

20/2007/026

MR C HEAYNS

REMOVAL OF AGRICULTURAL OCCUPANCY CONDITION 06 OF APPLICATION 20/1991/027 AT MILLFIELD HOUSE, PARSONAGE LANE, KINGSTON ST MARY

322268/129077

REMOVAL OF ONEROUS CONDITIONS

PROPOSAL

Permission is sought for the removal of condition 06, which relates to an agricultural occupancy condition, attached to Millfield House. The agriculturally tied property was allowed on appeal in 1992, planning reference 20/1991/027, in connection with a plant nursery on land adjacent to Millfield Nursery, Kingston St Mary. The Nursery enterprise has since ceased.

Millfield House consists of 4 bedrooms, 4 reception rooms, games room, utility, study and internal double garage. Planning application, 20/2001/036, extended the residential curtilage and granted permission for a swimming pool that has subsequently been built. Application 20/2005/023 provided further accommodation, in the form of an annex, with a conservatory link. Planning permission(s) has also been granted for holiday accommodation, in the form of holiday chalets and conversion, on the site of the former nursery.

A previous application for the removal of the agricultural occupancy condition on this dwelling was refused, planning reference 20/2006/013, on the following grounds:- The site is located in open countryside where it is the policy of the Local Planning Authority to resist new housing development unless it is demonstrated that the proposal serves a genuine agricultural or other appropriate need. In the opinion of the Local Planning Authority insufficient evidence has been put forward to show that there will not be long term need for the dwelling for occupation by a retired agricultural worker or agricultural worker employed in the local such as to outweigh that policy.

As such a revised application has been submitted to address the above reason for refusal. A supporting statement accompanies the application which sets out to demonstrate that the policy requirements in the assessment of such applications have been met. Details of the marketing exercise carried out by Staggs estate agents have also been submitted. The valuation figure, reflecting the agricultural tie on the property, was accepted by the Council's Property Services Officer as being reasonable following an independent valuation undertaken by Greenslade Turner Hunt on behalf of the Council.

CONSULTATIONS AND REPRESENTATIONS

PARISH COUNCIL object to the proposal for the following reasons:- (i) It is believed that the circumstances have not changed since the planning permission for the

annex in 2006; (ii) Given the valuation report by Greenslade Taylor Hunt, the Parish Council queries the values at which the property has been marketed. They seem to have been set at unrealistically high levels; (iii) The Parish Council also queries the validity of the questionnaire sent to local farmers as it refers to farm workers rather than farmers/retired farmers. The Parish Council also draw attention to the conflicting statements regarding a separate access as detailed in the answers to question 6 of the planning application form and the penultimate paragraph 6 of the Greenslade Taylor Hunt report.

PROPERTY SERVICES OFFICER it would appear that the owner of the property has now done everything that the Council has requested regarding marketing. I am satisfied that the property has been marketed at a reasonable asking price with an appropriate agent for a reasonable period of time.

7 LETTERS OF OBJECTION have been received raising the following issues:- applicant only granted permission to build this house as a 'managers house' in connection with the nursery; the holiday accommodation probably needs more security/administration than before and as the site is run by the same team surely they still need a managers house; not an onerous condition – being used in connection with four winds nursery and the growing of Christmas trees; circumstances have not changed since a similar application was refused; marketed at unrealistic high price; lifting the tie would contravene planning constraints in this area; number of applications submitted to Millfield Nursery resulting in incongruous and ugly holiday chalets – the lifting of the tie would add to the development.

3 LETTERS OF SUPPORT have been received raising the following issues:- condition is onerous.

POLICY CONTEXT

PPS1 – Delivering Sustainable Development, PPS3 – Housing, PPS7 – Sustainable Development in Rural Areas.

Taunton Deane Local Plan Policies S1 General Requirements, S7 Outside Settlements, H12 and H13 Agricultural or Forestry Workers.

ASSESSMENT

It is a long-held aim of both national Government policy and development plan policy at County and District level to resist new residential development in the open countryside, which is essentially protected for its own sake. One of the few exceptions to this rule is the provision of agricultural workers' dwellings, where it can be clearly demonstrated that such are essential to the needs of a viable agricultural enterprise. Whilst permanent employment rates in the agricultural sector have declined consistently for several decades, new dwellings are occasionally required following, for example, a reorganisation of land holdings, the establishment of a new agricultural enterprise or to enable the close supervision of livestock.

In addition, it is recognised at both a national and a local level, that there is an increasing demand for residential properties in rural areas. This often leads to

increasing pressures for the relaxation of occupancy conditions. As such Members should be mindful of the fact there is the potential for abuse of its regulatory development control powers regarding the removal of occupancy conditions on existing dwellings. This is recognised at national level in PPS7 Sustainable Development in Rural Areas. As such any application must be rigorously tested.

The key tests for the assessment of such an application is set out in Policy H13 of the Local Plan and in the form of national guidance contained within PPS7. Policy H13 of the Local Plan states:- 'Where agricultural or forestry dwellings are permitted in accordance with H12, appropriate conditions will be used to retain the dwelling for agricultural occupation. Applications to remove these conditions will not be permitted unless:- (A) the dwelling is no longer needed on that unit for the purposes of agriculture or forestry; (B) there is no current demand for dwellings for farmers, farm workers and foresters in the locality; and (C) the dwelling cannot be sold or let at a price which reflects its occupancy condition within a reasonable period.

In essence, prior to consenting to the removal of an agricultural occupancy condition the Council will need to be sure that the agricultural occupancy condition is redundant and can no longer be justified. It will also be necessary to demonstrate that there is no possibility of the dwelling being required to house an agricultural/forestry worker in the future either on the site itself or within the locality. The removal of an agricultural occupancy condition should only be considered after a reasonable period of time has elapsed from the date of the imposition of the initial condition and when every attempt has been made to explore the need in the locality through the advertising of the dwelling in the local press at regular intervals over a reasonable timeframe at a price which adequately reflects the existence of the agricultural occupancy condition.

This assessment will therefore address each of these requirements in turn.

(A) the dwelling is no longer needed on that unit for the purposes of agriculture or forestry;

It is clear from information supplied that Millfield Nurseries has now closed and the dwelling is no longer needed in relation to that activity.

(B) there is no current demand for dwellings for farmers, farm workers and foresters in the locality; and

In order to test this, the applicant (with the assistance of the Council's planning solicitor in defining locality as within a 10 minute car journey) has distributed questionnaires to farms in the locality and has marketed the property at a price that reflects the fact that it is an agriculturally tied property. A list of the farmers to whom the questionnaire was sent has been submitted. Of the 13 questionnaires that were sent out, there have been five replies. The applicant has sent a questionnaire to all farmers with land or farmhouses in the locality, within a 2 mile radius, in order to survey local demand around Kingston St Mary in March 2006, which indicated a value of £700,000 to £800,000.

Notwithstanding this questionnaire, I consider that removal of an agricultural tie should not be considered favourably without full marketing through an appropriate agent.

The agent also highlights that the dwelling and its annexe appear inconsistent with the latest advice in PPS7 in relation to the size of agricultural dwellings. The agent states that it is inconceivable that that this dwelling could be rented at a level that would be affordable by an agricultural worker, a farmer, or retired farmer in the locality would be in a position to purchase the property even if it transpired that the property was suitable for his needs. Indeed the Greenslade Turner Hunt report states that the 'property is substantially larger than that which was first approved and much of the nursery land has planning consent from Taunton Deane Borough Council for alternative uses'. The report indicates that it is 'therefore extremely unlikely anyone resident at Millfield House henceforth could comply with the tie through the occupation of 3.5 acres alone'.

The agent refers to a recent decision in the case of The Old Cider House, Pickney, Kingston St Mary (20/2006/003). This was a dwelling which would have been much more suited for an agricultural worker being a 3-bedroomed barn conversion. The applicants in that case referred to the significant fall in the number of farmers and farm workers as demonstrated in figures produced by DEFRA in a study entitled 'Comparison for Labour Employed in Agriculture in Somerset in 1980 and 2004. This showed an overall decline of 2190 (14%) in the number of engaged in agriculture but more critical is the reduction of 5612 (36%) in full time workers. This clearly has a significant impact on the requirement for tied accommodation in this area. Furthermore following the marketing exercise undertaken by Staggs they conclude that there are no buyers for agriculturally tied properties of this value in Kingston St Mary.

It is therefore considered that the applicant has demonstrated there is no current demand in this locality.

(C) the dwelling cannot be sold or let at a price which reflects its occupancy condition within a reasonable period.

As a result of the previous refused application for the removal of the occupancy condition the applicant undertook a marketing exercise. The property was marketed with Stags estate agents from July 2006 with a guide price of £825,000. The Council's Property Services Officer disputed the figure and the Council sanctioned Greenslade Turner Hunt to provide an independent valuation of the property. An agreed guide price was then set at £695,000 to reflect the agricultural occupancy condition. The revised figure has been marketed with Stags through their office, website and periodically in the Somerset County Gazette since February 2007. As such the property has been marketed for in excess of 12 months as a matter of fact of which 9 months has been at the agreed revised figure. The supporting information to the application details the numbers of enquiries received in relation to the property but none of the prospective purchasers were able to comply with the requirements of the agricultural occupancy condition. The Council's Property Services Officer is satisfied that the property has been marketed at a reasonable

asking price with an appropriate agent for a reasonable period of time. As such it is considered that criteria (C) of Policy H13 has been met.

To conclude it is considered that the applicant has demonstrated that the tests set out in Policy H13 of the Local Plan have been met and the previous reason for refusal has been addressed. As such it recommended that permission be granted.

RECOMMENDATION

Permission be GRANTED subject to conditions of the permission hereby granted relates to the retention of the development granted consent under reference 20/1991/027, without compliance with Condition No. 6 which states:- 'The occupation of the proposed dwelling shall be restricted to persons solely or mainly working, or last working in the locality in agriculture, or forestry, or a widow or widower of such a person and any resident dependants.

REASON(S) FOR RECOMMENDATION:- The applicant has demonstrated that the tests set out in Taunton Deane Local Plan Policy H13 have been accorded with and material considerations do not indicate otherwise.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

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NOTES: