

20/2006/013

MR & MRS CHRISTOPHER HEAYNS

REMOVAL OF AGRICULTURAL OCCUPANCY CONDITION 6 IMPOSED BY VIRTUE OF PERMISSION NUMBER 20/1991/027 AT MILLFIELD HOUSE, PARSONAGE LANE, KINGSTON ST MARY AS AMPLIFIED BY AGENTS LETTER DATED 9TH JUNE, 2006 WITH ADDITIONAL FARMERS QUESTIONNAIRE AND APPLICANTS E-MAILS DATED 14TH JUNE, 2006 AND 22ND JUNE, 2006

322266/129080

REMOVAL OF ONEROUS CONDITIONS

PROPOSAL

It is proposed to remove the agricultural tie in respect of this dwelling which was allowed on appeal in 1992. The dwelling is 4 bedroomed (with scope to convert a games room to an additional 2 bedrooms), 4 reception rooms, utility, study and integral double garage. Planning permission has been granted by applications 20/2005/005, dated 26th April, 2005 for 5 holiday cabins and 20/2005/012, dated 16th September, 2005 for 12 holiday cabins on this former nursery site that has ceased to operate, leaving only the immediate garden area. In addition planning application 20/2001/036, dated 28th January, 2002 extended the residential curtilage and erected a detached swimming pool that has been built. Application 20/2005/023 dated 27th January, 2006 also approved an annexe with a conservatory link.

A valuation of the property has been submitted with the application giving a full market value of £1,150,000. The agent's letter accompanying the application maintains that with the occupancy condition the property would be valued in the region of £700,000. The agent concludes that it is unlikely that a farmer or retired farmer in the locality would be in a position to purchase. The agent also refer to PPS 7 stating that where there have been changes in the scale and character of farming...which may affect the long term requirement for dwellings (with tie)...they should not be kept vacant, nor should their present occupants be unnecessarily obliged to remain in occupation simply by virtue of planning conditions restricting occupancy which have outlived their usefulness.

The agent also addresses the requirements of Policy H13 as follows:- the dwelling is no longer needed for agriculture as the nursery has closed; there is no current demand for dwelling for a worker dwelling in the locality as shown by the questionnaire survey. Questionnaires were sent out to 13 farmers in the locality. Six replies were received stating that there was no interest; a marketing exercise to sell the property is not required as the applicants wish to live in the property and this application is intended to regularise the situation.

CONSULTATIONS AND REPRESENTATIONS

PARISH COUNCIL objects. The Parish Council requests the retention of the tie to provide on-site security for the current development. We refer you to the original inspectors report on this matter.

9 LETTERS OF OBJECTION have been received raising the following issues:- the word “onerous” should not be used in the application description as it has been made so by the applicant disposing of his agricultural practice and land; some efforts have been made to establish demand for an agricultural worker however I thought more wide range marketing is required; the house could be subdivided to provide smaller affordable units for agricultural workers; the condition could be amended to relate to the holiday park that has replaced the agricultural business; the house is outside settlements and the condition has not been met for at least 10 years and if no other tied condition is feasible, the house should be removed; an application for a dwelling in the garden of the applicants house was refused, surely by lifting the tie this would be viewed in the same light; a house in Hob Lane was removed after appeal once the conditions could not be met (20/1996/022) why is this any different; at least the tie should be retained and the application refused; this is the latest in a series of applications designed to get around the planning system but more importantly has adversely transformed the southern edge of our village; it scarcely seems worthwhile to respond in view of the fact that the Borough Council almost invariably consents to whatever the applicant submits, regardless of the views of the village; it constitutes a visual intrusion to the amenities of the Special Landscape Area; principle objections; the culmination of applications at this site has led to an increase in traffic on Parsonage Lane which is substandard and Mill Cross is an unsafe junction; the tie should remain as no satisfactory case for its retention has been made;

4 LETTERS OF SUPPORT have been received raising the following issues:- fully support the removal of the tie as there is no longer an agricultural need either on the site or in the locality.

POLICY CONTEXT

PPS 7 Sustainable Development in Rural Area.

S1 General requirements, S7 outside settlements, H12 and H13 Agricultural Workers – dwellings for agricultural workers will be permitted outside the limits of settlements provided there is a proven functional need for the dwelling there and the farm for which it is sought ...viable, and appropriate tie condition, H13 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.

ASSESSMENT

The main issue relating to this application are the three tests contained in Policy H13. The removal of the condition would not have any detrimental impact on visual or residential amenity, nor would it be likely to result in an increase in traffic movements.

The building is in open countryside, and previously was used in association with agricultural/horticultural activities which have now ceased. The applicant has sent a questionnaire to farmers in the locality in order to survey local demand the property with an agricultural tie with 6 out of 13 farmers responding. From this information they assume there to be no demand for the property with its tie at an asking price of £700,000 - £800,000.

Responses received from 6 farmers in the locality are not considered a rigorous enough appraisal in which to properly assess the demand of dwellings for farmers. Recent appeal decisions have stated that contacting farmers in the locality is insufficient on its own to establish that there is no demand and that it is normal practice to undertake a marketing exercise over an appropriate period. Part (C) of Policy H13 states that the dwelling cannot be sold or let at a price which reflects its occupancy condition within a reasonable period. In order to satisfy Part (C) of Policy H13 the dwelling would normally be advertised for sale by at least one estate agent at a price reflecting the tie for a minimum period of 12 months, which the applicants have not carried out. Policy H13 states that applications to remove these conditions will not be permitted unless this marketing has been carried out.

The applicants attempt to address the issue of Part (C) of Policy H13 by stating that they have no wish to move from the property so why carry out a marketing exercise. This evades the issue that the dwelling is located outside of any defined settlement boundary and has an agricultural tie and therefore it should be made available to an agricultural worker or retired farmer.

RECOMMENDATION

Permission be REFUSED for the reason that the site is 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 a long term need for the dwelling for occupation by a retired agricultural worker or agricultural worker employed in the locality such as to outweigh that policy. As such the proposal would be contrary to Taunton Deane Local Plan Policies S7 and H13.

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

CONTACT OFFICER: 356469 MR R UPTON

NOTES: