due to commence at the end of March 2017.
- 13.16 This is in addition to the current stocking levels. This contract will allow the business to employ a further two part-time members of staff in addition to those required at times of peak flow and to ensure adequate rest breaks can be provided.

14.0 Legislative Framework & Disease Management

- 14.1 The logistics of handling over 5000 movements per year and several hundred thousand animals is huge, and it has to all be carried out whilst meeting three principle sets of regulation under which the livestock haulage and lairage operations must operate within:
- a) The Welfare of Animals (Transport) (England) Order (2006)
 - b) EU drivers' hours rules
 - c) General animal welfare regulations (several different regulations)
- 14.2 Both the Welfare of Animals (Transport) (England) Order and the EU Drivers Hours Regulations have very strict restrictions on length of time journeys can be before rest periods must be taken. Animals can be transported for 14 hours then they must be rested, fed and watered before continuing with an onward journey of up to 14 hours. The time starts from the first animal being loaded to last one being unloaded. After 28 hours animals have to be unloaded at an EU approved lairage or staging post for a minimum period of 24 hours to be rested fed and watered. Animals have to be re-certified for onward travel by a vet.
- 14.3 Under the driver hour regulations, the drivers are required to have a 45 minute break at least every 4.5 hours. It is company policy to check on the livestock at driver rest breaks although stock may not be off-loaded, it may still be possible to identify if an animal is showing signs of being sick or injured. If an animal goes down in transit, this will cause a change in the other animals behaviour, they generally start circling and the driver will be able to feel the balance of the load changing. All drivers are fully trained and the company contingency plan will come into force. Once an emergency situation is identified, the driver will telephone the office and the journey will be diverted to a suitable facility. For example, a movement of 500 lambs between Lancashire and Llanybydder would be diverted to the Old Quarry as the closest facility. Other such contingency locations are at Carlisle, Longtown, Shepton Mallet and Edinburgh. EU legislation dictates that drivers must take a 45 minute rest break in a maximum 9 hours journey i.e. 4.5 hrs drive, 45 minutes break then another 4.5 hrs drive. Following this an 11 hour break is required. The

lairage provides a complementary facility for drivers needing to exercising enforced rest breaks.

15.0 Functional / essential need justification

- 15.1 At the time of application, the LPA were supplied with a full planning statement and appraisal of the rural business which outlined the business operations of the appellant and the use of the site in association with the various business operations (document B13).
- 15.2 The above provides supplementary detail and clarity on the day to day activities and role of the stockman that is required to be on site.
- 15.3 Due to the length of time this application has taken both at application stage and now to appeal and enforcement, the appellant has also provided additional evidence in the form of a calendar showing the daily movements at The Old Quarry for 2016. It was considered that a calendar would provide the Inspector with both an up to date set of figures and movements as well as the opportunity to visualise the everyday logistics of managing stock at the site.
- 15.4 To summarise, the functional justification and essential need is for at least one full-time stockperson to be available on most days and at most times of the day or night as follows:

Animal Welfare Requirement

15.4.1 The animals require a high level of care, are often high value, potentially vulnerable and are required to be kept in optimum health and condition to maintain their value on behalf of their owners. The level of care, handling and requirement for close monitoring whilst on site is far greater than in a typical farm management situation. The animals may have been transported on a long journey, are in an unfamiliar environment with other unfamiliar stock and may not be used to being handled. This causes stress, and requires the management of an experienced stockman. As Robert Fox wrote in his post appraisal advice *'regardless of the actual numbers present at any one time, the likelihood of health issues and need for emergency attention are greater than they would be in a settled environment on a farm.'*

15.4.2 The stock are unfamiliar to the stockman too, and therefore frequent monitoring and checking is required as the nature and characteristics of the animal is unknown. An experienced stockman, with regular monitoring, will be able to detect signs of ill health such as difficulty to breathe, scours, lack of appetite or dehydration. It is essential to be able to respond with veterinary treatment such as rehydration solutions or medicines within a very short period of time. Animal health can deteriorate very quickly if not

attended to within a matter of hours, and if left even as long as a few hours without treatment could result in stock fatality.

15.4.3 Livestock movements are typically early in the morning or late at night depending on where they have come from or are going to, and it is essential for a stockman to be on site at these times.

15.4.4 Regular monitoring is required for all livestock with particularly vulnerable, sick, injured or young stock requiring around the clock attention. Certain movements through the assembly centre require cattle to be milked with a mobile milk machine which again requires a level of stockmanship.

15.4.5 The physical requirements of preparing the accommodation, handling and checking the identity of the livestock, loading and unloading, cleaning and disinfecting the building between each consignment is all essential, often required to be undertaken in the early hours of the morning or very late at night and additional to the standard farm management situation.

Legislative Requirement

15.4.6 There is a legislative requirement to have such facilities for the successful and efficient running of the applicant's livestock haulage business. The facilities are utilised to provide and co-ordinate rest breaks to meet both animal welfare and driver hours regulations. The two regulations do not tally and with the added necessity to factor in ferry crossing times, which are weather dependant and subject to change, and slaughterhouse operational hours, journeys therefore have to be carefully planned with contingency and the application site plays an important logistical role.

15.4.7 The site provides for the important legal requirement to have facilities to off-load sick and injured stock in transit, with little or no notice and is the first point of call for many dairy imports, where the cows require milking after crossing from mainland Europe and Scandinavia.

15.4.8 There is strict animal welfare legislation which the company must adhere to in terms of having a correctly trained stockperson available.

In Case of Emergency

15.4.9 In addition, residential accommodation enables quick reactions to emergency situations to mitigate potentially devastating results from cases of fire, natural disaster, theft or escape of animals, in the interests of both public and animal safety. Swift reactions to a fire could avoid the death and suffering of animals and save the loss of

valuable feed, hay and straw as well as the buildings themselves. Prevention of escaped stock getting out onto the road could avoid a potentially fatal collision. A presence on site acts as additional security and deters theft of valuable equipment or livestock and facilitates emergency repairs of broken gates, boundary fences or building damage.

15.4.10 A full-time presence enables the proper functioning of the site as an emergency drop-off facility required in cases of vehicular mechanical breakdown, stock injury or abattoir capacity issues, which occur with little or no notice.

15.4.11 The importance of being on site and regularly monitoring stock is especially relevant in the event of a disease outbreak for reporting notifiable diseases in a timely manner and implementing biosecurity measures quickly.

Frequency/Volume

15.4.12 The functional need for a permanent presence on site is justified through the frequency and volume of stock movements, the requirement to be on site for the preparation of accommodation, undertaking biosecurity measures, stock handling in the loading, unloading and sorting of livestock, feeding and watering, identity checks, physical checks, veterinary assistance and regular monitoring for health and welfare purposes, being able to identify and react to any medical issues to prevent stress, illness and ultimately, the death of an animal, to be on hand for the emergency care or assistance to offload unplanned loads or individual animals for isolation, to complete livestock records and report animal movements and react to emergency situations.

15.4.13 At paragraph 6.2.2 in our planning statement and appraisal of agricultural business, we reported that on average, there were 1.5 movements to and from the site per day over the period. From the updated information for 2016, this has increased to an average of 1.95 movements per day across 365 days in the year. This rises to over 2.5 movements per day if averaged over a typical operational week. Livestock are on site on average between 5 and 6 days of the week with stays ranging from one hour rest breaks to several days lairage including blood tests and veterinary checks prior to international export. As described, livestock movements, associated biosecurity and animal welfare provisions are often undertaken at night or in the early hours of the morning as well as during the day, on any day of the week.

16.0 How the need has been met to date

16.1 The business need for overnight accommodation on the site of the lairage facility at The Old Quarry has been established for a number of years, with permission granted in 2012

for the retention of a residential caravan for overnight accommodation for a stockperson and erection of lairage building, planning reference: 12/01922/FUL.

- 16.2 The caravan siting has never been subject to any limitation on the number of days/nights per week that it may be occupied and as confirmed to planning officer Scott Britnell in an email dated 23rd October 2015 (document B15), this has been occupied on a full-time permanent basis and has been invaluable to the functioning of the lairage and operation of the business.
- 16.3 The caravan was originally stationed on site in 2003 and occupied by an employee of the haulage business. Since planning consent was granted in 2012 for its retention, the occupation has been specifically in connection with the lairage use of the site and Council Tax has been paid on the property since 2006 (see document E11).

17.0 The original application justification and evidence

- 17.1 The application, submitted on 9th September 2015 contained a full appraisal of the rural business along with a number of supporting documents providing numbers of livestock. This was presented in the form of a 'Planning Statement & Appraisal of agricultural business' (document B13).
- 17.2 The application for a rural workers dwelling is based on justifying a functional and essential need for a full-time worker. When a more straightforward application is submitted for an agricultural worker in a farming situation, there are fairly standard calculations undertaken to assess whether there is a full time need (based on Standard Man Days) and it is reasonably well known when there is a functional need for livestock e.g. lambing, calving etc. The difficulty of rural workers application's however is that the businesses are often unique and there are no standard calculations or benchmarks in order for someone to easily assess whether there is a need.
- 17.3 At the application stage the appellant submitted that there is a functional and essential need to be on site to manage the welfare of the livestock whether there is 2 sheep, 20 sheep or 200 sheep on site. There is a need no matter how many the need relates to. We do acknowledge however that there needs to be 'reasonable' numbers in order to justify a full-time worker and to meet the financial justification. The problem is with the uniqueness of this business is that (a) it is so specialist it is complex for anyone outside of the industry to understand the processes and (b) there are no set figures or standards to work from, it is necessary for the merits and the justification of this application to stand alone.

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- 17.4 For this reason (and as is common practice) Cotswold District Council retains an agricultural consultant - Mr Robert Fox of Fox Rural Planning and Land Management (<http://www.foxrural.co.uk/about.html>) – to provide an independent review and report on such applications. This enables the LPA to utilise Mr Fox’s specialist agricultural knowledge and provide them with his opinion and recommendation when the application is considered against relevant planning policy.
- 17.5 When submitting an agricultural appraisal in support of a normal agricultural workers dwelling application, it is the applicants responsibility to provide the relevant information and data e.g. the livestock numbers and business operations – this is then either taken as red by the LPA or independently verified by their retained agricultural consultant during a site visit or meeting. It is not normally required that livestock numbers are completely evidenced in the form of livestock records, movements and sheep licences. As set out above, the business is quite substantial and moves several hundred thousand animals a year, of which in excess of 30,000 animals (most recent figures in 2016) stop off at The Old Quarry, be it for a few minutes or several days.
- 17.6 The application was submitted with an appraisal of the business, along with some summary documents providing livestock numbers and financial details. It would have been all but impossible and highly unnecessary to have provided thousands of pages of sheep, cattle and pig movement records in either a hard or electronic format. Appeal Document E14 provides an explanation relating to livestock movements and recording which we hope provides an indication of the volume and difficulty. Furthermore, almost all of the records contain sensitive commercial data with Mr Gilders’ client information such as names, addresses, phone numbers, holding numbers etc.
- 17.7 From the outset of the application, all of the information was provided to Mr Robert Fox for his appraisal. Mr Fox is a professionally qualified rural consultant, his website outlining his 30 years experience in the sector and importantly his knowledge of markets and the livestock industry.
- 17.8 Mr Fox conducted a site inspection and interview with the appellant at the appellants office where all of the paperwork was available to view and inspect. Mr Fox made cross reference checks of livestock movements and retained copies of example licences and movement records to satisfy him as to the level and frequency of the lairage activities apparent from his inspection. He wrote his first report (appeal document C01) dated 17th November 2015 which concluded that ***‘there is an essential need for a rural worker to live permanently at the Old Quarry’***.

- 17.9 Following an objection relating to evidence, Mr Fox was asked again by the LPA to review his appraisal. This document entitled 'post appraisal advice' is submitted with this appeal (appeal document C02). We highlight the following paragraphs from this second report:

"Initially I based my findings regarding the level of use of the facility based on my interview with the applicant and evidence submitted with the application which included sheep movement records on and off the site from February 2013 to October 2015.

Since my latest instructions I have liaised with the applicant who over the Christmas period has sent me no less than 24 emails with further documentation including as requested sample movement licences to back up the movement records and photographic evidence and cattle records etc."

- 17.10 The report goes on to say:

"In my opinion there exists a functional need for there to be an experienced stockperson to be permanently based on site." He concludes "I can see no reason to change my original appraisal in any way".

- 17.11 On this matter it is also worth noting that in the interests of being transparent, Mr Gilder personally delivered an entire box of livestock movements, records and sheep licences into the Council offices 2 weeks prior to the committee meeting so as they could be viewed.

- 17.12 The applicant was very anxious that ALL of the records and submissions to the LPA and/or Robert Fox should not be made available publicly as they were commercially sensitive. Had this information been released this would have contained hundreds of farmers' personal details and prejudiced the applicants competitive position. After lengthy correspondence with the Council's legal department on the matter it was concluded that some of the information could be made available to committee members in the form of pink papers. Of course the Planning Officer and Mr Fox had had sight of all the 'evidence' however the extent as to how much of the additional information was circulated was at the discretion of the LPA. The Committee went into private session to discuss this information.

- 17.13 It is politely submitted that with all due respect to the Councillors who voted to refuse the application based on 'lack of evidence' that unless you are very familiar with livestock movement regulations, the paperwork would not mean a great deal in itself without professional commentary – they were provided with this commentary by both the applicant's agent and the Council's own agricultural adviser, but both these were

disregarded and they resolved to refuse the application. This lack of understanding is highlighted in Mr Beale's questions to Robert Fox and later comments to the LPA in an email dated 12th April 2016 (see appeal documents D15-A-C and D18).

17.14 Lastly, and at complete odds, the Committee members then resolved to approve the application for a temporary workers dwelling – a concurrent application. A temporary dwelling is 'temporary' in the sense that it has a time limited permission. It is not 'temporary' in the meaning that someone only needs to live there temporarily or for some of the time. The temporary workers dwelling allows a stockperson to live at the site full time to meet the functional need and justification.

17.15 The development was fully considered and assessed to comply with the relevant policy(ies) contained within the Development Plan on the basis of the same independent agricultural appraisal reports produced by Mr Fox. The caravan retention was permitted for a further 12 months, in order to *"provide the applicant/owner the ability to continue to operate from the site while exploring potential solutions for a permanent structure"*. This statement reinforces the fact that there is an admitted and established functional need in association with an existing use on the application site. There were no other reasons for refusal and therefore no 'solutions' required to be 'explored'.

17.16 So to summarise, it is completely illogical that they should find a functional justification for a full time stockperson and allow the retention of the caravan, yet the same does not apply to the permanent dwelling. The tests are the same, and Mr Fox considered the two applications together.

18.0 The key points of the planning officer's committee report

18.1 The planning application was heard at the Planning Committee meeting on the 10th August 2016, with a recommendation for approval by the LPA's professional Planning Officer. A copy of the officer's committee report is submitted (appeal document A4).

18.2 The refusal relates to the single issue of whether the application meets the test set out in paragraph 55 of the National Planning Policy Framework. This is the principle issue however we also provide below a brief commentary relating to the other matters considered within the planning officers report. We come back to the principle of the functional justification separately in section 20.0.

18.3 b) Living conditions of future occupants

18.3.1 The officer reports:

considered to comply with section 7 of the NPPF and Local Plan Policies 42 and 46."

f) Impact on Broadwell conservation area and Listed Broadwell Manor.

18.4.17 We agree with the planning officer in his statement that *"no adverse impacts resulting from the proposed development have been identified. Further views of the site, to and from the conservation area, would not be significant given the separation that exists between the site and the Listed Broadwell Manor, it is not considered that the proposals would affect the setting of this heritage asset. The proposals therefore comply with Local Plan Policy 15 and 42 and Sections 7 and 12 of the NPPF."*

g) Scale, design and location.

18.4.18 On scale, the planning officer comments *"having adjudged that there is a functional need for someone to be on site permanently it would normally be unreasonable to restrict the size of the dwelling to accommodate just a single person. However, the LPA must remain mindful that the scale and impact of the dwelling must reflect the functional need and financial viability of the use of the unit and respects the constraints resulting from the site being within the AONB."*

18.4.19 The design is functional, representative of the commercial use of the site and affordable in terms of construction, maintenance and ongoing running costs. It is located in good relation to the existing and proposed lairage buildings, in good sight and sound of the livestock and will be viewed within the visual context as a group of agricultural buildings and will does not cause significant harm. The planning officer's report comments *"The building is set within an established agricultural complex and would, from public viewpoints, be difficult to distinguish from the remainder of the complex. On balance the development would comply with Paragraphs 28, 56, 58 and 60 of the NPPF and Local Plan Policies 19, 24 and 42."*

h) Impact on the AONB

18.4.20 The applicant's business and use of the site as an agricultural lairage, forms an important role in the day to day functioning and profitability of many local farms, providing a service and support to the agricultural industry which shapes the character of the Cotswolds landscape and traditional features of the AONB.

18.4.21 Proposed conditions include a silvering treatment to the timber cladding of the building and the planting of a native hedgerow to the northern boundary of the site.

18.4.22 In his report, the planning officer concludes *"On balance and subject to the conditions set out above, it is considered that the proposal complies with paragraphs 28, 56, 58, 60 of the NPPF and Local Plan Policies 19, 24 and 42 of the Local Plan."*

i) Impact on highways safety and local road network

18.4.23 On consultation, Highways raised no objection to the proposals.

j) Other issues.

18.4.24 An objector made a Freedom of Information request to obtain sensitive business information of the applicant's in order to make their own assessment of the functional need for the proposed dwelling. This was challenged and the information was not released publicly. Speculative figures of livestock numbers were presented to the planning committee by the ward member as referenced in the committee meeting minutes appeal document A05).

18.4.25 The applicant has instructed a professional member of the RICS and CAAV to produce and submit a justification for the permanent need for a rural worker to be on site. The Local Planning Authority employed the professional services of agricultural consultant Robert Fox, also a Rural Chartered Surveyor and Agricultural Valuer to inspect the relevant documents and provide a report to the council. On each occasion an essential need for a permanent rural workers' dwelling was found to be justified and sufficient information adjudged to have been provided to satisfy this justification.

Conclusion of planning officers report for committee

18.4.26 The professional planning officer found on balance that the proposed development was acceptable from each aspect of the planning considerations subject to conditions and recommended approval.

"The principle of a permanent dwelling on the site is acceptable... no significant impact has been identified... The design and form of the dwelling is acceptable... the impact upon the AONB and the dwelling are adjudged to be acceptable. The application therefore complies with Sections 7, 10, 11 and 12, Paragraphs 28, 56, 58, 60, 61, 109 and 115 of the National Planning Policy Framework, Local Plan Policies 5, 15, 19, 24, 38, 42, 45 and 46 and Supplementary Planning Guidance, The Cotswold Design Code."

"NPPF Sections 6, 7 and 11 are relevant In considering the appropriateness of development in terms of its impact upon future occupants. Local Plan Policies 5, 19, 42 and 46 are also relevant." "The proposals would provide sufficient in-door and outdoor space in the form of a modest residential curtilage. Domestic waste could be stored within the proposed curtilage of the dwelling and collected from the public highway."

18.3.2 Consultation on Waste raised no objection.

18.3.3 The Public Protection (Noise) Officer has no objection subject to condition.

18.3.4 As well as information contained within the original submission documents including Design and Access Statement (appeal document B14) and plans (appeal documents B04-B08); additional information was submitted on the size, design, quality of build and energy efficiency of the proposed building in the Supplementary Design Information (appeal document D07 and Additional Design Commentary (appeal document D08).

18.4.5 The proposals offer adequate living conditions for future occupants.

c) Drainage

18.4.6 Consultation raised no objection, subject to condition as set out in the officers committee report.

d) Potential contamination

18.4.7 Remedial ground works are acknowledged to be required and a Detailed Remediation Method Statement was submitted as part of the application (document reference D13-A). The officer's recommendation to the August Committee was *"that delegated authority be granted to permit the application, subject to the receipt of confirmation that the remediation work has been carried out."*

18.4.8 During the course of consultations and consideration of the application, the Council's Environmental Protection Officer requested a 'sufficient assessment of potential land contamination'. Due to the site being 'the Old Quarry' it was suggested that there was potential for land contamination from uncontrolled back filing, therefore *"we would require as a minimum a Phase 1 Environmental Assessment comprising desk study, site reconnaissance and ideally an Phase 2 intrusive ground investigation."*

- 18.4.9 Both Phase 1 and Phase 2 Environmental Assessments were commissioned by the applicant and submitted to the LPA. These culminated in a remediation method statement doc ref D13-A and remediation plan D13-B.
- 18.4.10 These investigations revealed the presence of a covering of Made Ground of varying descriptions across the site, with one small area impacted by a very low concentration of asbestos along with elevated concentrations of PAH. Additionally, the site has been found to have a low risk posed by ground gases, again the risk was found to be low.
- 18.4.11 The residential building has already been constructed. However, effective remediation of the impacted soils can still be achieved and a well ventilated sub-floor void maintained.
- 18.4.12 The Council's EPO had originally requested that remedial work be undertaken prior to the decision notice being issued. To undertake the works prior to committee would have been cost prohibitive, particularly given that the application was refused.
- 18.4.13 The projected costs and timescales of supervision alone exceed £3,000 and 4 weeks (see email correspondence from Environmental Management Solutions doc ref D13-C). This would be dependent on workloads at the time of instruction in addition to contractor's costs, lead-in timescales and contingency.
- 18.4.14 In the case of this appeal, due to the low risk identified, it is therefore proposed that should planning consent be granted, that this issue can be adequately dealt with by way of a time limited condition.
- 18.4.15 It is considered that a condition requiring the remediation work be carried out within a timeframe of three months from determination, would be achievable and would meet the requirements of NPPF paragraph 120 and Local Plan Policy 5. The proposal would not result in 'an unacceptable risk to public health or safety, the environment, general amenity or existing land uses because of its location or due to the potential pollution of air, water, land or sky'.

e) Living conditions of occupants of nearby residential dwelling.

- 18.4.16 The nearest residential property to the site is some 750m, a distance which is interspersed with trees and hedgerows providing noise, light and visual protection. The planning officer concludes "No adverse impacts resulting from the proposed development has been identified. The application is therefore

19.0 The key points of the planning officer's committee report – principle of development

19.1 We revert back to section (a) of the officers report which relates to the principle of development and given that this was the sole reason for refusal this section will focus entirely on this point. The following section discusses both the planning officers report and adds our own commentary.

19.2 The planning officer sets out how whilst the old Annex A tests are superseded, the tests themselves remain a useful methodology.

19.3 He firstly considers the functional need. He sets out how the planning statement has demonstrated the distinct services at the application site (lairage and procurement), both of which require the short term accommodation of potentially vulnerable and high value livestock. He acknowledges the regulatory requirement for resting animals on longer journeys and that animals may arrive any time of day or night with the necessity for an experienced stockman to be on site at these times to help with loading/unloading and monitoring animal welfare.

19.4 The planning officer concludes on this section:

"Based on the large numbers of livestock involved with the lairage and the fact that they will have come from the farm or livestock market, and are likely to be stressed, there is bound to be times when urgent action is necessary for welfare reasons. That these incidents can occur at any time and throughout the year translates into there being a functional need for an experienced stockperson based at the site."

"Notwithstanding the counter arguments being put forward by objectors, officers conclude that the functional need for a dwelling on the site has been proven and the application complies with the LPA's advice entitled Appendix A and Paragraph 55 of the NPPF."

19.5 The planning officer secondly considers the financial viability test. He refers to the Fox reports which the officer says states that the business is clearly viable and sustainable. It is important to be reminded that The Old Quarry facilities are integral with the procurement and the transport business and are not separate entities, therefore the viability test applies to the whole business. The officer concludes:

"It is adjudged, based upon the information provided, that the financial test has been satisfied."

20.0 Response to the reasons for refusal

20.1 The following section discusses the single reason for refusal. This being:

'Insufficient justification has been provided in terms of evidence to demonstrate that the provision of a permanent rural workers dwelling is necessary. The evidence submitted fails to sufficiently demonstrate that there is a functional justification for the proposed rural workers dwelling in association with the applicant's lairage business, which operates at the site known as The Old Quarry. The information and documentation that has been provided is therefore considered to fail to satisfy the test set out under section/paragraph 55 of the National Planning Policy Framework in relation to special circumstances for isolated homes in the countryside.'

20.2 The application was recommended for approval by BOTH the LPA's professional planning officers and their retained independent agricultural adviser Mr Robert Fox. The application was called to Committee at which the objectors and the local ward member spoken in objection to the application. Of particular frustration were the local ward members biased comments which did not present an accurate reflection of the facts, suggesting alternative numbers of livestock passing through the site and displaying an overall lack of understanding of the agricultural haulage and lairage industry. The comments, as referenced in the committee minutes (appeal document A05), were completely unsubstantiated – of course he could not have accessed the appellants own evidence and documents as it had been judged it was not required to be made public.

20.3 The committee questioned the evidence and whether there had been the presented number of livestock going through The Old Quarry as they were not convinced by the evidence provided, they considered there was probably less than suggested and as such sufficient justification was not provided. As outlined previously, they were not provided with everything as this would be thousands of pages of commercially sensitive data and it *should* have been satisfactory for their retained consultant and planning officer to have seen this information.

20.4 At the committee the LPA's rural consultant Mr Robert Fox, was on hand to answer questions. He was questioned at length by the committee members, one of who asked what the minimum number of livestock that would have to go through in order for there to be a justification. The minutes recall:

'in the opinion of the expert witness, six animals passing through the lairage facility every three/four days would be the minimum number requiring a permanent presence on the site; the lairage facility also handled cattle and pigs, as well as sheep; and foul water drainage from this site was a Building Control, rather than a planning, issue.'

- 20.5 So even if the committee members were not convinced by the numbers, this confirmation by Robert Fox in the meeting *should* have meant that they could be reassured that even with a significantly reduced number there is still a functional justification.
- 20.6 As can be seen from the calendar provided for 2016 (appeal document E01), the current number of animals passing through the lairage exceeds 30,000 per year (600 on average per week).
- 20.7 The minutes shows that other committee members suggested that *'this was a successful lairage facility, which had future capacity to increase throughput. Those Members suggested that it was appropriate for the current buildings on the site to be expanded, and, the dwelling would not have any adverse impact on the site. They also considered that the Consultant had expressed a clear opinion in favour of the proposal.'*
- 20.8 It is considered that a general lack of understanding of the industry and sheer volume of paperwork and regulation relating to livestock movements and haulage, together with misinformation presented by objectors and the ward member caused confusion within the committee as to the level of physical documentation they required in front of them and the level to which they could rely on their professional planning officers and expert who had received sufficient evidence and adequately investigated the business, its operations and requirement for a permanent rural workers dwelling.
- 20.9 We submit therefore that the committee members erred in their decision making. With all due respect to the members, they are not experts in the industry, which is highly specialised and requires a high level of detailed understanding. In spite of Mr Fox's reassurances during the meeting, they disregarded the recommendations of their professional advisers and resolved to refuse the application.
- 20.10 The decision notice states that the application fails *'to satisfy the test set out under section/paragraph 55 of the National Planning Policy Framework in relation to special circumstances for isolated homes in the countryside.'*
- 20.11 Firstly, there is no 'test' as such in the NPPF - there are no minimum requirements or guidance on the type and volume of 'evidence' to be submitted and assessed for this type of application. NPPF paragraph 55 simply states;
- 'Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside'*
- 20.12 The functional need of a residential dwelling on site has been established through the full-time occupation of a temporary dwelling on site in the form of a caravan, which has

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- been occupied in connection with the lairage use of the site since planning consent was granted in 2012. The LPA have acknowledged the ongoing functional need for a dwelling on site, based on the same Fox Rural Planning appraisals, in granting planning consent on 10th August 2016 for the retention of the temporary caravan dwelling (planning application reference 15/03100/FUL decision notice document reference A07).
- 20.13 The application submissions, LPA consultant reports and this appeal statement, clearly set out the functional requirements of an agricultural lairage and essential need for at least one full-time, experienced stockman to be on site on most days and at most times of the day and night.
- 20.14 Furthermore there were some 17 letters of support from existing clients and other livestock businesses, who know of the lairage facilities and utilise the services of Edward Gilder Transport. Some examples of these letters are submitted document reference D17.
- 20.15 The site has planning consent to double the lairage capacity and since the application has won additional contracts supporting the increased demand for the facilities and justification for a rural worker's dwelling.
- 20.16 The standard procedures for the assessment of functional need have been followed with additional submissions by the applicant and agent as requested by the LPA. Not all of this information was publicly available as it contained commercially sensitive and private information however the LPA and their professional advisers have had full and sufficient information on which to base their consideration of this application.
- 20.17 The LPA engaged professional agricultural consultant Mr Robert Fox to investigate, research and report his findings to the LPA. 'Evidence submitted' is therefore considered to include all documents submitted to the LPA at the time of the application and subsequently requested and provided either directly to the LPA or Robert Fox together with all documents which were available for inspection by Mr Fox at his site visit on 12th November 2015, and on which he based his reports. Due to the sheer volume of records held, only a very small sample of copy sheep movement licences etc. were taken to evidence cross-reference checks made at his visit and to represent the type of movements passing through the site.
- 20.18 We contest that the evidence submitted was sufficient to demonstrate that there is a functional justification for the proposed dwelling and that the LPA's professional planning officers and rural consultant were correct in their findings and recommendation for approval and that consent should have been granted.

21.0 Risks of not having permanent accommodation

- 21.1 The various lairage operations could not operate without a full time stock person as the welfare of the animals would be compromised and the business would not be able to meet its legislative requirements for both animal welfare and during transport.
- 21.2 The lairage facilities are so integral and critical to the functioning and viability of the wider haulage business, that it would find it extremely difficult to function effectively without the facilities in currently operates from. Without a permanent dwelling, the business would be forced to significantly reduce capacity and operations resulting in a reduction in local employment and at worst closure of the entire business and fleet of vehicles.
- 21.3 This in turn would have a significant impact on the 200+ farmers who use the business, as well as to the detriment of the various abattoirs, meat processors and butchers for whom Edward Gilders business supports.
- 21.4 As cited in the committee minutes, Robert Fox was also of the opinion that 'the business would not survive without the lairage facility' – referring to the applicants entire livestock haulage business.

22.0 Grounds of enforcement appeal

- 22.1 The grounds on which the Enforcement Notice is appealed are;
- a) that, in respect of any beach of planning control which may be constituted by the matters stated in the notice, planning consent ought to have been granted as per the justification contained herein; and
 - g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. It is considered that as the principal private residence of the appellant, his partner and three young children, that a period of 18 months is considered reasonable to secure an alternative property, which may require a period of time to research and settle the children into a new school setting. With regards to demolishing the dwelling, which will require the disconnection of services and co-ordination on contractors to undertake the work, that a period of 6 months in addition to the above is considered reasonable. The time allowed to clear the site should be relative to the timescales above.

23.0 Costs application

- 23.1 The appellant reserves the right to make an application for costs against the LPA.

24.0 Conclusion

- 24.1 It is submitted that the application and now this appeal clearly demonstrates there is a functional need and essential justification for a permanent rural worker to live on site in connection with the lairage operations that are integral to the wider haulage business.
- 24.2 Both the planning officer and the independent agricultural consultant recommended the application for approval, both of them clearly setting out that the application met with relevant planning policy. Both the LPA and Mr Fox had sight of sufficient evidence to enable them to make these recommendations of approval.
- 24.3 The committee however resolved to refuse the application on the single basis of their being insufficient evidence to justify the application. The operations, evidence and an up to date 2016 calendar has been provided to the Inspector to assist in explaining the complex and involved processes that is involved in the movement and lairage of livestock. Illogically the committee did resolve to approve the application for the temporary workers dwelling which directly counters their previous resolution.
- 24.4 In summary, the business is a large, substantial and locally important rural business, supporting over 200 local farmers, their own business and providing a key service to the red meat supply chain. The application and now appeal has gone beyond what is reasonably necessary to demonstrate the essential need and so more than adequately meets both the NPPF and local policy.
- 24.5 In the theme of proactive, positive and sustainable development contained throughout the NPPF, we respectfully request that the appeal is allowed, and permission is granted for the development.

Moule & Co Ltd

February 2017