

APPLICATION NO PA/2021/1889

APPLICANT Mrs June DeBoer

DEVELOPMENT Planning application to remove condition 4 of 7/1977/824 to allow for occupation of the dwelling other than by a person solely or mainly employed, or last employed, in agriculture

LOCATION Amer Rose, Messingham Ings Road, Messingham, DN17 3AW

PARISH Messingham

WARD Ridge

CASE OFFICER Mark Niland

SUMMARY RECOMMENDATION Grant permission

REASONS FOR REFERENCE TO COMMITTEE Objection by Messingham Parish Council

POLICIES

National Planning Policy Framework:

Paragraph 47 – Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

Paragraph 56 – Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

North Lincolnshire Local Plan: RD12

CONSULTATIONS

Highways: No comments or objections to make.

Drainage (Lead Local Flood Authority): No comments or objections to make.

PARISH COUNCIL

Objects to planning applications PA/2021/1889 and PA/2021/2150 due to the property being in open countryside and outside the development boundary. Removal of the agricultural restriction would set a precedent for future development outside the development boundary.

PUBLICITY

Advertised by site notice – no comments received.

ASSESSMENT

Planning history

7/1977/0824: Outline planning permission to erect a dwelling in connection with agriculture – granted 23/02/1978.

7/1978/0611: Approval of reserved matters following outline planning permission 7/1977/0824 (siting, design, external appearance and means of access) for a detached two-bedroom bungalow and domestic garage – approved 10/08/1978.

PA/2021/2150: Planning application to remove condition 1 of 7/1978/611 to allow for occupation of the dwelling other than by a person solely or mainly employed, or last employed, in agriculture – pending.

Site characteristics

Amer Rose is located in the open countryside close to Susworth and East Butterwick, within Flood Zone 2/3a in accordance with the North and North East Lincolnshire SFRA 2011.

The property is a detached bungalow formerly associated with a wider agricultural unit; however, most of the land has been now taken on by existing local farmers and is no longer associated with Amer Rose. The property is just north of the River Eau within a cluster of dwellings that front Ings Road. It is made up of a brown facing brick, interlocking concrete roof tiles and white UPVC. It is set in well-manicured gardens.

Outline planning permission was given for the erection of a dwelling in 1977 subject to an agricultural occupancy condition. In 1978 the reserved matters was approved and, in error, the planning department attached an additional occupancy restriction to that approval.

Proposal

The applicant seeks to remove the agricultural occupancy condition from outline planning permission 7/1977/824. The condition restricts the dwelling being lived in by someone who works (or last worked) in the agriculture or forestry industry.

Members will note that there are two parallel applications for the removal of agricultural occupancy conditions on this site. This is due to the condition being attached in error to the reserved matters application.

The key test is whether or not the applicant has demonstrated that the requirements of policy RD12 (Removal of Agricultural Occupancy Conditions) have been complied with, namely:

- **a substantiated reason why there is no longer a justified need for an agriculturally tied dwelling on the holding;**

- **evidence of attempts made to sell the dwelling at a price which reflects the effect of the occupancy condition on the property market for the 12 months prior to the application being made to remove the conditions.**

The applicant has submitted a statement outlining the history of this site, a planning statement justifying conformity with planning policy, a statement from the estate agent confirming failed sales, reduced price and length of time on the market, and a viewing record and sales brochure to reaffirm this.

Planning merits

Policy RD12 of the local plan is the bespoke policy for dealing with such applications. It states that 'the planning authority will only consider the removal of an agricultural occupancy condition if conclusive evidence is submitted by way of an independent report that includes:

- (i) a substantiated reason why there is no longer a justified need for an agriculturally tied dwelling on the holding;

and

- (ii) evidence of attempts made to sell the dwelling at a price which reflects the effect of the occupancy condition on the property market for the 12 months prior to the application being made to remove the condition.

It will be inappropriate to retain an occupancy condition on a dwelling located within a defined development limit.'

Substantiated reason

The applicant has set out a robust reason for the removal of this condition within the planning statement under section 4.0. It sets out a timeline for how the dwelling and associated land was used following the dwelling being habitable. It is clear on the timeline that when the house was built the former occupier ran a buoyant agricultural business, working the associated fields across a large holding. However, by the early 1990s the former occupier, through poor health, entered into retirement. Many of the fields were bought up by local farmers and absorbed into their holdings. During this period it is clear there was a change in the way farming was practiced. The introduction of technological advances in plant and agricultural practice has resulted in holdings being much larger and single farming families having the ability to work larger geographical areas.

The planning statement submitted acknowledged this shift in the industry stating '*Since Mr Day last farmed, agricultural practices have subsequently changed and larger areas can be covered by a single farmer. This is the case as local farmers have absorbed much of this land and brought it into their own holdings. Amer Rose is now left with no land (sufficient to support a farming business) nor the infrastructure that is suitable for modern day farming*'.

In the policy justification associated with RD12, part 'l' states that '...Changes in the scale and character of a farming, forestry or rural business may mean that the addition of an agricultural occupancy is no longer relevant. In such cases the dwelling should not be kept vacant and its present occupant should not have to remain in occupation when the circumstances which led to the condition being attached has changed...'

It is considered that the gradual decline and shrinkage of holding which was brought about by the changes of modern farming, and the ability for the landowner to compete with those changes due to age and health, is a sufficiently substantiated reason to attempt to find another relevant occupier. Mr Day, who built the house to support his farming business 45 years ago, has now sadly passed and the dwelling is left vacant with his daughter diligently trying to keep the property to a high standard to encourage someone to take it on. Circumstances have clearly changed for Amer Rose since the attachment of the conditions and as per part 'I' this property should not have to remain in the occupation of Mr Day's daughter, who has (see section below) attempted to find another occupant who would meet the criteria of the occupancy condition.

Evidence of attempts

The applicant has made attempts to sell the property with the attached agricultural tie and in support has provided the following information:

- a statement from DDM Agriculture
- a table of viewing records
- sales brochure
- applicant's statement.

DDM statement

In the statement the estate agent confirms that the property was marketed at a price reflective of the occupancy condition. The agent states, 'I was instructed to market the property in early spring 2020 at an initial guide price of £275,000, which I suggested to be an appropriate reflection of the agricultural occupancy restriction on the value of this substantial property, which has a gross internal floor area of approximately 220 square metres and sits on a plot which extends to approximately 0.56 acre.'

The agent confirms that the property was marketed for sale on 18 February 2020. At this time a small amount of land still remained with some farm buildings sited on it. The agent states that there was a cross-promotion of the two (the bungalow and the remaining land); however, no offers for the bungalow were made with any of the land. On 12 August 2020 the bungalow was reduced to £260,000 and reduced further to £250,000 from 5 November, a price at which it remains today.

The property was marketed through the DDM, Rightmove and 'On the market' websites. Adverts were also placed in the local press. DDM have stated that '...the marketing process has demonstrated the fact that this property cannot be sold with the agricultural occupancy condition attached...' and suggests that its removal would allow the property to find a new occupant and no longer remain vacant.

Table of viewing records

A document has been submitted detailing the viewing records of Amer Rose since it has been up for sale. One of the viewers actually had an offer accepted but the sale fell through as finance could not be achieved due to the imposition of the occupancy restriction.

This document evidences that the applicant has attempted to sell this property since February 2020 at a price that reflects the agricultural tie. It is the tie that is preventing the sale and the property remains vacant.

The sales brochure and the applicant's statement further affirm that the applicant had the intention of selling both the dwelling and the small amount of remaining land at a price and for a period of time that reflects the occupancy condition. Up to now these attempts have been unsuccessful.

Part 'ii' of policy RD12 requires 'evidence of attempts made to sell the dwelling at a price which reflects the effect of the occupancy condition on the property market for the 12 months prior to the application being made to remove the condition'.

The applicant has demonstrated that the property has been on the market for over 12 months (almost 2 years) at a price reflective of the occupancy tie. It has been marketed across multiple platforms and an offer has also been accepted, but has fallen through for financial lending reasons directly related to the fact that there is an agricultural and forestry restriction placed upon the property.

It is considered that the applicant has satisfied both parts 'i' and 'ii' of policy RD12 and is only seeking removal of the condition as all else has failed. The property is currently left vacant, it does not have a sufficient holding size to warrant a live-in agricultural worker and this is evidenced by the comments left in the viewing record. Furthermore, it is unlikely to again be the residential basis from which to farm given that modern day practices have shaped and changed how the agriculture industry operates and local farmers have larger swathes of land. The majority of Mr Day's land that was associated with the dwelling 45 years ago when approved is now farmed by other locals who work in agriculture.

The parish council has objected on 'precedent'. However any applicant seeking to remove an occupancy condition is subject to the scrutiny and tests of policy RD12 and so each case is unique and judged on its own merits and tested against RD12. It is not a case of if an occupancy condition is removed on a property then there is carte blanche to remove others in the area. There is solid policy in place to protect such dwellings. Only those applications that have altruistically attempted to sell a property with a reflected price, for a suitable time period and demonstrated so would meet with policy tests. Policy RD12 exists for cases such as Amer Rose and it is considered that the applicant has attempted everything required by the policy and the dwelling still remains vacant. The occupancy conditions therefore should be lifted as the applicant has met planning policy requirements and has been left with no choice but to take this route.

Conditions

Outline planning permission was granted under 7/1977/0824 and conditions were attached relating to the timeframe for submitting reserved matters, the reserved matters, parking and turning, the installation of a sufficient surface water drainage strategy and the occupancy condition.

It is considered, as these conditions are met, the dwelling is built and has functioned for 45 years satisfactorily in terms of drainage and highway safety, there is no requirement to re-attach those conditions.

Conclusion

The applicant has provided evidence of attempts to sell the dwelling with the occupancy condition in place. The property has been on the market for almost two years at a price reflective of the restrictive condition, it has been advertised across multiple platforms and has had viewings and a failed offer (due to the occupancy condition and lending regulations). It is worth noting that during this period of time the housing market has had a boom period. The applicant is left with no option other than to attempt to remove the restrictive condition so a new occupant can potentially be found.

RECOMMENDATION Grant permission.

0 30 60 Mean High Water 90 120 150 m

River Trent

Sloping masonry

Mean High Water

Westlands

4.8m

Amer-Rose

Barlings

Barlings Farm

Track

Track

Sluice

Sluice

SM

River Eau

Barlings Farm Cottage

MLWS

EER, Co Const & UA Bdy

North Lincolnshire Council

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