

6 DCNW0009/1663/F - VARIATION OF CONDITION 2 OF PLANNING PERMISSION 760298 FOR CONTINUED USE AS RURAL WORKERS DWELLING AT BANK HOUSE, HIGH TREE BANK, LEINTWARDINE, HEREFORDSHIRE, SY7 0LU.

For: Mr Morgan per Les Stephan Planning Ltd, 9 Sweetlake Business Village, Longden Road, Shrewsbury, SY3 9EW.

Date Received: 21st July 2009

Ward: Mortimer

Grid Ref: 40398, 75068

Expiry Date: 15th September 2009

Local Member: Councillor LO Barnett

1. Site Description and Proposal

- 1.1 A detached two-storey dwelling of external red brick construction under a slate roof with recently replaced windows and external doors of UPVC construction.
- 1.2 The dwelling stands in a large curtilage of formal garden and forms part of an area of approximately 0.6 hectares of land, this is also in the applicants control and consists of overgrown paddock/orchard. All located in open countryside to the north of Leintwardine village alongside the B4385 public highway.
- 1.3 The application proposes variation of condition 2 attached to planning approval reference: 760298 dated 28 June 1976. The condition restricts occupation of the dwelling to an agricultural or forestry worker and/or dependants. This application requests variation to allow a rural worker to reside at the property, who does not comply with the occupancy condition.

2. Policies

- 2.1 Planning Policy Statement 7: Sustainable Development in Rural Areas.
- 2.2 Herefordshire Unitary Development Plan

S1 – Sustainable Development

S2 – Development Requirements

H7 – Housing in the Countryside Outside Settlements

H8 – Agricultural and Forestry Dwellings and Dwellings Associated with Rural Businesses

3. Planning History

- 3.1 760298 – Site for the erection of an agricultural workers bungalow – Approved subject to conditions 28 June 1976
- 3.2 NW1999/2477/F – Removal of agricultural condition – Refused 1 November 1999

- 3.3 NW2009/1881/F – Change of use of agricultural land to agricultural contractor’s yard. Erection of workshop/storage building new access road and 1 metre high bund. Also subject to committee consideration.

4. Consultation Summary

Statutory Consultations

- 4.1 None required

Internal Council Advice

- 4.2 The Transportation Manager raises no objections

5. Representations

- 5.1 Leintwardine Parish Council’s concerns to the application are summarised as follows:

The applicant bought the property knowing full well of the planning condition existence. If application is approved suggest conditions be attached with regard to future sale of the property

Change of the applicant’s business either in its nature or its cessation variation reverts.

Retirement/death – Mr Morgan has a son in the business with him, will the business be allowed to continue at this location.

- 5.2 Two letters of objection/comment have been received from Mr J Warburton, 6 Leintwardine Manor, Leintwardine and Mr Peter Naylor, High Tree Cottage, High Tree Bank, Leintwardine. The letters can be summarised as follows:

- The agricultural restriction was originally put on the property to keep it below its market value in order to allow low paid agricultural workers to purchase it.
- Concerns about other development within immediate land around the dwelling in accordance with information submitted in support of the application.
- Removal of occupancy restriction would go against government policy to encourage affordable housing in the open countryside, and also create a precedent.
- Concerns about future use of the site and the parking of numerous business vehicles and the impact of this on the surrounding community.
- One letter comments on how as a neighbour to the site, the applicant has kept him fully informed with regards to the future use of the site and that this contact is appreciated.

- 5.3 The full text of these letters can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford prior to the meeting.

6. Officer’s Appraisal

6.1 The key issues with regards to this application are:

- Planning history of the site.
- Need and viability of the business operated by the applicant.
- Impact on the surrounding amenity
- Precedent if application is approved

Planning history of the site

6.2 The dwelling subject to this application was approved subject to conditions on 28th June 1976. Condition number two restricted occupancy to persons employed locally in agriculture as detailed in Section 290 (1) of the Town and Country Planning Act 1971, or a dependant of such a person residing with him/her.

6.3 The officer's report on the relevant file indicates that the dwelling was proposed in relationship to a plant nursery adjacent to the site.

6.4 Officers understand that the dwelling was actually occupied by an agricultural worker who was not employed in a nursery. Information submitted in support of the application indicates that the dwelling and former nursery site was purchased earlier this year by the applicant and his wife and that they wish to regularise the planning situation in order to enable them to operate a ground preparation and drainage business from the site.

Need and Viability of the Business Operated by the applicant

6.5 Information submitted in support of the application indicates that this business employs four full time staff in the surrounding community predominately in relationship to agriculture.

6.6 The business operates machinery and equipment and requires a suitable location for a base, from which to administer, store and service equipment in relationship to the business.

6.7 Financial accounts have been submitted in support of the application, these indicate the business is run on a sound financial basis.

6.8 Prior to the applicant residing at this site, the machinery and equipment was stored and serviced between two different sites, located on the eastern fringe of Leintwardine, in close proximity to where the applicant previously resided. This was an unsatisfactory arrangement, being as it was divided between two different locations where space was limited, and within close proximity to residential areas.

6.9 PPS7: Sustainable Development in Rural Areas, and Policy H8: Agricultural and Forestry Dwellings and Dwellings Associated with Other Rural Business, in the Herefordshire Unitary Development Plan, both support dwellings associated with other rural businesses where it can be demonstrated that a long term genuine functional need exists for the dwelling, as an essential part of a financially viable business and that such a need cannot be met in existing accommodation.

6.10 The business operated by the applicant is a rural business and its nature requires land for storage and maintenance. The business as referred to earlier appears to be financially viable.

- 6.11 The dwelling subject to this application is within an area of 0.6 hectares of land all in the control of the applicant, and is considered a suitable location from which to operate the business as proposed.

Impact on the Surrounding Community

- 6.12 A separate application is registered with the council for change of use of agricultural land to agricultural contractors yard. Erection of workshop/storage building. New access road and 1 metre high bund. (Ref NW2009/1881/F). This application is also on the agenda for committee consideration at this meeting.
- 6.13 On a without prejudice basis it is considered that there is sufficient land adjacent to the dwelling on which to construct a suitably sized and scaled building in relationship to the business and also adequate land on which to provide additional screening in order to reserve adequate amenity and privacy for nearby residents.

Precedent if application is approved

- 6.14 Each individual planning application has to be assessed on its merits in relationship to relevant local and national planning policies.
- 6.15 The dwelling subject to this application has recently changed ownership. However the condition attached to the planning approval notice (reference: 760298) restricts occupancy of the dwelling itself and not its future resale value.

7. Conclusions

- 7.1 This is a very finely balanced application, in that it requests variation of an occupancy condition in relationship to a rural dwelling that appears to have a complicated planning history, in that it was originally constructed in connection to an adjacent plant nursery located in open countryside. The application is for a rural worker who strictly speaking has not proven an essential functional need to live on site.
- 7.2 However the business operated by the applicant is clearly a financially viable business that needs a suitable location from which to operate in consideration of its operational needs, as well as consideration to the amenity of nearby residents.
- 7.3 Officers are of the opinion that the site is a suitable location and involves the use of an existing dwelling rather than the construction of a new build and therefore given the circumstances, approval of this application is recommended.

RECOMMENDATION

That planning permission be Granted subject to the following conditions:

- 1 The occupation of the dwelling shall be limited to a person solely or mainly working or last working, in the locality in agriculture or in forestry and in consideration of the applicant, agricultural contracting in accordance with the information submitted in support of the application date stamped Herefordshire Council 21 July 2009, or a widow or widower of such a person, and to any resident dependants.**

Reason: The Local Planning Authority wish to restrict occupancy in accordance with policy H8 of the Herefordshire Unitary Development Plan.

Informatives

1 N19 - Avoidance of doubt - Approved Plans

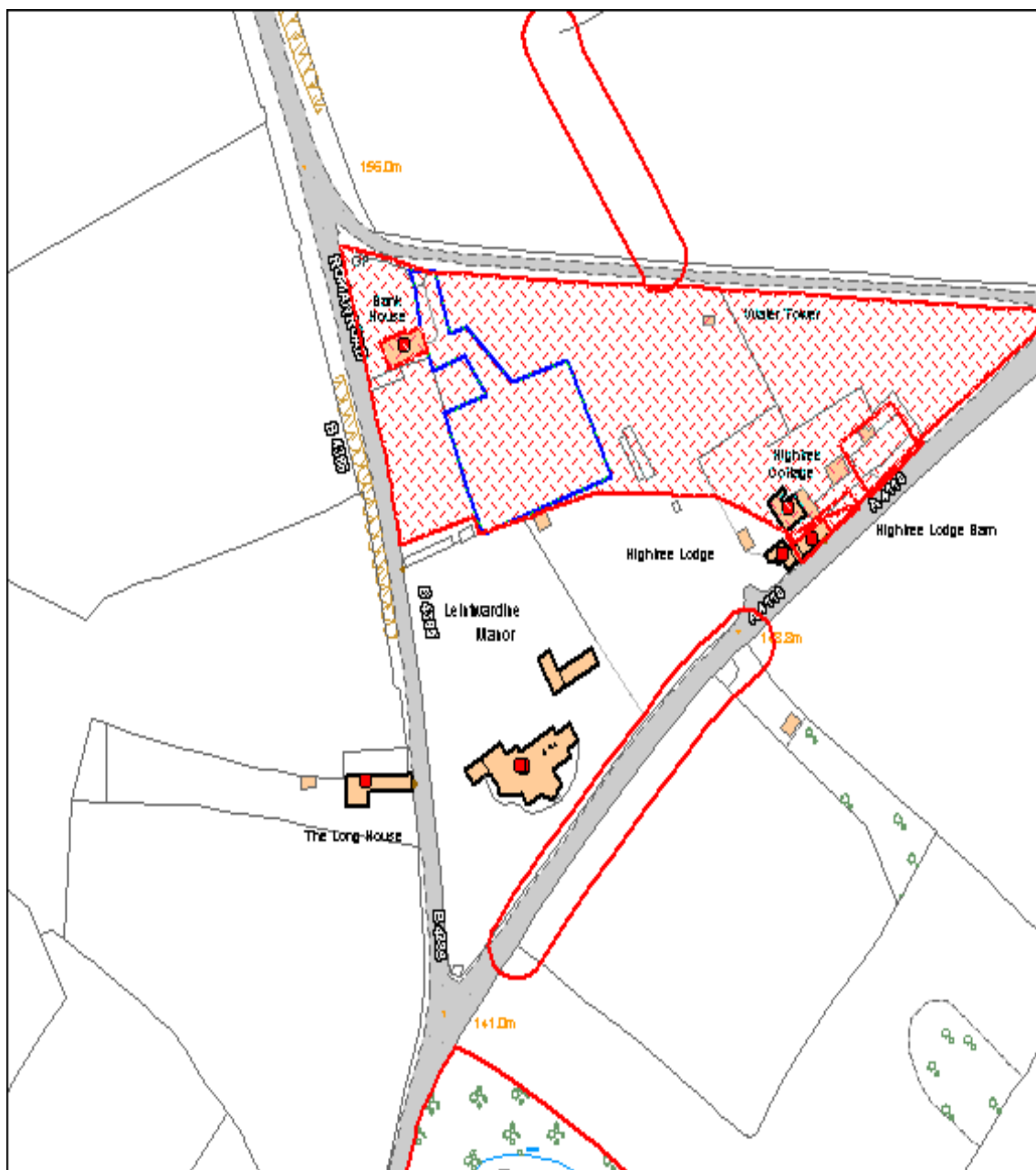
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION : DCNW0009/1663/F

SITE ADDRESS : BANK HOUSE, HIGH TREE BANK, LEINTWARDINE, HEREFORDSHIRE, SY7 0LU

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