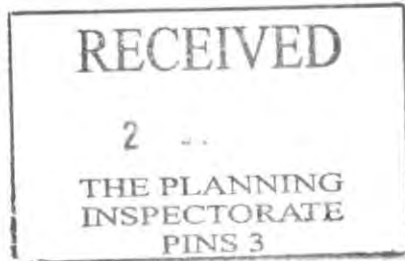


The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ



Our Ref: SG-121-L82

17th June 2011

Dear Sirs

**RE: APPEAL BY TIME AND LEISURE LTD
SITE AT SHREWDS LAIR FARM, TY BROUGHTON HALL LANE,
TALLARN GREEN, THREPWOOD, MALPAS
YOUR REF: APP/H6955/A/11/2152446/WF**

We refer to the above appeal and to your letter dated 10th May 2011.

As requested we now enclose two copies of the following documents:-

- Statement on behalf of the Appellants dealing with planning policy and history issues prepared by Goodwin Planning Services Ltd;

Two copies of the functional and financial tests statement and other agricultural issues prepared by Harvey Hughes Ltd will be sent under separate cover.

We look forward to receiving a copy of the Council's Statement(s) in due course.

Yours faithfully


Stephen Goodwin
BA (Hons), MCD, MRTPI

Enc

**APPEAL BY TIME AND LEISURE LTD AGAINST THE NON-
DETERMINATION OF AN APPLICATION FOR A PERMANENT
AGRICULTURAL WORKER'S DWELLING
AT
SHREWDS LAIR FARM, TY BROUGHTON HALL LANE, TALLARN
GREEN, THREAPWOOD, MALPAS**

**PLANNING STATEMENT ON BEHALF OF THE APPELLANT
BY**

**GOODWIN PLANNING SERVICES LTD
OLD CHURCH HALL, OLD COACH ROAD,
KELSALL, CHESHIRE, CW6 0QJ**

**TEL: 01829 752851
FAX: -01829 752857
EMAIL: s.goodwin@goodwinplanning.com**

OUR REF: SG-121-ST10

1. INTRODUCTION

1.1 This Statement sets out the case for the appellant in an appeal against the failure of Wrexham Council to determine a planning application with the prescribed period for a permanent agricultural worker's dwelling on land at Shrewds Lair Farm, Ty Broughton Hall Lane, Tallarn Green. It should be read in conjunction with the separate Statement prepared by Harvey Hughes Limited which deals with the agricultural justification for the dwelling and the functional and financial tests in TAN6. The application is in outline with all matters except access reserved for subsequent approval. However, illustrative plans were submitted showing the proposed site layout, footprint, floor plans, elevations and site section.

1.2 This Statement is in six sections as follows:-

1. Introduction;
2. The Site and the Proposals;
3. Relevant History;
4. Relevant Planning Policy;
5. Comments on the Previous Reason for Refusal;
6. Conclusions.

2. THE SITE AND THE PROPOSALS

- 2.1 A detailed description of the site and the proposals is included within the original Design and Access Statement submitted with the application. The details are not repeated here and the Inspector is referred to the original Design and Access Statement in this regard. We would also make reference to the description of the proposed use of the land as set out in the agricultural appraisal prepared by Harvey Hughes Ltd and submitted as part of the application. Both of these documents have already been forwarded to the Planning Inspectorate as part of the appeal submission.

3. RELEVANT HISTORY

(i) History Prior to Submission of the Appeal Proposal

- 3.1 The land was purchased by the appellants in 1999 since then the agricultural unit has developed and been subject to the following planning history as set out below.
- 3.2 The appellant initially erected a feed/equipment store, machinery store and cattle shed and created the existing farm yard in around 2000. These can be seen on the plan at Appendix 1.
- 3.3 An application was submitted in June 2005 for the stationing of a mobile home/temporary agricultural worker's dwelling on the land to meet the functional needs of the cattle enterprise. The application (P/2005/0705) was recommended for approval by the Chief Planning Officer. However, local members objected and called the application to committee. The application was refused contrary to Officer recommendation. A copy of the Council's Decision Notice is attached at Appendix 2 (dated 17th February 2006).
- 3.4 The appellants were therefore forced to go to appeal and a hearing was held on 27th June 2006. The appeal was allowed and granted consent for an agricultural worker's dwelling for a period of 3 years. A copy of the Inspector's decision letter is attached at Appendix 3.
- 3.5 In 2008 planning permission was granted for the erection of a feed/equipment store (see location on plan at Appendix 1). That building has now been implemented.
- 3.6 On 14th January 2009 planning permission was granted for the erection of a lean-to cattle handling facility (P/2008/1260). A copy of the planning permission is attached at Appendix 4. The planning permission remains extant until 14th January 2014.
- 3.7 The planning permission for siting the temporary agricultural worker's dwelling was extended by the variation of condition 5 of the Inspector's

decision. This allowed the caravan to remain on site until 31st December 2010. A copy of the Decision Notice is attached at Appendix 5 (2009/0814).

3.8 Well before the expiry of that consent (on 21st April 2010) the appellant applied for outline planning permission to erect a permanent agricultural worker's dwelling on the site. The application (2010/0338) was subject to considerable delays in determination. The application was initially taken to committee with a recommendation for approval but was deferred for additional information at the last minute. That information was provided and on 30th September 2010 the Case Officer (Kevin Hughes) confirmed that the application was on the agenda for the next committee meeting (4th October 2010) with a recommendation for approval as it had the previous time it was deferred (see note of telephone discussion at Appendix 6). It was confirmed that although the application had been put forward by Officers for approval it had been pulled off the agenda at Chairman's briefing and was likely to be refused under delegated powers. This was an astonishing turn of events for the appellants particularly in the light of the Officer approval.

3.9 This was also confirmed in a telephone discussion with the Case Officer's Line Manager (David Williams) on 4th October 2010 (see Appendix 7). This indicated that the Planners had received conflicting advice from Officers in validation and as a result were not sure what weight to give to the short term lets. As a result they had decided to "refuse the application under delegated powers and let the matter go forward as a test case to appeal".

3.10 The application was refused under delegated powers for the one reason (that long term viability had not been proven due to the reliance on a high percentage of short term lets) on 27th October 2010 which was over 6 months from the submission of the application. A copy of the Refusal Notice is attached at Appendix 8.

(ii) History of the Appeal Application

3.11 Following the refusal the applicant considered an appeal but instead decided to address the Council's concerns by removing the reliance on short term lets and entering into 7 year agricultural tenancies on 26.7 hectares meaning that the

vast majority of the land attached to the unit was either owner occupied or subject to a 7 year tenancy (94.4%). Only 5.6% remained on annual lets.

- 3.12 The application was resubmitted on 21st January 2011 with an updated agricultural appraisal. All other elements of the proposal were identical to the earlier submission. Again, the Council failed to determine the application within 8 weeks. The Council's Valuation Officer (who was assessing the agricultural information) did not visit the site until 19th April (3 months) and then even turned up on site with extracts from the agricultural appraisal from the previous application which had been superseded. On hearing this he asked for additional information which was provided by Harvey Hughes (the appellant's agricultural advisors). A copy of the additional information is attached at Appendix 9. This also included an email from Goodwin Planning Services attaching extracts from TAN6 as Mr Jones did not seem to be aware of the tests he needed to address in TAN6. Indeed he was not aware until told by ourselves that the previous application had been refused only on the basis of reliance on short term lets and that all other issues had been accepted as being met by the Council.
- 3.13 The Valuer (Mr Jones) had promised his report would be with the Planner first on the 26th April and then on 3rd May. However, in a telephone discussion with the Case Officer on 4th May it became apparent that the report had still not been prepared over 3 ½ months from submission of the application. We therefore wrote to the Case Officer expressing our concerns on 4th May 2011 (See Appendix 10).
- 3.14 In the light of the fact that it had taken the Council over 6 months to determine the earlier application (and it was refused under delegated powers despite Officer support) and no decision had been made on the revised application (which addressed the Council's only reason for refusal of the last application) after 3 ½ months the appellants decided to take the matter to appeal.

4. PLANNING POLICY

4.1 National policy in relation to agricultural worker's dwellings is set out in TAN6 which requires the applicant to demonstrate an existing functional and financial test are met. A full appraisal of these tests is set out in the agricultural appraisal prepared by Harvey Hughes Limited and is therefore not repeated here. However, in terms of the functional test it is notable that this was accepted by the Inspector in the previous appeal decision and it was also accepted by the Council in relation to the earlier refused application. In our view the appraisal by Harvey Hughes Limited clearly demonstrates that both the functional and financial tests of TAN6 are met.

4.2 TAN6 acknowledges that strong rural economies are essential to support sustainable and vibrant rural communities. Paragraph 4.3.1 stresses that one of the few circumstances in which new isolated residential development in the open countryside may be justified is when accommodation is required to enable rural enterprise workers to live at or close to their place of work. These include a new dwelling on an established rural enterprise (including farms) when there is a functional need for a full time worker and the business case demonstrates that the employment is likely to remain financially viable. This is subject to paragraph 4.4.1. This requires new permanent dwellings to support established rural enterprises to meet five tests as follows:-

- (a) A clearly established existing functional need (we understand this is accepted by the Council in this case);
- (b) The Need must relate to a full time worker (again we understand this is accepted by the Council);
- (c) The enterprise concerned has been established for at least 3 years (it clearly has), it has been profitable for at least one of them (see Harvey Hughes Appraisal which demonstrates it has), is currently financially sound and has a clear prospect of remaining so (see Harvey Hughes Appraisal);
- (d) The functional need cannot be met by another dwelling on the unit or nearby which is suitable and available (we understand this is accepted by the Council);

- (e) Other normal planning requirements are met (this is accepted by the Council).
- 4.3 Whilst this is an appeal against non-determination we know from the previous refusal of an identical scheme that the Council do not take issue with compliance with criteria a, b, d and e.
- 4.4 In terms of criterion (c) they must acknowledge that the enterprise has been established for more than 3 years. The information submitted by Harvey Hughes Ltd clearly demonstrates it is currently profitable and again this was accepted by the Council in the previous application.
- 4.5 Their only concern (unless they unreasonably seek to introduce a new reason for refusal – and we will address this if the need arises) can therefore be whether the business has a clear prospect of remaining profitable. In the previous application their concern on this issue resulted from the “heavy reliance” on short term lets which has now been addressed such that just under 95% of the land is either owner occupied or secured on 7 year agricultural tenancies. Paragraph 4.10.1 of TAN6 suggests that the usual period to meet this test is 5 years. Harvey Hughes Ltd have provided 5 year projections to demonstrate that the unit has a clear prospect of remaining financially sound over that period. It is difficult to see therefore how the Council can now seek to claim the proposals do not accord with the advice in paragraph 4.4.1 of TAN6.
- 4.6 Similar tests are set out in policy H5 of the Wrexham Unitary Development Plan. This allows housing in the countryside where there is an essential need to house a full time agricultural worker subject to meeting four criteria. In this case the four criteria are met for the reasons set out above.
- 4.7 The new dwelling is sited adjacent to an existing building. It could clearly be landscaped if necessary and the illustrative plans demonstrate that the form, bulk, design and materials reflect the rural character of the locality.
- 4.8 The site also lies within a Special Landscape Area. Policy EC5 of the Unitary Development Plan does not rule out development in such areas but indicates

that priority will be given to conservation and enhancement of the landscape. It states that development other than for agriculture will be strictly controlled. As the proposed development is clearly for an agricultural worker's dwelling there is no conflict with this policy. The policy goes on to note that development will be required to conform to a high standard of design and landscaping and special attention will be paid to minimising the visual effect from both nearby and distant views. In this case the details of the dwelling are reserved for subsequent approval. However, the illustrative plan and the site location indicate that the dwelling could be located on the site with minimal impact on the landscape due to its location in proximity to the existing (and approved) agricultural buildings on the site and the existing field boundary treatment which includes mature hedges and trees.

- 4.9 The agricultural appraisal prepared by Harvey Hughes Limited is also consistent with the Council's guidance set out in Local Planning Guidance Note No 2. It clearly sets out the details of the existing business and landholding and the justification for the agricultural worker's dwelling. The size of the dwelling proposed is a typical three bedroomed small family home sufficient to provide for the needs of a manager and his family at the site. The size of the dwelling is therefore directly related to the needs of the unit.
- 4.10 We therefore believe that the proposals are consistent with policies at national level (TAN6), in the Council's Adopted Development Plan (the Wrexham Unitary Development Plan) and in the Council's Supplementary Planning Documents (Local Planning Guidance Note 2 on Agricultural Appraisals). There is therefore no conflict with planning policy.

5. COMMENTS ON THE PREVIOUS REASON FOR REFUSAL

- 5.1 The previous application (2010/0338) was refused by the Council for one reason only as follows:-

"The Council does not consider the long term viability of the enterprise has been proven, particularly given the reliance on a high percentage of short term rented land agreements and the area of owner occupied land is considered insufficient to sustain a viable enterprise. The proposal as such is contrary to the requirements of Planning Policy Wales (Edition 3rd July 2010) paragraphs 9.3.6, 9.3.8 and 9.3.10, Technical Advice Note 6 – Planning for Sustainable Rural Communities July 2010, paragraphs 4.4.1(c), 4.7.1 – The Financial Test, 4.10.1 and 4.10.2 and Policy H5c(i) of the Adopted Wrexham Unitary Development Plan 1996 – 2011 and Local Planning Guidance Note 2, Agricultural Appraisals".

- 5.2 At the time of the application the appellant's holding was made up of 42 hectares comprising:-

- 13.7 hectares owner occupied and
- 28.3 hectares of land on 1 year lets.

- 5.3 The appellant's agents (Harvey Hughes Ltd) produced evidence to demonstrate the unit was currently profitable and met the functional tests. This was not disputed by the Council. Their only concern related to the fact that a large proportion of the land was held on one year renewable tenancies and therefore they were not prepared to rely on this land to demonstrate the unit had a reasonable prospect of remaining profitable in the future. This was despite the fact that evidence was given to the Council to demonstrate that these annual lets had been continually renewed over a number of years and therefore had a strong likelihood to continue.

- 5.4 We believe the Council's approach to discounting this land held on renewed annual lets to be incorrect, particularly in the light of the fact that they had continued to be renewed annually. However, rather than appealing the

Council's decision the appellant sought to address their only concern by entering into 7 year agricultural tenancies on 26.7 hectares of land. The 13.7 hectares owner occupied land remained. Only 2.4 hectares remained on short term lets. The commitment of the appellant to the 26.7 hectares now on a 7 year agricultural tenancy was undertaken specifically to address the Council's only concern with the previous application (and we would add at considerable cost and additional investment by the appellant).

- 5.5 The 7 year tenancies are longer than the 5 years referred to in TAN6 and should therefore have been more than enough to convince the Council of the appellant's genuine intentions and that the unit had a reasonable prospect of remaining profitable in the future.
- 5.6 However, despite this (and despite considerable chasing) the Council had still failed to determine the application 3½ months later. This is completely unreasonable when the appeal proposal was the same as the earlier refusal other than the increase in the land secured under 7 year agricultural tenancies in order to address the only reason for refusal of the previous application.

6. CONCLUSIONS

- 6.1 The appeal is against the failure of the Council to determine the application within the prescribed 8 week period. As a result there is no reason for refusal to address. However, the application was a resubmission of an earlier one which was refused for one reason only. That reason claimed that the long term viability of the enterprise had not been proven due particularly to the high percentage of short term rented land agreements.
- 6.2 The current appeal proposals fully address the Council's concerns in relation to the earlier refused application which related to one very narrow issue. The vast majority of the site is either now owner occupied or on a 7 year agricultural tenancy.
- 6.3 The functional and financial tests are clearly met and there is no conflict with policy at either national or local level. Indeed the proposal is consistent with national policy in TAN6, policies of the Wrexham Unitary Development Plan and the Council's Supplementary Planning Documents contained in Planning Guidance Notes and Planning Information Sheets.

Appendix 1



SITE PLAN AS PROPOSED **SCALE 1/200**
RW 01606 888574, JUNE 2008

Appendix 2

In pursuance of its powers under the Acts and Orders referred to below, the County Borough Council as Local Planning Authority, hereby determines your application in accordance with the particulars and plans comprising the application

7
Expiry Date: 17/08/2005
Decision Notice Sent:
17/02/2006
Grid Reference:
E 344857
N 343973



Applicant	Time & Leisure Ltd	Code Number	WOR P/2005/0705
Agent	Goodwin Planning Services Ltd Archway House Station Road Chester CH1 3DR	Date Received	23/06/2005
		Decision Date	17/02/2006

Town and Country Planning Act, 1990

Location of application

Land at Tallarn Green Threapwood Wrexham

Description of application

Use of land for stationing of mobile home/temporary dwelling for an agricultural worker

In reaching this decision the Council has had regard to the relevant policies in the Wrexham Unitary Development Plan which are as follows:-

EC5	Special Landscape Areas
GDP1	Development objectives
H5	Housing in the countryside
PS2	Development and the environment

Particulars of decision that permission be REFUSED

Reason(s)

1. The Council is not satisfied that the area of land is of sufficient size to justify a full time worker living on the site and is further not satisfied that the holding could not be managed effectively from a dwelling within an adjoining settlement. Accordingly, the proposal would represent a new dwelling outside any settlement and in an area designated as of special landscape value without adequate justification contrary to policies H5, PS1 and PS2 of the Wrexham Unitary Development Plan.

Applicant Time & Leisure Ltd
Agent Goodwin Planning Services Ltd
Archway House
Station Road
Chester
CH1 3DR

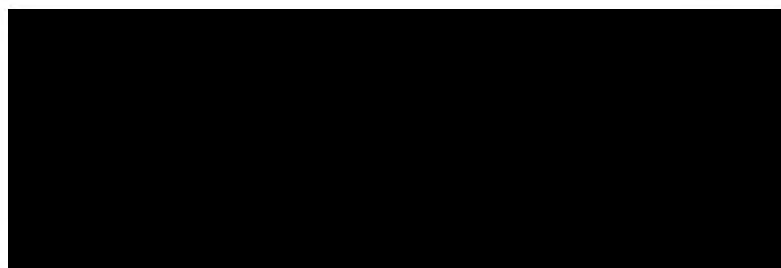
Code
Number
Date
Received

WOR P /2005 / 775

23/06/2005

Decision
Date

17/02/2006



Officer Appointed for this purpose
Refer to the Statement of Applicant's Rights and General Information Enclosed

Chief Planning Officer, Lambpit Street, P O Box 1290, Wrexham, LL11 1WL.

Appendix 3



Penderfyniad ar yr apêl

Gwrandawriad a gynhaliwyd ar 27/06/06

Appeal Decision

Hearing held on 27/06/06

gan/by Bill Barnes LLMLMRTPI

Arolygydd penodwyd gan Cynulliad
Cenedlaethol Cymru

an Inspector appointed by the National
Assembly for Wales

Dyddiad/Date 13/07/06

Appeal Ref: APP/H6955/A/06/1198124

Site address: Land off Ty Broughton Lane, Tallarn Green, Threapwood

The National Assembly has transferred the authority to decide this appeal to me as the appointed Inspector

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Time and Leisure Limited ["the appellant"] against the decision of Wrexham County Borough Council ["the Council"].
- The application (Ref. WOR P/2005/0705), received on 23 June 2005, was refused by notice dated 17 February 2006.
- The development proposed is the stationing of a mobile home/temporary dwelling for an agricultural worker.

Summary of Decision: The appeal is allowed and planning permission is granted, subject to the conditions set out in the formal decision below.

Procedural Matters

1. The hearing, including my accompanied site visit, was held on 27 June 2006.

Main Issue

2. It is accepted that the site, off Ty Broughton Lane at Tallarn Green, lies outside any defined settlement limits and within a special landscape area where generally new residential development would not be in accordance with Policies PS1 and PS2 of the 2005 adopted Wrexham Unitary Development Plan ["WUDP"] or the national guidance in Planning Policy Wales. However, where it can be established that there is an essential need to house a full-time agricultural worker and four criteria are met, an exception is recognised in WUDP's Policy H5(c). I find that the main issue is whether there is an agricultural need that justifies residential accommodation being provided on the site.

Reasons and Conclusions

3. Technical Advice Note (Wales) 6: Agricultural and Rural Development ["TAN 6"] gives guidance on agricultural dwellings. It includes advice on new permanent dwellings (Paragraphs 41 - 49), which it points out should only be allowed to support existing agricultural activities on well-established agricultural units, subject to various provisos. These include a requirement for a clearly established existing functional need, while the unit and the agricultural activity have to have been established for at least three years and profitable for at

least one of them. It sets out a functional test to establish whether it is essential for the proper running of the enterprise for one or more workers to be readily available at most times and a financial test to assess the enterprise's economic viability. TAN 6 also sets out (paragraphs 50 & 51) the circumstances where temporary agricultural dwellings are acceptable. It indicates that if it is considered that a new dwelling will be essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, but the case is not completely proven, it should normally for the first three years be provided by a caravan, a wooden structure that can be easily dismantled, or other temporary accommodation. It lists five criteria that need to be satisfied. There has to be clear evidence of a firm intention and ability to develop the enterprise. It refers to significant investment in new farm buildings as often being a good indication of intentions. It requires a functional need that could not be fulfilled by another dwelling and clear evidence that the enterprise has been planned on a sound financial basis. It points out that if permission is granted for temporary accommodation, a permanent dwelling should not subsequently be permitted unless all the criteria for such a dwelling, referred to in TAN 6 (paragraph 41), are met.

4. Time and Leisure Limited, notwithstanding the name, is concerned solely with the agricultural enterprise of Alan Fitton, who purchased some 14ha of permanent and temporary grassland in the late 1990's. The site, of some 9ha, comprises the main part of this agricultural unit. A further 4.5ha is taken for seasonal mowing. He has invested over £40,000 in buildings on the site to date. He has implemented planning permissions for the erection of two farm buildings for the housing of livestock and the storage of agricultural supplies and machinery. He has developed cattle handling facilities and muck handling systems. An extensive farm track has been laid with planning permission. There have been further investments in machinery and fencing.
5. In 2004 the enterprise was awarded twenty units under the National Reserve Suckler Cow Quota Pool. The enterprise was also successful in obtaining a national reserve award for new entrants to farming under the single farm payment scheme. The enterprise until recently ran a herd of 20 suckler cows with an additional 40 young-stock. Following the decision, the subject of the appeal, and the resulting inability to provide adequate on-site supervision, the cows were sold prior to calving. It is proposed to purchase between 20 and 30 breeding cows should the appeal be successful. The enterprise also over-winters some 200 ewe lambs. The enterprise's budgeted figures show a clear profit. The business plan looks to develop the current enterprise to a holding of at least 40ha. I consider that there is clear evidence of a firm intention and ability to develop the enterprise and that it has been planned on a sound financial basis. I am also satisfied that there is a functional need for a worker to be readily available at most times on the site. This livestock unit requires such a worker for the essential care and management of the stock. The veterinary surgeon, used by the enterprise, has confirmed that in his opinion on-site accommodation is necessary to safeguard the welfare of the cattle. He referred to the loss of two calves last year that would most probably have been prevented had there been a resident worker on site. There is no convincing evidence that the functional need for a dwelling could be satisfactorily met by any existing accommodation nearby in the area. The Council do not dispute that the normal planning requirements on siting and access can be satisfied. In all the circumstances I find that there is justification for temporary residential accommodation on the site for a period of three years, notwithstanding the current size of the appellant's holding. This corresponds with the view of the Council's Chief Planning Officer who concluded, in his report to the Council's Planning Committee, that the proposed development accorded with WUDP's relevant policies and TAN 6 and that the need for a temporary dwelling had been demonstrated. The Council's decision was against his recommendation that permission be granted.

6. The appellant would prefer the proposed temporary residential accommodation to be provided by a wooden structure rather than a mobile home. The appellant agrees that such a structure, when assembled, should not exceed the maximum dimensions for a twin-unit caravan, contained in section 13(2) of the Caravan Sites Act 1968. It is agreed, having regard to the site's location within an area recognised as of special landscape value, that the design and appearance of the mobile home or wooden structure should be subject to the Council's prior approval. The precise location, adjoining the existing buildings, also needs to be established. Moreover the appellant also agrees that the unused mobile home currently on the site should be permanently removed prior to the commencement of the development.
7. For the above reasons and having regard to all the other matters raised, I have concluded that the proposed development is acceptable and that conditional planning permission should be granted.

Formal Decision

8. I allow the appeal and grant planning permission, for the stationing of either a mobile home or a wooden structure designed or adapted for human habitation, on land off Ty Broughton Lane, Tallarn Green, Threapwood, in accordance with the terms of the application (Ref. WOR P/2005/0705), received on 23 June 2005, and the plans submitted therewith, subject to the following conditions:
 - 1) Development shall not commence until the mobile home currently stationed on the land has been permanently removed from the land.
 - 2) Development shall not commence until details of the siting, design and appearance of the mobile home or wooden structure hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details.
 - 3) The dimensions of any wooden structure hereby permitted, when assembled, shall not exceed 18.288m in length, 6.096m in width and 3.048m for the overall height of the living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level).
 - 4) The occupation of the mobile home or wooden structure hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, as defined in section 336 of the Town and Country Planning Act 1990, or in forestry, or a widow or widower of such a person, and to any resident dependants.
 - 5) The residential use of the mobile home or wooden structure hereby permitted shall be discontinued and the mobile home or wooden structure shall be removed from the land on or before 1 August 2009, while the land shall be restored to its former condition on or before 1 September 2009.

T W B Barnes

Inspector

APPEARANCES

FOR THE APPELLANT:

Stephen Goodwin BA MCD MRTPI

of Goodwin Planning Services Ltd., Chartered
Town Planners of Archway House, Executive
Business Centre, Station Road, Chester
CH1 3DR

Chris Harvey BSc MBIAC

Agricultural Consultant and Director of Berrys
ABD Ltd of 1 Brunel Court, Rudheath Way,
Gadbrook Park, Northwich, Cheshire CW9
7LP

Alan Fitton

Sole shareholder of Time and Leisure Limited,
the Appellant, of 83 Main Road, Moulton,
Northwich CW9 8PL

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Phillips MSc

Planning Officer with Wrexham County
Borough Council

David James BSc

Assistant Valuer with Wrexham County
Borough Council

DOCUMENTS SUBMITTED DURING THE HEARING

Document	1	List of persons present at the hearing.
Document	2	Copy DEFRA herd register.
Document	3	Copy grazing and/or mowing licence.
Document	4	Copies of internet property searches.

PLANS

Plans A1 & A2	Submitted application plans.
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Appendix 4

In pursuance of its powers under the Acts and Orders referred to below, the County Borough Council as Local Planning Authority, hereby determines your application in accordance with the particulars and plans comprising the application

12
Expiry Date: 26/01/2009
Decision Notice Sent:
14/01/2009
Grid Reference:
E 345133
N 343857



Applicant MR A FITTON

Code No WOR P/2008/1260

Agent HARVEY HOMES LTD
MR C HARVEY
BLACKMOSS COURT
BLACKMOSS ROAD
DUNHAM MASSEY
ALTRINCHAM
CHESHIRE
WA14 5RG

Date Received 02/12/2008

Decision Date 14/01/2009

Town and Country Planning Act, 1990

Location of application

LAND AT TY BROUGHTON HALL LANE TALLARN GREEN WREXHAM

Description of application

ERECTION OF LEAN-TO, TO EXISTING BUILDING TO FORM
AGRICULTURAL STORAGE BUILDING AND CATTLE HANDLING FACILITY

In reaching this decision the Council has had regard to the relevant policies in the Wrexham Unitary Development Plan which are as follows -

EC3	Agricultural Buildings
EC5	Special Landscape Areas
GDP1	Development objectives
PS2	Development and the environment

Particulars of decision that permission be GRANTED
Subject to the following:-

Condition(s)

- 1 The development hereby permitted shall be begun before the expiry of five years from the date of this permission.
- 2 No facing materials shall be used other than materials matching those used on the existing building.
- 3 Development shall not commence until a report detailing a scheme of mitigation measures for Great Crested Newts and other badgers and bats which may be present within or near to the site, has been submitted to and approved in writing by the Local Planning Authority. Works shall only proceed thereafter in strict accordance with the approved scheme.

Applicant MR A FITTON

Code No WOR P/2008/1260

Agent HARVEY HOMES LTD
MR C HARVEY
BLACKMOSS COURT
BLACKMOSS ROAD
DUNHAM MASSEY
ALTRINCHAM
CHESHIRE
WA14 5RG

Date
Received 02/12/2008

Decision
Date 14/01/2009

**Reason(s)**

- 1 To comply with Section 91(3) of the Town and Country Planning Act, 1990.
- 2 To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
- 3 In order to protect wildlife interests, which are afforded special protection.

Note(s) to applicant

All works, ancillary operations and the use of plant and machinery which are audible at the site boundary shall be carried out only between 0730 hours to 1930 hours Monday to Friday, between 0800 hours to 1400 hours on Saturdays and at no time on Sundays and Bank Holidays.

There shall be no fires on site, to include the prohibition of the burning of cleared vegetation.


Officer Appointed for this purpose

Refer to the Statement of Applicant's Rights and General Information Enclosed

Chief Planning Officer, Lambpit Street, P O Box 1290, Wrexham, LL11 1WL.

Appendix 5

In pursuance of its powers under the Acts and Orders referred to below, the County Borough Council as Local Planning Authority, hereby determines your application in accordance with the particulars and plans comprising the application

7
Expiry Date: 29/11/2009
Decision Notice Sent:
26/11/2009
Grid Reference:
E 345143
N 343857

Applicant	TIME & LEISURE LTD	Code Number	WOR P/2009/0814
Agent	GOODWIN PLANNING SERVICES LTD MR STEVE GOODWIN OLD CHURCH HALL OLD COACH ROAD KELSALL CHESHIRE CW6 0QJ	Date Received	05/10/2009
		Decision Date	26/11/2009

Town and Country Planning Act, 1990
Section 73

Location of application

LAND AT SHREWDS LAIR FARM, TY BROUGHTON HALL LANE,
TALLARN GREEN, THREAPWOOD, WREXHAM

Description of application

VARIATION OF CONDITION 5 OF PLANNING PERMISSION CODE
P/2005/0705 TO ALLOW RETENTION AND CONTINUED USE OF
TEMPORARY AGRICULTURAL WORKERS DWELLING FOR A FURTHER
PERIOD OF ONE YEAR

In reaching this decision the Council has had regard to the relevant policies in the Wrexham Unitary Development Plan which are as follows:-

EC5	Special Landscape Areas
GDP1	Development objectives
H5	Housing in the countryside

Particulars of decision that permission be GRANTED
Subject to the following:-

Condition(s)

1. The siting, design and appearance of the mobile home shall strictly accord with the details submitted by letter dated 15 August 2006 from Berrys

Applicant	TIME & LEISURE LTD	Code Number	WOR P/2009/0814
Agent	GOODWIN PLANNING SERVICES LTD MR STEVE GOODWIN OLD CHURCH HALL OLD COACH ROAD KELSALL CHESHIRE CW6 0QJ	Date Received	05/10/2009
		Decision Date	26/11/2009

ABD and approved in writing by the Council on 18 August 2006.

2. The dimensions of any structure hereby permitted shall not exceed 18.288m in length, 6.096m in width and 3.048m for the overall height of the living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level to the ceiling at the highest level).

3. The occupation of the mobile home or wooden structure hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, as defined in Section 336 of the Town and Country Planning Act, 1990 or in forestry or a widow or widower of such a person, and to any resident dependants.

4. The residential use of the mobile home hereby permitted shall be discontinued and the mobile home shall be removed from the land on or before 31 December 2010, while the land shall be restored to its former condition on or before 31 January 2011.

Reason(s)

1. To ensure the development is carried out in accordance with the relevant policies and standards and in the interests of the appearance of the locality.

2. To ensure the development is carried out in accordance with the relevant policies and standards and in the interests of the appearance of the locality.

3. To ensure that the dwelling is only occupied by a family of a bona fide agricultural worker in accordance with the Council's established planning policies governing residential development in the countryside.

4. Having regard to its design and materials of construction, planning permission would not normally be granted in respect of temporary buildings in this location. Permission has been granted in this instance solely to allow the applicant adequate time to seek permanent, satisfactory accommodation.

Note(s) to applicant

The mobile home currently located at Shrewd's Lair is not located within the area subject to this permission nor to the original appeal decision. The applicant is advised that the mobile home should either be relocated to the area of land subject to this permission or remove it entirely from the site. If this is not undertaken within a short period, enforcement action is likely to follow.

Applicant TIME & LEISURE LTD

Code WOR
Number P/2009/0814

Agent GOODWIN PLANNING
SERVICES LTD
MR STEVE GOODWIN
OLD CHURCH HALL
OLD COACH ROAD
KELSALL
CHESHIRE
CW6 0QJ

Date
Received 05/10/2009

Decision
Date 26/11/2009



Officer Appointed for this purpose
Refer to the Statement of Applicant's Rights and General Information
Enclosed

Chief Planning Officer, Lambpit Street, P O Box 1290, Wrexham, LL11
1WL.

Appendix 6

FILE NOTE

Job No.	121	Site:	Application for Agricultural Worker's Dwelling at Shrewds Lair Farm – P/2010/0338
Date:	30/09/10		

Telephone discussion between Kevin Hughes and Steve Goodwin.

Kevin Hughes confirmed that he had put the application back on the Agenda for the next Planning Committee Meeting (Monday 4th October 2010) with the same recommendation as previously (approval) including discussion of the additional information submitted since it was taken off the previous Agenda.

The application went to the Chairman's Briefing Meeting and has again been pulled off the Committee for 4th October 2010.

Kevin Hughes indicated that as a result of the Chairman's Briefing Meeting it is likely that the application will be refused under delegated powers without having the opportunity to go to Committee.

SG explained that it was difficult to understand how the application could be put forward for approval to the Chairman's Briefing (twice) and pulled off and then refused by Officers (who have obviously recommended approval) under delegated powers without the opportunity to go to Committee.

Appendix 7

FILE NOTE

Job No.	121	Site:	Application for Agricultural worker's dwelling at Shrewds Lair Farm
Date:	04/10/10		

Telephone discussion between David Williams (Development Control Manager) & Steve Goodwin

DW explained that the application had been put forward for the agenda for the next committee meeting (Monday 4th October 2010) with a recommendation for approval but had again been taken off the agenda at chairman's briefing.

DW confirmed that they had received inconsistent advice from their valuation department and that the chairman was uncomfortable with the short term lease arrangements on some of the land.

DW explained that he had stressed to the chairman that this situation was not uncommon but the chairman remained uncomfortable and therefore the application was taken off the agenda.

DW confirmed that in the Council's view there is a functional need for a dwelling on site and that they agree that the unit is currently profitable.

DW confirmed that in the light of the political difficulties with this site he would be uncomfortable seeking to justify an approval in front of committee particularly in the light of the conflicting advice received from different Officers within the estates department.

DW confirmed that the conflicting advice from the estates department means that they are unsure as to what weight to give to the short term lets even though he acknowledged that this was not uncommon. At chairman's briefing it was decided to refuse the application under delegated powers and let the matter go forward as a test case to appeal.

DW confirmed that if the application is refused under delegated powers it will be for one reason only and this will only be on the basis that the applicants had not demonstrated a clear prospect of the unit remaining profitable in the long term (the Council accept the functional need and that it is currently profitable).

Appendix 8

In pursuance of its powers under the Acts and Orders referred to below, the County Borough Council as Local Planning Authority, hereby determines your application in accordance with the particulars and plans comprising the application

7
Expiry Date
15/06/2010
Decision Notice
Sent
28/10/2010
Grid Reference
E 346759.27
N 343278.36



Applicant TIME & LEISURE LTD

Code No WOR P /2010 /0338

Agent GOODWIN PLANNING
SERVICES LTD
MR STEVE GOODWIN
OLD CHURCH HALL
OLD COACH ROAD
KELSALL
CHESHIRE
CW6 0QJ

**Date
Received** 21/04/2010

**Decision
Date** 27/10/2010

Town and Country Planning Act, 1990

Location of application

SHREWDS LAIR FARM, TY BROUGHTON HALL LANE TALLARN GREEN,
THREAPWOOD, MALPAS, SY13 3BB

Description of application

OUTLINE APPLICATION FOR AGRICULTURAL WORKERS DWELLING

In reaching this decision the Council has had regard to the relevant policies in the Wrexham Unitary Development Plan which are as follows:-

EC5	Special Landscape Areas
GDP1	Development objectives
H5	Housing in the countryside
PS2	Development and the environment

Particulars of decision that Outline Planning Permission be REFUSED

Reason(s)

1 The Council does not consider that the long term viability of the enterprise has been proven, particularly given the reliance on a high percentage of short term rented land agreements and the area of owner occupied land is considered insufficient to sustain a viable enterprise. The

Applicant TIME & LEISURE LTD

Code No WOR P /2010 /0338

Agent GOODWIN PLANNING
SERVICES LTD
MR STEVE GOODWIN
OLD CHURCH HALL
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CHESHIRE
CW6 0QJ

Date
Received 21/04/2010

Decision
Date 27/10/2010



proposal as such is contrary to the requirements of Planning Policy Wales (Edition 3 July 2010) paragraphs 9.3.6, 9.3.8 and 9.3.10 Technical Advice Note 6 - Planning for Sustainable Rural Communities July 2010, paragraphs 4.4.1 (c), 4.7.1 - the financial test, 4.10.1 and 4.10.2, Policy H5 c (i) of the adopted Wrexham Unitary Development Plan 1996 - 2011 and Local Planning Guidance Note No. 2, Agricultural Appraisals.

[REDACTED]

Officer Appointed for this purpose

Refer to the Statement of Applicant's Rights and General Information Enclosed

Chief Planning Officer, Lambpit Street, Wrexham, LL11 1AR

Appendix 9

HARVEY HUGHES

INDEPENDENT RURAL CONSULTANTS



Mr Alun Jones BSc, MRICS, FAAV
Senior Valuer
Crown Buildings
31 Chester Street
Wrexham
LL13 8BG

Blackmoss Court
Blackmoss Road
Dunham Massey
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21 April 2011

BY POST AND EMAIL

alun.jones@wrexham.gov.uk

Dear Mr Jones

Re: Shrewds Lair Farm, Tallarn Green

Following on from our meeting of 19 April, please find enclosed as requested accounts for the farming activity of Time and Leisure for the periods 2007, 2008, 2009 and 2010.

During our meeting we discussed the cattle sales that had occurred during the period 1 September 2009 and 31 August 2010.

I can confirm that following on from analysis of the cattle movement records the following sales occurred.

12 Suckler Cows
3 Cull Cows
21 Store Cattle

I have attached to this letter a full breakdown of the cattle sold.

The period 1 September 2009 to 31 August 2010 is the third trading year having been granted temporary consent to have an agricultural worker resident at Shrewds Lair Farm.

Previous years 2008 and 2009 year end accounts have lesser cattle sales as we started the breeding herd once granted permission at appeal.

You were very concerned at the meeting that the profits in the 2010 year end were due to the suckler cow sales. This clearly is not true with the majority of sales (24/36) being progeny and culls.

We explained at great length that the suckler cows sold had been commercial cattle not considered suitable for breeding high quality progeny. The proposal was and still is to replace these cattle with Aberdeen Angus cattle in line with the remaining nucleus herd.

This change has been protracted due to the difficulties with securing the permanent consent for the dwelling.

As you observed at Cherry Hill we have purchased 10 Fresian bulling heifers. These will be put in calf to calve in January/February 2012. These will be sold when calved as milking heifers, the calves will also be sold.

During the meeting you agreed that the functional need existed for the resident worker. No question can be made that Mr Fitton is committed to the farming enterprise with the level of investments and commitments made so far.

The single point of refusal of the previous application was the issue that a high proportion of the farmed land was on short term lets. The Council felt that this potentially could threaten the long term viability of the enterprise. This point has been addressed by the securing of a seven year FBT agreement on the land adjacent to Shrewds Lair Farm.

Therefore it can be concluded that the future viability cannot be questioned as the business has the land available to function, the 2010 accounts show levels of sustainable stock sales. That will continue should permission be granted.

I trust this clarifies the issues that we discussed, should you require any further clarification then please do not hesitate to be in touch.

Yours sincerely

PP
[Redacted Signature]
Chris Harvey MBIAC BSc(Hons)
Agricultural Consultant

cc: A Fitton
S Goodwin

CATTLE MOVEMENTS
1 September 2009 – 31 August 2010

Ear tag	Breed	Sale Point	Comment
UK 706381 100288	Chx	FA&J speed	Suckler Cow
UK 706381 300318	Chx	FA&J speed	Suckler Cow
UK 706381 700301	Chx	FA&J speed	Suckler Cow
UK 706381 200310	Chx	FA&J speed	Suckler Cow
UK 706381 200282	Chx	FA&J speed	Suckler Cow
UK 706381 600286	Chx	FA&J speed	Suckler Cow
UK 160095 100773	Chx	FA&J speed	Suckler Cow
UK 706056 701807	BBx	FA&J speed	Suckler Cow
UK 706056 202096	BBx	FA&J speed	Suckler Cow
UK 160669 100640	Hex	FA&J speed	Suckler Cow
UK 160669 400643	Hex	FA&J speed	Suckler Cow
UK 160669 600645	Hex	FA&J speed	Suckler Cow
UK 706381 600314	Chx	Beeston Auction	Cull Cow
UK 182746 200982	AAx	Welshpool Auction	Cull Cow
UK 182746 601000	AAx	Welshpool Auction	Cull Cow
UK 710965 600025	AAx	Welshpool Auction	Store Cattle
UK 710965 200049	AAx	Welshpool Auction	Store Cattle
UK 710965 700026	AAx	Welshpool Auction	Store Cattle
UK 710965 600046	AAx	Welshpool Auction	Store Cattle
UK 710965 500045	AAx	Welshpool Auction	Store Cattle
UK 710965 300043	AAx	Welshpool Auction	Store Cattle
UK 710965 200042	AAx	Welshpool Auction	Store Cattle
UK 710965 100027	AAx	Oswestry Auction	Store Cattle
UK 710965 200028	AAx	M. Jones	Store Cattle
UK 710965 300029	AAx	Oswestry Auction	Store Cattle
UK 710965 400030	AAx	Oswestry Auction	Store Cattle
UK 710965 500031	AAx	Oswestry Auction	Store Cattle
UK 710965 600032	AAx	Oswestry Auction	Store Cattle
UK 710965 700033	AAx	Oswestry Auction	Store Cattle
UK 710965 100034	AAx	M. Jones	Store Cattle
UK 710965 200035	AAx	M. Jones	Store Cattle
UK 710965 700040	AAx	Oswestry Auction	Store Cattle
UK 710965 600039	AAx	Oswestry Auction	Store Cattle
UK 710965 500038	AAx	M. Jones	Store Cattle

UK 710965 300071
UK 710965 400065

AA
AA

Welshpool Auction Store Cattle
Welshpool Auction Store Cattle

Cattle Sales Summary

12 Suckler Cows
3 Cull Cows
21 Store Cattle

Time & Leisure Limited
Farming Activity
Year ended 31 August 2008

	(2008)	(2007)	
Sale of cattle	3,844	8,836	
Sale of lambs		4,000	
Charge for grazing	635	125	
Charge for cultivating land	208	208	
Farming subsidy	8,344		
Sale of bales	3,574		
Income	<u>16,605</u>	<u>13,169</u>	A
Cost of sales			
Opening herd valuation	7,280	1,990	
Purchase of lambs		2,500	
Purchase of cattle		14,332	
Purchase of bull	2,100		
Purchase of heifers	6,000		
Hire of bull	300		
Maelor feeds	1,042	984	
Blakemere vets	137	449	
Grazing licence	817		
Repairs to fencing			
Purchase of straw	1,035		
Purchase of hay	1,300		
Moving hay	154		
Tags	35	10	
Auction fees	51		
Closing herd valuation	(28,200)	(7,280)	
	<u>(7,949)</u>	<u>12,985</u>	
Purchase of fertiliser	1,062	477	
Closing valuation of bales	(5,336)		
	<u>(4,274)</u>	<u>477</u>	
(Credit)/Charge per P & L overheads	(12,223)	13,462	B
Hay cost corrected	(1,300)	1,300	C
Combined net revenue/(expense)	30,128	(1,593) (A - B - C)	
Less:			
Rent payable - land		(3,700)	
Depreciation - farming equipment	(1,520)	(2,490)	
Depreciation - farm buildings	(1,083)	(1,035)	
Legal & professional (ADB)	(798)	(630)	
Legal & professional - fields licence		(817)	
HMCS & Co	(216)		
Repairs - gates/excavation	-		
Repairs	(2,121)	(768)	
Profit/(loss)	<u>24,390</u>	<u>(11,033)</u>	

The above amounts have been extracted from the accounts of Time & Leisure Limited for the year ended 31 August 2008

Alexander & Co

30 June 2009

Time & Leisure Limited
Farming Activity
Year ended 31 August 2009

	(2009)	(2008)	
Income	<u>23,570</u>	<u>16,605</u>	A
Cost of sales			
Opening herd valuation	28,200	7,280	
Opening Bale Valuation	5,336		
Purchase of bull		2,100	
Purchase of heifers		6,000	
Hire of bull		300	
Maelor feeds	2,761	1,042	
Blakemere vets	970	137	
Grazing licence	4,692	817	
Moving Cattle	225		
Purchase of Troughs	546		
Purchase of straw	1,605	1,035	
Purchase of hay		1,300	
Moving hay	292	154	
Tags	90	35	
Auction fees		51	
Society Subscription	55		
Closing herd valuation	(37,950)	(28,200)	
	<u>6,822</u>	<u>(7,949)</u>	
Purchase of fertiliser		1,062	
Closing valuation of bales	(7,525)	(5,336)	
	<u>(7,525)</u>	<u>(4,274)</u>	
(Credit)/Charge per P & L overheads	(703)	(12,223)	B
Hay cost corrected	-	(1,300)	C
Combined net revenue/(expense)	24,273	30,128 (A - B - C)	
Less:			
Rent payable - land			
Depreciation - farming equipment	(2,004)	(1,520)	
Depreciation - farm buildings	(1,158)	(1,083)	
Legal & professional (ADB)		(798)	
HMCS & Co		(216)	
Repairs	(802)	(2,121)	
Profit/(loss)	<u>20,309</u>	<u>24,390</u>	
The above amounts have been extracted from the unaudited accounts of Time & Leisure Limited for the year ended 31 August 2009			
Alexander & Co			

Time & Leisure Limited
Farming Activity
Year ended 31 August 2010

	2010	
Sale of cattle	19,658	
Charge for grazing	2,325	
Charge for cultivating land	290	
Farming subsidy	5,471	
Sale of bales	1,200	
Sundry Farming Income	353	
Income	<u>29,298</u>	A
Cost of sales		
Opening Valuation	45,475	
Hire of bull	120	
Maelor and Robinsons feeds	3,150	
Blakemere vets	985	
Grazing licence	2,863	
Purchase of straw/grass seed	1,910	
Tags & Topwrap	593	
Auction fees	43	
Society Subscription	514	
Closing valuation	(52,325)	
Charge per P & L overheads	<u>3,328</u>	B
Combined net revenue/(expense)	25,970	(A - B)
Less:		
Depreciation - farming equipment	(2,004)	
Depreciation - farm buildings	(1,235)	
Sundry	(630)	
Repairs	(2,069)	
Profit/(loss)	<u><u>20,032</u></u>	
The above amounts have been extracted from the unaudited accounts of Time & Leisure Limited for the year ended 31 August 2010		

HARVEY HUGHES

INDEPENDENT RURAL CONSULTANTS



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By post and Email
Alun.jones@wrexham.gov.uk

3rd May 2011

Dear Mr Jones,

Re: Shrewds Lair Farm, Tallarn Green

Following on from your conversation with Mr S Goodwin, I believe that you require further *clarification on the trading position of the business in the three years that the business has developed since planning permission for the temporary residential accommodation for an agricultural worker was granted on appeal.*

It should be noted at this stage that the consent was granted on the 13th July 2006. Within the planning inspectorate report it was acknowledged at paragraph 5 that at the time of the appeal the existing suckler herd had been disposed of due to the council refusing the planning permission application for the temporary dwelling.

Therefore following on from the granting of the permission the breeding herd had to be re-established.

This can be seen with the purchase of 16 bulling heifers in 2007. These cattle were put in calf in 2007 to calve in 2008.

Of the 16 heifers bulled, 14 calves were born (9 heifers / 5 bulls). The bulls were castrated for sale as stores the heifers were retained for breeding.

A further 8 pedigree Aberdeen Angus Bulling Heifers were purchased in 2009 along with a pedigree Breeding Bull. The cattle were purchased from the Windy Pike herd.

The heifers were put in calf in 2008. The suckler cows that had calved in 2008 were allowed to slip the calving pattern and were bulled in 2009 to calve again in the spring of 2010.

2008 and 2009 cattle sales were male store animals and the breeding bull.



The 2010 trading year was the first period following on from the restart in 2007 that the levels of sales were reaching predicted levels.

With the purchase of the pedigree Aberdeen Angus cattle in 2008 the decision was taken to replace the commercial spring calving sucklers with more Pedigree Angus cattle. The commercial cattle were sold in 2010 (12 cows), however due to the complications with the planning permission process these cattle have not yet been replaced. To make use of available grass 10 fresian bulling heifers have been purchased for sale as calves heifers.

If the planning process had progressed as expected without intervention from third parties who we believed to own land used by the business the breeding herd would have been at the predicted 30 plus animals.

Profits in the years 2007 – 2010 show that changes have occurred in the opening and closing valuations. The valuations take into account feed, forage, seeds, fertiliser and stock on hand at the given period. The stock valuation will have increased as the numbers of cattle increased and lower value animals (bulling heifers / calves born) mature into breeding cattle.

As we have detailed in many communications with the council and as witnessed by yourself on your visit, the business has invested in equipment for silage / hayledge production. Since the temporary consent was granted at appeal the business has had access to ample land (although on short term lets). When the breeding herd was disbanded prior to appeal and during the restocking period much of the surplus grass was made into Hayledge. This hayledge was utilised by the growing herd aswell as being sold to generate cash income. Therefore in the years leading upto 2010 hay sales contributed to the income generated whilst cattle numbers grew.

I understand that Mr Goodwin has forwarded to you the relevant section of TAN 6 by which this application must be judged.

I hope that you can see the progression of the business with the developing numbers and appreciate that conclusions can not be drawn from a snap shot assessment in an agricultural enterprise.

Having been set back in the development of the business in 2006 by the refusal by the council of the temporary consent Mr Fitton has had to start the enterprise from scratch once again. He has gone about this in the most cost effective manor by purchasing young cattle to breed from and utilising the resources available to him.

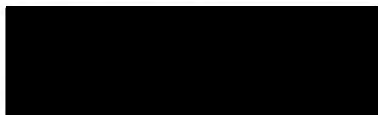
Mr Fitton has made significant investment that was quite evident to you at your visit and he should be supported in the development of his agricultural venture. As we discussed with you at great length no question can be made of the commitment shown since temporary consent was granted. Mr Fitton has invested in excess of £30,000 in further buildings and entered into a 7 year FBT agreement on approximately 70 acres of land. In addition to taking to the land he has also purchased single payment entitlements. Both actions will place the business at significant financial risk should permission not be granted and an agricultural worker not be able to be resident on site to manage the enterprises.



Mr Fitton made these investments in the belief that it would strengthen his business.

I trust this now provides you with sufficient information to complete your assessment.

Yours Sincerely



NP

Chris Harvey MBLAC BSc(Hons)
Agricultural Consultant

Cc

A Fitton

S Goodwin



Summary of Cattle Movements

Year End

	2007	2008	2009	2010
Cattle Purchased	29	10	0	0 (commercial sucklers not yet replaced)
Cattle Sold	10	6	6	36 (Includes 12 commercial sucker cows sold)
Cattle Born	0	14	13	9



Cattle Movements

Year End 2007 (1st Sept 2006 – 31st Aug 2007)

Ear Tag Number	Breed	On/Off/Born	Comment
UK 721215 200228	Chx	On	Store Male
UK721215 400230	Chx	On	Store Male
UK721215 500231	Chx	On	Store Male
UK721215 300229	Chx	On	Store Male
UK721215 100234	Chx	On	Store Male
UK721215 700233	Chx	On	Store Male
UK721215 501311	Chx	On	Store Male
UK721 215 601333	Chx	On	Store Male
UK721215 101307	Chx	On	Store Male
UK721215 401240	Chx	On	Store Male
UK721215 300291	Chx	On	Store Male
UK721215 600287	Chx	On	Store Male
UK721215 300225	Chx	on	Store Male
	13 purchased cattle	24/10/06-14/11/06	

Ear Tag Number	Breed	On/Off/Born	Comment
UK706381 100288	Chx	On	Bulling Heifer
UK706381 200289	Chx	On	Bulling Heifer
UK706381 400305	Chx	On	Bulling Heifer
UK706381 600314	Chx	On	Bulling Heifer
UK706381 300318	Chx	On	Bulling Heifer
UK706381 700301	Chx	On	Bulling Heifer
UK706381 200310	Chx	On	Bulling Heifer
UK706381 200282	Chx	On	Bulling Heifer
UK706381 600286	Chx	On	Bulling Heifer
UK160095 100773	Chx	On	Bulling Heifer
UK706056 701807	BBX	On	Bulling Heifer
UK706056 202096	BBX	On	Bulling Heifer
UK160669 100640	Hex	On	Bulling Heifer
UK160669 400643	Hex	On	Bulling Heifer
UK160669 300642	Hex	On	Bulling Heifer
UK160669 600645	Hex	on	Bulling Heifer
	16 purchased cattle	19/4/07 – 30/4/07	

Cattle Sales (1st Sept 2006 – 31st Aug 2007)

10 Chx fat cattle sold to Meadow Quality Calves on 26/7/07



Year end 2008 (1st Sept 2007 – 31st Aug 2008)

Ear Tag Number	Breed	On/Off/Born	Comment
UK 710965 400023	AAx (f)	Born	Suckler Calf
UK 710965 500024	AAx (f)	Born	Suckler Calf
UK 710965 600025	AAx (f)	Born	Suckler Calf
UK 710965 200049	AAx (f)	Born	Suckler Calf
UK 710965 300050	AAx (m)	Born	Suckler Calf
UK 710965 700026	AAx (f)	Born	Suckler Calf
UK 710965 100048	AAx (m)	Born	Suckler Calf
UK 710965 600048	AAx (f)	Born	Suckler Calf
UK 710965 700047	AAx (m)	Born	Suckler Calf
UK 710965 500045	AAx (f)	Born	Suckler Calf
UK 710965 400044	AAx (m)	Born	Suckler Calf
UK 710965 300043	AAx (f)	Born	Suckler Calf
UK 710965 200042	AAx (f)	Born	Suckler Calf
UK 710965 100041	AAx (m)	Born	Suckler Calf
	14 calves born	28/3/08 – 7/5/08	

9 Heifer calves

5 Bull Calves

Cattle Sales (1st Sept 2007 – 31st Aug 2008)

5 fat cattle sold to meadow quality calves on 26/7/07 – carried forward from 2007
account sales



Year End 2009 (1st Sept 2008 – 31st Aug 2009)

Ear Tag number	Breed	On/Off/Born	Comment
UK182746 200975	AA	On	Breeding Bull
UK182746 700966	AA	On	Bulling Heifer
UK182746 200982	AA	On	Bulling Heifer
UK182746 400991	AA	On	Bulling Heifer
UK182746 400984	AA	On	Bulling Heifer
UK182746 601000	AA	On	Bulling Heifer
UK182746 701001	AA	On	Bulling Heifer
UK182746 401012	AA	On	Bulling Heifer
UK182746 600951	AA	On	Bulling Heifer
UK182746 301004	AA	On	Bulling Heifer (replaced 701001
	9 purchased	19/9/08	

Ear Tag Number	Breed	On/Off/Born	Comment
UK710965 100027	AAX	Born	Suckler Calf
UK710965 200028	AAX	Born	Suckler Calf
UK710965 300029	AAX	Born	Suckler Calf
UK710965 400030	AAX	Born	Suckler Calf
UK710965 500031	AAX	Born	Suckler Calf
UK710965 600032	AAX	Born	Suckler Calf
UK710965 700033	AAX	Born	Suckler Calf
UK710965 100034	AAX	Born	Suckler Calf
UK710965 200035	AAX	Born	Suckler Calf
UK710965 700040	AAX	Born	Suckler Calf
UK710965 600039	AAX	Born	Suckler Calf
UK710965 500038	AAX	Born	Suckler Calf
UK710965 400037	AAX	Born	Suckler Calf
	13 calves born	14/7/09 – 2/8/09	

Cattle Sold (1st Sept 2008 – 31st Aug 2009)

6 male AA Store cattle sold – M Jones 20/4/09



Year End 2010 (1st Sept 2009 – 31st Aug 2010)

In addition to the information already supplied 21/4/11

Ear Tag Number	Breed	On/Off/Born	Comment
UK710965 600074	AA (f)	Born	Suckler Calf
UK710965 400072	AA (f)	Born	Suckler Calf
UK710965 300071	AA (m)	Born	Suckler Calf
UK710965 100069	AA (f)	Born	Suckler Calf
UK710965 200070	AA (m)	Born	Suckler Calf
UK710965 300036	AA (f)	Born	Suckler Calf
UK710965 700068	AA (f)	Born	Suckler Calf
UK710965 500066	AA (f)	Born	Suckler Calf
UK710965 400065	AA (m)	Born	Suckler Calf
	9 Calves Born	28/10/09 – 14/1/10	

6 female calves
3 male calves

Alun
01971
297253

Steve Goodwin

From: Steve Goodwin
Sent: 20 April 2011 10:07
To: 'alun.jones@wrexham.gov.uk'
Cc: Chris Harvey (chris.harvey@harveyhughes.co.uk); Alan Fitton (info@anfields.force9.co.uk); 'kevin.hughes@wrexham.gov.uk'
Subject: 2011/0082
Attachments: MX-2310U_20110420_094546.pdf

Dear Alun

Further to our meeting at Shrewds Lair Farm yesterday I attach an extract from TAN 6 which sets out WAG's guidance to LPA's in assessing applications for agricultural workers dwellings. You will see the 5 tests which the planners will need to address.

Clearly the evidence submitted demonstrates that the first two tests and the fourth (functional, time, other dwellings) are met and this has also previously been acknowledged by a Planning Inspector. The last test (other planning requirements) is really a matter for the planners.

The remaining test is the third one (financial). Chris is forwarding you the additional information you requested yesterday. However it is clear that the business has been going for over 3 years and is profitable. Chris has included a 5 year projection in his appraisal (which you have) to demonstrate it has a reasonable prospect of providing a market return to sustain the worker and the dwelling (the test we need to meet). No business can provide 100 per cent guarantee of income. That is why the test is 'reasonable prospect'. I hope you will agree that the past performance, the financial projections and the fact that the annual lets have now been changed to 7 year agricultural business tenancies provides sufficient evidence to allow you to conclude that the unit has a reasonable prospect of remaining profitable for the next 5 years. Indeed I believe it would be difficult to conclude otherwise.

I understand that your report will be sent to Kevin Hughes by Tuesday of next week. Please try to appreciate my client's position in that he wishes to continue to move on with this enterprise but has been in a state of uncertainty for some time as a result of not knowing the outcome of the planning applications. As discussed he would like to make further investment in livestock this year and so would appreciate a decision on the application as soon as possible as it has now been in for over 10 weeks and your visit yesterday was the first time anyone has been to site to see the unit operating in detail.

If you require anything further please let me know.

The fourth and fifth tests

Regards

Steve Goodwin

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4.7 Rural enterprise dwelling appraisals

4.7.1 Planning applications for new permanent and temporary rural enterprise dwellings in the open countryside need to be supported by robust evidence. A **Rural enterprise dwelling appraisal** must accompany planning applications for this type of development and include information sufficient to enable the planning authority to make a full and effective assessment. The appraisal should address the following tests:

- The *functional test* to provide evidence of whether there is a need for a resident worker for the proper functioning of the enterprise. (See paragraph 4.8.1).
- The *time test* to provide evidence of the labour requirement for the worker who is working on the justifying enterprise. (See paragraphs 4.9.1).
- The *financial test* to provide evidence of the economic sustainability of the justifying enterprise and identify the size of dwelling that the enterprise can sustain, ensuring that the size of the dwelling is commensurate with its functional need and financial justification. (See paragraphs 4.10.1 - 4.10.3).
- The *other dwellings test* to identify whether there is an existing dwelling or building suitable for conversion on the enterprise or dwelling in the locality that could meet the identified functional need. (See paragraphs 4.11.1 - 4.11.2).
- *Other normal planning requirements test* to demonstrate that the dwelling is suitably located to fulfil its identified need and to minimise impact on the wider environment. (See paragraphs 4.12.1 - 4.12.2).

4.7.2 In addition, where a new rural enterprise dwelling is being sought to facilitate farm management succession, as set out in paragraph 4.5.1- 4.5.3, details of the secure and legally binding arrangements to demonstrate that management of the farm business has been transferred to a person younger than the person currently responsible for management or, that transfer of management is only conditional upon grant of planning permission for the dwelling should be provided.

4.7.3 Planning authorities may wish to assist applicants by preparing a list of competent persons able to provide independent and unbiased advice. Where planning applications for rural enterprise dwellings are not accompanied by the information identified in paragraph 4.7.1, the planning authority should first seek the necessary information. Should this not be provided they would be entitled to refuse the application on the grounds of lack of proper justification for the proposed dwelling.

4.8 Functional test

4.8.1 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. It should relate to unexpected situations that might arise, for which workers are needed to be on hand outside of normal working hours for the particular enterprise. Such requirements might arise, for example, if workers are needed to be on hand night and day to deal with an emergency that would threaten the continued viability and existence of the enterprise without immediate attention. Where there are existing dwelling(s) on the enterprise then the need for additional workers to live on the site for the proper functioning of the enterprise must be demonstrated to be essential.

4.9 Time test

4.9.1 If a functional requirement is established, it will then be necessary to consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant. Where there is currently no dwelling associated with the rural enterprise the worker for whom there is a functional need for new accommodation must be a full-time worker. With the exception of second dwellings on established farms, it must not relate to a part-time requirement, or a requirement that does not relate to the enterprise. If this is a second (or further) dwelling, all existing dwellings must also be occupied by full-time workers for whom it is essential that they also remain on site for functional reasons, or by workers and their dependents last employed in a rural enterprise. (See exceptions at paragraphs 4.5.1 - 4.5.3).

4.10 Financial test

4.10.1 The rural enterprise and the activity concerned should be financially sound and should have good prospects of remaining economically sustainable for a reasonable period of time, usually at least 5 years.

4.10.2 Evidence of actual or potential economic performance will be required. To assess economic sustainability it will be necessary to show the business has a reasonable prospect of providing a market return for all operators for the amount of management and manual labour inputs, including the job for which the rural enterprise dwelling is being sought, for at least five years from the anticipated completion of the proposed development. This should be assessed on the basis of what is a realistic income for the skills of the operator^{23, 24}. A financial test is also necessary to assess the size of dwelling which the enterprise can afford to build and maintain. Dwellings which are unusually large in relation to the needs of the enterprise, or unusually expensive to construct in relation to the income it can sustain in the long-term, should not be permitted. It is the requirements of the enterprise rather than of the owner or occupier which are relevant to determining the size of dwelling that is appropriate.

Appendix 10

The Chief Planning Officer
Wrexham County Borough Council
Lambpit Street
PO Box 1290
Wrexham
LL11 1AR

Our Ref: SG-121-L71

4th May 2011

For the attention of Kevin Hughes

Dear Sir

**RE: APPLICATION FOR AGRICULTURAL WORKER'S DWELLING -
SHREWDS LAIR FARM, TALLARN GREEN - P/2011/0082**

I refer to our recent discussion regarding the above and write to express our deep concern on behalf of the applicant at the delays being experienced in determination of this application.

The application was received on 7th February 2011 and the 8 week determination date was 3rd April 2011.

I would remind you that this application is a resubmission of an earlier application (P/2010/00338) which was refused on 27th October 2010 for one reason only. This reason indicated that the Council did not believe the long term viability had been proven and emphasised that this was as a result of reliance on a high percentage of short term rented land agreements. The resubmitted application has addressed this issue in that the applicant has now entered into 7 year agricultural tenancies on the land previously subject to the short term lets. The current application has therefore fully addressed the only reason for refusal of the last application and there should be no reason why your Council should not support the resubmission.

Even though the application was submitted on 21st January 2011 it was not until 19th April 2011 that your valuation officer (Alan Jones) visited the site. It was obvious from the site visit that Mr Jones had not fully read the application documents including those documents prepared by Chris Harvey and submitted in support of the functional and financial tests. Indeed Mr Jones actually turned up with documents from the previous application which had been refused. This in itself was unacceptable.

However, Mr Jones requested additional information at the meeting and has subsequently been provided with 2 additional reports from Harvey Hughes and an additional email

from myself addressing his requests. The provision of this additional information has incurred the applicant with substantial additional costs.

I understand from our telephone discussion this morning that despite Mr Jones indicating to us that initially you would have his report last Tuesday and then that it would be with you this Tuesday you have still not received it and, as he only work 2 days a week, he will not now be in until next Monday. In the light of the delays the applicant has been put to so far (including having to go to appeal for the original planning permission for the temporary agricultural worker's dwelling) we find this current situation totally unreasonable.

Mr Jones has been provided with copies of the accounts, he has seen the original animal movement passports, he has been provided with ear tag numbers, he has been provided with detailed explanations of the accounts and animal movements and detailed information in relation to the agricultural tenancies. Despite this he still seems unable to provide you with a report.

We would stress that our client is trying to run an agricultural business and (as acknowledged by the previous Inspector) has been significantly hindered in this by the approach of the Council to his applications. It is regrettable that the Council have continued to take such an approach to these applications following the first Inspectors decision.

Yours faithfully

Stephen Goodwin
BA (Hons), MCD, MRTPI

Enc

Cc Mr A Fitton