

AGENDA ITEM NO: 8/3(h)

Parish:	West Walton	
Proposal:	Removal of condition 2 of planning permission 2/91/0884/D: To remove agricultural occupancy restriction	
Location:	Longacre 174 St Pauls Road South Walton Highway Norfolk	
Applicant:	Mr Gavin Patrick	
Case No:	16/01500/F (Full Application)	
Case Officer:	Clare Harpham	Date for Determination: 21 December 2016 Extension of Time Expiry Date: 10 September 2017

Reason for Referral to Planning Committee – The views of the Parish Council are contrary to the Officer recommendation.

Neighbourhood Plan: No

Case Summary

The application is made under Section 73 of the Act and is seeking the removal of the agricultural occupancy condition imposed on the erection of the dwelling when the reserved matters was approved in 1991 under reference 2/91/0884/D.

The dwelling is a plain 2 storey brick built property set in a generous plot, located to the west of St Pauls Road some 800m south of the A47 and 300m north of the junction with Blunts Drive.

The dwelling was permitted and occupied as an agricultural dwelling for many years in accordance with the outline and subsequent reserved matters approvals; however the applicant has diversified into other businesses outside of agriculture and is looking to sell the property.

The development plan within Policy DM6 addresses the housing needs of rural workers and para 7 specifically sets out the procedure necessary to demonstrate that there is no local demand for the agricultural dwelling and that the agricultural occupancy condition can be removed from an existing dwelling.

Key Issues

Principle of development
Compliance with material policy
Crime and Disorder Act
Other material considerations

Recommendation

APPROVE

THE APPLICATION

The dwelling subject of this application was approved in 1990 (outline) as an agricultural dwelling and exception to the prevailing restrictions on new dwellings in the countryside. To preserve the use of the property as an agricultural dwelling it was subject to a condition restricting its occupancy.

The condition and associated reason are reproduced below;

Condition 2 - The occupation of the dwelling shall be limited to persons solely or mainly employed or last employed full time in the locality in agriculture, as defined in Section 336 (i) of the Town and Country Planning Act 1990 or in forestry including any dependants or such persons residing with him / her or the widow / widower of such a person.

Reason 2 - The dwelling is required in conjunction with the agricultural use of the adjoining land and it is the policy of the Borough Planning Authority only to approve the erection of dwellings outside village settlements in cases of special agricultural need.

SUPPORTING CASE

The dwelling was originally used in conjunction with the adjacent unit operated by Messrs Harold C Selby (Colkirk) Ltd however the buildings were separated in 2005 and the property sold to the current owners.

The application is supported by 2 marketing reports indicating that the property has been marketed at £180,000 (the agreed valuation with the Councils Estates Officers) for more than 12 months.

In addition, confirmation of local advertising of the property and enquiries received have been submitted within the application form itself.

The property was removed from the market after continual marketing since March 2015 with a view to making an application for removal of the Agricultural restriction contained in in the historic planning permission reference 2/91/0884/D. My clients were fully appraised of the contents of policy DM6 and the requirement to market the property for a period of 12 months at a price that reflects the occupancy condition. The LPA's valuers have indeed confirmed to the Council the property was marketed at the correct valuation. The information provided in my client's application confirms the requisite period was similarly satisfied. There is no particular requirement within policy DM6 for the property to remain marketed throughout the period up to and including the determination of the application of the planning application. There is no reason therefore for my client to continue to market the property and their decision to remove the property should not adversely affect this application.

Whether or not an offer may have been received since removing it from the market is purely subjective. If however I'm allowed to speculate, I would suggest that achieving an offer, is looking increasingly ever unlikely. By July 2016 both political and economic circumstances had begun to dampen the housing market. The Country had voted to leave the European Union causing political uncertainty which translated into economic uncertainty that continues to be felt today. SLDT changes had also been introduced with second properties attracting a 3 % surcharge. Neither factor would have assisted the property sale.

The LPA should possibly consider the overall purpose of DM6 to preserve agricultural dwellings for Agricultural workers and only remove the same in the event there is no longer a need for the dwelling by those workers. It is worth noting that a no point during the marketing

process has a local farming business made an approach to either my client or my client's agent to acquire the property to house an agricultural worker. Although this may prove corroborative evidence in support of my conclusions on the adverse effect of the 3 % surcharge, it also indicates that local farms do not have a need to house additional workers. The overall purpose of DM6 therefore seems to be satisfied in that local farming does not require the dwelling for housing of agricultural workers. It may of course have been a different case, had the property had sufficient land to be farmed as a viable business but that land is limited to circa 3 acres and is therefore entirely insufficient.

PLANNING HISTORY

The dwelling was initially permitted as a rural exception, agricultural dwelling under Outline permission 2/90/0489/O and the subsequent grant of reserved matters under 2/91/0884/D.

RESPONSE TO CONSULTATION

Parish Council: OBJECTION removal of condition 2 of PP 2/91/00884/D, agricultural occupancy restriction at Long Acre, 174 St Paul's Road South, Walton Highway. This area is an agricultural region and there is a need for dwellings for agricultural workers.

Internal Drainage Board: NO OBJECTION

BCKLWN Property Services: Have confirmed that the property should be marketed at a price of £180,000 to reflect the occupancy condition.

REPRESENTATIONS

ONE letter of objection:-

- Tried to make three appointments to view property (between September and November 2015) and was told it was unavailable; no contact details were taken by the estate agent.
- We were very interested and fulfilled the criteria of the agricultural restriction (originally saw the property advertised in 2014 for more money which was out of our price range).
- See from the information submitted that it had 29 enquiries but no viewings or offers, but this is not true as I tried to book viewings on three separate occasions with Aboda Homes.
- Believe it to be a scam as house needs to be on the market for 12 months with no sensible offers in order for the restriction to be lifted.
- Fail to see how the owners were able to purchase property as neither work, or have worked, in agriculture.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM2 – Development Boundaries

DM6 - Housing Needs of Rural Workers

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

PLANNING CONSIDERATIONS

The main issues to consider when determining this application are as follows:

- Principle of proposal
- Compliance with material policy
- Crime and Disorder Act
- Other material considerations

Principle of proposal

Section 73 of the Town and Country Planning Act 1990 allows for the determination of applications to develop land without compliance with conditions which were previously attached. The LPA must decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or whether it should be granted unconditionally. If the LPA decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted then the application should be refused.

Part 7 of Policy DM6 (Housing needs of rural workers) of the Site Allocations and Development Management Policies Plan 2016 deals with the relaxation or removal of agricultural occupancy conditions in the Borough and it is against this criteria that the application has been assessed.

Policy DM6 (part 7) states that the applicant must demonstrate that:-

- a) The dwelling has been occupied in accordance with the terms of the occupancy condition for a minimum of 5 years; and
- b) There is no longer a need for a dwelling by those working, or last working in the locality in agricultural, forestry or a rural enterprise, established by evidence of marketing (including the provision of details of an independent market valuation reflecting the occupancy condition, as well as all viewings and offers made) for a 12 month period at a price that reflects the occupancy condition.

Should the applicant demonstrate compliance with the above criteria then the application can be approved.

Compliance with material policy

The application form states that the property was marketed continuously for 17 months and lists the names /dates that enquiries were made. The property has been valued at £340,000 without the benefit of an agricultural occupancy condition however the property was marketed at offers over £180,000 between 1st March 2015 and July 2016 and with the marketing it was made clear to all potential purchasers that the property is subject to an agricultural occupancy restriction.

The agent has submitted some comments stating that marketing was launched 4th March 2015 and the property was continuously marketed until 13th May 2016.

Enquiries made - 29.

Viewings undertaken – 0.

Offers – 0.

A list of reasons was provided as to why viewings or offers were not proceeded with.

Submitted with the application were the following details:-

- Print off from Zoopla showing the dwelling marketed by Aboda Homes, Wisbech with a property description showing that the dwelling has an agricultural occupancy condition and a price of 'offers over £180,000'.
- Print off from Rightmove showing similar property description, price and restricted occupancy. It also shows the property was added to Rightmove on 5th March 2015.
- A print out from Rightmove showing the number of 'leads' to be 19 (only detail on print out is names and date/time enquiry made on rightmove).
- A print out from Zoopla showing the number of 'leads' to be 10 (gives name and time of enquiry).

The objector has stated that they tried to book a viewing on three occasions but this is not shown on the submitted details. The Estate Agents Aboda Homes have stated that the lists provided within the application (by Zoopla and Rightmove) show all the people who enquired about the property and that marketing was carried out via their own website, Zoopla and Rightmove and the other websites Zoopla powers. No marketing was carried out in local publications such as newspapers or magazines.

Policy DM6 states that the dwelling must be occupied in accordance with the terms of the occupancy condition for a minimum of 5 years. The dwelling was granted planning permission in the early 1990's however the dwelling was only partially developed by the original applicant (sufficient to show the planning permission had been implemented and keep the planning permission extant). The current applicant purchased the property on 18th March 2005 and completed the build. A statutory declaration has been provided to show that the applicant complied with the occupancy condition, although the business has diversified into business skip hire and scrap metal over time.

Policy DM6 also states that the applicant has to demonstrate that there is no longer a need for an agricultural dwelling in the locality. Information has been submitted (outlined above) showing that the property has been marketed on Zoopla and Rightmove for in excess of 12 months. The property was removed from the market for a number of reasons (personal and economic) however notwithstanding the fact that the dwelling is no longer on the market (and hasn't been since July 2016) the applicant has marketed the property for in excess of 12 months which Policy DM6 requires.

During the course of the application an objection has been received stating that the objector tried to make an appointment to view the property directly with Aboda Homes and was told it

was not available for viewing. The objector does not have any evidence of this and therefore this is one person's word against another.

Crime and Disorder

The proposal is not considered to raise any issues with regard to crime and disorder.

Other material considerations

There are no other material considerations which are pertinent to this application.

CONCLUSION

This application is considered to be finely balanced. On the one hand the applicant has gone through a marketing process for 12 months as required, and the dwelling has been occupied as an agricultural dwelling. However, questions have been raised about the adequacy of the process followed and the property has not been marketed for around 16 months.

Members are therefore respectfully asked to consider whether on balance the information provided demonstrates that there is no longer a need for an agriculturally tied dwelling in the locality and that the proposal complies with Policy DM6 of the Site Allocations and Development Management Policies Plan 2016, particularly with regard to the section of the policy which deals with existing occupational dwellings. Officers have come down on the side of an approval.

The conditions on the original planning permission related to matters which should have already been discharged or are no longer enforceable due to the passage of time (conditions relating to commencement of development, access and planting). Therefore should the application be approved no conditions need to be applied to the new decision notice.

RECOMMENDATION:

APPROVE