

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

11 May 2011

AUTHOR/S: Executive Director (Operational Services)/ Corporate Manager (Planning and New Communities)

S/1392/10/F – WILLINGHAM

Removal of Agricultural Occupancy Condition (Condition 1) on Planning Permission S/0077/74 at 37A Rampton Road, for Dr S Sangray

Recommendation: Refusal

Date for Determination: 19 October 2010

Notes:

This Application has been reported to the Planning Committee for determination after the application was withdrawn from the April agenda.

Site and Proposal

1. This full application, submitted on 13 August 2010, seeks the removal of condition 1 of planning consent S/0077/74 which imposes an agricultural occupancy restriction on the property (see Planning History below).
2. 37a Rampton Road is a detached bungalow set back 90m from Rampton Road and served by a driveway which runs between residential properties at Nos 37 and 39 Rampton Road. Immediately to the rear of the bungalow is the former shop building, beyond which is an area of land comprising the former nursery area itself. The total site area is 3.88ha.
3. The application is accompanied, amongst other documents, by a report of the recent marketing of the property from May 2009 to June 2010. This included national advertising comprising seven advertisements in the Farmers Weekly and four advertisements in the Farmers Trader during that period, along with local advertising in the Cambridge News in July and December 2009. In addition the applicant's agent states that the property would have been placed on its website throughout the marketing period. Prior to advertising an independent valuation of the property was obtained and an asking price in the region of £465,000 for the house and its curtilage, and the remaining land was adopted.

Planning History

4. **S/0077/74** – Erection of bungalow and garage – Approved
5. Condition 1 stated 'The occupation of the dwelling shall be limited to persons employed locally in agriculture as defined in Section 290 of the Town and Country Planning Act 1971 or in forestry and the dependants of such persons.'
6. The reason for the condition stated that the consent would not have been granted for the erection of houses on this site unconnected with the use of the adjoining land for

agriculture or similar purposes. The occupation of the dwelling was not however restricted specifically to someone working at the nursery

Planning Policy

7. South Cambridgeshire Local Development Framework Development Control Policies adopted July 2007:

DP/7 – Development Frameworks

HG/9 – Dwelling to Support a Rural-Based Enterprise

Consultation

8. **Willingham Parish Council** recommends refusal on the grounds of lack of information about intended use of the whole site (current drawings do not show this). The site was purchased by the owner with the full knowledge of the agricultural restriction and the Parish Council would need to see a good complete case as to why this would/should be changed.
9. **Valuation advice** commissioned by the Council comments that ‘the majority of properties sold subject to an agricultural occupancy condition tend to fetch approximately 60-65% of their totally unrestricted open market value. It is also reasonable to assume, for the purposes of calculation, that the land on which the property is built has an “agricultural value” rather than the value of an open market building plot. I think the fairest approach is to try to assess what the property might be worth in a totally unrestricted market and, from the documents provided, it appears that this exercise was carried out by another firm on behalf of the seller before Acorus commenced their marketing campaign. I am afraid that I have to disagree with the conclusions of that valuation. In my opinion, if the property were offered for sale on an unrestricted basis in the current market in a relatively small garden, I am of the opinion that it would fetch not more than £350,000. However, if it had adjacent grounds extending to, say, two acres the level of demand would increase substantially and the value would, in my view, be a little in excess of £400,000. Two acres is probably the minimum amount of land that would be required for ordinary residential occupation and the additional eight acres or so would add no more than their agricultural value which I believe to be in the region of £50,000. If we consider the value with two acres to be, say, £410,00, then it would be reasonable to suggest that the value with the agricultural restriction is around £250,000 (around 60%). Adding the rest of the land at its agricultural value would probably take the figure to, say, £300,000 which is very substantially less than the price at which it has been offered by Acorus. Values now are probably very slightly above the levels that were appropriate during the marketing period.’

Representations

9. The occupiers of **35 Rampton Road** object. It is noted that it is stated in the application that none of the land is an agricultural holding, which is surprising. There are a number of unsupported assertions in the applicants report which are not supported by relevant documentation for example ‘Dr and Mrs Sangray looked at restructuring the nursery but it was totally uneconomic to do so’; ‘There is no car parking’; ‘Nurseries have been struggling in recent years’, ‘Cadwin Nurseries would never compete’; ‘There is no prospect of the nursery being restructured on any commercial scale’; ‘There is no horticultural business... and no prospect of anything significant re-establishing itself on the site’.

10. The applicants should have been aware of the restrictive condition when purchasing the property and its effect. If not they would have redress against their legal advisers at the time of the purchase.
11. The investment has been allowed to deteriorate in its potential attractiveness to another buyer. Horticultural activity was taking place at the time of purchase although the scale was being run down. The applicant could have rebuilt the business as the Nursery had a long and reliable local reputation, the village population has increased and there is a growing preference for local produce. No effort seems to have been made to grow any crops, greenhouses have been allowed to fall down, fruit trees have remained unpruned and quality fruit unpicked.
12. It is feared that the applicant may have had little or no intention of following a horticulture way of life and realised that there might be an increase in value if the condition could be removed, along with the possibility of opening up the development of the site. Although it is understood the plot is currently outside the village framework the removal of the occupancy condition would be the first step.
13. No advice appears to have been taken from the District Council prior to submitting the application – was this in case it prompted the Council to take enforcement action?
14. Considering the economic climate it is queried whether the property has been marketed appropriately, or with sufficient focus and the Council might wish to consult local estate agents to establish the length of time properties were on the market at that time. Further marketing options were not explored. There was no change of agency, roadside signs, and advertisements were not placed in national magazines more appropriate to the small scale of the use i.e. Horticulture Week or The Smallholder. Other local/regional papers were not used. The price was not reduced and the property appears to have been withdrawn from the market at an early time. This suggests only a token effort has been made.
15. Although the agents report purports to be impartial it stresses the arguments in favour of the applicants' aims and an alternative report, in the objectors opinion, would reach a conclusion based on; preferences for organic and luxury foodstuffs traditionally grown at Cadwin Nurseries, such as asparagus and raspberries; preference for local markets is growing, hence popularity of local farmer' markets; the recent success of other small entrepreneurial ventures in the village is visible and local well-established smaller and larger agricultural/horticultural enterprises continue to flourish and the diversity of enterprises shows what the land is capable of; the deterioration/unproductiveness of the applicants' land now; the limited marketing undertaken and the non-reduction of the asking price; the way the recession has affected new build locally; the length of time taken to sell all domestic and industrial premises and the need to reduce prices to attract buyers; the use of a truly local agent rather than the current one which is based in Bury St Edmunds; whilst the plot has access near to No 35 there is alternative access potentially available and with signage it is well placed to draw in local and passing trade.
16. The Parish Council appears to be aware that the land is no longer being used for agriculture but this information does not seem to have been passed to the District Council. Were they aware that the occupancy condition was in force?
17. The planners have a responsibility to ensure that small patches of economically viable and fertile land like this remain available in the increasingly suburban environment and should therefore protect this holding from any possible development

which would permanently take this land out of potential use for food production or other agricultural-type activity.

18. In conclusion however, if the District Council could give an assurance that the removal of the condition could not turn out to be the thin end of a wedge which would in time result in further building on the site and its loss as a potential food producing holding, the above concerns would not have been submitted.
19. The occupier of **39 Rampton Road** expresses concern about the possible future use of the old nursery and that it might be sold away separately from the house if this application is successful. There is also concern that if the land is left in limbo there is a possibility of the adjacent travellers site bleeding onto this land. Whilst it is understood that this would not be the intention there have been several cases locally which would indicate the difficulty of prevention after the event.
20. The occupier of **51 Rampton Road** has no objection, although would wish to be notified of any future applications for development of the site.
21. The occupiers of **41 Rampton Road** request that a decision is reached which will most likely lead to the restoration of the nursery to a clean healthy condition as at present the scene is one produced by a long period of neglect.

Applicant's Representations

22. In addition to the documentation submitted with the planning application the applicant's agent has responded to the points raised during the consultation process.
23. A copy of this letter is attached as Appendix 1.
24. Following receipt of an independent valuation by the Council an email has been received from the applicant's agent, and this is attached as Appendix 2.

Planning Comments – Key Issues

25. The key issue to be considered in the determination of this application is whether the applicant has satisfactorily complied with the requirements of Policy HG/9 (6), which states that the relaxation of an occupancy condition will only be permitted where it can be demonstrated that the dwelling is no longer required by the unit or those working, or last working, in the locality in agriculture, forestry or rural-based enterprise that requires a dwelling in the countryside, or a surviving partner of such a person, and to any resident dependants. When considering applications to relax such a condition the District Council will require evidence of the steps taken to market the dwelling with the occupancy condition.
26. It is clear from the application that the property is currently being occupied in breach of the planning condition, and that the condition may not have been fully complied with for a number of years. Notwithstanding this the current application still falls to be determined under the above policy. If the District Council were to refuse the request to remove the occupancy condition it would then have to consider whether it would be expedient to instigate enforcement action.
27. In my view the scope of the marketing undertaken is acceptable. It includes a trawl of local farms as well as advertising in both the local press and national agricultural journals. Officers have not sought a full independent review of the submitted details but have commissioned an independent valuation of the property in order to check

that the property was marketed at a price that adequately reflected the encumbrance of the occupation condition.

28. The advice that has been received puts forward a significantly lower valuation than that obtained by the applicants agent, and at which the property was marketed. The applicants' agent has questioned the valuation advice received by the Council, as set out in the email attached at Appendix 2, however the Councils' valuer has reviewed these comments and has confirmed his advice, stating that he viewed all areas he was permitted to visit, but was not allowed access to certain areas but was able to ascertain from the outside and from details previously supplied, what these areas provided. Officers understand that the applicant's agent may seek a further valuation of the property, and if that is the case I will report any further information in an update report or at the meeting.
29. Officers note the agents comment that there was a slight rise in property prices during the period the property was advertised and this was the reason why the guide price was not lowered at any point.
30. Whilst it may be unfortunate that the former nursery use has not been maintained this is not something that should prejudice the decision on the application to remove the agricultural occupancy condition from the dwelling. The price at which the property was marketed should have reflected the condition of the dwelling and any associated buildings at that time.
31. The concerns expressed by the Willingham Parish Council and local residents that the relaxation of the condition might be the first step in opening up the land for future development is noted. Regardless of whether the dwelling retains its restrictive occupancy condition the site will remain outside the village framework and any planning application would therefore still fall to be judged against the appropriate countryside policies.
32. From the information currently available officers are of the view that the value at which the property was marketed will have materially prejudiced the ability to find an occupier for the property in compliance with the agricultural occupancy condition and the application should therefore be refused.

Recommendation

Refusal

The removal of Condition 1 of planning consent S/0077/74 would be inappropriate as the application has failed to demonstrate that the steps taken to market the property with the agricultural occupancy condition, as required by Policy HG/9 (6) of the South Cambridgeshire Local Development Framework Development Control Policies 2007, are adequate, as the value at which the property was advertised is considered by the Council to be significantly above a reasonable market valuation of the property with the encumbrance of the occupancy condition. As a consequence the potential to find a potential occupier of the property in compliance with the agricultural occupancy condition will have been materially compromised.

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

- South Cambridgeshire Local Development Framework Core Strategy (adopted January 2007)
- South Cambridgeshire Local Development Framework Development Control Policies (adopted July 2007)
- Planning File Ref: S/1392/10

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