

Parish:	Terrington St Clement	
Proposal:	Removal of Condition 6 of Planning Permission 19/00743/O: Outline Application for 2 storey dwelling in association with adjacent manufacturing and retail window business	
Location:	Waterlow Nursery Waterlow Road Terrington St Clement King's Lynn	
Applicant:	Jon Chambers Windows	
Case No:	21/00345/F (Full Application)	
Case Officer:	Mr K Wilkinson	Date for Determination: 6 April 2021 Extension of Time Expiry Date: 20 May 2021

Reason for Referral to Planning Committee – Application called in at the request of Cllr Sandra Squire

Neighbourhood Plan: No

Case Summary

The site comprises an area of 0.19Ha of land with frontage onto the eastern side of Waterlow Road, Terrington St Clement. It lies approx. 300m south of the junction with Hay Green Road, and within an area classed as 'countryside' in the Development Plan. The site abuts an access and private drive which serves Jon Chambers Windows and associated dwelling.

Outline permission was initially sought and approved by the Planning Committee at its meeting on 1st July 2019, contrary to officer recommendation, for a 4 bedroomed house in association with the adjacent manufacturing and retail window business. Reserved matters were subsequently approved under application ref: 19/01463/RM; the development commenced, and foundations built.

Condition 6 attached to that initial outline permission effectively tied the occupancy of the dwelling to the business use.

This application now seeks to remove that occupancy tie.

Key Issues

Planning history
Principle of removal of condition

Recommendation

REFUSE

THE APPLICATION

The site comprises an area of 0.19Ha of land with frontage onto the eastern side of Waterlow Road, Terrington St Clement. It lies approx. 300m south of the junction with Hay Green Road, and within an area classed as 'countryside' in the Development Plan. The site abuts an access and private drive which serves Jon Chambers Windows and associated dwelling.

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Condition 6 attached to that initial outline permission effectively tied the occupancy of the dwelling to the business use as stated as follows:

"The dwelling hereby approved shall be occupied by a person solely or mainly working, or last working, at the manufacturing and retail window business currently known as Jon Chambers Windows Ltd (shown within the blue area on Drawing No. HAL 18-100 Revision A), or a widow or widower of such a person, and to any residential dependants.

The reason for imposing the condition was as follows:- The dwelling is permitted to meet a specific functional need associated to this commercial business and is in an area classed as 'countryside' where dwellings would not normally be granted; in accordance with the provisions of the NPPF and Policy DM6 of the SADMPP.

This application now seeks to remove that occupancy tie.

SUPPORTING CASE

The applicant has submitted the following case in support of this application:

"We are appealing to you to remove Condition 6 of our planning permission:

The dwelling hereby approved shall be occupied by a person solely or mainly working, or last working, at the manufacturing and retail window business currently known as Jon Chambers Windows Ltd (shown within the blue area on Drawing No. HAL 18-100 Revision A), or a widow or widower of such a person, and to any residential dependants.

The reason we would like for the condition to be removed is in order for us to obtain a residential mortgage, as our attempts to fund building our home through the business have been unsuccessful.

We have attempted to obtain a commercial mortgage with Barclays Bank and an independent broker, without success. Originally our Mortgage broker found a company that would potentially lend us the funds, but unfortunately Covid-19 hit and the company in question stopped lending. We have since been told that due to our accounts for last year being lower than the previous years, the Company is unable to secure a commercial mortgage. We attempted to borrow the funds as a bank loan, which again due to Covid-19 and our balance sheet, was declined.

Planning Committee
17 May 2021

Further to this we have been advised that due to our current year of trading being affected by Covid-19, this will affect the businesses chance of obtaining a Commercial mortgage in the future.

I understand that you originally put the condition in place in order that the property is lived in by a member of the workforce and want to reassure you that this is still the case, as I am the Sales Director of the company, my wife is the Accounts Manager and my oldest son is a Window Fitter at the company. This is not just a job for our family but a livelihood to a better future for our family for years to come.

My wife, I and our 3 children are currently living in a caravan onsite and have been for far longer than we had planned, again due to Covid19.

We would be so grateful if you could remove the condition so we can obtain a residential mortgage and move forward with building our home.”

PLANNING HISTORY

This application site:

2/01/0778/O: Application Refused: 30/08/01 - Site for construction of dwelling and garage (Delegated decision)

2/02/0957/O: Application Refused: 23/07/02 - Site for construction of dwelling and garage (Delegated decision)

19/00743/O: Application Permitted: 03/07/19 - Outline Application for 2 storey dwelling in association with adjacent manufacturing and retail window business (Committee decision)

19/01463/RM: Application Permitted: 27/01/20 - RESERVED MATTERS: Proposed new dwelling (Delegated decision)

Adjoining site:

2/00/1348/LD: Application Refused: 10/01/01 - Use as domestic single storey dwelling (Delegated decision)

2/01/0574/LD: Application Permitted: 16/08/01 - Use as domestic single storey dwelling (Delegated decision)

2/01/0779/CU: Application Permitted: 30/08/01 - Continued use of former agricultural storage building to manufacture of UPVC windows and doors (Delegated decision)

06/01315/O: Application Refused: 15/08/06 - Outline Application: construction of bungalow - Appeal Dismissed 23/03/07 (Delegated decision)

RESPONSE TO CONSULTATION

Parish Council: OBJECTION – Condition 6 on this application connects the occupants of Jon Chambers Windows Ltd, it's fairly broad and I see no reason to change this, unless they are planning to sell the property. The reason for this development was for security of the window company and the need to be on site.

Planning Committee
17 May 2021

REPRESENTATIONS

None received from third parties.

Cllr Sandra Squire: Requested that the application be called in to be determined by the Planning Committee as the application has wider implications on the village.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS06 - Development in Rural Areas

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM6 - Housing Needs of Rural Workers

NATIONAL GUIDANCE

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

PLANNING CONSIDERATIONS

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

Planning history
Principle of removal of condition

Planning history

It will be noted from the History section above that this site has been subjected to previous applications for residential development since 2001.

More recently outline permission was initially sought and approved by the Planning Committee at its meeting on 1st July 2019, contrary to officer recommendation, for a 4 bedroomed house in association with the adjacent manufacturing and retail window business. Reserved matters were subsequently approved under application ref: 19/01463/RM; the development commenced, and foundations built.

Members considered that an occupancy tie to the associated rural enterprise was necessary in order for it to be considered acceptable.

Principle of removal of condition

The National Planning Policy Framework (NPPF) 2018, specifically Paragraphs 78 and 79, states that 'housing should be located where it will enhance or maintain the vitality of rural communities.' Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

Planning Committee
17 May 2021

- a) 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;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Policy DM6 (Housing needs of rural workers) of the SADMPP 2016 states:

“1. Development proposals for occupational dwellings must demonstrate the stated intentions to engage in farming, forestry or any other rural-based enterprise, are genuine, are reasonably likely to materialise and are capable of being sustained. Proposals should show that the needs of the intended enterprise require one or more of the people engaged in it to live nearby.

2. Agricultural or rural based occupancy conditions will be placed on any new permanent or temporary occupational dwellings specifying the terms of occupation.

3. New permanent dwellings should only be allowed to support existing rural based activities on well-established rural based enterprises, providing:

- a. there is a clearly established existing functional need, requiring occupants to be adjacent to their enterprises in the day and at night,
- b. The need could not be met by existing dwellings within the locality,
- c. The application meets the requirements of a financial test demonstrating that:
- d. the enterprise(s) and the rural based activity concerned have been established for at least three years, have been profitable for at least one of them and; i. are currently financially sound, and have a clear prospect of remaining so and; ii. the rural based enterprise can sustain the size of the proposed dwelling; iii. acceptable in all other respects.”

In July 2019 when the outline application was referred to the Planning Committee, Members considered that there was a functional need for the applicant to reside close to the rural enterprise. Hence the application was approved with Condition 6 attached to control its occupancy in association with the business.

The applicant now wishes to remove the restrictive condition which would effectively create an open market dwelling in the countryside remote from services and facilities, which fails to meet the justification contained in Paragraphs 78 & 79 of the NPPF and Policies DM2 & DM6 of the SADMPP.

In light of the aforementioned policy implications, this is quite simply not acceptable.

Members may recall a similar case at Meadow View, Black Horse Road, Clenchwarton (ref: 20/00779/F), where the applicant could not get a mortgage to build a tied dwelling associated with a surfacing and groundworks business. This was referred to the Planning Committee at its meeting on 02 November 2020 and was refused.

CONCLUSION

The proposal would effectively create a new open market dwelling in the countryside remote from services and facilities. It therefore fails to accord with Paragraphs 78 & 79 of the NPPF, Core Strategy Policies CS06 of the LDF and Policies DM2 & DM6 of the SADMPP.

In light of the above, Members are requested to refuse the development as proposed.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 The proposal to remove Condition 6 attached to planning permission ref: 19/00743/O, would effectively create a new open market dwelling in the countryside remote from services and facilities. It therefore fails to accord with Paragraphs 78 & 79 of the NPPF, Core Strategy Policies CS06 of the LDF and Policies DM2 & DM6 of the SADMPP.