

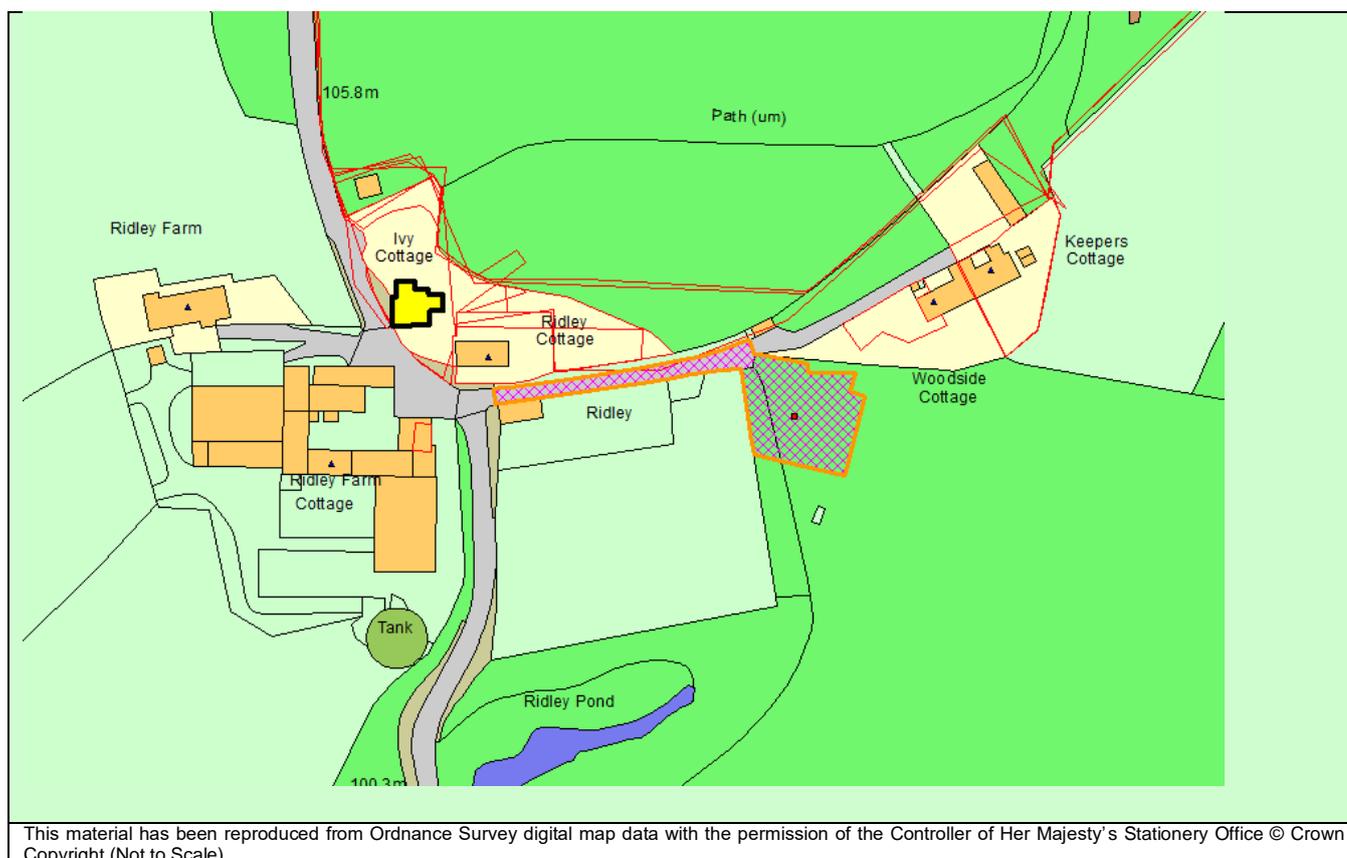


Northumberland County Council

Tynedale Local Area Planning Committee Tuesday 12 April 2022

Application No:	21/03959/FUL		
Proposal:	Resubmission: Erection of rural worker's dwelling		
Site Address	Land South of Woodside Cottage, Bardon Mill, Northumberland,		
Applicant:	Messrs Furlong Ridley Farm, Bardon Mill, Hexham, Northumberland NE47 7BP	Agent:	Miss Maria Ferguson 14 Gordon Crescent, Richmond, DL10 5AQ,
Ward	Haydon And Hadrian	Parish	Bardon Mill
Valid Date:	8 November 2021	Expiry Date:	3 January 2022
Case Officer Details:	Name: Ms Melanie Francis Job Title: Senior Planning Officer Tel No: 01670 625549 Email: melanie.francis@northumberland.gov.uk		

Recommendation: That this application be REFUSED permission



1. Introduction

1.1 The application has been referred to the Director of Planning and Chair and Vice Chair of the Tynedale Local Area Council Planning Committee who agreed that the application should be considered by Members of the Tynedale Local Area Council Planning Committee.

2. Description of the Proposals

2.1 Planning permission has been sought for the construction of a dwelling for a rural worker on land south of Woodside Cottage, Bardon Mill. The proposal relates to the existing farming enterprise at Ridley Farm. The proposed dwelling would be accessed from an existing field gate and would be L-shaped and single storey and constructed of stone with a slate roof 5.8 metres in height. It would have uPVC windows and a timber or uPVC door. Internally it would have an open plan living area with two bedrooms and an office, and externally a raised patio area, with a glass balcony to the rear. Amenity space would be provided to the rear and west of the dwelling, with parking for three vehicles to the front.

2.2 The site is a greenfield site located west of Woodside Cottage and to the east of the farmstead at Ridley Farm. The proposal sits within an area of parkland with mature trees. To the front of the site, adjacent to the lane, there is post and wire and post and rail fencing, with a traditional stone wall to the west. Trees are located along the western boundary of the site, with some having been removed in the recent past.

2.3 Ridley Farm is located south of Ridley Hall, east of Beltingham, south-east of the larger village of Bardon Mill and south of the A69. It is a greenfield site within the open countryside and is within the North Pennines AONB.

2.4 Submitted with the application were the following:

- Land at Ridley Hall Farm, Bardon Mill, NE47 7BP Ecological Appraisal August 2018, (Quants Environmental)
- Ground gas risk assessment, January 2020 (Ergo Environmental Ltd)
- Agricultural Appraisal, 16 September 2020 (Richard Brown and Partners)
- Planning Statement, 6 October 2021 (Maria Ferguson)

3. Planning History

Reference Number: T/81/E/573

Description: Extension of agricultural building and erection of slurry tower.

Status: Permitted

Reference Number: T/78/E/422

Description: Erection of milking parlour.

Status: Permitted

Reference Number: 19/01055/FUL

Description: Proposed erection of rural worker's dwelling

Status: Non determination

Appeals

Reference Number: 20/00006/REFUSE

Description: Proposed erection of rural worker's dwelling

Status: Dismissed

4. Consultee Responses

Bardon Mill Parish Council	Support the application as: need for two full time workers at or near site; need cannot be met from existing housing; and modest dwelling proposed not out of place in this location.
Public Protection	No objection subject to conditions.
Highways	Unacceptable as unsustainable location but if LPA considers it outweighs this, recommends conditions.
North Pennines AONB	No response received.
County Ecologist	No objection subject to conditions.
West Tree and Woodland Officer	No response received.
Forestry Commission	No response received.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	9
Number of Objections	0
Number of Support	0
Number of General Comments	1

Notices

General site notice: expired 17 December 2021
No Press Notice required.

Summary of Responses:

A comment from an adjoining property has been submitted which states that they have no objection if the adjacent Keeper's Cottage is ruled as unsuitable or unavailable, and as long as this application does not create a precedent for future building within the AONB. In addition, the neighbour has stated that if planning permission is granted, it is important that concerns regarding local services are dealt with prior to construction.

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=R0LI8EQSJRJ00>

6. Planning Policy

6.1 Development Plan Policy

Northumberland Local Plan – March 2022

Policy STP 1 - Spatial strategy
Policy STP 2 - Presumption in favour of sustainable development
Policy STP 3 - Sustainable development
Policy HOU 2- Provision of new residential development
Policy HOU 9 - Residential development management
Policy QOP 1 - Design principles (Strategic Policy)
Policy QOP 2 - Good design and amenity
Policy ENV 2 - Biodiversity and geodiversity
Policy ENV 3 - Landscape
Policy ENV 6- North Pennines AONB
Policy POL 1- Unstable and contaminated land
Policy TRA 4 – Parking provision in new development
Policy WAT 2 – Water supply and sewerage

6.2 National Planning Policy

National Planning Policy Framework (2021)
National Planning Practice Guidance (2018, as updated)

4.3 Other Documents/Strategies

National Design Guide (1 October 2019)
North Pennines AONB Design Guidance

7. Appraisal

7.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case the development plan comprises the Northumberland Local Plan (NLP). The National Planning Policy Framework (NPPF) (2021) and Planning Practice Guidance (PPG) are material considerations in determining this application.

7.2 The main issues in the determination of this application are:

Principle of development
Siting, design and residential amenity
Impact on the AONB and the landscape
Impact on adjoining residential amenity
Highway issues and parking
Protected species and ecology
Environmental health issues

Principle of development

Background to the development

7.3 A previous application for a dwelling for a rural worker (ref: 19/01055/FUL) which is on the same site as the current application, was the subject of an appeal. A Hearing was held on 25 August 2020 and the application was dismissed on the basis that it had not been demonstrated that there was no suitable accommodation in the

area to meet the needs of the farming enterprise, contrary to the development plan and the NPPF.

7.4 The farming enterprise which relates to this application covers some 577 acres and includes Ridley Farm with its farmhouse and Ridley Farm Cottage, plus farm buildings and c. 132 acres of arable, grass and pasture. The applicant, Stuart Furlong lives in the farmhouse, whilst his son and business partner, Edward Furlong, lives in a caravan on site which does not have the benefit of planning permission. The main operations for the business are at Ridley Hall where there is livestock housing, silage pit and fodder stores. Farming tenancies are also held at Shaws Farm with 250 acres of land with buildings, Briarwood Farm with 135 acres of land and buildings, plus Mill House Farm with 60 acres of land and sheds.

7.5 Other activities run by the partners include:

- Agricultural contracting including snow clearance in winter and verge cutting in summer for the Council.
- Contracted digger work.
- Stuart Furlong manages and operates the South Tyne Shoot on land covering 2,500 acres which employs a full-time gamekeeper and operates and runs 20 let days a year. This is run as a separate business to the farm.
- Edward Furlong operates a licenced boarding kennel business based at Ridley Farm which is separate to the farming business.

7.6 The application considers that the proposed dwelling is needed as a caravan does not provide suitable accommodation or appropriate office facilities for the 2nd farm worker required on the holding.

Principle of development: open countryside and the need for an agricultural dwelling

7.7 The site is a greenfield site located in the open countryside. Policy STP1 of the Northumberland Local Plan (NLP) states that development in the open countryside will be supported subject to a list of criteria which includes: if it provides for residential development in accordance with Policies HOU 7 (which is not relevant in this context) or HOU 8, which will be discussed below.

7.8 Paragraph 80 of the NPPF says that '*planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply*'. This includes at point a) where '*there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside*'. In addition, paragraph 84 says that planning decisions should enable '*the development and diversification of agricultural and other land-based rural businesses*'.

7.9 NLP Policy HOU 8 states at point 1 a):

The development of isolated homes in the open countryside will only be supported where:

a. There is an essential and clearly established need for a full-time rural worker necessary to meet the operational needs of a rural business to live permanently at or near their place of work in the countryside, and where it can be demonstrated that:

- i. The business is financially sound and viable with a clear prospect of remaining so, the activity and landholding units concerned having been*

established for at least three years and been profitable for at least one of those last three years; and

- ii. The functional need could not be fulfilled by any existing dwelling on the landholding unit or any other existing accommodation in the immediate area, which is suitable (including by means of refurbishment or appropriate extension) and potentially available for occupation by the workers concerned.*

7.10 The NPPF does not contain any specific or detailed guidance on determining whether there is an essential need for a rural worker to live permanently at a site, although some guidance has subsequently been provided in the NPPG. This outlines the considerations that are relevant in this type of application including functional need, the viability of the enterprise, whether the provision of an additional dwelling is essential for the continued viability of the farming business; and whether the need could be met through improvements to existing accommodation on the site. This generally aligns with the considerations outlined in NLP Policy HOU 8.

7.11 A Planning Statement (Maria Ferguson) and an Agricultural Appraisal (Richard Brown) has been submitted with the applications. The Council has commissioned Alan Jackson, an independent Chartered Surveyor, with experience in agriculture and rural workers' dwellings, to assess the application. He also assessed the previous application on behalf of the Council.

7.12 Alan Jackson noted in his report that the Richard Brown appraisal submitted with this application differs from that submitted for the 2019 application in that it now states that the 132 acres at Ridley Farm are held on a secure tenancy which benefits from succession: this differs from what he was previously told. Alan Jackson has commented, however, that based on the succession provisions in relation to agricultural tenancies, as the current tenancy of Ridley Farm was granted after 1984, it is only secure for the lifetime of Mr Furlong with no succession rights. It is also understood that the tenancies at Shaws Farm and Briarwood Farm are also lifetime tenancies. The 60 acres at Mill House Farm remains on a farm business tenancy renewable on a 5 year basis.

The functional need

7.13 A functional need is defined as one which establishes whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times, for example, in case animals require essential care at short notice.

7.14 Alan Jackson has confirmed that the main functional need is centred on the land holdings at Ridley Farm in relation to the care of 80 suckler cows and 550 breeding ewes. Edward Furlong also runs a boarding kennel enterprise which may also add to the functional need. Alan Jackson considers that there is a clearly established functional need in relation to the suckler cow and breeding ewe enterprises.

Labour requirements

7.15 Alan Jackson has assessed the application and has calculated that based on existing livestock numbers and cropping practices, that there is a labour requirement of some 3 full time workers which is partially met by Mr Furlong and Edward Furlong.

Financial viability

7.16 Although the NPPF does not require a financial test to be applied in relation to rural housing, the NPPG in 2019 did state that when assessing paragraph 80 of the NPPF that there should be confidence that the enterprise remains viable for the foreseeable future. Financial accounts have been submitted and Alan Jackson has assessed these and the fact that the business has been established for many years and remains confident that the farming enterprise would remain viable for the foreseeable future.

Suitability and availability of existing dwellings

7.17 The site has an existing farmhouse in which the applicant, Mr Furlong resides. Edward Furlong, the 2nd farm worker lives in a caravan on the farmstead. Within the farmstead is Ridley Farm Cottage, which is occupied by a gamekeeper who is employed by a separate business run by the appellant; with a third dwelling, Keepers Cottage, to the east of the farmstead being let out to a private tenant and which is owned by Mr Furlong and his daughter.

7.18 Alan Jackson agrees that two farm workers should reside at or near the farm. The Planning Inspector affirmed in his decision that it was agreed by all parties that two full time workers should reside at or near the farm.

7.19 Alan Jackson's reassessment of the business as part of this application has acknowledged that Ridley Farm House is only suitable and available to house one of the two identified farm workers. The farmhouses at Shaws Farm and Briarwood Farm are not included within the farm tenancies and so are not available. Alan Jackson mentions that Mr Furlong had contacted his landlord to see if there were any available cottages for the second farm worker: there are none, and the landlord would not allow a tenant to build a dwelling on land which they do not own.

7.20 Alan Jackson has therefore once again assessed the two other dwellings on the land holdings that are in the control of the applicant. Ridley Farm Cottage is within the buildings at Ridley Farm and is part of the tenancy but is occupied by a full-time game keeper who runs a shoot which is a diversified enterprise of the farm business. It is acknowledged that it is common practice for a game keeper to be in tied accommodation close to where the birds are located and that Ridley Farm Cottage, although suitable, is not available to house the second farm worker.

7.21 Keepers Cottage, which was discussed at length during the hearing, and was bought as an investment, is let out on an assured shorthold Tenancy. This cottage is jointly owned by Mr Stuart Furlong and Vicky Furlong. Alan Jackson refers to the appeal decision, and in particular paragraph 10 (Appeal decision appended to this report) which acknowledges the joint ownership of Keepers Cottage by Vicky Furlong and her father - the fact that Keepers Cottage was owned by both of them following the recent death of Mrs Furlong, was discussed at length at the Hearing, hence the conclusion that was reached by the Inspector.

7.22 Issues over tenancy rights, which Alan Jackson has mentioned in his report was explored thoroughly at the hearing, and although there is no life-time tenancy, there was assumed that any future tenancy is likely to pass from Stuart to Edward Furlong when Stuart retires.

7.23 The hearing also discussed issues around the rent from Keeper's Cottage versus building costs for a new dwelling for Edward. The appellant had not provided building costs, whilst the Council had given some figures. This was referred to in the

Inspector's decision. In the current application, a smaller property is proposed and building costs have been included. These have been evaluated by Alan Jackson for the Council, plus he has assessed the actual income provided by Keepers Cottage, taking into account annual costs in relation to repairs and maintenance, as well as annual costs in relation to the replacement of fittings. The applicant estimates that the build costs would be around c. £158,400 whilst Alan Jackson has assessed the building costs based on the size of the dwelling and has looked at various calculations and guidance and has provided a figure of between £212,800 and £312,300 as a guide for the costs of a new house based on the plans submitted. Looking at various costs and the servicing of a mortgage, Alan Jackson considers that there is not a significant difference between the rent on Keepers Cottage and the annual cost of constructing and fitting out a new dwelling.

7.24 The Inspector at the Hearing acknowledged that Keepers Cottage, although some distance from the main farm buildings, was only a short distance from the proposed new dwelling; the distance was not excessive and this "does not render Keepers Cottage as being unsuitable for the operational needs of the business or the accommodation of a farm worker". The Inspector concluded that "*on balance, it has not been demonstrated that Keepers Cottage is economically unviable for use as a rural worker's dwelling*". The Inspector went on to say that "*based on the evidence before me this does not mean that Keepers Cottage is unavailable for a rural worker associated with the appellant's business. Similarly, the potential intentions of the appellant's family members do not mean that Keepers Cottage is unavailable*".

Summary of principle

7.25 Alan Jackson's assessment of this case on behalf of the Council acknowledges that Ridley Farm Cottage is occupied by the game keeper, but consideration should be given as to whether housing the game keeper should be prioritised over housing the second farm worker. Ridley Farm Cottage is, after all, part of the farm tenancy and perhaps should be used for the purposes of the farm business. And as considered during the last application, Alan Jackson highlights that Keepers Cottage is suitable and could be made available to a second worker, particularly as there is little difference between the net rental income from letting out Keepers Cottage and the annualised cost of building and fitting out a new dwelling.

7.26 The Inspector concluded at the hearing that: it had not been demonstrated that there was no suitable accommodation in the area for the needs of the farming enterprise and available to a rural worker and; the application conflicted with the relevant Tynedale policies which formed the development plan at the time, plus it was contrary to paragraph 79, (now 80) of the revised NPPF which seeks to avoid isolated homes in the countryside, and in particular paragraph 79(a) (now 80 (a)) as it had not been demonstrated that existing accommodation could not meet the need for a rural worker to live near their place of work. The Inspector also referred to conflict with Local Plan Policy HOU 8, at the time emerging policy, but which is now part of the development plan.

7.27 Although the agent has argued otherwise, the current ownership of Keeper's Cottage was known and discussed at the hearing and as has been discussed within the Inspectors report. Although the applicant states that his daughter does not intend to allow the property to be occupied by Edward Furlong, this is a private matter between the family members and not sufficient to consider that the property could not be made available. Consequently, it is considered that the requirement for a new dwelling for an agricultural worker has previously been assessed as part of the previous application and the subsequent hearing; this situation has not changed, and

there are no further or outstanding matters that need to be considered. In conclusion, the application fails to accord with Northumberland Local Plan Policy HOU 8 and paragraph 80 of the NPPF.

Siting, design and residential amenity

7.28 The proposal would be for a single storey modest dwelling constructed of traditional materials. Although the general parameters of the design are acceptable, the fenestration does provide a mix of designs within a relatively small building, and it would be preferable if this was rationalised. In addition, the glazing of the east elevation to the apex of the gable would result in an overly glazed elevation which is not typical of traditional buildings or appropriate to a site within the North Pennines AONB. It is also a style that was used quite commonly in the recent past but has come to appear out of date and incongruous in rural areas. An external chimney breast, as opposed to a traditional chimney on the roof would also be more appropriate. Changes to the design have not been sought as the principle of development is not considered acceptable, but if minor changes were made, and subject to conditions in relations to further details of materials and landscaping of the site, a dwelling appropriate to the site could be considered acceptable in accordance with Northumberland Local Plan Policy QOP 2 and the NPPF.

Impact on the AONB and the landscape

7.29 Paragraph 176 of the NPPF states that ‘great weight’ should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty. It goes on to say that “the scale and extent of development within all these designated areas should be limited while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas”.

7.30 Northumberland Local Plan Policy ENV 3 states that great weight shall be given to the conservation and special qualities of designated landscapes including the North Pennines AONB, whilst Policy ENV 6 says that when assessing development proposals the openness of the landscape and its sensitivity to development needs to be considered, whilst small scale development will be supported where it does not impact on the AONBs special qualities. The site is within a small group of dwellings around Ridley Farm which is reached by a narrow country lane to the south of the A69. The area is an attractive rural landscape with stone walls, fields and mature trees with the large field in which the house is proposed being of Wood Pasture and Parkland with mature trees dotted around. Although locating the house within this area of landscape is not ideal, it is acknowledged that the overall development site is small and adjacent to other buildings and in this respect it would accord with NLP Policies ENV 3 and ENV 6.

Impact on adjoining residential amenity

7.31 It is considered that a dwelling could be constructed in this location which would not have a detrimental impact on adjoining land and properties and would accord with Northumberland Local Plan Policy QOP 2 and the NPPF in this respect.

Highway issues and parking

7.32 The Highway Authority has assessed the application and considers that as set out in the NPPF, the scheme is considered to be unacceptable, but if the Local Planning Authority considers that sufficient weight on other matters outweighs the

unsustainable location, then requirements in the form of conditions could be provided. This includes the need for cycle parking and an EV charging point, plus a construction method statement. The Highway Authority consider that the site would accommodate three car parking spaces. Subject to relevant conditions the application would accord with Northumberland Local Plan Policy TRA 4.

Protected species and ecology

7.33 An ecology report '*Land at Ridley Hall Farm, Bardon Mill NE47 7BP Ecological Appraisal August 2018*' notes that hedges and trees on the boundary of the development would be retained. The site is within Wood Pasture and Parkland Habitat of Principal Importance. The County Ecologist who has assessed the application has commented on this but states that the footprint of the development is very small and impacts are considered to be negligible. The Ecologist has no objection subject to proposed mitigation and enhancement as set out in the submitted report and a planning condition. Subject to the condition, the application would accord with Northumberland Local Plan Policy ENV 2 and the NPPF.

Environmental health issues

7.34 The Environmental Protection team has been consulted on the application and has commented that based on the Ground Gas Risk Assessment and the planning appeal decision on the previous application ref: 19/01055/FUL, that ground gas protection is necessary for this proposal in order to protect human health. The team recommends conditions in this respect, as well as conditions in relation to working hours and construction delivery to protect the amenity of neighbouring residents during the construction period. Subject to these conditions the application would accord with Northumberland Local Plan Policy POL 1.

Equality Duty

The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

8.1 The application has been assessed against the development plan and the NPPF as set out in the above report. A similar development was in 2020 the subject of a planning appeal in the form of a hearing and the application was dismissed by the Inspector. It is considered that the current proposal, although smaller in scale, does not change the pertinent issues that were discussed at the hearing, in particular the ownership and availability of Keeper's Cottage. The situation has not changed since the hearing and there are no further or outstanding matters that need to be considered. The application fails to accord with Northumberland Local Plan Policies STP 1, HOU 8 and paragraph 80 of the NPPF.

9. Recommendation

That this application be REFUSED permission subject to the following:

Reason

1 The essential need for a new dwelling in the open countryside at Ridley Farm has not been established as it has not been demonstrated that there is no suitable accommodation in the area for the needs of the farming enterprise and available to a rural worker. This is contrary to Northumberland Local Plan Policies STP 1 and HOU 8 and paragraph 80 of the NPPF.

Background Papers: Planning application file(s) 21/03959/FUL