

Application Details	
Application Reference Number:	01/22/0013
Application Type:	Removal or Variation of Condition(s)
Earliest decision date:	28 October 2022
Expiry Date	30 November 2022
Extension of time	
Decision Level	Chair
Description:	Removal of Condition No. 07 (agricultural occupancy condition) of application 01/89/0006 at Burrow View, Ashbrittle
Site Address:	BURROW VIEW, BURROW LANE, ASHBRIITTLE, WELLINGTON, TA21 0JB
Parish:	01
Conservation Area:	NA
Somerset Levels and Moors RAMSAR Catchment Area:	Within
AONB:	N/A
Case Officer:	Briony Waterman
Agent:	
Applicant:	MR M BEARD
Committee Date:	05/01/23
Reason for reporting application to Committee	Chair call in against officer recommendation for approval as the proposal is considered to comply with policy H1a.

1. Recommendation

1.1 That permission be granted.

2. Executive Summary of key reasons for recommendation

2.1 The proposal for the removal of the agricultural tie is considered to be acceptable in terms of policy H1a it has been evidenced that the dwelling is no longer needed for agricultural purposes as the land has been sold off and despite marketing at a lower price than market value for over a year there has been no proceedable offers.

Proposal is considered to comply with policy

3. Planning Obligations and conditions and informatives

3.1. Conditions

No conditions are necessary, the conditions on the original consent have all been complied with.

3.2 Informatives (bullet point only)

3.2.1 Proactive Statement

4. Proposed development, site and surroundings

4.1 Details of proposal

Removal of Condition No. 07 (agricultural occupancy condition) of application 01/89/0006. The condition was imposed on a new agricultural workers dwelling granted permission in August 1990, as the site is in an area where the Local Planning Authority's policy is to restrict new residential development to that required to meet the needs of agricultural or forestry.

4.2 Sites and surroundings

The site lies to the west of Burrow Farm, on the south side of Burrow Lane, a Class 3 highway and is visible from Staple Court House and the road running east from Staple Cross. Burrow View is a single storey agricultural workers dwelling, finished in render under concrete roof tiles. It was attached to Burrow Farm, but along with a number of agricultural buildings and a portion of the land, is now in separate ownership.

5. Planning (and enforcement) history

Reference	Description	Decision	Date
01/19/0006	Erection of single storey extension and conversion of garage.	Granted	30/08/2019
01/18/0008	Erection of single storey extension and conversion of integral garage to gym	Granted	11/01/2019
01/93/0002	Erection of an agricultural workers dwelling (reserved matters)	Granted	01/11/1993
01/89/0006	Erection of agricultural workers dwelling	Granted	01/08/1990
01/74/0005	Erection of bungalow and garage with vehicular access	Granted	
90043/A	The erection of an agricultural workers dwelling	Granted application superseded by 01/74/005 and 01/89/005.	

6. Environmental Impact Assessment

NA

7. Habitats Regulations Assessment

The site lies within the catchment area for the Somerset Moors and Levels Ramsar

site. As competent authority it has been determined that a project level appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required as the Council is satisfied that as the proposed development is to remove an existing agricultural tie it does not increase nutrient loadings at the catchment's waste water treatment works. The Council is satisfied that there will be no additional impact on the Ramsar site (either alone or in combination with other plans or projects) pursuant to Regulation 63(1) of the Habitats Regulations 2017.

8. Consultation and Representations

Statutory consultees (the submitted comments are available in full on the Council's website).

8.1 Date of consultation: 06 October 2022

8.2 Date of revised consultation (if applicable):

8.3 Press Date: NA

8.4 Site Notice Date: A site notice was posted out to the applicant on the 6th October however the LPA has not had confirmation that it was displayed. However, the statutory duty to advertise has still been met as it advertised in the local paper and neighbour letters were sent out.

8.5 **Statutory Consultees** the following were consulted:

Consultee	Comment	Officer Comment
ASHBRITTLE PARISH COUNCIL	Objection. PC is concerned at the loss of agricultural tied properties and affordable housing for rural workers Clearly a market for a property with an agricultural tie PC believes no offers made as over priced considering the agricultural tie and came with no appreciable land. PC believe that at least one property should remain agriculturally tied condition could be to transfer the agricultural tie to the new dwelling.	Comments are noted see para 10.1.5.
SCC - TRANSPORT DEVELOPMENT GROUP	Standing advice	
WESSEX WATER	No comments received	

8.6 **Internal Consultees** the following were consulted:

Consultee	Comment	Officer comment
NA		

8.7 Local representations

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

No letters have been received.

9. Relevant planning policies and Guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former Taunton Deane area. The Development Plan comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (SADMP) (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015) and Somerset Waste Core Strategy (2013).

Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 were subject to review and the Council undertook public consultation in January 2020 on the Council's issues and options for a new Local Plan covering the whole District. Since then the Government has agreed proposals for local government reorganisation and a Structural Change Order agreed with a new unitary authority for Somerset to be created from 1 April 2023. The Structural Change Order requires the new Somerset authority to prepare a local plan within 5 years of vesting day

Relevant policies of the development plan in the assessment of this application are listed below:

Site Allocations and Development Plan Policy H1a – Permanent housing for rural workers

Taunton Deane Core Strategy Policy CP8 – Environment.

There is no Neighbourhood Plan in force in the area.

Supplementary Planning Documents

Public Realm Design Guide for the Garden Town, December 2021

District Wide Design Guide, December 2021

Other relevant policy documents:

Somerset West and Taunton Council's Climate Positive Planning: Interim Guidance Statement on Planning for the Climate Emergency (March 2022).

9.1 National Planning Policy Framework

The proposal is considered to accord with the general principle set out in the NPPF.

10. Material Planning Considerations

10.1.1 Condition 07 of planning consent 01/89/0006

This application is seeking to remove the following condition for the agricultural occupancy.

The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture, as defined in Section 290(1) of the Town and Country Planning Act 1971, or in forestry or a dependent of such a person residing with him or her or a widow or widower of such a person.

Reason: The site is in an area where the Local Planning Authority's policy is to restrict new residential development to that required to meet the needs of agriculture or forestry.

10.1.2 The principle of development

Within policy H1a Permanent housing for rural workers it is stated that "*occupancy conditions will be applied to new dwellings. Applications to remove these or other related conditions will not be permitted unless:*

- i. The dwelling is no longer needed on that unit for the purposes of agriculture or other rural based enterprises*
- ii. There is no current demand for dwellings for agriculture or other rural based industries in the locality; and*
- iii. The dwelling cannot be sold or let at a price which its occupancy condition for a reasonable period to be agreed with the local planning authority.*

The applicant has provided the following justification for the removal of the agricultural condition including the main unit that the dwelling was built to support has been subdivided into multiple lots and therefore the dwelling is no longer associated with an operational or viable agricultural unit. It is argued within the supporting statement that it is unlikely that this dwelling could or would ever appropriately serve the need of another agricultural holding. There have been a number of agricultural workers dwellings approved within the area which shows that there has been a demand for this type of property, however the lack of interest in the purchasing of the site could show that this demand has been fulfilled.

The property has been marketed since February 2021 on various outlets including with Welden & Edwards and Rightmove.com at a reduced price to the market value with no offers which has been confirmed via a phone call by the officer to the estate agents. A search on rightmove.com shows that the property is competitively priced in

comparison to other properties of a similar size and scale within the area. Burrow View is marketed at £545,000 which is cheaper than similar sized properties within 5 miles that range from £ 575,000 which is a 4 bed 2 bathroom to £1,200,000. There are no directly comparable properties however following discussions with the estate agents it was confirmed that the site is being sold at a reduced price from the estimated value of £750,000. This is a 30% reduction from the market value although it is not mentioned within the policy what the reduction in price should be.

Comments received from the Parish Council raise concerns over setting a precedent however each case must be determined on its own merits. A recent appeal reference APP/W3330/W/22/3294420 for the removal of an agricultural tie within the district was dismissed. The Inspector stated that the splitting of the holding was not reason enough as the condition does not limit the person employed in agriculture or forestry to that holding but to the area. This proposal has been marketed since February 2021 with no offers made from anyone working within agriculture or forestry. This site differs from the appeal in that there is evidence of marketing with no success.

Under application 01/19/0006 permission was granted to significantly extend the property. These extensions have raised the value of the property which, even when marketed at a reduced price, received no interest or offers from those who would comply with the agricultural tie.

Given the above it is considered that the proposal to remove the agricultural tie has met the requirements of policy and is acceptable in principle.

10.1.5 Additional comments

Comments received from the Parish Council relate to the loss of an agriculturally tied property within the Parish, and suggested that the tie be reallocated to the recently approved Class Q on the site, however this is outside the remit of this application.

11 Local Finance Considerations

11.1 Community Infrastructure Levy

Not applicable.

12 Planning balance and conclusion

12.1 For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission is granted.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998 and the Equality Act 2010.

Appendix 1 – Planning conditions and Informatives/ Reason/s for refusal

Conditions

None required

Notes to applicant.

- . In accordance with paragraph 38 of the National Planning Policy Framework 21 the Council has worked in a positive and creative way and has imposed planning conditions to enable the grant of planning permission.