

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Development and Conservation Control Committee 4th January 2006
AUTHOR/S: Director of Development Services

**S/2135/05/F - Impington
Removal of Occupancy Condition
(Condition 11 of Planning Permission S/0256/03/F)
Mereway Farm, Milton Road, for Walker Commercial Ltd**

**Recommendation: Refusal
Date for Determination: 4th January 2006**

Site and Proposal

1. Mereway Farm lies midway between Milton and Impington on the road which links the A10, past the Householder Waste Tip, through to Impington Village College. The farm, consisting of 6 large timber clad poultry houses with a total area of 6,112m², and 264m² offices, lies on the south side of Milton Road, immediately adjacent to Mereway, a Roman road, now a bridleway. There is a bungalow at the entrance.
2. Consent has been granted to change the use of the poultry buildings (the use has now ceased) to B8/storage, with occupation of the bungalow linked to the site owner and/or connected with one of the future companies on site. (See HISTORY below).
3. This full application, received 9th November 2005, seeks the removal of this condition.

Planning History

4. Consent was granted for the initial complex in the early 1970's with a subsequent consent in the mid 1980's for another poultry building and extension to the others.
5. In 1973 consent was granted for the bungalow on site - an agricultural occupancy condition was imposed.
6. In 1996 consent for a further 7 poultry buildings was refused and dismissed on appeal. At the October 2003 Committee (Item 11) consent was granted to demolish the middle two poultry houses, plus the offices, and the conversion of the four remaining for storage and distribution - Class B8. The occupancy condition of the bungalow was varied to read:-

"The existing bungalow on the frontage of the site shall only be occupied by a person or persons employed by the site's owner and/or connected with one of the companies on site."

Planning Policy

7. **Policy HG17** of the South Cambridgeshire Local Plan 2004 states that an agricultural occupancy condition will only be released where it can be demonstrated that the dwelling is no longer required on the unit. Even then, the Council will require the property to be properly advertised, at a price to reflect the restrictive condition, for a period of twelve months.

8. **Policy GB2** defines what is appropriate development in the Green Belt and this includes essential buildings for agriculture.

Consultation

Impington Parish Council "Approves" the application.

Representation - Neighbours

9. None received.

Representations - Applicants

1. PPS 7, "Sustainable Development in Rural Areas", supports the re-use of appropriately located and suitably constricted buildings in the countryside where this would meet sustainable development objectives.
2. Circular 11/95 "The use of Conditions in Planning Permission" - conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
 - a) **Reasonableness.** Is the condition reasonable as it is unduly restrictive? Paragraph 35 states that ".....it should not be imposed if the restriction effectively nullifies the benefit of the permission. If a permission could only be granted subject to conditions that are likely to be unreasonable, then it will be necessary to refuse permission altogether. Paragraph 36 - no condition should place a severe limitation on the freedom of owners to dispose of their property.
 - b) **Occupancy.** Planning deals with land use, not the identity of the occupier. Conditions should only be used where there are special grounds for doing so. If residential use is acceptable, restrictive conditions would create a distinction between new houses and others not subject to the same restrictions of occupancy. Conditions tying occupation of a dwelling to a separate building should be avoided unless it is on a site where permission would not normally be granted. To ensure that it is not sold off for general use it may be acceptable to tie the occupation of the new property to the existing business.
 - c) **Justification.** None has been put forward to support the condition; the condition is unduly onerous. If there was no demand for the bungalow it would remain vacant and therefore wasteful of resources. Although it is outside the village there would be no harm to the removal of the condition.

Planning Comments – Key Issues

10. The basic issue in respect of this application is whether or not it complies with the aims of Circular 11/95 "Conditions".
11. Dwellings in the countryside are rarely granted consent, - the usual approvals are those essential for agricultural purposes and an appropriate occupancy condition is imposed - as was done in 1973 when the bungalow was approved. As they are only consented in certain circumstances, so they are only removed if it has been proven that there is no further requirement for an agricultural property. This is by way of a twelve month advertising campaign.

12. This was not carried out by the previous owner, nor the current applicants.
13. However, at the time of the application to change the use of the buildings to B8/storage, it was recognised that, with the change in regulations effectively stopping battery hens in the year 2011, there would unlikely to be anyone willing to take over the premises for a continuing agricultural use. With the proximity of the bungalow to the access into the site it was considered inappropriate to have a dwelling in such a position unrelated to the use to the rear.
14. The applicants claim that the condition restricts their freedom to let or dispose of it and may restrict the availability of Building Society finance.
15. As the permitted change of use has not yet taken place, the occupation of the bungalow is still restricted to agriculture. Presumably with this restriction, and that imposed on the B8/storage use, the reduced value of the bungalow was reflected in the purchase price.
16. In the circumstances, I have no option but to recommend Refusal.

Recommendation

17. Refusal.
 1. Consent for the bungalow as granted in 1973 in the Green Belt was accepted as being appropriate so long as it was subject to an agricultural occupancy condition. At the time of the application to change the use of the poultry buildings to B8/storage (ref S/0256/03/F) no marketing of the property, as required by Policy HG17 of the South Cambridgeshire Local Plan 2004 had taken place to ascertain whether or not it would be appropriate to remove it. **This condition remains extant.**
 2. In any case, and in light of the change to the Regulations regarding the keeping of poultry in cages, the Local Planning Authority considered that the interest in the site for further agricultural use would be limited. With the need to retain control over the occupancy of the bungalow, in light of the agricultural condition being extant, and because of its poor relationship to the access road into the site, shared by both, it is considered essential that the two uses are linked to each other. This relationship is such that the amenities of the dwelling would be significantly harmed by the use of the access. It follows, therefore, that occupation of the bungalow as a separate unit from the rest of the site would be unacceptable due to the conflict between the uses.

Background Papers: the following background papers were used in the preparation of this report:

- South Cambridgeshire Local Plan 2004
- Cambridgeshire and Peterborough Structure Plan 2003
- Planning File Ref:

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