



Mrs. H. Leach (Development Management)
Bury Council
3 Knowsley Place
Duke Street
Bury
BL9 0EJ

Our Ref: MJ/RG/G315/L001
Date: 2 November 2023

Dear Helen

APPLICATION REF: 69054
DELETION OF CONDITION 3 OF PERMISSION REF 54822
ABBOTTS HALL, WOODHEY ROAD, HOLCOMBE BROOK, RAMSBOTTOM, BL0 9RD

I write further to the above application and our recent discussions to update the LPA on the Applicant's position.

As you are aware, the application dwelling is being marketed by Charles Louis at a heavily reduced price (70% of market value). It has now been on the market for in excess of 6 months (see details at *Annex A* and link below).

https://www.rightmove.co.uk/properties/132241679#/?channel=RES_BUY

In addition to its inclusion on Charles Louis's website and Rightmove (as above), it is also being marked nationally on Zoopla and On The Market.

At *Annex B* of this letter I provide an update email from Charles Louis confirming that, over the course of the past 6+ months, no offers have been made/received, nor any serious expressions of interest, by any agricultural workers or any other party who would be entitled to occupy the premises with its current restriction.

We have previously discussed (and I believe agreed) that a 6 months marketing period would be suitably robust in this case, but I confirm that the property will remain on the market until such time that this S73 application is determined (or, in the event of an appeal, until the Inspector issues a decision).

We consider that 6+ months of ongoing robust marketing by a leading / reputable local estate agent (Charles Louis) and also advertised nationally on Rightmove and other platforms is ample to demonstrate that there is no demand or requirement for this property from any party who would satisfy the terms of the occupancy condition.



I also attach – at Annex C of this letter - the appeal decision (ref: APP/D0840/W/19/322934) we discussed some time ago. In that decision, the Inspector allowed that appeal in broadly similar circumstances when no marketing whatsoever had occurred.

At §4, the Inspector made it clear that the appeal turned on:

“whether there is a continuing need for the disputed condition”.

At §5, he placed weight on former PPS7 (Annex A), which made it clear that (with our emphasis):

*“... dwellings should not be kept vacant or occupiers unnecessarily obliged to remain simply by virtue of occupancy conditions **which have outlived their usefulness**.”*

At §7, he pointed to the high value of the appeal property, suggesting that it:

“is so high that it would be unaffordable to a worker on an agricultural wage unless they had substantial savings or had inherited a large sum of money.”

And at §10 he suggest that the property:

“would only be available to retired farm workers with significant additional funds. Those able to purchase a property at such a value would have access to a substantial number of other properties within the local housing market and so would be unlikely to be precluded from securing a dwelling.”

At §17, the Inspector cited other cases where Inspectors had concluded that **no marketing** was required, and suggested that:

“such an approach is not unprecedented”

Ultimately the Inspector concluded (at §19) that, in that set of circumstances, the occupancy condition:

*“**no longer serves a useful purpose** in providing access to housing for the agricultural workers’ community. Nor is there any compelling evidence that it would serve another useful purpose.”*

It is the applicant’s contention at Abbott’s Hall that a similar approach is called for, namely:

- Rather like the Inspector cited above, we suggest that a common sense position be adopted, recognising the significant value of the subject property in question (discounted to circa 70% of its market value, with an asking price of £700,000 for any party who satisfies the occupancy condition). The reality is that no genuine agricultural



workers would be able to afford such a property, as evidenced by the marketing exercise.

- Furthermore, as acknowledged by the cited Inspector, if there are any genuine agricultural workers looking for homes, there are plenty such homes available elsewhere in the locality that would be far more affordable to them than the subject property (even at its heavily discounted rate).

We would suggest that the same philosophy applies in the case of Abbott's Hall, which (unlike the appeal scheme referred to) **has** been robustly marketed for 6+ months, which has revealed **zero interest** from any party who might satisfy the condition.

It is therefore our case (a position that has not changed since the application was submitted 12 months ago) that it can be legitimately argued (now evidenced by robust marketing) that the historic occupancy condition **no longer serves a useful purpose** and ought to be removed.

Very Special Circumstances (VSCs) and Past Residence of the Property

In your emails you have requested a case for VSCs to be presented.

At *Annex D*, I enclose two allowed appeal decisions (APP/T3725/2/19/3220672 and APP/B3438/W/17/3176048), both concerning the removal of occupancy conditions, and both in the Green Belt. In neither case did the Inspector state or infer (or even allude to) any requirement for VSCs. In the case of the second of those appeals, the Inspector concluded thus:

34. Drawing matters together, whilst I acknowledge that the appeal site is in a location where local and national Green Belt policy would normally seek to restrict the construction of new dwellings except in specific defined circumstances, the fact is that the appeal dwelling has already been built and

has been there for several decades. Therefore any harm to the openness of the Green Belt, to which the Council has referred, has already occurred.

35. For the reasons set out above, I find that it has been satisfactorily demonstrated that there is no need to retain the dwelling for an agricultural or forestry worker at Whympenny or in the wider locality. I therefore accept that condition No. 5 has outlived its usefulness and its retention is neither reasonable nor necessary. To that extent, I see no conflict with policies in relation to the Green Belt in removing such an occupancy condition as it has been properly demonstrated that the need for it no longer exists and it ensures that the appeal property can be re-used as an open market dwelling and paragraph 90 of the Framework refers to the re-use of buildings in the Green Belt provided that the buildings are of permanent and substantial construction.

That said, I am not at all convinced that there is a need to demonstrate VSCs in this case. However, to assist the LPA, the VSC case is already set out earlier in this letter (also below).



In your emails you have also requested:

“Clarification on whether the dwelling has been occupied by someone who was solely employed in agriculture or aquaponics and provide the dates and confirm if you intend to regularise the building?”

I am uncertain of the relevance of this query, but the LPA is well aware of the residents of this property. It is and has been occupied throughout its history by Mr. and Mrs Abbott, former farmers and operators of the ultimately failed aquaponics business. We also understand that, at certain points in time, the house has been resided in by the Applicant’s son. The LPA has records of all of this following its numerous enforcement investigations over recent years.

As we explained in the initial submission documentation, the Applicants are now well into their 70s and suffer from poor and deteriorating health. Mrs. Abbott is, to all intents and purposes, blind and can no longer perform an active role in either an aquaponics or agricultural business. She attends regular hospital visits, and Mr. Abbott spends much of his time caring for her. As we have previously indicated, further evidence / details of this can and will be presented to the LPA if it is required, provided it is treated in confidence.

We have also previously explained that while – to an extent – the Applicants can continue to legitimately claim to have associations with both agriculture and (previously) aquaponics, their lives have moved on and they are in a state of retirement and declining health, frailness and infirmity.

Here it is worth noting that the LPA has, in the very recent past, approved a PDR Class Q approval to convert the barn associated with Abbott’s Hall into 3 dwellings. Our clients intend to either implement that consent themselves, or alternatively sell the barn and its associated land to a property developer for housing. When the above occurs, it is self evident that the historic agricultural / aquaponics use of that building will cease, and that that building will be transformed into a collection of dwellings that will extend the existing ribbon of housing along Woodhey Road (which of course includes Abbott’s Hall). It goes without saying that none of the three new houses will carry the burden of an agricultural occupancy condition.

As we have previously noted, Abbott’s Hall clearly exists as a house. While it is accepted that it was the case – over 30 years ago – that it may not have been granted had it not been for an agricultural connection **at the time**, matters have changed materially and the timing is now correct to remove the occupancy restriction as governed by Condition 3. It no longer serves any useful purpose and is therefore not necessary or reasonable. If a condition fails to satisfy the legal tests of conditions, it needs to be removed and it would entirely unreasonable to leave it intact.

The property has now been marketed for over 6 months, and (as noted) that marketing will continue until such point that this application (or a subsequent appeal) is determined. What the marketing evidence to date clearly demonstrates is that the property is being marketed by a



reputable experienced agent (at both local and national levels) at circa 70% of its open market value, and that there is no interest or demand whatsoever from any person who satisfies the terms of the occupancy condition.

Whilst we disagree that there is any requirement for VSCs, the above is the VSC that supports this case. If a condition is no longer fit for purpose or – employing the terminology of the Inspector cited above - ***“no longer serves a useful purpose”***, then it ought to be removed. It is not necessary or reasonable, and as such it fails to satisfy the ‘tests’ that all conditions must meet.

I will not repeat the remainder of the comments in the original application supporting letter, all of which continue to stand. The simple position is (as we understand is agreed by the LPA) that the occupancy restriction put in place by Condition 3 is no longer apt or appropriate. No harm whatsoever will arise to the purposes or objectives of the Green Belt if the condition is removed. The house will remain a house, but the burden (that *“no longer serves a useful purpose”*) of a restriction applied 30+ years ago lifted, such that this home will be commensurate with the array of other existing and recently approved homes along Woodhey Road and in many other urban fringe locations in Bury and elsewhere.

Regularisation of Dwelling

In your emails you have pointed out that the ‘as built’ house deviates to a very modest extent from that originally approved. That is correct, but I am uncertain of the relevance of that in respect of this S73 application, and especially given that such deviation occurred many years ago and has never been enforced by the LPA, and that it is no longer possible to enforce it. That being the case, the house as it is built today is lawful, and for that reason it is not necessary to apply (circa 15 years after the ‘deviations’ occurred) to regularise the small changes. Notwithstanding that, I set out a brief ‘potted history’ based on what I have established having examined the planning history (albeit parts of that do not appear online).

The house was originally approved in 1992 (ref C/27209). The permission itself is not available online (presumably due to its age). However, you have kindly provided the drawings on the three pages below, which I understand were the approved drawings.

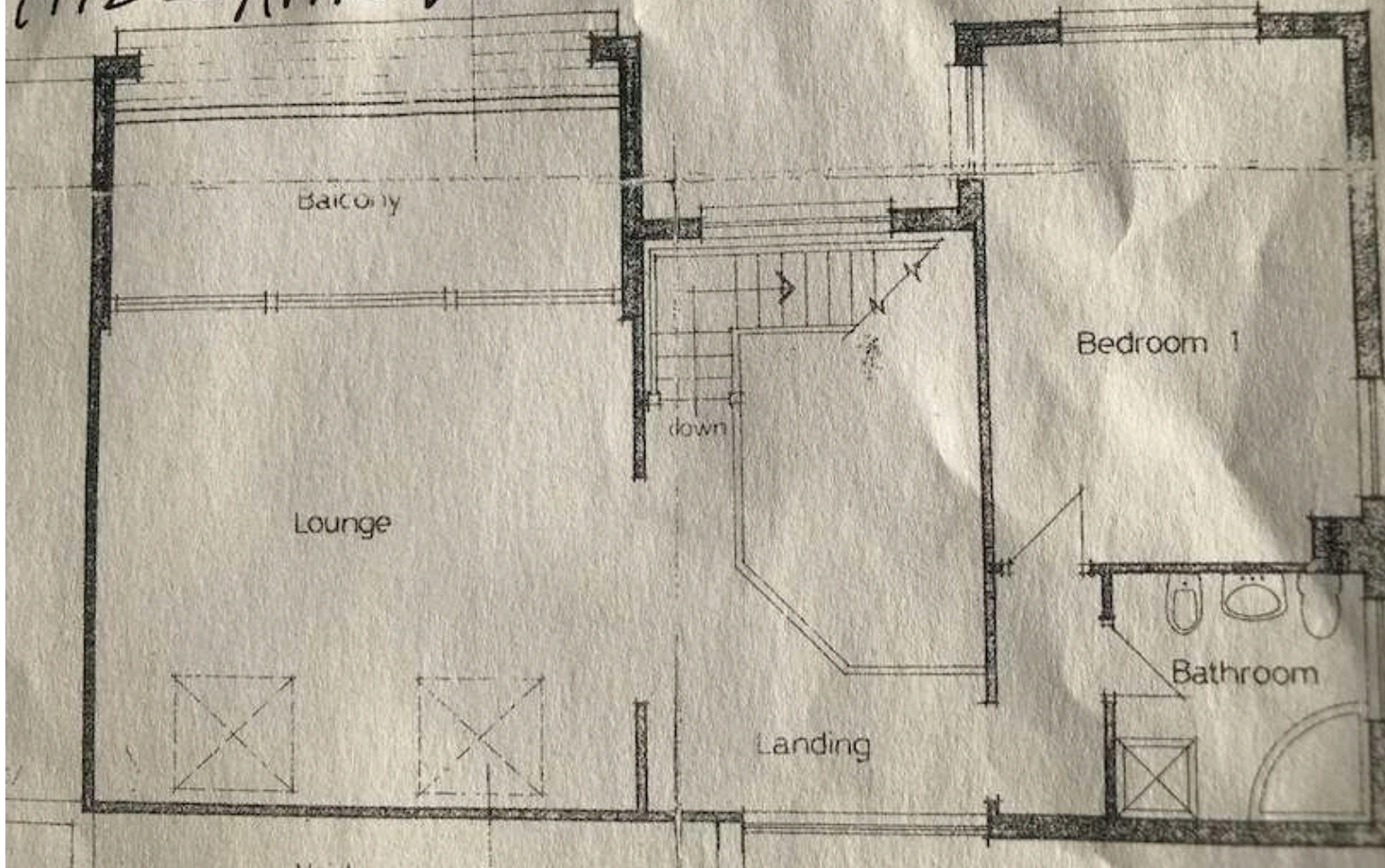


52941

EXISTING
PLANNING
LAYOUT

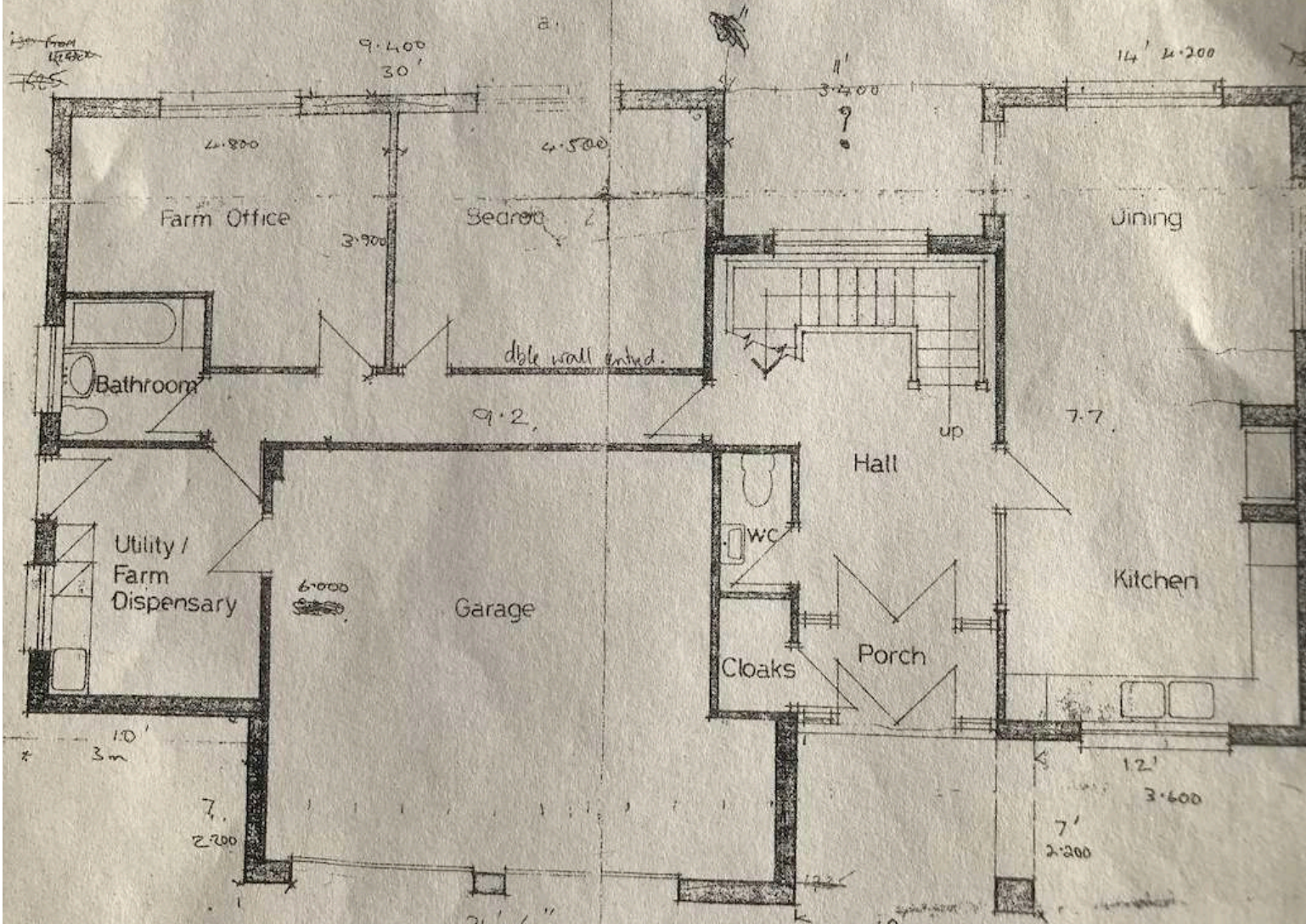
South Elevation.

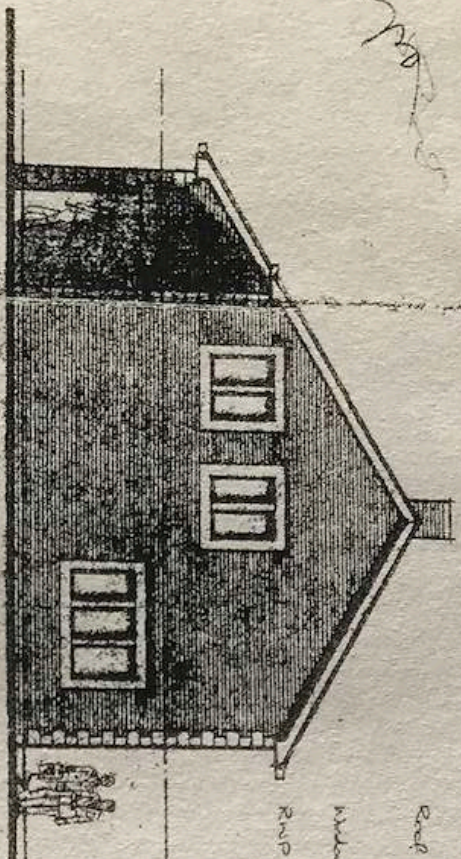
1992 - APPROVED FIRST FLOOR





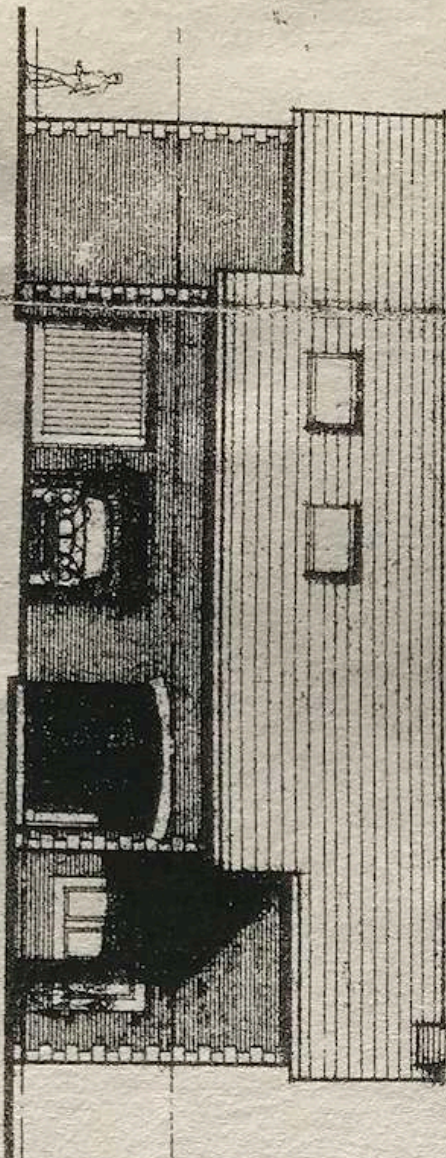
Section a-a 1992 - APPROVED GROUND FLOOR



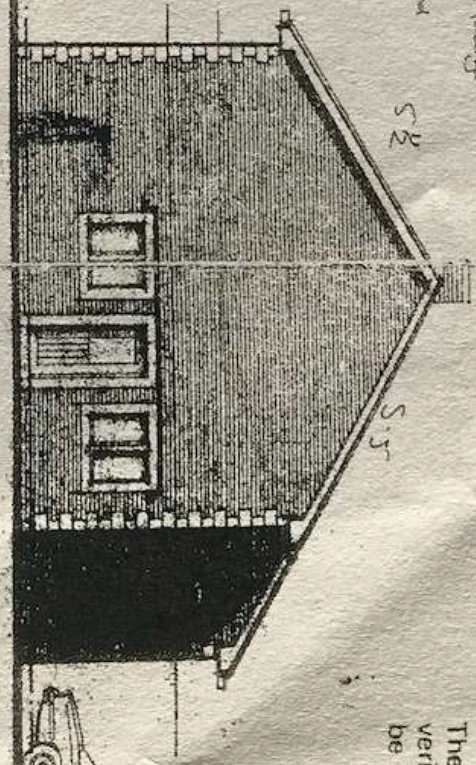


West Elevation.

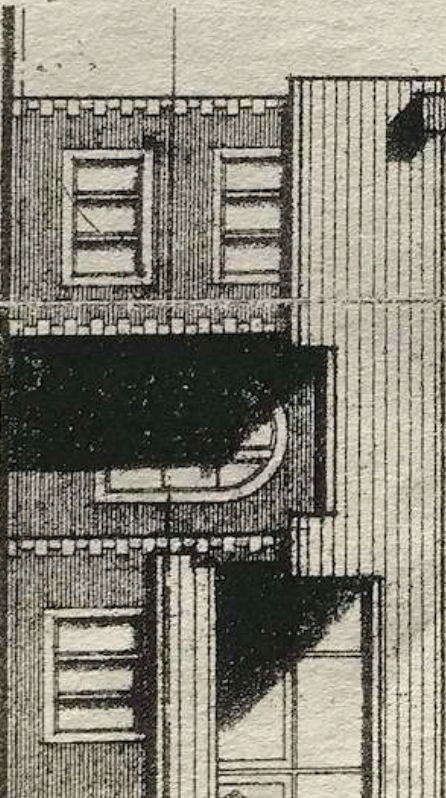
18 m



North Elevation.



East Elevation.



South Elevation.

Notes

Exterior: Cream-colored rustic finish.

Roof: Natural grey slate or Redwood

Exterior concrete tiles

Windows: Natural timber finish

Ramp's finish: same as exterior

S.2

S.5

a

No
On
The
ver
be



I understand that that original 1992 permission included the 'rabbit farm' occupancy condition.

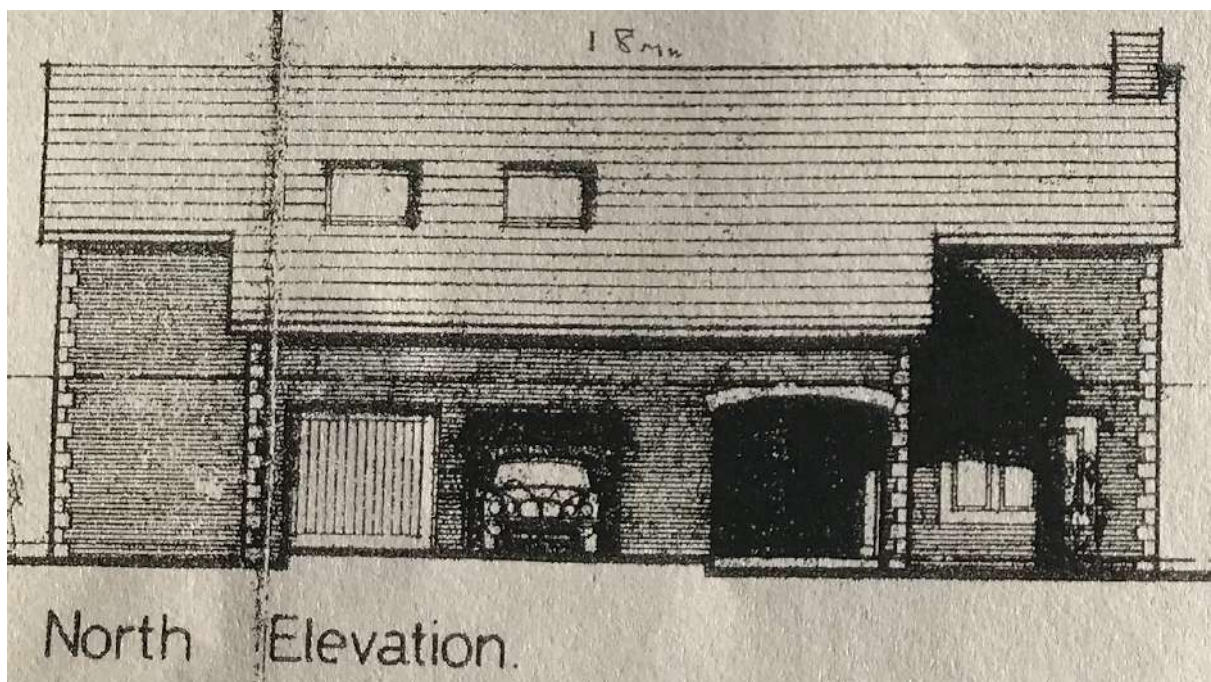
Construction started in 1993 – namely the foundations.

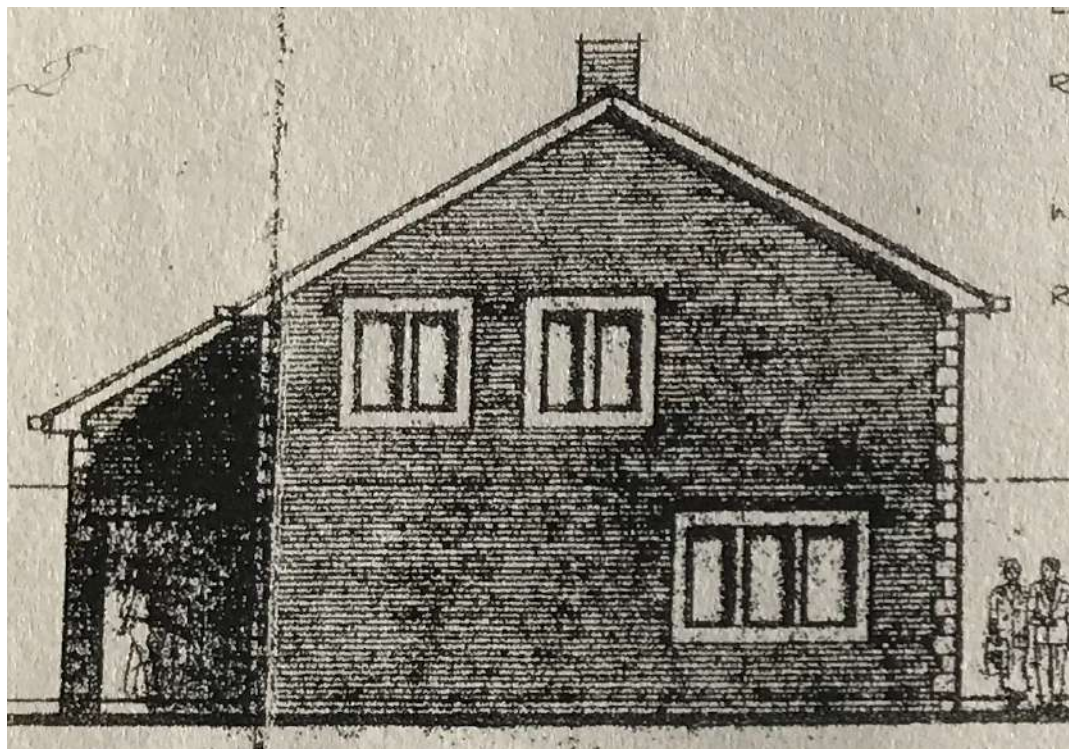
By 1994, the brickwork had been completed up to DPC level.

Construction was then staggered over a period of years.

By 2008/9, the 'shell' was complete – ie all walls and roof. This is confirmed by the Google images below (date stamped May 2009) that show the completed shell (with its 'deviations') at the time.

The images on the following pages compare the 'as built' elevations with the approved drawings, and the fairly minor 'deviations' are self evident.







It is therefore evident that the house had been constructed *slightly* different to the approved drawings, in that certain windows were not quite correct and a small 'infill' had been introduced. No chimney was built that was indicated on the approved drawings.

In an apparent attempt to regularise those changes, in 2010, a Non Material Amendment application was submitted (ref: 52941) '*for change of window openings and door and alterations / infill to south elevation*'. That application was refused on 14th September 2010. While this application appears on the Council's Portal, the refusal notice has not been uploaded, and as such I do not know why it was refused.

In spite of that refusal, no attempt has been made by Bury Council to pursue enforcement in respect of the windows or infill (or any other deviations from the 1992 approval). The only plausible reason for that is that the slight deviations were/are not causing any material harm. Had material harm been occurring, the LPA would clearly have pursued enforcement action. But it did not, and such is the passage of time that has occurred since the house was built (circa 15 years ago), the scope for any enforcement has long past, such that the dwelling is now lawfully constructed and cannot be challenged.

For that reason, we see little purpose in applying for a second time to 'regularise' those small, and now lawful, deviations, and suggest that none of those have any bearing whatsoever on a S73 application that seeks to remove an agricultural occupancy condition.

I trust we have responded to all points presented to us, and my clients are grateful for your patience and guidance in this matter. Given that the application was submitted 12 months ago, and following the past 6 months+ (and ongoing) marketing, we would request that the application now be determined.

If I can assist further, please do not hesitate to contact me.

Yours faithfully
for Roman Summer Associates Ltd

Richard Gee
Director



ANNEX A – MARKETING PARTICULARS



CHARLES LOUIS
HOMES LIMITED

Charles Louis Homes Ltd
4 Bolton Street
Ramsbottom
Bury
BL0 9HX

E propertyenquiries@charleslouis.co.uk
T 0161 959 0166
www.charleslousihomes.co.uk



Abbotts Hall Woodhey Road

Ramsbottom, Bury, BL0 9RD

Price guide £700,000



- Substantial Detached Stone House
- Sold With A Restricted Criteria
- GCH & Double-glazed Throughout
- Situated In A Well Sought After Location
- Sold With No Chain
- Close To Countryside With Stunning Views
- Ample Driveway Parking & Gardens
- A Must See!!! To Appreciate Size, Charm & Location



Abbotts Hall Woodhey Road Ramsbottom, Bury, BL0 9RD

****FANTASTIC OPPORTUNITY**** Charles Louis Homes are pleased to bring to the market Abbotts Hall. The property is available for purchase only to a person who is solely or mainly employed in aquaponics (fish breeding for food) or agriculture as defined in Section 336 (1) of the Town and Country Planning Act 1990 (including any dependants of such a person residing with him/her) or a widow of such a person. Any expressions of interest / offers must be accompanied with full written / verified particulars confirming such employment connection and evidence of current place of work and current place of residence.

In the event of sale, the buyer needs to be aware that the contract of sale shall include a legal clause stating that, at any future date, should either the occupancy restriction be removed or planning permission be granted for any non-agricultural / equestrian use of the property, the vendors or their successors will be entitled to 90% of the resulting uplift in value.

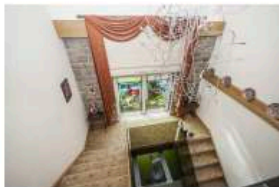
For the avoidance of doubt, the above terms are non-negotiable and any offer from any party who does not provide the above paperwork, proof of funds and agreement to the above-mentioned clause will be immediately declined and no further offers from that party will be considered.

Hallway

7'8 x 6'9 (2.34m x 2.06m)

Dining Room & Mezzanine

11'6 x 26'5 (3.51m x 8.05m)



Downstairs WC

6'4 x 3'4 (1.93m x 1.02m)

Open Plan Kitchen /Breakfast Area & Family Room

25'0 x 12'0 (7.62m x 3.66m)

Conservatory

11'7 x 11'2 (3.53m x 3.40m)

First Floor

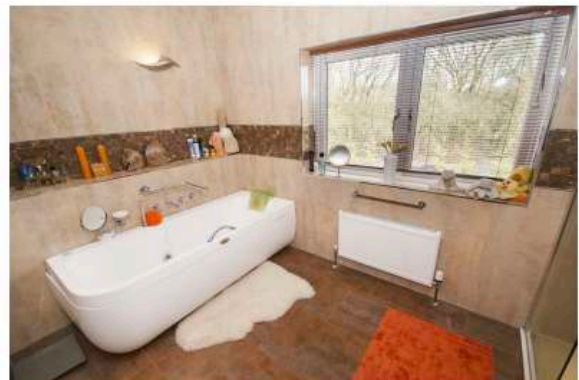
Mezzanine / Lounge

12'11 x 16'1 (3.94m x 4.90m)



Bathroom

9'7 x 11'0 (2.92m x 3.35m)



Master Bedroom

12'6 x 14'4 (3.81m x 4.37m)

Office

7'3 x 12'1 (2.21m x 3.68m)

Second Floor

Bedroom Two

10'5 x 8'7 (3.18m x 2.62m)

Bedroom Three

10'5 x 9'5 (3.18m x 2.87m)

Bathroom

6'1 x 5'3 (1.85m x 1.60m)



Garage

17'8 x 16'3 (5.38m x 4.95m)

Utility & WC

10'1 x 9'6 (3.07m x 2.90m)

Open Plan Kitchen/Breakfast Area & Family Room

28'0 x 15'2 (8.53m x 4.62m)



First Floor

Master Bedroom

14'3 x 16'9 (4.34m x 5.11m)



En-Suite

8'4 x 10'2 (2.54m x 3.10m)

Bedroom Two

12'8 x 12'3 (3.86m x 3.73m)

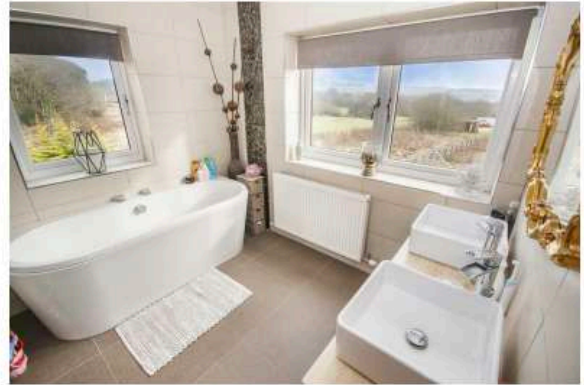
Bedroom Three

11'5 x 13'6 (3.48m x 4.11m)



Bathroom

5'8 x 9'5 (1.73m x 2.87m)



Second Floor

Dressing Area

13'5 x 12'5 (4.09m x 3.78m)

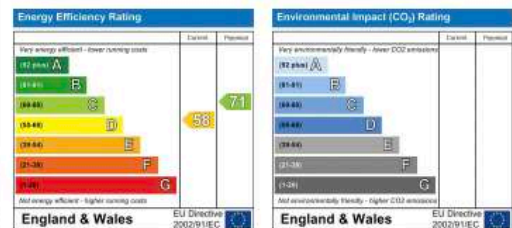
WC

Bedroom Four

12'8 x 14'5 (3.86m x 4.39m)



Directions



These particulars, whilst believed to be accurate are set out as a general outline only for guidance and do not constitute any part of an offer or contract. Intending purchasers should not rely on them as statements of representation of fact, but must satisfy themselves by inspection or otherwise as to their accuracy. No person in this firm's employment has the authority to make or give any representation or warranty in respect of the property.

Tel: 0161 959 0166

www.charleslouishomes.co.uk



Annex B

Marketing Update (Charles Louis) [redacted]

From: [redacted]@charleslouis.co.uk>
Subject: Re: 69054 - Abbots Hall, Woodhey Road, Ramsbottom
Date: 26 October 2023 at 07:48:43 BST
To: Richard Gee <richard@romansummer.com>,
"abbottshall@gmail.com" <abbottshall@gmail.com>

Dear Richard

You requested that we keep you informed of the ongoing marketing for Abbots Hall.

As you are aware, we have been actively marketing the property at a heavily discounted rate for 6 months now, and we will continue to market it until such point our clients request us to remove it.

Since the marketing commenced, we have received very little interest in the property. There was an initial flurry of interest (4 approaches) and a minimal scattering of approaches since then. In those cases, we have been asked by the interested parties to test the clients' resolve in respect of the restrictions placed on any sale and the strict requirement to present the correct paperwork to evidence their agricultural employment. On each occasion we have advised them that those terms are non-negotiable.

We confirm that no party has made any offer for the property or made any attempt to present the necessary paperwork as advertised.

We trust this update assists and feel free to forward this email to the Council. We will of course update you if any serious offers are made (backed by the appropriate paperwork), but our view is that it is extremely unlikely that a bona fide agricultural worker will have funds in place to afford a property such as this (even with its heavy discount), and especially when the local area is awash with far more affordable properties that we venture would be perfectly capable of accommodating their needs.

Regards



Kind Regards



Director | ANAEA



Annex C

Appeal decision (ref: APP/D0840/W/19/322934)



The Planning Inspectorate

Appeal Decision

Hearing Held on 22 October 2019

Site visit made on 22 October 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2019

Appeal Ref: APP/D0840/W/19/3229734

**Sea Breezes, Road from Mawgan Porth Hill to Mawgan Porth Holiday Park,
Mawgan Porth, Newquay TR8 4BG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Richard Rawlings against the decision of Cornwall Council.
 - The application Ref PA19/00212, dated 10 January 2019, was refused by notice dated 20 March 2019.
 - The application sought planning permission for the erection of farmhouse and garage without complying with a condition attached to planning permission Ref 89/13/01541/F, dated 25 October 1989.
 - The condition in dispute is No. 3 which states that: the occupation of the dwelling hereby permitted shall be limited to a person wholly or mainly employed or last so employed, in agriculture (as defined by Section 290(1) of the Town and Country Planning Act 1971), or in forestry or a dependant of such a person residing with him (including a widow or widower of such a person).
 - The reason given for the condition is: The site is within a rural area in which it is intended to provide primarily for the needs of agriculture.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of farmhouse and garage at Sea Breezes, Road from Mawgan Porth Hill to Mawgan Porth Holiday Park, Mawgan Porth, Newquay TR8 4BG in accordance with the application Ref PA19/00212, dated 10 January 2019, without compliance with the conditions previously imposed on planning permission Ref 89/13/01541/F, dated 25 October 1989.

Main Issue

2. Whether the disputed condition is necessary, with particular regard to the need for an agricultural worker's dwelling in the location of the appeal site.

Reasons

3. Sea Breezes was originally permitted as an agricultural worker's dwelling, although over the years the land holding associated with the dwelling has reduced in size. There is no dispute that there is now insufficient land at the holding to generate a functional need for a dwelling at the site, or to create a viable agricultural enterprise.

<https://www.gov.uk/planning-inspectorate>



4. The site is in a countryside location where an unrestricted dwelling would not ordinarily be permitted under Policy 7 of the Cornwall Local Plan 2010-2030 or the National Planning Policy Framework (the Framework). However, the proposal is not to erect a new dwelling and this appeal will turn on whether there is a continuing need for the disputed condition.
5. At the present time, the dwelling is fulfilling the accommodation needs of the appellant as a retired farm worker, but for personal reasons he would like to leave the property. Although no longer part of Government policy, the parties agree that guidance in former Planning Policy Statement 7, Annex A which related to agricultural, forestry and other occupational dwellings, remains relevant. This included advice¹ indicating that dwellings should not be kept vacant or occupiers unnecessarily obliged to remain simply by virtue of occupancy conditions which have outlived their usefulness.
6. There have been a number of applications for agricultural workers dwellings in the area around the appeal site in the last 5 years. However, at the hearing, the Council did not dispute the appellant's assertion that in each of those cases, the Council's Land Agent had concluded that the need justifying those dwellings arose at the particular site and could not be met by other dwellings in the locality. Therefore, whilst these other applications may demonstrate a need for agricultural dwellings generally, and even if the term locality was drawn widely, I find that Sea Breezes is unlikely to fulfil a specific functional need to accommodate a worker, should it arise on another farm.
7. The dwelling could be occupied by a worker employed in agriculture but where there was not a need for them to be resident on a particular farm holding. However, there is no dispute that the value of Sea Breezes, which has been extended over the years and now includes an indoor swimming pool, is so high that it would be unaffordable to a worker on an agricultural wage unless they had substantial savings or had inherited a large sum of money.
8. The appellant's verbal evidence that there were numerous other 3 bedroomed properties within a small radius of the appeal site that were significantly cheaper and so more affordable to an agricultural worker was not disputed by the Council. Whilst agricultural workers may have access to restricted properties and so need not necessarily look to the unrestricted open market, there is no clear reason that they would not do so if suitable, more affordable dwellings were available there.
9. The dwelling could also be occupied by a retired farm worker and such could allow that worker to vacate another property elsewhere. At the hearing, the Council suggested that one of the purposes of an agricultural occupancy condition was to assist the agricultural community. Given the often low wages in the agricultural sector, I can see that having a pool of dwellings where restrictive conditions act to suppress property values could enable some retired farm workers to purchase dwellings when they may not otherwise be able to do so on the open market.
10. However, as with those employed in agriculture now, given its undisputed high value, even encumbered by the occupancy condition, Sea Breezes would only be available to retired farm workers with significant additional funds. Those able to purchase a property at such a value would have access to a substantial

¹ At paragraph 17.



number of other properties within the housing market and so would be unlikely to be precluded from securing a dwelling.

11. I appreciate that property prices in the area are high and that the value of a restricted dwelling would be relative. However, the evidence does not suggest that cheaper or comparably valued properties are not available. In that regard, the condition would only serve to allow a farm worker access to a wider housing market, rather than assisting the agricultural community in accessing the housing market generally. This may be attractive to parts of the agricultural worker's community, but it is not necessary to meet their needs.
12. Notwithstanding the above, the main area of dispute between the parties is whether it is necessary to market the property. Marketing has not taken place. The Council directed me to a number of appeal decisions where it has been found that marketing is essential to establish whether a need exists.
13. In cases at Hay Nurseries² and Colrose³, Inspector's concluded that without marketing it was not possible to demonstrate that the restrictive conditions were not necessary. Whilst it had been suggested in the Colrose case that the value of the property was beyond the reach of an agricultural worker, it was found this could only properly be tested through marketing.
14. However, I note that the dwellings at both Hay Nurseries and Colrose were smaller and less than half the anticipated value of Sea Breezes. Whilst they may be in lower value housing market areas, they would not be so far in excess of that which an agricultural worker may be able to afford as the appeal property. I can, therefore, appreciate that a marketing exercise may reveal an unmet need in those cases.
15. It may well be that a test of whether Sea Breezes is truly beyond the means of an agricultural worker can similarly only be tested by marketing. However, in the present case, the condition does not moderate the price to that which would put it below other potentially suitable properties in the area such that it may be needed to ensure the availability of housing to agricultural workers.
16. In a more recent case at The Lawns Farmhouse⁴ marketing had taken place, but it was found that the marketing exercise was inadequate to have satisfactorily found that there was no demand. Although higher in value than Hay Nurseries and Colrose, it was still anticipated to be below that of Sea Breezes. Moreover, the Inspector at The Lawns Farmhouse also found that, whilst the appellant's business activities at the site had moved away from livestock towards a dairy business, a significant land holding remained associated with The Lawns Farmhouse such that the need for a dwelling at the site in the future could not be ruled out. The overall situation at The Lawns would, therefore, appear to be very different to the present case.
17. There are other cases⁵, referred to by the appellant, when marketing was found not to be required. Such an approach is not unprecedented, therefore, where the particular evidence and circumstances of the case dictate.

² APP/D0840/W/16/3153920

³ APP/D0840/W/16/3155923

⁴ APP/D0840/W/19/3220751

⁵ Such as APP/X2410/W/16/3143751, APP/D0840/A/12/2168539, APP/D3315/C/14/2218684 & 2218685



18. In the present case, two estate agents⁶ have suggested that selling agriculturally restricted dwellings is problematic as the demand is low. However, whilst those employed in agriculture are a small percentage of the overall population, there are still a sizeable number in the area. Accordingly, as the estate agents have not ruled out the possibility of finding a purchaser, I can accept that a rigorous marketing exercise could root out some demand in the market and that marketing may be the only robust way to thoroughly test such demand.
19. However, even if a purchaser could be found, the particular circumstances of this case where the high value of the property means that somebody with the ability to purchase it also has access to the wider open market, mean that the condition no longer serves a useful purpose in providing access to housing for the agricultural worker's community. Nor is there any compelling evidence that it would serve another useful purpose.
20. I acknowledge that some of the arguments presented could be repeated elsewhere. However, given that I have been presented with earlier decisions where marketing has and has not been deemed necessary, I am satisfied that each case is dependent on the specific circumstances at play. Even if the condition were to be amended to allow occupation by other, non-agricultural, rural workers that may be permissible under current local and national policy, there is no substantive evidence that this would lead me to a different conclusion.

Other conditions

21. At the hearing, the Council confirmed that the other conditions previously imposed on planning permission ref 89/13/01541/F had outlived their useful purpose. There was some debate about whether condition No. 4 that required the grey roof covering to be retained in perpetuity should be re-imposed, particularly given the site's location within an Area of Great Landscape Value. However, at the site visit I noted that the appeal site is located close to a number of other buildings, including a mobile home site where structures have a variety of roof coverings. Therefore, I find that no demonstrable harm would arise if this condition were not re-imposed.

Conclusion

22. For the reasons given above, I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition or the other conditions imposed on the original permission.

M Bale

INSPECTOR

⁶ Letters from Lodge & Thomas and Jefferys appended to WM Bunt (3 January 2019) Report In Relation to an Application for Removal of the Agricultural Occupancy Condition: Sea Breezes, Mawgan Porth, Newquay, Cornwall TR8 4BG (Ref WMB/JEH)



APPEARANCES

FOR THE APPELLANT:

Christopher Tofts – Solicitor (Stephens Scown)
Mark Bunt – Chartered Surveyor (Kivells)
Richard Rawlings

FOR THE LOCAL PLANNING AUTHORITY:

Jack Bromley – Development Officer
James Holman MRICS MRTPI FAAV – Principle Development Officer

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Signed Statement of Common Ground
- 2 Summary of appeal decisions re: marketing, prepared by Christopher Tofts.



Annex D – Appeal Decisions APP/T33725/2/19/3220672 and APP/B3438/W/17/3176048



The Planning Inspectorate

Appeal Decision

Site visit made on 1 April 2019

by Rachel Walmsley BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2019

Appeal Ref: APP/T3725/W/19/3220672

Dial House Farm, Ashow Road, Ashow CV8 2LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Anthony Cummins against the decision of Warwick District Council.
 - The application Ref W/18/1367, dated 18 July 2018, was refused by notice dated 14 December 2018.
 - The application sought planning permission for the conversion of outbuildings to 5 dwelling houses at Dial House Farm, Stoneleigh Road, Ashow/Leek without complying with a condition attached to planning permission Ref W/90/0006, dated 20 March 1990.
 - The condition in dispute is No 9 which states that: *the occupancy of the dwelling identified as Plot 5 on the approved drawing (C152/399/12B) shall be limited to persons solely or mainly employed or last employed locally in agriculture, as defined in Section 290 (1) of the Town and Country Planning Act 1971, or in forestry, or the dependant of such persons residing with him (but including the widow or widower of such person).*
 - The reason given for the condition is: *the site is within the West Midlands Green Belt and the development is only permitted to meet the needs of agriculture, forestry, or of the rural community, in accordance with the Green Belt policy as defined in the County Structure Plan.*
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of outbuildings to 5 dwelling houses at Dial House Farm, Stoneleigh Road, Ashow/Leek in accordance with the application ref W/18/1367 dated 18 July 2018, without compliance with condition 9 previously imposed on planning permission ref W/90/0006, dated 20 March 1990, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Main Issue

2. This is whether the agricultural occupancy condition is and continues to be necessary and reasonable to protect the Green Belt.

Reasons

3. The appeal site is within the Green Belt, outside an existing settlement and is part of a complex of outbuildings associated with Dial House Farm and the farmhouse. The farmhouse is a listed building and the outbuildings which are

<https://www.gov.uk/planning-inspectorate>



in residential use are identified as plots 1-5, plot 5 being the subject of this appeal.

4. When permission was granted for the outbuildings to be converted to residential use, the farm was also in use and land was being farmed. For this reason, and because the Council didn't want to necessitate a house in the Green Belt, the Council found that there was a functional need for the occupancy of unit 5 to be limited to a rural worker. As such an agricultural occupancy condition was imposed.
5. I have limited information in relation to why a functional need was considered to exist at the time of granting planning permission. Notwithstanding this, my task is to determine whether the condition remains necessary and reasonable in accordance with paragraph 55 of the National Planning Policy Framework.
6. I therefore need to consider whether a functional need for a dwelling for an agricultural worker still exists. It is clear from the evidence before me that land associated with the farm continues to be grazed. However, it is unlikely, in my experience, that land in use for grazing would require a person on hand to manage it such that a functional need for a new dwelling would be likely to exist for those purposes alone. Furthermore, the appellant confirms that it is a farmer from Stoneleigh who is using the land for grazing which is evidence of it not being necessary for a person to live in unit 5 to manage the land concerned. The Council have provided no evidence to the contrary, nor have I been provided with any evidence of a general need for agricultural properties in the area.
7. The appeal site is within the Green Belt. Paragraph 146 of the National Planning Policy Framework identifies forms of development that are not inappropriate in the Green Belt, the re-use of buildings being one such form, provided they preserve openness and do not conflict with the purposes of including land within it. The appeal proposal relates to a planning permission which comprised the re-use of a building. If the proposal were to be considered afresh today, removing the condition would have no harmful effect on the openness of the Green Belt or on the purposes of including land within it. Testimony of this is the fact that at the time the Council applied the occupancy condition, it considered the four other units to be acceptable within the Green Belt with no such condition.
8. The Council states that the reason for the condition was to prevent a further dwelling in the Green Belt associated with a functional need for an agricultural unit. Having regard to the lack of evidence of a functional need existing, either for this farming enterprise or more generally in the area, there is no evidence that the removal of the disputed condition would have this effect. Furthermore, any such proposal would be required to comply with any relevant development plan policies related to that type of development.
9. The Council maintains that in removing the condition, the development would be contrary to policy H1 of the Local Plan¹. The appeal site is in the open countryside. I agree that the location of the appeal site does not meet the criteria in H1 d). Nevertheless, part e) of the policy states that elsewhere in the countryside housing development will be permitted where the development would re-use redundant or disused buildings in accordance with Policy BE4. The

¹ Warwick District Local Plan 2011-2029 (adopted September 2017)



appeal proposal would comply with policy BE4 of the Local Plan and the Council does not seek to argue otherwise. As such, if the original development were to be considered afresh today, it would comply with policy BE4 and, in turn, policy H1 of the Local Plan without the disputed condition, as evidenced by the Council's approval of four other units at the time of granting the original permission. It follows therefore that the removal of the disputed condition would not conflict with those policies.

10. In light of the above and there being nothing specific or substantive within the evidence before me to demonstrate that the condition remains necessary, I find that the condition limiting the occupancy of unit 5 to a rural worker does not remain necessary or reasonable and it would not meet the tests in paragraph 55 of the National Planning Policy Framework. To remove it would not be contrary to policy H1 of the Local Plan.

Other matters

11. Concerns have been raised by third parties for the appellant's motive for the appeal proposal. I am unable to assess any speculative concerns, the application before me is for residential purposes without the restrictive condition and I have found the condition to be unnecessary for the reasons set out above. Notwithstanding this, any subsequent works that require planning permission will be put before the Council for consideration and assessed in light of the site and planning policy.
12. Reference is made by the Council and third parties to the property not being marketed to demonstrate that the dwelling is no longer required to accommodate a rural worker. There is nothing before me to suggest that this is a policy requirement and therefore I do not find the proposal contrary to policy in this regard.

Conclusion

13. For the reasons given and having regard to all other matters raised, I conclude that the disputed condition is not necessary or reasonable. Its deletion would not harm the Green Belt and would not be contrary to the development plan or the National Planning Policy Framework. Condition 9 should therefore be removed.

R Walmsley

INSPECTOR



Appeal Decision

Hearing Held on 24 October 2017

Site visit made on 24 October 2017

by **V Lucas LLB MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14th November 2017

Appeal Ref: APP/B3438/W/17/3176048

Whympenny, Godley Lane, Dilhorne, ST10 2PF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr C Slaytor against the decision of Staffordshire Moorlands District Council.
 - The application Ref SMD/2016/0436, dated 13 July 2016, was refused by notice dated 9 December 2016.
 - The application sought planning permission for a 'Farm workers dwelling on plot of land in field no 7414 opposite Wimpney Farm, Dilhorne, Staffs' without complying with a condition attached to outline planning permission Ref Cheadle R.D.C. 11th October 1972, dated 11 October 1972.
 - The condition in dispute is No. 5 which states that: 'The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed locally in agriculture as defined in section 221 (I) of the Town and Country Planning Act, 1962, or in forestry, or a dependent of such a person residing with his (or including a widower of such a person)'.
 - The reason given for the condition is: 'The site lies within the definitive North Staffordshire Green Belt in which development is not normally permitted except where it is required in the interests of agriculture, or for a use appropriate to a Green Belt'.
-

Decision

1. The appeal is allowed and planning permission is granted for a 'Farm workers dwelling on plot of land in field no 7414 opposite Wimpney Farm, Dilhorne, Staffs' at Whympenny, Godley Lane, Dilhorne, ST10 2PF in accordance with the terms of the application, Ref SMD/2016/0436, dated 13 July 2016, without compliance with condition No. 5 previously imposed on planning permission Ref Cheadle R.D.C. 11th October 1972, dated 11 October 1972, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Application for costs

2. An application for costs was made by Mr C Slaytor against Staffordshire Moorlands District Council and an application for costs was also made by Staffordshire Moorlands District Council against Mr C Slaytor. These applications are the subject of separate Decisions.



Preliminary Matter

3. The original 1972 application was made in outline. There is some dispute between the main parties as to whether a subsequent reserved matters application was ever received and approved by the Council. On that basis, the appellant contends that the appeal dwelling as constructed is unauthorised development and the condition in dispute is not therefore valid.
4. However, the original application to which this appeal relates was submitted to the Council to vary a condition, under s73. It was therefore made on the basis that the agricultural occupancy condition is in place. I cannot deal with the current appeal as though the original application made to the Council had been for a lawful development certificate as that is not what was applied for and that is not the appeal proposal before me. Although my determination of this appeal would not prevent the appellant from applying separately to the Council for a lawful development certificate on the grounds of appeal that they have put forward.

Background and Main Issue

5. Outline planning permission for the appeal dwelling was originally granted in 1972 with the disputed condition attached limiting the occupation of Whympenny to a person mainly or last employed in agriculture or forestry or a dependant of such a person. The appeal scheme seeks to remove condition No. 5. An application was made to the Council to remove the occupancy condition in 2007 and this was refused. However, that decision was not the subject of an appeal.
6. The condition in dispute was imposed at the time due to the appeal site being in the Green Belt. Since the original application was determined in 1972, the local and national policy framework has changed. I have therefore determined this appeal in relation to the up to date policies in place, specifically the Staffordshire Moorlands Core Strategy (CS) (Adopted March 2014) and the National Planning Policy Framework (Framework).
7. Taking the above into account, I therefore consider the main issue to be:
 - Whether it is reasonable and necessary to continue to impose the disputed condition, having regard to evidence relating to the need for an agricultural worker's dwelling on the holding and in the local area and to national and local policies relating to development in the Green Belt.

Reasons

Policy Background

8. Whympenny is a detached bungalow situated in Dilhorne and it is within the Green Belt. PolicySS6c of the CS seeks to ensure that strict control will be exercised over inappropriate development in the Green Belt allowing only for exceptions as defined by Government policy. Policy R2 of the CS defines the types of housing development that will be permitted in rural areas and includes reference to a dwelling that meets an essential local need, such as accommodation for an agricultural, forestry or other rural enterprise worker.
9. The Framework states that the construction of new buildings should be regarded as inappropriate development in the Green Belt. Exceptions to this



include buildings for agriculture and forestry; and limited infilling in villages (paragraph 89).

10. With regard to Green Belt policy, Policy SS6c refers to national policy and I shall therefore determine this issue in relation to paragraph 89 of the Framework. As the appeal property is a dwelling, there was agreement between the parties that it is not a building. Therefore the national Green Belt exception regarding agricultural and forestry buildings is not relevant to the appeal scheme.
11. Dilhorne does not have a settlement boundary and for the purposes of the development plan is washed over Green Belt. Dilhorne has two pubs, a church and a primary school along with numerous houses. The appeal dwelling is situated close to the school, being separated from it only by the neighbouring property. There is a small field between Whympenny and the neighbouring dwelling to the north before the line of dwellings continues again. On the opposite side of the lane to the appeal dwelling there are houses in both directions.
12. I am therefore in agreement with the main parties that Dilhorne is a village and that as the appeal property is so close to the primary school and the other dwellings with development extending on both sides of the lane beyond it, it is both visually and functionally within the village. The pattern of development of the village is linear and characterised by gaps in between dwellings made by open fields that border the lane. However, the appellant's agent asserted at the Hearing that whilst the appeal site is within a village as it was not within a continuous built up frontage that the development cannot be described as 'infill' for the purposes of Green Belt policy. On that basis, the relevant paragraph 89 exception does not apply and the construction of a new dwelling where the appeal dwelling is situated would be inappropriate development in the Green Belt as described in the Framework.
13. At the hearing the Council explained that policy R2 of the CS (which was referred to on the Decision Notice) was felt to be less relevant to the appeal scheme than Green Belt policy. Nevertheless, the policy confirms the approach of the development plan that in rural areas outside of settlement and infill boundaries, new housing will be restricted to certain types of development including accommodation for an agricultural or forestry worker. The policy is also generally consistent with paragraph 55 of the Framework in this regard.
14. Accordingly, the appeal dwelling is in a location where both local and national policy would normally restrict the construction of new buildings, except in specific defined circumstances. Therefore the original reason for imposing the disputed condition is still relevant and I shall now go on to consider whether it is reasonable and necessary to continue to impose it.
15. Paragraph 206 of the Framework advises that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
16. There is no specific local policy before me regarding how applications to remove agricultural occupancy conditions will be assessed by the Council. However, both main parties have referred to the demand for agricultural workers dwellings in the area and the marketing exercise undertaken that led



to the most recent sale of the appeal dwelling. I shall therefore take this evidence into account in my determination of this appeal.

Need for dwelling on the holding

17. Whympenny and the farmland which it was once associated with were sold in 2014 as separate units. There is therefore no longer any legal, physical or functional connection between the appeal dwelling and the farmland with which it was once connected. The land associated with the appeal dwelling amounts to approximately 2 acres and is not sufficient in size to generate any income or profit for the purposes of agriculture. Whilst the appellant has sought to plant Christmas trees on the land and keep chickens, this was spoken of as a hobby and I understand that these activities do not generate any specific income.
18. Therefore, based on the information before me, I conclude that there is no need for the appeal dwelling on the holding in relation to the original farm business. The Council did not dispute this at the Hearing.

Need for a dwelling in the local area

19. The appeal property was marketed for sale between 2005 and 2014 after which it was bought by the appellant. Marketing evidence submitted by the appellant shows that the dwelling and adjoining farmland were originally marketed as one unit at £450,000 rising to £500,000 prior to 2011. The occupancy restriction was referred to in the sale particulars. From 2011, the dwelling and an attached paddock were marketed separately from the adjoining 12.5 acres of farmland. Although I understand that marketing was undertaken with the caveat that the dwelling could not be sold separately first in case a local farmer should decide to make an offer to purchase both the land and dwelling as one unit.
20. The appellant's evidence from the estate agent responsible for marketing the property at the time states that without the occupancy condition, the value of the appeal dwelling and garden in 2011 was estimated to be around £340,000. If the paddock were to be included in the unit it was estimated the value would be approximately £400,000. However, taking the occupancy condition into account, the dwelling, garden and paddock were marketed at £250,000. This represented a reduced rate of around 37.5%. The farmland was valued separately at approximately £150,000 and marketed at this price.
21. I note the Council's observations that applying a 30% discount may be considered somewhat arbitrary and that the discounted value of a property with an agricultural worker occupancy condition should reflect local wages and the fact that a dwelling is within the Green Belt where planning policy generally seeks to restrict the construction of new buildings. However, there is no local policy basis or specific evidence before me that would support such an approach. The appellant's evidence from his land agent was based on his professional expertise on the housing market in the local area and this was used to determine the relative value of the appeal property at the time. Furthermore, the agent explained that the valuation of a property is not based on planning designations such as whether or not a dwelling is in the Green Belt but rather factors such as location and the size of the property concerned.
22. It is normally accepted that a reduction of 30% in the value of a property is reasonable to reflect the existence of an agricultural occupancy condition. The



Council were not able to offer an alternative figure or specific evidence that would support a different valuation basis. Furthermore, in this case the property was marketed at a 37.5% discount which was greater than the reduction one would normally expect in such cases. I am therefore satisfied that the appeal property was marketed at a reasonable discounted rate to reflect the agricultural occupancy condition.

23. The appellant's evidence states that four offers were made for the appeal dwelling in total between 2011 and 2013. Three offers were made for both the house and adjoining farmland. The total asking price for both when taken together at that time was £400,000. Two offers were made by people who would have qualified under the occupancy condition. However both were significantly below the asking price (£320,00 and £340,000). These offers were therefore not accepted.
24. One offer was made in August 2012 of £400,000 by a group of people, one of whom worked in agriculture locally. This was accepted by the sellers of the appeal property. However the buyers subsequently withdrew the offer.
25. The fourth offer of £220,000 was made by the appellant in 2013 for the dwelling and paddock. This was accepted and the property was eventually sold. However I understand that the property continued to be actively marketed by the vendor's estate agents up until contracts were exchanged in March 2014 with no other interested buyers having been forthcoming.
26. Accordingly, the appeal property was marketed for approximately 9 years in total. The evidence shows that the dwelling was marketed at a discounted price to reflect the agricultural occupancy condition and during that time no reasonable offers to buy the property were received from persons employed in agriculture or forestry. The one offer that was accepted was later withdrawn. In marketing the dwelling and adjoining land separately from 2011, the previous owners sought to increase the flexibility of the property such as making it suitable for a retired farmer who did not wish to actively farm the adjoining land.
27. The evidence shows the dwelling was actively marketed by local estate agents with adverts being placed in the local paper, on the agents website, a 'For Sale' board outside of the property and the property particulars were available at offices in the nearby towns of Leek, Uttoxeter and Bakewell. Buyers were also made aware of the occupancy condition in the sale particulars. In 2014, the dwelling had therefore been continually marketed at a reduced price for approximately 9 years but it had not attracted a buyer employed locally in agriculture.
28. Since the appeal property was purchased in 2014, no additional marketing has taken place and this was referred to by Council members as a particular concern. At the hearing, the appellant explained that when he bought the property he planted some Christmas trees and had plans to keep some chickens. On that basis, he believed that he would comply with the occupancy condition when he bought the property. It was only brought to his attention that this may not be the case when the Council wrote to him regarding a potential breach of the occupancy condition in 2015 and 2016.
29. The letter from the Council in 2016 invited the appellant to apply to have the occupancy condition removed and an application was duly submitted a few



months later. These circumstances explain why there was a delay between the end of the marketing period for the appeal property and the submission of the application which is the subject of this appeal.

30. However, even if marketing of the appeal property had continued between 2014 and 2016 and up until the point an application was submitted, the appellant's estate agent stated at the hearing that during this time there was a slight improvement in local house prices that corresponded with a depression in the local agricultural economy. Therefore if anything, it is likely that the value of the appeal dwelling would have remained stable, if not increased slightly, whereas demand for the property to house an agricultural worker would have in all likelihood fallen. The Council were also not aware of any additional issues or circumstances that would have made it any more likely that the appeal property would have been sold to an agricultural worker during this time. Whilst I take the point that it may be slightly more difficult to find qualifying buyers in some rural areas, it is not reasonable to expect a seller to allow a property to remain vacant for long periods of time until one comes along. By any assessment, nine years is an excessive period of time to have continuously marketed a property for sale.
31. Drawing matters together, the evidence before me clearly points to a lack of demand for the appeal dwelling to provide accommodation for local agricultural or forestry workers.
32. In terms of applications for other agricultural workers dwellings in the area, the Council referred to an application that has been made approximately 100m away from the appeal site that at the time of the Hearing had not yet been determined. However, information submitted by the appellant at the Hearing from that applicant's agent shows that the dwelling has been applied for in connection with a lambing enterprise and that it is necessary for it to be situated within sight and sound of the livestock. Therefore even if Whympenny were available, it would not be suitable for the other applicant's purposes as it is too far away from the other farm. The appellant's agent also drew my attention to a small number of other applications for agricultural workers dwellings in the local area. Although the specific details are not before me, it would seem that only one application was approved by the Council. Based on the information before me, there does not appear to be a great deal of demand for agricultural workers dwellings in the local area.
33. The appellant's agent also referred to applications in the local area for Lawful Development Certificates resulting from dwellings with agricultural occupancy conditions being occupied for the necessary time by non-qualifying persons. Whilst this may suggest a lack of ongoing monitoring of compliance with the relevant conditions regarding these particular properties, I am not clear in what way it evidences a lack of demand for agricultural workers dwellings in itself as the properties presumably would not have been marketed as being available for rent or purchase by a qualifying person as they had been occupied for a period of 10 years or more and were not therefore 'available'.
34. Drawing matters together, whilst I acknowledge that the appeal site is in a location where local and national Green Belt policy would normally seek to restrict the construction of new dwellings except in specific defined circumstances, the fact is that the appeal dwelling has already been built and



has been there for several decades. Therefore any harm to the openness of the Green Belt, to which the Council has referred, has already occurred.

35. For the reasons set out above, I find that it has been satisfactorily demonstrated that there is no need to retain the dwelling for an agricultural or forestry worker at Whympenny or in the wider locality. I therefore accept that condition No. 5 has outlived its usefulness and its retention is neither reasonable nor necessary. To that extent, I see no conflict with policies in relation to the Green Belt in removing such an occupancy condition as it has been properly demonstrated that the need for it no longer exists and it ensures that the appeal property can be re-used as an open market dwelling and paragraph 90 of the Framework refers to the re-use of buildings in the Green Belt provided that the buildings are of permanent and substantial construction.

Conclusion

36. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed. I shall therefore grant a new permission to stand alongside the original permission but without the disputed condition.
37. As the appeal dwelling has already been constructed no additional conditions were considered necessary by the Council and I agree that none are needed, other than those still subsisting and capable of taking effect that were attached to the original 1972 permission.

V Lucas

INSPECTOR