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## Appeal Decision

Hearing held on 10 June 2025

Site visit made on 10 June 2025

**by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 June 2025

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**Appeal Ref: APP/A4710/W/25/3360613**

**Little Lake Side Farm, Bowl Shaw Lane, Northowram, Halifax HX3 7TF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr William Hillas against the decision of Calderdale Metropolitan Borough Council.
  - The application Ref is 24/00454/FUL.
  - The development proposed is an agricultural farm workers dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters and Main Issues

2. The proposal is for the erection of a new dwelling within the Green Belt, albeit restricted to an agricultural worker. Paragraph 154 of the Framework indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. As the proposal does not meet any of the exceptions within paragraph 154, the parties agree that it would be inappropriate development. In light of all that I have read and the discussions at the Hearing, the main issues in relation to this appeal are:
  - i) The effect of the proposal on the openness of the Green Belt;
  - ii) The effect of the proposal on the character and appearance of the area; and
  - iii) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, including whether there is an essential need for a dwelling to accommodate a rural worker at the site, so as to amount to very special circumstances necessary to justify it.

### Background

3. Little Lake Side Farm occupies a total of 120 acres of agricultural land, 60 acres of which are owner occupied and 60 that are tenanted. It operates with a herd of approximately 50 limousin cows and a bull with the production of pedigree calves for onward sale or slaughter<sup>1</sup>.
4. From the evidence presented there does not appear to be any dispute between the parties that the existing farming enterprise generates a need for 1.75 full time equivalent workers. Although there is a cabin present elsewhere within the appeal

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<sup>1</sup> As stated by the appellant during the Hearing.

site which is said to have been occupied as a dwelling by the appellant since 2018, it does not have planning permission. Any issue arising from the siting and occupation of this building is a matter for the Council. I will come back to this issue later in my decision.

5. In December 2024, the Government published a revised National Planning Policy Framework (the Framework). In my pre-Hearing note, I provided the parties with the opportunity to comment on the effect of changes to Green Belt policies via their Statement of Common Ground. There is no suggestion in the written or oral evidence that I should consider the appeal site as grey belt land and therefore I have not done so.

## **Reasons**

### *Openness*

6. Paragraph 142 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension, as set out in the Planning Practice Guidance (PPG)<sup>2</sup>.
7. The proposed dwelling would be sited to the north-east of 3 existing agricultural buildings which have now come to form the main farm complex of Little Lake Side Farm. I observed that it is separated from the built-up area of Northowram by agricultural fields. Given that the appeal site forms part of a larger undeveloped pasture, it has a visual association with the surrounding countryside.
8. The erection of a building on land where one does not currently exist would inevitably result in a spatial loss of openness. The site edged red is extensive including a garden, parking area and access track, as well as parts of the farmyard. Even if the proposed dwelling was to be tucked down below Shaw Road, the mass and scale of the development would be evident from this vantage point as well as from Brighouse Road (A644) and the public right of way (PROW) that crosses the appeal site to the south. Whilst in these views, the proposed dwelling would be seen against or alongside the farm complex, it would nonetheless result in a noticeable visual and spatial reduction of the openness of the Green Belt.
9. For these reasons, I find that the proposal would result in permanent harm to the spatial and visual openness of the Green Belt. Consequently, I find conflict with paragraph 142 of the Framework as set out above.

### *Character and Appearance*

10. The appeal site falls within the Landscape Character Area (LCA) K1: Coalfield Edge Urban Fringe Farmland (Thornton-Queensbury)<sup>3</sup>. This area comprises pockets of higher gently undulating ground sloping up from the adjacent valley's that visually separate the larger settlements of Halifax and Bradford. Vistas are often wide open, including agricultural land punctuated frequently by pylon lines and overhead cables, as well as coal mining legacy features. Trees are generally infrequent limited largely to field boundaries and limited pockets of woodland on the slopes of stream valley's.

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<sup>2</sup> Paragraph: 001 Reference ID: 64-001-20190722.

<sup>3</sup>As set out in the Calderdale District Landscape Character Assessment and Review of Special Landscape Area Designations Report (2016).

11. I observed that the overwhelming character is of rolling countryside contained by dry-stone walls with sporadic scattered development including farm steadings. As part of a field devoid of built development, the appeal site contributes positively to the character of the LCA.
12. The Council's written and oral evidence regarding the effect of the proposed development on the character and appearance of the area is unclear. It has been simultaneously suggested that a farmhouse within the LCA would not be out of character but also that the development would appear as a discordant feature in this setting and that the large expanse of domestic curtilage would have an encroaching urbanising effect.
13. It seems to me as discussed in the openness section above, the siting of the proposed dwelling in an undeveloped field would result in the limited encroachment of built development into the countryside. The site edged red is unnecessarily extensive and implies a large domestic curtilage for the proposed dwelling, not necessarily restricted to the rear garden area.
14. However, the scheme does seek to minimise the impact of the proposal. The dwelling has been designed to be of a typical farmhouse appearance with a high wall to window ratio and dual pitched roofs, even if the windows do appear low in the elevations. It has also been sited on a lower level of the site so that the naturally rising topography to the north and east would help the scale of the development nestle into the landscape. Whilst the dwelling would be visible from the public right of way (PROW) that runs through the appeal site as well as from Shaw Lane and Brighthouse Road, this would be from relatively close quarters where any associated domestic paraphernalia and/or car parking would be seen in the context of the dwelling and wider farm complex.
15. The existing conifer hedge to the north of the appeal site currently forms an alien feature within the landscape being of non-native species. Thus, its replacement or supplementation with appropriate native species could form an improvement to the LCA, noting that a woodland copse is visible to the south-west of the appeal site.
16. It is proposed to surface the access track leading to the farmyard and proposed dwelling in a geotextile membrane so that it would have a softer, green appearance. An existing track is in situ and it is not clear if this already has permission, including the extensive engineering operations to create the revetment. Neither is it clear that a geotextile membrane would be sufficient to withstand heavy agricultural machinery that would share the access. Even if it is, the likely frequency of vehicular trips along the access from the proposed dwelling and farm yard is unlikely to provide the lush green covering as suggested in the proposed visualisations. In any event, notwithstanding the existing revetment works, the route of the access track alone as proposed would be well related to the farm complex. It would run alongside the existing agricultural buildings at the edge of the farmyard, such that it would not encroach significantly on the openness of the Green Belt or harm the character of the countryside. Its surfacing material could be appropriately dealt with by planning condition.
17. Although the site edged red should be tightly drawn in relation to the development proposed and its access onto the highway, I see no reason why a condition could not specify the precise area of the site to be considered as domestic curtilage, for

example the rear garden area, if the scheme were to be acceptable in all other regards.

18. The Council suggested at the Hearing that it would be preferable for any new dwelling to be sited in place of the existing cabin. Due to its limited scale and low-profile roof, the cabin sits relatively discreetly within the landscape. However, the land is elevated above its surroundings and appears to be a high point on the appeal site. Any permanent dwelling in this location would be likely to appear more prominent, particularly in views from Shaw Lane where it could extend higher than trees and buildings belonging to Thorn Tree Farm.
19. The Council has suggested that the scale of the proposed dwelling is excessive when compared with the Technical Housing Standards; Nationally Described Space Standard (2016). Be that as it may, it is not unreasonable for an agricultural workers dwelling to include ground floor washing facilities or an office which is necessary for the keeping of animal records. Whilst the dwelling would undoubtedly be large, it has not been demonstrated that it would be excessively so, or that this would impact negatively on the character and appearance of the area given the range of dwellings and agricultural buildings found within the vicinity. Had that been the case, it would have been open to the Council to negotiate the size of the dwelling.
20. Drawing all of this together, it seems to me that the proposed development has been sited and designed to be sensitive to its landscape setting and that the distinctive qualities of the landscape area would be retained and enhanced. A stone built dwelling adjacent to existing farm buildings would not be unexpected within the LCA.
21. Tranquillity in this locality is already negatively affected by noise generated from the well-trafficked Brighouse Road. Noise would also likely be generated from the existing agricultural uses on the wider appeal site. It is not considered that the occupation of a dwelling or the comings and goings to it, would be particularly discernible or harmful to the LCA.
22. I find that the proposal would not cause harm to the character and appearance of the area. It would therefore accord with Policies GN4 and BT1 of the CLP. Together these policies amongst other things, seek to ensure that new development is of a high quality that takes account of its local context and distinctiveness. The proposal would also adhere to the aims of the Framework in respect of promoting well-designed development that is sympathetic to its surroundings.

#### *Other Considerations*

23. There is no dispute that the appeal site is located outside of any designated development boundary. Paragraph 84 of the Framework seeks to avoid the creation of isolated new dwellings in the countryside unless particular circumstances apply. This includes the essential need for a rural worker to live permanently at or near, their place of work in the countryside.
24. Neither the development plan nor the Framework refer explicitly to a financial test. However, the appellant has referenced the advice of the PPG which sets out that relevant considerations for rural worker's dwellings can include the degree to which there is confidence that the enterprise will remain viable for the foreseeable

future<sup>4</sup>. I am therefore satisfied that it is appropriate to consider the financial viability of the rural enterprise, as well as the functional need. I will come back to this matter later in my decision.

### *Functional Need*

25. At the Hearing I heard that despite other activities such as muck spreading and silage making, the main need for a worker to be on site relates to calving, which can occur at any time of day or night. The presence of a farmer when cows give birth can be important to ensure that the calf takes its first breath, suckles from and bonds with its mother.
26. The appellant's evidence suggests that limousine cattle can require human intervention during and post birth and that such intervention with their herd has been high<sup>5</sup>. It is not clear whether such intervention arose due to the appellant's relative lack of experience or whether this would be typical. Articles provided by the Council suggest that limousine cattle are a hardier breed that are easier to calve which adds uncertainty.
27. I do not doubt the importance of closely monitoring a cow and its calf shortly before, during and soon after giving birth for animal welfare reasons. Discussions during the Hearing revealed that cows generally show signs when they are about to calve, such that the appellant will know when they need closer observation and can make suitable arrangements for care, such as moving them inside. Cameras are positioned within the livestock barns and whilst of value, they are not a complete substitute for human care at the point of calving.
28. The appellant suggests that although initially he calved in one block, he now calves all year round. However, at the Hearing the Council's Environmental Health and Welfare Officers indicated that the last 3 years' worth of calving records still suggest calving occurs during a specific part of the year. Whilst some calves have been born outside of this period, they have been limited in number. It is clear that calving has increased year on year. However, the appellant's partner advised that currently 42 cows are put to the bull while 8 are artificially inseminated. Natural conceptions are inevitably more ad hoc. I heard that if the bull misses a cow in season, 6 weeks would pass before that cow would be ready to mate again. The appellant was clear at the Hearing that some cows might calve together as a result and sometimes, there might be a period of months where no calves are born. Due to the relatively low numbers of stock and the current reliance on natural conceptions, calving appears to be more episodic than continuous all year round. There is no substantive written evidence to lead me to a different conclusion.
29. Farming by its nature can be labour intensive at times, as well as resulting in unsociable hours and a negative impact on family life. Whilst I acknowledge the health and safety needs of a lone worker, I am clear from the advice contained within the PPG, it must be the needs of the holding that determine the need for a permanent dwelling on site. General upkeep and maintenance as well as muck spreading and fertilising although important farm work, could nonetheless be undertaken by someone living off-site.

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<sup>4</sup> Paragraph: 010 Reference ID: 67-010-20190722.

<sup>5</sup> As shown in the letter from a veterinary practitioner contained at appendix C of the appellant's statement of case.

30. The evidence before me including letters of support from interested parties indicate that the appellant is well thought of and has successfully built his enterprise from nothing. Nonetheless, based on the method of farming and stock numbers presented, it has not been demonstrated that the calving enterprise at its current scale and pattern, generates a need for a continual on-site presence all year around. This may be due to change in the future but no business plan has been presented to indicate unambiguously how and when the enterprise would evolve with a more regular pattern of calving.
31. Security is no doubt a significant concern of the appellant but I am cognisant of the fact that attempted burglaries have occurred with the appellant already living on site. There are likely to be other ways to improve the security of valuable machinery and stock.

### *Financial Viability*

32. Business accounts were not provided with either the planning application or appeal documentation. At the Hearing the Council suggested that this information is a validation requirement but could not explain why the application had been validated without it, or why it was not subsequently requested. Whether or not financial information was presented for a previous proposal, each proposal must be fully evidenced and justified on its own merits. The Council has not helped the appellant in this regard but there is no evidence it sought to deliberately hinder the consideration of the proposal.
33. The recent addition of 3 agricultural barns demonstrates significant investment in the appeal site. However, it is not clear without accounts that the agricultural business is profitable despite such expenditure and has been for at least the last 3 years. Neither do I have any figures for the suggested cost of construction of the proposed dwelling, nor clarity on how it would be funded and whether it would become an asset of the business.
34. The appellant advised at the Hearing that he also sells agricultural machinery, which is not dependant on this particular location, unlike the animal rearing. It is not clear how this affects the financial viability of the enterprise as a whole. It is the agricultural business which must be viable and capable of supporting the proposed dwelling.
35. Nor do I have a business plan to explain specifically how the enterprise will move towards more regular calving activities, if and when the herd would be grown and how it would develop in the future. Without such information it has not been demonstrated that the enterprise is financially sound and has a clear prospect of remaining so, sufficient to support an agricultural worker.
36. Whilst there would be an agricultural occupancy restriction on the proposed dwelling, it could be occupied by any individual even one working on another farm, providing they meet the criteria of the condition. There would be no tie to prevent the business and dwelling from being sold-off separately from each other and despite the parties views expressed at the Hearing, I am not satisfied that the complexity of this matter could be adequately dealt with by a condition that would meet the 6 tests<sup>6</sup>.

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<sup>6</sup> As set out within paragraph 57 of the Framework and PPG Paragraph: 003 Reference ID: 21a-003-20190723.

37. Moreover, I am concerned that half of the land available to the appellant is unsecured and utilised on the basis of a 'gentleman's agreement' with the landowner. At the Hearing the appellant's partner acknowledged that although they considered it unlikely, this agreement could be withdrawn at any point. If that were to happen the appellant's owned land would provide sufficient acreage for the cows, but he would not be able to grow his own silage. Winter feed would need to be purchased which would have consequences for the financial viability of the enterprise.

#### *Conclusion – Other Considerations*

38. Based on the evidence presented in both oral and written format, it has not been adequately proven that there is an essential need for a permanent dwelling to accommodate a rural worker at the appeal site. Furthermore, the proposal has failed to clearly demonstrate that the enterprise is, and has a clear prospect of remaining financially sound and able to support an agricultural worker. Very special circumstances have not therefore been demonstrated.
39. The proposal would conflict with Paragraph 84 of the Framework that requires an essential need to be demonstrated for a rural worker, to live permanently at or near their place of work. It would also conflict with the advice contained within the PPG<sup>7</sup>.

#### **Other Matters**

##### *Existing Dwelling*

40. The appellant lives on site in an existing cabin for which there is no planning history. He is willing to accept a condition requiring the removal of the cabin within 2 months of the occupation of the proposed dwelling if the appeal is allowed.
41. The Council's written evidence suggests that the lawfulness of the cabin cannot be ratified without a certificate of lawfulness of existing use or development and that a unilateral undertaking (UU) be secured to seek its removal if permission is granted<sup>8</sup>. No UU has been provided and I can only determine the appeal on the evidence presented. At the Hearing the Council suggested that the cabin was immune from enforcement action and thus lawful. However, being immune from enforcement action does not necessarily mean that a building or development is lawful, and caution is required. I am conscious that to attach a condition requiring the cabin's removal on completion of the proposed development would legitimise it in the intervening period.
42. At the site visit I observed that the cabin had the appearance of a caravan. Due to the presence of a skirt around the base of the unit, it was not clear whether it has been constructed as operational development or was sited on the land. Whether the cabin can be considered as a building or it is a material change of use of land for the siting and occupation of a caravan for residential purposes is important, as there is a time distinction between the relevant immunity period for enforcement action. Neither is it clear when the cabin was occupied as a dwelling as this may not be consistent with the date of its construction or siting.

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<sup>7</sup> Paragraph: 010 Reference ID: 67-010-20190722.

<sup>8</sup> Paragraphs 1.2.1 and 6.2 of the Council's statement respectively.

43. It is not for me as part of this s78 proposal, to determine the lawfulness or otherwise of the existing cabin. The absence of a certificate of lawful existing development or use and the limited evidence regarding the circumstances of the cabin and the consequent immunity period that should be applied, mean that its presence is not a fallback position that I can afford weight to as a benefit of the scheme.

#### *Accessible Location*

44. It is the appellant's contention that a dwelling is required in the specific location to meet the needs of the existing agricultural enterprise. I am not convinced that the suitability of the location for housing development falls to be considered here. Irrespective, both Policy IM5 of the CLP and the Framework place pedestrians at the top of the movement hierarchy. There are no shops or facilities within proximity to the appeal site. Locally there is a public house, a golf course and a parade of shops containing a range of facilities just over 1km to the north along Brighouse Road which could be accessed via the floodlit pavement. A bus service also operates along the main road to Shelf and Halifax where a greater range of services can be accessed. The appellant's would therefore have the choice of making some journey's on foot or via the bus.
45. However, Brighouse Road is well-trafficked with vehicles speeds permitted to vary between 30-50mph and the pavement is very narrow in places. It would not feel particularly safe to walk this route particularly with children or if using a wheelchair, even if it is floodlit. Similarly, the speed and nature of the road is such that it is likely to appeal to only the most confident road cyclists rather than amateurs or families.
46. The bus service typically operates 3 times a day during the week. Even if I could accept that it would enable children to be dropped off and collected from school it is nonetheless a very limited service. As journey times to shops and services would be lower by car, it would be much more convenient for the appellant to make such trip's in this way. The development is thus likely to be car dependant. I find that the proposed dwelling would not be in an accessible location and that this carries limited weight as a benefit of the scheme.

#### *Other Permissions*

47. My attention is drawn to a planning approval for an agricultural worker's dwelling elsewhere within the Council's administrative area<sup>9</sup>. From the evidence before me that enterprise was of a significantly larger scale in terms of both the amount of land involved and the number of livestock farmed. The circumstances are not therefore comparable.
48. Reference is also made to 2 appeal decisions that are considered relevant with regard to accessibility. Both proposals were for a different form of housing development to that proposed and located in a different local authority area. In the Leeds example, the context appears to have included a road that was not busy with traffic and there being a range of services and shops that could be accessed on foot in 10/15 minutes<sup>10</sup>. That is not the case here<sup>11</sup>.

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<sup>9</sup> Planning application reference 22/00777/OUT.

<sup>10</sup> Appeal reference APP/N4720/W/15/3007935 for the erection of 4 dwellings.

<sup>11</sup> As shown in figure 3 of the appellant's statement where there are no facilities within a 10-minute walk and the 2 leisure facilities that are within 15 minutes would not meet every day needs.

49. In the Godalming case, the Inspector found that the appeal site was in a sustainable location due to the presence of footpaths and a daily bus service to the nearest town<sup>12</sup>. It is not clear from the decision that the appeal site was close to facilities that would meet the everyday needs of the future occupants including a shop, school or village hall amongst other things. The regularity of the bus service is also unclear. As each case has its own specific context, I am not satisfied that the circumstances of that appeal are sufficient to lead me to a different conclusion on the accessibility of the site before me. I am conscious that within the Framework, access to high-quality public transport is a secondary objective to that of prioritising pedestrian and cycle movements. It has a similarly lesser priority within Policy IM5 of the Framework. I have already found that the distance and the nature of the route is such that the appellant's would be unlikely to walk to access local services.

### **Green Belt Balance and Conclusion**

50. Support for the proposal does not indicate a lack of harm. The proposal would be inappropriate development in the Green Belt which would result in a loss of openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
51. I have found that the proposal would not result in harm to the character and appearance of the area. However, this is neutral in the planning balance weighing neither for, nor against the proposal. The location of the appeal site would carry limited weight due to the likely reliance on the private car for journey's. Likewise, the evidence regarding the fallback position of the existing cabin is insufficient for me to afford weight to it as a benefit.
52. Given the substantial weight to be attached to Green Belt harm, the harm is not clearly outweighed by an essential need for a rural worker's dwelling to ensure the effective operation of an agricultural enterprise. The very special circumstances required to justify the development have not been demonstrated at this point in time. The development conflicts with Policy GB1 of the CLP and paragraphs 154 and 84 of the Framework.
53. Consequently, the proposal conflicts with the development plan and there are no material considerations including the approach within the Framework, which indicate a decision should be made otherwise than in accordance with it. Accordingly, the appeal is dismissed.

*M Clowes*

INSPECTOR

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<sup>12</sup> Appeal decision APP/R3650/W/24/3352222.

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                 |                     |
|-----------------|---------------------|
| Andrew Windress | ID Planning         |
| Ayden Cutler    | ID Planning         |
| Marcus Stapeley | MAS Design          |
| Mark Scathcard  | MAS Design          |
| William Hillas  | Appellant           |
| Amy Morris      | Appellant's partner |

### **FOR THE LOCAL PLANNING AUTHORITY:**

|                   |                                      |
|-------------------|--------------------------------------|
| Ruth Hardingham   | Development Manager                  |
| Andrew Dmoch      | Highways Development Control Manager |
| Kieron Woodington | Animal Welfare Officer               |
| Adam Rayner       | Environmental Health Officer         |
| Jennifer Burnside | Solicitor                            |
| Amelia Critchlow  | Second Six Pupil, Kings Chambers     |

### **FOR INTERESTED PARTIES:**

|               |                        |
|---------------|------------------------|
| Denise Walton | Shibden Valley Society |
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