

<b>Date of Meeting</b>	30 <sup>th</sup> May 2013
<b>Application Number</b>	E/2013/0372/S73
<b>Site Address</b>	Little Thornham Farm Bungalow, Trowbridge Road, Seend, Melksham, Wiltshire, SN12 6PQ
<b>Proposal</b>	Variation of Condition 2 of B4922/P2372 – removal of agricultural occupancy restriction
<b>Applicant</b>	Mrs Victoria Haines
<b>Town/Parish Council</b>	Seend
<b>Grid Ref</b>	
<b>Type of application</b>	Section 73
<b>Case Officer</b>	April Waterman

### **Reason for the application being considered by committee**

The application has been called to the East Area Planning Committee by Cllr Seed.

#### **1. Purpose of the report**

To consider the recommendation to refuse a request to remove an agricultural occupancy restriction, imposed by condition, on a modern 1960's bungalow.

#### **2. Report summary**

The issue to determine is whether the existing bungalow should continue to be subject of a planning restriction to allow its occupation only by those employed locally in agriculture, or in forestry, and their dependents. This report will set out whether appropriate and sufficient measures have been taken by the applicant to demonstrate that there is no longer any demand, on the farm itself or in the locality, for an occupancy-restricted dwelling in the open countryside at this location, and therefore whether the need for the restriction still exists.

#### **3. Site description and background**

This detached three-bedroomed bungalow, built in 1966, lies within the open countryside to the south of Seend Cleeve, and to the south west of Seend. Little Thornham Farm comprises a Listed Farmhouse, a collection of curtilage and agricultural buildings (one of which has been converted to an annexe for Mrs Haine senior), the bungalow subject of this application, and approximately 8 acres (3.32 hectares) of mainly grazing land. Having previously had a dairy herd, and then beef cattle at the farm, the only livestock now kept on the reduced acreage are 14 sheep.

The bungalow has a fair-sized garden area, with parking on site, and is functionally and spatially separate from the farm. The single track leading to Little Thornham Farm from the A361 is unsurfaced for some of its length.

A combination of the scaling back of agricultural practice at the farm, a change in employment, retirement or ill-health of family members, has resulted in there being no suitable occupier for the agriculturally-tied dwelling among the existing family. The bungalow has been unoccupied since 2011. While the building has been advertised for sale since June 2011, no information about efforts to rent out the property has been submitted.



#### **4. Planning history**

B4922/P2372 Outline planning permission granted June 1965, and reserved matters approval issued August 1965 for the erection of a bungalow. Condition 2 of the outline permission stated

*“The occupation of the bungalow to be limited to persons employed locally in agriculture as defined in section 221(1) of the Town and Country Planning Act 1962, or the dependents of such persons.”*

K/56550/FUL and K/56554/LBC Planning permission and Listed Building Consent granted in June 2007 for the conversion of a redundant cow shed into a granny annexe.

#### **5. The proposal**

Under section 73 of the Town and Country Planning Act 1990 permission is sought for the development of the land without compliance with the requirements of condition 2 of the 1965 planning permission.

The bungalow has been advertised for sale since June 2011, with an asking price of £295,000. This represents just over a 15% reduction in the “unencumbered” price of £350,000 estimated as the property’s value without any occupancy restriction.

#### **6. Planning policy and guidance**

National Planning Policy Framework 2012

Kennet Local Plan 2011 – policies Policy HC26: *Housing in the countryside* & Policy NR6: *Sustainability and protection of the countryside*

Circular 11/95 : *Use of conditions in planning permission*

## 7. Consultations

**Parish Council** - No comments received at date of report.

### **Wiltshire Council Agricultural Consultant**

An assessment of the request to remove the condition has been undertaken by the Council's consultant, in the light of advice contained within Circular 11/95, which states:

*"Where an agricultural occupancy condition has been imposed it will not be appropriate to remove it on a subsequent application unless it is shown that the existing need for dwellings for agricultural workers in the locality no longer warrants reserving the house for that purpose. This assessment will be necessary in all cases"*

The consultant's report sets out three main questions:

*Is there still a need for the dwelling on the holding?*

*How has the property been marketed?*

*What evidence of demand has been shown?*

The findings are

*Need:* *The current labour requirement [for Little Thornham Farm] is for one part time unit of labour for land maintenance only....the current farming activity does not present an essential requirement for a presence on the holding at most times. It is my opinion that a unit of eight acres is highly unlikely to be a viable proposition.*

*Marketing and Demand:* *[In relation to the guide price] it is my experience that the typical range for discount to reflect an occupancy condition is 25% - 35%. It is therefore my view that the level of discount applied to reflect the occupancy condition is outside the lower end of that range.*

*The agent has made direct approaches to some 10 local farmers, none of whom have expressed interest in the property. In this context it must be noted that the condition is for occupiers working in agriculture in the "locality". There is no express definition of "locality", however, in my experience [of] the Inspectorate the area typically can be equated to a District Council or, say a 10 mile radius of the property. Thus, whilst direct approaches have been made, the area concerned is rather more limited than might be appropriate.*

*Conclusion:* *Whilst a marketing exercise has been conducted for a period of 12 months it is my opinion that:*

- *For the whole of the marketing period the guide price has not adequately reflected the discount for an occupancy condition.*
- *More can be done to target members of the agricultural community within the "locality" (as above) of the dwelling.*

## 8. Publicity

No representations from the public have been received.

## 9. Planning Considerations

With the cancellation of all Planning Policy Statements and their respective appendices on the publication of the National Planning Policy Framework 2012, there is now no national policy guidance against which to assess proposals like this to remove agricultural occupancy conditions

on existing rural dwellings. Previously, detailed advice on this issue was set out in Annex I of PPS7, and although no longer a raft of policy that must be taken into account in planning decisions, the criteria and methodology of the Annex have been held as representing best practice in such appraisals by Planning Inspectors dealing with appeal cases since the introduction of the National Planning Policy Framework 2012.

The applicant particularly draws attention to the guidance set out in this Annex relating to existing dwellings that are subject of agricultural occupancy restrictions:

*“Such dwellings...should not be kept vacant, nor should their present occupants be unnecessarily obliged to remain in occupation simply by virtue of planning conditions restricting occupancy which have outlived their usefulness.”*

There is no argument with the applicant that this is the relevant test. However, in this case, it is considered that it has not been demonstrated that the occupancy restriction has indeed outlived its usefulness. While no interest was shown in purchasing the bungalow by nearby farmers when they were approached directly on the applicant's behalf, this exercise was limited to a smaller area geographically than would be expected to qualify as “the locality” in the planning condition wording. Its findings are not felt to show conclusively that there is no need for the bungalow to be reserved for an agricultural or forestry worker, therefore. Furthermore, the asking price of £295,000 for the bungalow is considered to include too small a discount (15%) on the price of an “untied” rural dwelling, and therefore the marketing exercise as a whole would not be expected to produce the level of interest that the dwelling, if discounted by some 25 – 35 % could produce.

This is the key issue. It has been held on appeal that a 15% discount to open market value is too low a reflection of the reduction on the open market value of an agricultural occupancy condition. Typically, 25-35% is normally considered appropriate. If the appropriate discount is not applied, then clearly the marketing exercise is fatally flawed as it may rule out those that can afford to pay what is an appropriate price for an agriculturally tied dwelling.

It may well be the case that even at the properly reduced price, there is no demand for an agriculturally tied dwelling, in which case officers would have no problem with recommending approval of an application in such circumstances. Officers have asked the applicant to withdraw the proposal, undertake a period of marketing of the bungalow with the appropriate (larger) discounted price to reflect the occupancy restriction, and then re-apply for the removal of the condition if the marketing exercise still raises no interest from suitably-employed people. This suggestion has not been taken up and the applicant has asked for the application to be determined as it stands. In these circumstances, the only recommendation can be for refusal.

## **10. Conclusion**

New dwellings in the open countryside are only normally permitted in special circumstances such as to house an agricultural worker, and then need to be reserved for that purpose to continue to provide a stock of rural dwellings for rural workers within the area at prices that such workers may afford. In this case it has not been demonstrated that all reasonable efforts have been made to attract to the dwelling an agricultural worker who would be employed in the locality, particularly as a result of the promoted guide purchase price not being set to reflect properly the occupancy restriction.

## **RECOMMENDATION**

Refuse the application for removal of the planning condition no. 2 from the planning permission referenced P2372, for the following reason

1. Insufficient evidence has been provided to demonstrate that the existing need for dwellings for agricultural workers in the locality no longer warrants reserving the bungalow for that purpose. In particular, the marketing of the bungalow has not included an appropriate discount on the purchase price to reflect the restriction of its occupancy to an agricultural or forestry worker. The removal of

the condition would result in the creation of a dwelling in the open countryside in conflict with the terms and objectives of the policies in the development plan, namely NR6 and HC26 of the Kennet Local Plan, and of the advice contained within the National Planning Policy Framework 2012.