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Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2013/0295/FUL	ITEM 2	
Proposal:	Removal of condition 2 of planning application 75/0089 relating to agricultural occupancy		
Address:	Oak Tree Farm, Main Street, Barrow		
Applicant:	Mr D Matthews	Parish	BARROW
Agent:	Mr Richard Dunnett, Marrons	Ward	Cottesmore
Reason for presenting to Committee:	Previous Committee Decision		
Date of Committee:	3 February 2015		

EXECUTIVE SUMMARY

This proposal was previously granted approval by the Development Control and Licensing Committee subject to the preparation of a Section 106 agreement to secure a contribution to off-site affordable housing.

On 28th November 2014, the Government amended the National Planning Practice Guidance (NPPG) by stating that Local Planning Authorities should not seek such contributions from smaller residential developments

On 6th January 2015, Cabinet resolved that this amended Government policy be implemented with immediate effect.

It is no longer appropriate to seek to seek a section 106 agreement to secure developer contributions on this site. The original report is attached as APPENDIX 1 and its content and conclusions remain valid except in relation to the matter of Developer Contributions.

RECOMMENDATION

APPROVAL, with no additional conditions

Planning Guidance and Policy

This section identifies the changes in policy since this application was considered on 15th October 2013.

National Planning Policy Framework

No changes have been made to the policies contained within the National Planning Policy Framework since the previous report, however the revision to the National Planning Practice Guidance now states that planning authorities should not seek tariff-style S106 contributions.

National Planning Practice Guidance

Paragraph: 012 (Reference ID 23b-012-20141128) – Circumstances where infrastructure contributions through planning obligations should not be sought from developers.

The Rutland Core Strategy

The wording of Policy CS11, regarding Affordable Housing, remains in its original form. Other policies remain as identified in the original report (Appendix 1)

Rutland Site Allocations and Policies Development Plan Document

This document was still under preparation at the time of the original report to the Development Control and Licensing Committee. Its policies now carry full weight.

Policy SP6 – Housing in the Countryside

Supplementary Planning Documents

The Planning Obligations and Developer Contributions Supplementary Planning Document (July 2010) and the Developer Contributions to Of-site Affordable Housing Supplementary Planning Document (June 2012) remain in force until they are replaced. However the weight that can now be given to them in this case has been outweighed by the material changes in policy this report has identified.

Planning Assessment

1. The main issue for consideration is the impact of subsequent policy changes on the committee resolution of October 2013. The report to that committee meeting is attached as Appendix 1.

Policy Changes

2. Adoption of the Site Allocations and Policies DPD introduces new policies to replace the former Rutland Local Plan of 2001.
3. More specifically, the change to the NPPG means that Local Planning Authorities should no longer require developer contributions (including affordable housing contributions) from small residential developments of 10 dwellings or less. The only exceptions are that:
 - a lower threshold of 5 dwellings may be applied in designated rural areas
 - contributions can still be sought from developments of 10 or less dwellings, where the total floorspace is greater than 1000 square metres.
4. This was reported to Cabinet on 6 January 2015, with a recommendation that:
 - the Council's own policies be amended to ensure consistency with the revised NPPG, including the lower threshold of five dwellings in the designated rural areas,
 - the revised government policy be implemented with immediate effect, and that any planning obligation currently under negotiation be amended or nullified.
5. Cabinet decided to accept these recommendations. This does not require changes to the Council's policies in the Rutland Core Strategy or the Site Allocations and Policies DPD, but the necessary changes to the relevant SPDs are now underway:
 - Planning Obligations and Developer Contributions Supplementary Planning Document SPD of July 2010
 - Developer Contributions to Off-site Affordable Housing SPD of June 2012

Implications for current application

6. At the DC&L committee meeting on 15th October 2013, members had resolved to approve the current application, subject to a Planning Obligation to secure developer contributions. The Obligation was still under negotiation when the Site Allocations and Policies DPD was adopted and when the NPPG was amended. Consequently, it must now be reconsidered in the light of these events and the subsequent cabinet decision of 6 January 2015.
7. Adoption of the Site Allocations and Policies DPD in August 2014 does not affect the recommendation to approve the current application. However, as the proposal does not exceed the new thresholds, the amended NPPG and Cabinet Decision now dictate that developer contributions should not be sought. These are key material considerations, even though amendments to the Council's SPDs on developer contributions are still under preparation, particularly as cabinet resolved on 6 January 2015 that the amended government policy be implemented with immediate effect.
8. In the context of the updated Guidance and Policy, and the Cabinet Decision, members are recommended to approve the current scheme again, but without any planning obligation to secure developer contributions.

Application:	2013/0295/FUL	ITEM 1	
Proposal:	Removal of condition 2 of planning application 75/0089 relating to agricultural occupancy		
Address:	Oak Tree Farm, Main Street, Barrow, OAKHAM, Rutland, LE15 7PE		
Applicant:		Parish	Barrow
Agent:	Mr Richard Dunnett, Marrons	Ward	Cottesmore
Reason for presenting to Committee:	Ward member support and resident objection		
Recommendation:	Approval		
Date of Committee:	15th October 2013		

EXECUTIVE SUMMARY

The proposal is for the removal of an agricultural occupancy condition from the original planning application for the approval of the dwelling.

An application was made in 2010 for the removal of the condition, but withdrawn to allow further advertisement of the property at a price more reflective of the value of the property taking into account the agricultural tie.

The present occupant of the dwelling is not currently employed in agriculture, and to all intents and purposes therefore is utilising the premises in a similar way to any purchaser should the tie be removed.

There is no longer any agricultural premises related to the property and it is not ideally located in such a way as to supervise or service such premises if they existed. The property has been marketed for a significant period of time without any offers being made.

RECOMMENDATION

APPROVAL, subject to the completion of a Section 106 agreement to secure a contribution to off-site affordable housing.

Site & Surroundings

1. The application site is a modern bungalow constructed to south of the road leading into Barrow, and is located to the east of the village. The property is set back from the road, and has a landscaped garden to its rear. It is not located in relation to any farm buildings nor at the entrance of the access road to a farm premises.
2. Immediately to the east of the site is Barrow House, a two-storey stone property, which has an extensive curtilage and garden area. Approximately 70m to the west of the site is a pair of semi-detached dwellings, also located in the countryside beyond the planned limits of development of the village. None of these dwellings are the subject of an agricultural tie.

Proposal

3. The proposal is for the removal of condition 2 of the 1975 permission, restricting occupancy of the premises to a person 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 a dependant of such a person residing with him (but including a widow or widower of such a person). The removal of this condition would allow unrestricted occupancy of the property, which is located beyond the planned limits of development of the village of Barrow.

Relevant Planning History

Application	Description	Decision
37/74	Use of land for the erection of dwelling in connection with an agricultural holding and construction of vehicular access	Permission
75/0089	The erection of a bungalow and construction of a vehicular access	Permission
87/0264	Continuance of use of dwelling without complying with the condition subject to which the planning permission was granted, relating to occupancy	Refusal
FUL/2009/0131	Removal of condition 2 from 75/0089 to permit non-agricultural persons to occupy the dwelling	Withdrawn
FUL/2010/0858	Removal of condition 2 from 75/0089 to permit non-agricultural persons to occupy the dwelling	Refusal

Planning Guidance and Policy

National Planning Policy Framework

Paragraph 55.

The Rutland Core Strategy

Policy CS4

Consultations

4. Parish Meeting

Have only received statements of support from parish residents

5. Agricultural Consultant

Consider that the asking price is too high and that the property has not been marketed within the farming press. Consequently the demand for the property has not been adequately tested and the condition should be retained.

Neighbour Representations

6. One representation has been received from a resident of the village of Barrow, stating that they see no justification for the tie to be lifted, as doing so would open a loop hole for other builders to build tied dwellings only for the condition to be lifted at a later date. The objection also states that there is a shortage of reasonably priced housing for farm/rural workers and removal of the condition would reduce the choice available to them.

Developer Contribution

7. The applicant has been contacted regarding the provision of a contribution to off-site affordable housing, and has confirmed that they are prepared to make the required payment, provided that it is deferred until such time as the property is sold and the consent to occupy it without meeting the terms of the agricultural tie is implemented. This is an acceptable clause given the nature of the application.

Planning Assessment

8. The main issue is the principle of the removal of the condition, allowing unrestricted occupancy of the dwelling, which is located in the countryside beyond the planned limits of development of the village where new dwellings would normally be limited to those justifying such a location on the basis of an agricultural or similar need.
9. The principle of allowing agricultural dwellings in the countryside is based on the need for an agricultural worker to live at or near their place of employment, usually for the purposes of being close to the premises to increase security on the site or protect animal welfare.
10. In this instance, there are no farm buildings associated with the dwelling, and it is not located in a position to either supervise the entry/exit of an agricultural access nor is it located to allow the occupants to provide an immediate presence for the purposes of animal welfare. There is no agricultural land associated with the dwelling, as this has already been sold separately and is serviced from other premises. The current occupant of the dwelling does not use the property in a way that is related to an agricultural justification.
11. The dwelling has been advertised for sale at a 30% discounted price for a period of two years, having also been advertised prior to this period for approximately 15 months without the discount that reflects the agricultural tie. In this time period, no offers have been made to purchase the property
12. As noted earlier, the dwelling is located in a position adjacent to and nearby to other properties located in the countryside that are occupied without an agricultural tie, and the current occupant utilises the dwelling in a similar way to any future occupant should the tie be removed.
13. Whilst it is accepted that the dwelling has not been advertised in the farming press, the use of online marketing does allow the property to be marketed over a wider area than would be the case through local newspapers and estate agent's premises alone.
14. The agricultural consultant's advice is noted, in particular in relation to the price of the property, however officers are satisfied that the price reflects the discount appropriate to an agricultural tie, and sufficient evidence has been provided of similar properties for sale without the agricultural tie to justify the 'open market' price to which the discount is

applied. Officers are also satisfied that the proposal has been on the market and available for viewing for a sufficient period of time (approaching 4 years) for any interest in the premises to have been identified.

15. On the basis of these specific points in relation to the application site and dwelling, officers are satisfied that there is no justification for retaining the agricultural tie in this instance.