

## **Application for Determination**

<b>Parish</b>	Burgh Castle
<b>Reference</b>	BA/2013/0105/COND <b>Target date</b> 11.06.2013
<b>Location</b>	Greenacres, Marsh Lane, Burgh Castle
<b>Proposal</b>	Removal of condition 3 of pp 06/94/1051/BF (BA/1994/0303/HISTAP) to allow the property to be sold without limiting it to agricultural or forestry workers
<b>Applicant</b>	Mr and Mrs Friend
<b>Recommendation</b>	Approve
<b>Reason referred to Committee</b>	Parish Council Objection

### **1 Description of Site and Proposals**

1.1 The application site is an agricultural unit on the outskirts of a small village, Burgh Castle. The site is accessed off a minor track (Marsh Lane) which runs from the north of the village. The land then opens out to the north to the fertile marshes (Church Farm and Burgh Castle Marshes) and the flood plain of the River Yare. The landscape in this location remains mainly flat and open.

1.2 The unit itself comprises of over 2.4 hectares of land, a range of substantial modern farm buildings which are currently let out to a pig breeding company, stable block, paddock, and a 3 bed roomed detached bungalow which is restricted by the agricultural occupancy condition.

1.3 The original planning permission for the erection of the dwelling was granted in 1995 and states under condition 3 that:

*'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 336 of the Town and Country Planning Act 1990, or in forestry, or a dependant of such a person residing with him or her, or a widow or widower of such a person'.*

The reason for the condition was:

*'The site lies outside any area in which the Local Planning Authority would normally permit residential development and permission has only been*

*granted in this instance having regard to the agricultural need for a dwelling on this site'.*

- 1.4 Since 1981 the farm was used for the breeding and fattening of pigs to be sold for slaughter. In the late 1990's increases in pig imports forced pig prices down and British pig farmers suffered massive losses. Against this background the applicants ceased their pig operation in 1997 and in 1999 they let out their pig building to Innovis Ltd, an Artificial Insemination Business within the pig sector. Innovis Ltd do not use the dwelling associated with the holding, and this has continued to be occupied by the applicants.
- 1.5 This proposal seeks permission for the removal of condition 3 of PP 06/94/1051/BF (BA/1994/0303/HISTAP) to allow the property to be sold without limiting it to agricultural or forestry workers. The applicants state that the property is no longer needed as the current tenants of the farm building (Innovis Ltd) have been running their operations without the need of the bungalow and they require the removal of the restriction as they themselves have retired and are suffering with ill health and wish to sell the property; clearly the agricultural restriction has an adverse impact on the price as well as limiting the market for the property.
- 1.6 An application was submitted in 2011 for the same proposal. This application was refused under delegated powers for the following reason:

*'The Broads Authority does not consider that a robust case has been made to justify the removal of the agricultural restriction condition. It is considered that the value of the property used does not reflect the restricted use of the dwelling and the marketing strategy was flawed. Therefore, it is not considered that strong evidence has been provided to show that determined but unsuccessful attempts have been made, for a continuous period of at least 12 months, to sell or rent the dwelling at a price which takes account of the occupancy condition. The proposal is therefore considered contrary to national guidance on rural development set out in Planning Policy Statement 7: Sustainable Development in Rural Areas, or Policy H4 of the Broads Local Plan (adopted)'.*

The applicants did not appeal the decision but sought to appropriately market the dwelling. The dwelling has now been on the market for four years.

## **2 Site History**

In 1990 an application was submitted for the erection of a bungalow to replace a mobile home. This application was approved subject to an agricultural worker occupancy condition but not implemented at this time (BA/1990/3086/HISTAP).

In 1990 an application was submitted for the erection of an agricultural building to replace a mobile home. This application was approved (BA/1990/3043/HISTAP).

In 1991 an application was submitted for a new farrowing house and farm extension plan. This application was approved (BA/1991/0054/HISTAP).

In 1993 an application was submitted for the renewal of the erection of bungalow. This application was approved subject to an agricultural worker occupancy condition but was not implemented at this time (BA/1993/0993/HISTAP).

In 1994 an application was submitted for the erection of a bungalow to replace a mobile home. This application was approved subject to an agricultural worker occupancy condition and implemented (BA/1994/0303/HISTAP).

In 1994 an application was submitted for the erection of a double garage. This application was approved (BA/1994/0273/HISTAP).

In 2011 an application was submitted for the removal of condition 3 of PP 06/94/1051/BF to allow the property to be sold without limiting it to agricultural or forestry workers. This application was refused (BA/2011/0125/COND).

### **3 Consultation**

Broads Society - No objections

Parish Council - We consider the application should be refused for the following reasons- majority ruled against. The land could be sold for building development.

District Member - Awaiting response

Highways Authority - No objection

Great Yarmouth Borough Council Planning Department - Awaiting response

Great Yarmouth Borough Council Environmental Health - Awaiting response

### **4 Representation**

None

### **5 Policies**

- 5.1 The following Policies have been assessed for consistency with the National Planning Policy Framework (NPPF) and have been found to be consistent and can therefore be afforded full weight in the consideration and determination of this application.

## **Core Strategy (CS) (2007)**

[Core Strategy \(Adopted Sept 2007\).pdf](#)

CS22- Economy

## **Development Management Plan DPD (DMP DPD) (2011)**

[DMP DPD - Adoption version.pdf](#)

DP11- Access on Land

- 5.2 The following Policies have been assessed for consistency with the NPPF and have found to lack full consistency with the NPPF and therefore those aspects of the NPPF may need to be given some weight in the consideration and determination of this application.

## **Development Management Plan DPD (DMP DPD) (2011)**

DP26- Permanent and Temporary Dwellings for Agricultural, Forestry and Other Workers

DP28- Amenity

- 5.3 Material Planning Consideration

## **National Planning Policy Framework (NPPF) (2012)**

[NPPF](#)

## **6 Assessment**

- 6.1 The main issues to consider in the determination of this application are the principle of the development, impact on highways and impact on neighbouring amenity.
- 6.2 The policies of the development plan support agricultural enterprises in general, as they significantly contribute to the economy and landscape character of the Broads area. Applications which may inhibit or restrict agricultural enterprises are not supported by Development Plan Policies. Therefore any proposals which might restrict or inhibit agricultural enterprises must be considered carefully.
- 6.3 The assessment of applications seeking to remove agricultural occupancy conditions is dealt with under Policy DP26 of the DMP DPD (2011) and the NPPF (2012). Policy DP26 sets two criteria which seek to test the appropriateness of removing such conditions. These require that the removal of the condition may only be permitted where it can be proven there is no longer a long-term need for the dwelling at the particular enterprise on which the dwelling is located and where strong evidence is provided to show that determined but unsuccessful attempts have been made for a continuous period of 12 months to sell or rent the dwelling at a price which takes account of the occupancy condition.
- 6.4 The NPPF (2012) is silent on the removal of such conditions but advises that Local Planning Authorities should avoid new isolated homes in the

countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. This approach in policy terms was the initial basis for the original approval (and is an established planning principle), and indicates that the erection of a dwelling in the open countryside which is not required for special circumstances would not normally be supported. The NPPF is also supportive of the development of agricultural businesses due to their role in promoting a strong rural economy and it is considered that the retention of agricultural workers dwellings will assist in the delivery of this objective. Overall, it is therefore considered that Policy DP26 accords with the wider objectives of the NPPF, despite the NPPF being silent on the detail, and can be given full weight in the determination of this application.

6.5 The application has been supported by a document which is effectively a valuation and marketing statement and which seeks to address the criteria set out in DP26. This has been independently reviewed and the external assessment evaluated the long term need for an agricultural dwelling, the valuation of the property and the marketing strategy of the property. The findings and conclusions are outlined in turn below. The assessment will also highlight the difference to the previously refused application.

#### 6.6 The Need for an Agricultural Dwelling

6.6.1 The first relevant criteria of DP26 (criteria g) requires the applicant to demonstrate that there is no longer a long-term need for a dwelling on the holding. In terms of the long term need for an agricultural dwelling, the original business which required full time presence is no longer operating and the new business has a completely different operational requirement, with no need for 24 hour supervision. This business has operated since 1999 and is well established and successful. It employs a local workforce and there is an adequate supply of dwellings in the locality which are appropriate for the needs of those employed in the replacement business. Furthermore given the changes to the pig farming industry it is considered unlikely that the site would in any case revert to pig farming were the new business to close, due to the small size of the holding and the requirements of modern welfare regulations. It is therefore considered that the dwelling is no longer needed to operate the agricultural enterprise.

#### 6.7 Valuation and Marketing Strategy

6.7.1 The second relevant criteria of DP26 (criteria h) requires that the applicant demonstrate that unsuccessful attempts have been made to sell the property at an appropriate price. In terms of the success of a sale which takes into account the agricultural occupancy restriction it is considered that the property should be appropriately valued and marketed.

6.7.2 In 2009 the property was marketed at £499,950. With no successful sale, in 2010 the property was valued at £450,000 by the applicant's independent valuer and the applicants put the property back on the market for £499,950

ignoring the advice given. In 2011-2013 the price was then reduced to £450,000, then £435,000 and finally £425,000.

- 6.7.3 The information which has been submitted with the application indicates that the price at which the property was marketed in 2011-2013 is realistic and applies an appropriate reduction to take account of the agricultural restriction. This has been confirmed by the independent external reviewer.
- 6.7.4 The applicants have re-marketed the property at the reduced guide price that reflects the existence of the agricultural occupancy condition. The property has remained on the market continuously since 2011, firstly through Ian Sinclair Chartered Surveyors and subsequently with William H. Brown. The application includes comprehensive details and evidence of the marketing campaign which has incorporated the use of various specialist property websites, advertising in local and national print media and in window displays.
- 6.7.5 The supporting information confirms that there have been a number of viewings of the property, leading, in some instances, to offers being made. However, these offers have been substantially below the guide price, which, as discussed above, is at a level that reflects the existence of the restrictive occupancy condition.
- 6.7.6 In addition the applicants researched whether the property would be of interest to Registered Social Landlords but found it to be of an inappropriate type and location.
- 6.7.7 For clarity the reason why the previous application was refused was because the independent appraisal concluded that the previous marketing campaign had failed to adequately test the market. The main points of criticism were firstly in relation to the guide price of the property where the applicants had gone against the advice of their estate agent and offered the property at a higher price. Secondly, it was considered that there had been inconsistent marketing of the property which had resulted in limited exposure. As outlined above the applicants have subsequently undertaken an appropriate marketing campaign with the property advertised at an appropriate price.
- 6.7.8 It is therefore considered that strong evidence has been provided to show that determined but unsuccessful attempts have been made, for a continuous period of at least 12 months, to sell or rent the dwelling at a price which takes account of the occupancy condition. It is therefore considered that the requirements of criteria (g) and (h) of DP26 have been satisfied.
- 6.8 In terms of the Parish Council's concerns over the remaining land and business being sold separately for further development, their concerns are acknowledged however any such application would need to be determined on its own merits and concern over any future proposal here is not a material consideration in the determination of this application. It is considered that the applicant has demonstrated that the existing business can operate without the need for a dwelling and as outlined above the development of land outside of

a development boundary within the open countryside would not be supported by National or local Planning Policies except in special circumstances.

- 6.9 As the site is currently being used as a dwelling it is not considered that there would be an adverse impact on highway safety or neighbouring amenity as a result of the proposals.

## **7 Conclusion**

- 7.1 To conclude, it is considered that the applicant has demonstrated that the agricultural use of the site no longer requires on site residential accommodation. It is also considered that strong evidence has been provided to show that determined but unsuccessful attempts have been made, for a continuous period of at least 12 months, to sell or rent the dwelling at a price which takes account of the occupancy condition. It is not considered that there would be an adverse impact on highway safety or neighbouring amenity as part of the proposal.

## **8 Recommendation**

- 8.1 Approve.

## **9 Reasons for Recommendation**

- 9.1 The proposal is considered to accord with Development Plan Policies CS22 of the Core Strategy (2007) and DP11, DP26 and DP28 of the Development Management Policies DPD (2011) and the National Planning Policy Framework which is a material planning consideration.

Background papers: BA/2011/0125/COND and BA/2013/0105/COND

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List of Appendices: APPENDIX 1: Site Location Plan

APPENDIX 1

BA/2013/0105/COND – Greenacres, Marsh Lane, Burgh Castl  
Removal of condition 3 of PP 06/94/1051/BF (refusal BA/2011/0125/COND) to allow the property to be sold without limiting it to agricultural or forestry workers

