

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 PE34 4PS King's Lynn	
Applicant:	Mr Paul Clarke	
Case No:	22/01770/F (Full Application)	
Case Officer:	Mr K Wilkinson	Date for Determination: 28 October 2022 Extension of Time Expiry Date: 24 November 2022

Reason for Referral to Planning Committee – Called in for determination by the planning Committee 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. An application seeking to remove the occupancy tie was refused at the May 2021 committee meeting under application ref: 21/00345/F.

This is a further application seeking 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. HAL18-100 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 following an earlier refusal at Planning Committee in May 2021.

SUPPORTING CASE

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

"We are again appealing to you to remove condition 6 of our planning permission. This is our Second appeal, which we would like to support with various attached information on why we feel it would be fair to remove the above condition.

Having tried various lenders, we have been unsuccessful in obtaining a commercial mortgage, the reasons for this are as follows:

1. Lenders that are willing to lend will only offer 20% of the Company assets.
2. Lenders are taking into consideration CIBL loans despite various reports stating otherwise.
3. Despite a Window Company trading from this address since 1996 and Jon Chambers Windows limited trading since 2013, we have only been a Limited Company since 2018 therefore only have 3 years of accounts that mortgage companies consider.
4. If we were an agricultural business, we could raise the mortgage through their specialist lender, but unfortunately as we are not, they are unable to aid us.

5. We have tried to obtain a Commercial Mortgage for 3 years with no luck.
6. The land being built on is currently owned by an individual and not the Company.

Further to the above listed below are various points which we hope will support our attempts to remove condition 6 of our planning approval:

1. We have been open with our Parish Council, Community and Neighbours on why we would like to build a house to support our local Family Business. We have received no objections from the above and have the full support of all of the above. Please see attached letters from Neighbours. Also, we would like to state that at no point throughout our applications has anyone objected to our house.
2. We consulted with our Parish council on the design and location of the building on our site (picture 1 shows the placement of our house). As you can see it was put in a position so that there could be no natural infill of further new homes going forwards, which you can clearly see on our application. We were also advised to build a four-bedroom home in keeping with the area and the houses around us.
3. Despite us being in a rural location, we believe we are not as rural as planning and the planning committee believe we are. Picture 2 clearly shows we are in a more built up location that described previously.
4. We would also like to point out the following to back our claims, picture 3 shows Smeeth Road in Marshland St James which has had 58 homes built in the last 5 years. However, despite this our site is closer to a Secondary School, Doctors, Post Office, Chiropodist, Supermarket and Public House to name a few. We are also closer to two major roads, the A47 and A17. We hope this proves the point we are trying to make.
5. Picture 4 shows that since we have submitted our planning over 3 years ago, there have been multiple houses built on the same stretch or road as our site within 1.4 miles. Attached No.2 and No.3 clearly show this and No.4 site just being in Terrington St John. (We have attached images of these that are clearly numbered for your reference). We understand why these are all passed as residential builds, and we would like to be considered as the same circumstances as they were.

We are also aware of residential planning being approved in remote areas in Cambridgeshire and Kent, why is our area any different?

Also, in Dover, 34 Houses have been approved in rural areas.

Our site now has its own address as Florence House. We have lived in caravans on site for over 4 years, we are on the electoral role, have our own electric and telephone connection and will also have its own water connection and wastewater system.

If we cannot live close to the Business then we may be forced to relocate, which would lead to loss of jobs in the local area. Another important point to mention is that living at Florence House wouldn't increase traffic in the borough as we already live on site in caravans. There for if we were to relocate that would mean three people driving into work, which would increase our Family's carbon footprint considerably, which we believe is against the Borough's own policy and commitment for reducing emissions.

We are a Family of six living in very overcrowded circumstances in order that three of the household can continue to be in stable employment.

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I would like to also raise the point that in our last appeal meeting regarding this 3 of the planning meeting committee excused themselves early. Leaving our case with 3 less votes which although we cannot be sure, this could have had a massive impact on the decision made that day as we lost our last appeal by 1 vote.

We are aware of the concerns you have in changing this condition to a residential build in this particular area but we would like to state that the full reason for appealing this condition is to allow us to obtain the funds to make this build. We have used our Family savings, of around £40,000.00, to get to our current point. See picture 5 and 6.

If we cannot complete this built, we will have to go down the route of obtaining housing association support in renting a property as we have no further savings to purchase an alternative house.

We are not trying to get this home built for financial gain but for me to be close to our business whilst seeing my Family. Further to prove this we have had two offers in excess of £600,000.00 from waste disposal companies, which we have refused. All we are trying to achieve is getting a Family home built for our Family business.

We are proud to have a rural family run business at this address where 5 family members work, 3 of which will live at this address.

We have built the company up from 3 people to have over 15 staff members, all of which are local to the area and a further member of our Household also works at the Queen Elizabeth Hospital.”

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)

21/00345/F: Application Refused: 19/05/21 - 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

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 – The moving of the dwelling takes the building beyond the current building line and request that the original location further into the site is used. This would ensure the building line is not moved forward and the security to the business will increase with the dwelling being closer to the business unit. The Council would support the original application.

Local Highway Authority (NCC): NO OBJECTION - The highway safety considerations for the site are not expected to be impacted by the removal of condition 6. However, the proposed development site is remote from schooling; town centre shopping; health provision and has restricted employment opportunities with limited scope for improving access by foot and public transport. The distance from service centre provision precludes any realistic opportunity of encouraging a modal shift away from the private car towards public transport. It is the view of the Highway Authority that the proposed development are likely to conflict with the aims of transport sustainable development and you may wish to consider this point within your overall assessment of the site.

Environmental Quality: NO COMMENTS

REPRESENTATIONS

TWO items of correspondence in **SUPPORT** of the application as follows:

1. I have known Paul Clarke for over 25 years. He is an honest, hardworking person. He and his family have been living in a mobile home for over 4 years which must be extremely difficult for them bearing in mind they have children. I would welcome their ability to build the house of their dreams and know they would be very welcome neighbours in their own new property. Paul has been a good friend, especially now my wife and I are both elderly and occasionally need assistance, which Paul is always willing to give. I know that Paul and his family will keep their new property in good condition and will be an asset to the community as a whole.
2. His family have lived in caravans next door for the last 4 years and are desperate to get into a house. I find Paul and his Family to be good neighbours and have no objections to them continuing to dwell as our neighbours. Over the years we have become friend and Paul is always available to help us.

Cllr Sandra Squire: Requested that the application be called in to be determined by the Planning Committee it has come before the committee twice previously and raises issues that may affect the wider community.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS06 - Development in Rural Areas

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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)

National Design Guide 2019

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.

Even more recently, a similar application to remove the condition was refused at Planning Committee in May 2021.

Principle of Removal of Condition

The National Planning Policy Framework (NPPF) 2021, specifically Paragraphs 79 and 80, 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:

- 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;

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- 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 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 inter alia:

“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 sought to remove the restrictive condition previously under application ref: 21/00345/F where the Planning Committee (May 2021) concluded that it would effectively create an open market dwelling in the countryside remote from services and facilities, which failed to meet the justification contained in Paragraphs 78 & 79 of the NPPF (now Paragraphs 79 & 80 of the revised version July 2021) and Policies DM2 & DM6 of the SADMPP.

In light of the aforementioned policy implications, once again this application is contrary to policy, as that justification for a house in this location would be removed. There would be nothing to prevent the house from being developed and sold on the open market.

The applicant has made reference to development of 58 dwellings in Marshland St James and an estate north of the surgery at Terrington St John. These were approved when the Council could not demonstrate a 5-year supply of housing land. This was a period of approximately 12 months when housing policies were suspended. A further example was development at Stud Farm, Church Road where approved (15/00934/F) when the site fell within the village development area prior to removal in the SADMPP. A further dwelling on the eastern side of Church Road is a replacement dwelling approved under application ref: 16/01042/F. Planning decisions in Kent and Cambridgeshire are beyond our remit and knowledge.

Given the above, there is no justification or other material considerations that would be contrary to established planning policy.

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18 months have passed since the previous refusal which could have been appealed within 6 months of that decision, via the Planning Inspectorate.

CONCLUSION

The proposal would effectively create a new open market dwelling in the countryside remote from services and facilities. It would remove the previous justification for a dwelling in this location, which would normally be contrary to established policies around development in the countryside. Whilst the applicant has cited personal and financial restrictions that have prevented the house from coming forward, these are not considered to outweigh the clear policy objection.

It therefore fails to accord with Paragraphs 79 & 80 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 remove the functional link to the existing business, and effectively create a new open market dwelling in the countryside, remote from services and facilities. It therefore fails to accord with Paragraphs 79 & 80 of the NPPF, Core Strategy Policies CS06 of the LDF and Policies DM2 & DM6 of the SADMPP.