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Planning Statement

Lawful Development Certificate – Use of Mobile Poultry Structures on Agricultural Land

Wagtails Farm
Okehurst Road
The Haven
Billinghurst
RH14 9BW

May 2025

Horsham District Council

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1.0 Introduction

1.1. This Planning Statement ('Statement') has been prepared by Plainview Planning Ltd on behalf of Jo Littlewood (the 'Applicant') in support of a certificate of lawfulness application to determine whether the siting of mobile poultry structures requires planning permission.

1.2. The Applicant recently purchased approximately 30.36 acres of land and is developing a mixed agricultural enterprise involving both livestock under a rotational grazing system and horticultural produce.

1.3. To date, an agricultural prior notification involving a storage barn, polytunnel and farm track has been approved by the Council, and construction is well under way. The Applicant is now looking to bring specialist mobile poultry housing onto the site to support the development of both egg laying and broiler enterprises.

1.4. The application is accompanied by:

- This Planning Statement prepared by Plainview Planning Ltd
- Site Location Plan
- Elevation plans of the proposed poultry structures

1.5. It is the Applicant's view that the proposed mobile poultry structures do not constitute "development", as defined under Section 55 of the Town and Country Planning Act 1990. This statement seeks to reflect on relevant legislation and case law to confirm that planning permission is not required for the installation and use of these mobile poultry units on the land.

2.0 Site & Proposal

2.1. The site comprises a single parcel of agricultural land extending to approximately 30.36 acres (12.28 hectares). The land has historically been used for growing arable crops however the Applicant is in the process of converting the land to grassland to support poultry and grazing livestock.

2.2. Whilst the site has previously been referred to as Land opposite Shortlose Farm, it is now called Wagtails Farm and will be referred to as such throughout this Statement.

2.3. The extent of the land within the Applicant's ownership is shown approximately below.

Insert 1: Extent of Wagtails Farm



2.4. The site is accessed from Okehurst Road where intermittent views of the land are possible through the roadside hedging. It is, however, enclosed by mature vegetation for the most part.

2.5. The land is not subject to any restrictive designations other than being outside built-up areas, however, this is not uncommon in an agricultural context. Whilst the site lies within a SSSI Impact Risk Zone, the nearest SSSI is 1.7km away.

2.6. The land is not within the AONB, there are no heritage assets nearby, and it is not at risk of flooding.

Surroundings

2.7. The land, by virtue of it being a farm, is surrounded by countryside and woodland.

2.8. The woodland along the northern boundary of the land is partly designated as Ancient Woodland. The surrounding agricultural land comprises a mix of arable and pasture.

2.9. The nearest settlement is Billinghurst which is roughly 3.5 miles away by road.

Planning History

2.10. The table below summarises the most recent planning history

Ref Number	Description of Development	Decision
DC/23/2241	Prior notification for the erection of an agricultural barn, creation of a new agricultural access track and erection of polytunnels	Prior Approval not required – 8th February 2024

2.11. Under application reference DC/23/2241, permission was given for a barn to support the storage needs of the Applicant's business and a polytunnel to provide subsidiary income from horticultural activities.

2.12. The barn measures 10m long by 6m wide and is, therefore, very modest in an agricultural context with just 60m^2 of floorspace. The polytunnel is also relatively modest measuring 10.98m by 9.15 giving a growing area of 100m^2. Neither building exceeds 3.6m in height.

Proposal

2.13. Along with grazing the land with sheep, it is proposed to bring mobile poultry structures onto the land in order to support the development of both egg laying and broiler enterprises.

2.14. The applicant intends on operating a regenerative farming system through rotational grazing where sheep are regularly moved from one small paddock to the next within the wider land parcel. The sheep will first graze the land and once they have been moved, the poultry sheds will follow them.

2.15. The benefits of this are numerous and include:

- **Improved soil health and fertility** – rotational grazing encourages the deposition of organic matter onto the soil. As the sheep graze, they leave behind manure, which enriches the soil with organic nutrients. This also results in more evenly distributed nutrients and as a result, there is no need for inorganic fertilisers.
- **Parasite Management** - One of the key benefits of this system is improved parasite control. Sheep are susceptible to gastrointestinal parasites, which can build up in the pasture over time. When poultry are introduced after sheep grazing, they can help disrupt the parasite life cycle by eating the larvae and eggs left in the pasture. This reduces the parasite load in the pasture, benefiting the health of the sheep.
- **Carbon sequestration** - The grazing system allows for periods of rest for pastures, promoting vigorous regrowth of plants. This enhances plant growth and contributes to increased carbon sequestration. The intention is for the farm to be carbon negative.
- **Biodiversity enhancements** – rotational grazing involves diverse forage species. This diversity supports a broader range of plant and insect species, contributing to overall biodiversity in the ecosystem.

2.16. The structures will take the form of small timber enclosures constructed on timber skids. Each unit will be able to house up to 120 birds. An example of the proposed poultry housing is shown below.

Insert 2: Proposed Poultry Housing



2.17. The structures are pre-fabricated off-site and delivered on the back of a truck/lorry. No physical works would take place onsite.

2.18. The number of structures brought onsite will increase gradually over time as the Applicant builds up their business.

3.0 Legislative Background

3.1. As this Lawful Development Certificate seek only to establish whether the proposal constituted development, Section 55 of the Town and Country Planning Act 1990 is the key legislation of relevance.

3.2. This section defines development as sets out below:

"55 - Meaning of "development" and "new development".

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(1A) For the purposes of this Act " building operations " includes-

a) demolition of buildings;

b) Rebuilding;

c) structural alterations of or additions to buildings; and

d) other operations normally undertaken by a person carrying on business as a builder."

4.0 Assessment and Conclusion

4.1. In determining whether the proposal constitutes development, it is necessary to consider both the definition of development in the first instance, as well as case law relating to similar development.

TCPA 1990 – Section 55

4.2. Development is typically summarised into two forms being either building/engineering operations or a material change of use.

4.3. In this case, the keeping of chickens for egg production and meat is clearly an agricultural use. Structures to support this use are also agricultural. With the existing lawful use of the land being agricultural, no change of use will occur.

4.4. Generally, planning permission is required for any "development" under the Town and Country Planning Act 1990. The definition of development includes "the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making of any material change in the use of any buildings or other land" (Section 55 of the Act).

4.5. The key question with mobile chicken sheds is whether they constitute "development" under the Act.

Case Law

4.6. The need for planning permission for mobile chicken sheds can depend on various factors, including the specific use of the sheds, their scale and how "mobile" they are. Several court cases have addressed the issue of planning permission for mobile structures. These are discussed below.

4.7. **Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd (1949):** This case dealt with the issue of what constitutes a building for planning purposes. The ruling established that for something to be considered a building, three factors must be considered: (1) size, (2) permanence, and (3) degree of physical attachment.

4.8. If mobile chicken sheds score highly on these factors, planning permission might be necessary. This continues to be one of the leading cases in determining what constitutes a building for planning purposes.

4.9. **Barvis Ltd v Secretary of State for the Environment (1971) 22 P&CR 710**: This case expanded the definition of a "building" under the Town and Country

Planning Act. The court determined that a structure could be considered a building based on its size, permanence, and degree of physical attachment to the land, even if it was mobile or not permanently affixed.

4.10. This case established that even non-permanent or movable structures could require planning permission if they have a substantial presence or impact on the site. However, the 'structure' subject of this case related to a crane that was 27m in height, and moved via steel track fixed in concrete.

4.11. **Measor v Secretary of State for the Environment, Transport and the Regions (1998):** In this case, the court considered whether a mobile home that could be moved but remained in one place for an extended period required planning permission.

4.12. The court decided that the mobility of the structure did not exclude it from needing planning permission, but their degree of attachment to the ground often precluded them from being buildings. What this case ultimately clarified is that it would be wrong to say that a mobile home could never become a building simply by virtue of it being capable of being moved. It is a matter of fact and degree.

4.13. **Skerritts of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions (2000):** This case dealt with the issue of whether a marquee, which was taken down and re-erected seasonally, constituted "development."

4.14. The Court of Appeal held that the marquee, which was 40 meters long, 17 meters wide, and 5 meters high, was a building because it was large and was erected for an extended period (eight months). The size, along with the duration it remained in place, were key considerations in classifying it as a structure that required planning permission. This case reinforced that both size and permanence are crucial factors in determining whether a temporary or movable structure can be classified as a building under the Town and Country Planning Act 1990.

4.15. This principle could apply to mobile chicken sheds if they are kept in one location for an extended period and are significant in size.

4.16. Finally, possibly the most relevant case is the "Woolley Chickens" case, officially known as **R (Save Woolley Valley Action Group Ltd) v Bath and North East Somerset Council [2012] EWHC 2161 (Admin).** This involved a dispute over whether mobile chicken sheds placed on land in the Woolley Valley constituted "development" under the TCPA 1990.

4.17. In this case, a landowner installed mobile chicken sheds on agricultural land without applying for planning permission. The local Council initially decided that the sheds did not require permission, arguing that they were not permanent structures and could be moved easily, similar to large caravans. However, this decision was challenged in court by a local action group concerned about the environmental and visual impact of the sheds on the surrounding landscape.

4.18. The High Court ruled against the Council, stating that the Council had applied too narrow an interpretation of the law. The court emphasised that even though the sheds were mobile, their size, weight, and permanence made them structures that should be considered under planning regulations. The judgment highlighted that "permanence" in planning law is determined by how long a structure is in place and its impact on the surroundings, not just by whether it can be moved.

4.19. In the Woolly Chickens case, the poultry sheds in question had to be assembled and disassembled onsite by a skilled team which took 3-4 hours. They were very large measuring 20m long by 6m wide by 3.5m high. The units in that case were installed between April and October 2010 and had not been moved by time the case was decided two years later.

Assessment

4.20. Whilst several cases are set out above, the two cases that are considered key to be of most relevance included Woolley Chickens and Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd (1949) (Keen).

4.21. In the Keen case, several parameters were set out that must be considered when determining if a structure that would not normally need planning permission has become a building for which planning permission is required.

4.22. This case sets out that size, permanence, and degree of physical attachment to the ground are key considerations when determining if the structure has become a building. These maters are commented on in relation to the proposed poultry structures.

4.23. **Size** – in this case, the structures are relatively small in an agricultural context. Each unit is just 8.9m^2. In the context of rural development, the proposed poultry structures are very small and far smaller than any of the structures discussed in the case law examples.

4.24. **Permanence** - under a regenerative farming system, it is essential that both livestock and poultry and moved on a regular basis. The farming system will fail

if this is not the case. Under the Applicant's business model, livestock and the poultry will be moved every 2-3 months.

4.25. Due to their size, they can be easily hooked up to a tractor and moved from paddock to paddock when following the mob grazing sheep. The design of the structures, with skids, means they are intended to be towed.

4.26. **Attachment to the Ground** – The proposed structures will not be attached to the ground in any way. They are of a low profile and small enough that they will not need pinning down to the ground.

4.27. Based on the Keen case, the proposed poultry structures will not constitute development.

4.28. **Woolly Chickens** - This case is highly relevant to this discussion, given that it relates specifically to poultry structures. However, the relevance of this case in determining whether such structures constitute development is often misunderstood.

4.29. In Woolly Chickens, whilst the farmers intention was to move the poultry structures, they were unable to because of their size. The structures in the Woolly Chickens case measured 20 metres long by 6 metres by 3.5 metres high.

4.30. The Woolley Chickens case emphasises that large and mobile structures can be classified as development if they remain in place for extended periods. However, the case hinged on the fact that said structures were not ultimately moved for a period of roughly two years. Their size was also a contributing factor.

4.31. The case of Woolly Chickens is not considered to be comparable to that of the application site because the poultry units will be moved every 2-3 months and are of a considerably smaller size at just 3.6m long by 2.4m wide.

4.32. **Other Cases** – The other cases identify that the impact of a structure can also lead to it becoming a building. Most notably the crane in Barvis and the marquee in Skeritts. Both require context to appreciate their relevance.

4.33. The crane was 27m heigh and ran on fixed rails concreted into the ground. The marquee had a floor space of 680m^2 and a height of 5m.

4.34. Neither of these cases provide any comparable relevance to the proposed poultry structures on the Applicants land. The impact of these structures, compared to that of a crane or large marquee will be significantly less and simply appear as an agricultural use of the land.

Conclusion

4.35. The mobile poultry structures proposed in this case do not require planning permission under the Town and Country Planning Act 1990.

4.36. Firstly, the size of the structures is small, especially when compared to the various structures that have been highlighted in past case law. In particular, the proposed structures are significantly smaller than those considered in the Woolley Chickens case.

4.37. Secondly, the question of permanence is critical. These poultry structures are required as part of a rotational grazing system and will be moved every 2-3 months. This frequent movement differentiates them from the structures in the Woolley Chickens case, which were stationary for approximately two years. Regular movement indicates that the structures are not permanent and therefore do not meet the criteria for requiring planning permission.

4.38. Additionally, the structures are not physically attached to the ground, which supports the principles established in the Keen case. This lack of attachment further supports the conclusion that the structures do not qualify as buildings, as they can be easily relocated without significant effort or disassembly.

4.39. Finally, the use of the land remains agricultural, with the poultry structures serving in an ancillary capacity to this use. Since no material change of use is occurring, and the land will continue to be used for agricultural purposes, the proposal does not constitute development under planning law.

4.40. Considering the size, mobility, lack of permanence, lack of perceived impact and continued agricultural use of the land, these mobile poultry units do not constitute "development" under Section 55 of the Town and Country Planning Act 1990, and therefore do not require planning permission.



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