

**7 DCNE2004/0863/F - REMOVAL OF AGRICULTURAL OCCUPANCY RESTRICTION. (CONDITION 3 OF PLANNING PERMISSION MH93/1468) AT THE FARM, PAUNTON, BISHOPS FROME, WORCESTER, WR6 5BJ**

**For: Mr R Fowler per Mr C J Didlick, Bwthyn, Snead Common, Abberley, Worcester, WR6 6AF**

**Date Received:**  
8th March 2004  
**Expiry Date:**  
3rd May 2004

**Ward:**  
Frome

**Grid Ref:**  
66806, 50035

Local Member: Councillor R Manning

### **1. Site Description and Proposal**

- 1.1 Planning permission is sought to remove an agricultural occupancy condition attached to a farmhouse at The Farm, Paunton.
- 1.2 The condition was imposed on appeal in 1993. The dwelling has a floor area of approximately 276 square metres.

### **2. Policies**

Planning Policy Guidance Note 7 – The Countryside – Environmental and Economic and Social Development  
Department of Environment Circular 11/95 – Use of Conditions in Planning Permissions

#### **Malvern Hills District Local Plan**

Housing Policy 10 – Removal of Agricultural Occupancy Condition

#### **Hereford Unitary Development Plan**

H8 – Agricultural and Forestry Dwellings

### **3. Planning History**

MH91/534 - 5 Bedroom house with garaging. Withdrawn.

MH91/795 - New agricultural dwelling. Refused 16 July 1991.

MH91/816 - Temporary siting of portacabin. Approved 15 August 1991.

MH92/638 - Erection of agricultural dwelling. Refused 17 November 1992. Appeal allowed 21 June 1993.

MH93/1468 - Approval of Reserved Matters - Erection of an agricultural dwelling. Approved 31 January 1994.

#### **4. Consultation Summary**

##### Internal Council Advice

4.1 Head of Engineering and Transportation - No objection.

4.2 Head of Property Services - Comments awaited.

#### **5. Representations**

5.1 Bishops Frome Parish Council raise no objection to this application.

5.2 The applicant's agent has submitted the following information:

1. The previous decision was taken in the light of the fact that the appellant had previously sold off several properties, using the sale proceeds to reduce farming debts.
2. The appellant gained approval of Reserved Matters on 31 January 1994 under reference MH93/1468 and the house was completed and occupied by the end of 1994.
3. Production of hops continued until the applicant suffered a total loss of crop in 1996/1997, brought about by 'verticillim', a deadly hop disease; this forced him to sell the majority of his land holding which mainly comprised the hop growing areas, in order to clear farm debts.
4. The holding now comprises the farm house set in a relatively large garden and bounded by pasture, orchard, rough and coppice with a total of approximately 8 acres.
5. The land comprising the present holding is clearly not viable in the agricultural sense nor is there a functional need to live on the land concerned.
6. The applicant therefore seeks to sell his dwelling and move to a more appropriate unit of accommodation, probably somewhere within the area.
7. Property has been marketed for a period of 5 months during July to November 2003. The property has remained and is still on sale with particulars readily available at the estate agents office, together with listings on two web sites.
8. The agent has confirmed that, in his opinion, the asking price for the property is fair and reasonable taking into account the occupancy restriction, but in spite of this no offers have been received.

9. Development Plan policy generally permits the removal of Agricultural or Forestry occupancy conditions where it can be shown that the property concerned has been marketed, at a price which reflects its true market value for a period of at least 6 months. The applicants; believe that they have satisfied this requirement by placing the sale in the hands of a local estate agent well versed with the agricultural community and farming practices.
10. Given that the property is on sale in a buoyant housing market during which property value have continued to increase, and since no intended purchaser has come forward, it is clear that the dwelling is no longer required for any agricultural or forestry activity in the area.
11. Realistically the land and buildings are not viable in the agricultura/forestry sense and are clearly unable to sustain a dwelling which is overly large in relation to the agricultural needs of the present land holding.
12. The marketing exercise has been conducted for a period well in excess of the 6 months required by the provisions of the Development Plan and as a result it seems that there is no evidence to indicate that there is likely to be a demand in the locality by eligible occupants who could satisfy the terms of the occupancy condition.
13. The market exercise has clearly shown that it is no such interest from those able to satisfy the said condition and the applicant, who through no fault of his own was forced to sell land, is currently unnecessarily obliged to remain in occupation simply by virtue of the condition.
14. This is a case where, because of the size of the dwelling and the limited amount of land available, no viable agricultural/forestry activity can take place on unit.
15. Whether or not the dwelling was ever justified is now open to question, but nevertheless, planning permission was granted on appeal against the obvious doubts about viability expressed by the Local Planning Authority.
16. The decision on this application should not hinge on this issue since, in our opinion, the application for removal of the condition satisfies both Development Plan Policies and National Planning Policy Guidance and we hope therefore that you will feel able to make a positive recommendation to your Planning Committee.

The full text of these letters can be inspected at Northern Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

**6. Officers Appraisal**

- 6.1 This farmhouse has a floor area of 276m<sup>2</sup> and has been marketed at a value of £350,000 which is two-thirds of its true value (£525,000) with an agricultural condition.
- 6.2 PPG7 Annexe I, Paragraph 21 advises that changes in the scale and character of farming in response to market changes may affect the longer-term requirements for dwellings with occupancy conditions. Such dwellings should not be kept vacant nor should the present occupants be unnecessarily obliged to remain in occupation simply by virtue of the planning condition restricting occupancy, which has outlived its usefulness.
- 6.3 In this respect the majority of the land has been sold to clear the farm debts leaving a five-bedroom farmhouse with a large garden and an eight-acre orchard. This in itself is not sufficient to warrant the retention of the condition. Furthermore, marketing of the dwelling has confirmed that there are no 'agricultural workers' who can afford or require this size of dwelling in the locality.
- 6.4 In essence the size of dwelling permitted was excessive to meet the needs of an agricultural worker. The proposal therefore meets the criteria advised by PPG7 and Housing Policy 10 of the Malvern Hills District Local Plan and Department of Environment Circular 11/95.

**RECOMMENDATION**

**That planning permission be granted.**

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.