

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee

9 January 2013

**AUTHOR/S:** Planning and New Communities Director

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### **S/1987/12/VC – WILLINGHAM**

**Removal of agricultural occupancy condition on permission S/0077/74/F (Condition 1), as amended at appeal by ref S/1392/10, Cadwin Nurseries, 37a Rampton Road for Dr S Sangray**

**Recommendation: Delegated Approval**

**Date for Determination: 12 November 2012**

#### **Notes:**

**This Application has been reported to the Planning Committee for determination because the officer recommendation of delegated approval is contrary to the recommendation of refusal from Willingham Parish Council**

**To be presented to the Committee by Paul Sexton**

#### **Site and Proposal**

1. This application, submitted on 14 September 2012, seeks the removal of condition 1 of planning consent S/0077/74, as amended at appeal by planning consent S/1392/10, 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 January 2012. This included national advertising comprising 6 advertisements in the Farmers Weekly and 5 advertisements in the Farmers Trader from February to July 2012, along with local advertising in the Cambridge News in January and April 2012. In addition the applicant's agent states that the property would have been placed on its website throughout the marketing period, has appeared on Rightmove, and other web sites such as Property Link, and details were sent to 90 local holdings in May 2012.
4. Prior to advertising an independent valuation of the property were obtained and the property was advertised in two lots. Lot 1 comprised the bungalow and 0.81ha of land, with a guide price of £285,000. Lot 2 comprised 3.1ha of land and buildings, with a guide price of £160,000.

## History

5. **S/1392/10** – Removal of agricultural occupancy condition (condition 1) on planning permission S/0077/74/F – Refused – Appeal Allowed (in so far as wording of original condition updated but not removed)

**S/0077/74** – Erection of bungalow and garage – Approved

6. Condition 1 originally 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.'
7. 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.
8. In 'allowing'; the appeal against the 2010 refusal the Inspector agreed with the Council's view that the price at which the property had been advertised (guide price £465,00) did not reasonably reflect the encumbrance of the occupation condition, and that as a consequence, the potential to find a prospective occupant will have been materially compromised. He concluded that the appellant had not conclusively demonstrated that the condition had outlived its usefulness and consequently the proposal failed to comply with both national and local planning policy.

## Planning Policy

9. National Planning Policy Framework 2012
10. **Local Development Framework Development Control Policies 2007:**  
DP/7 – Development Frameworks  
HG/9 – Dwelling to Support a Rural-Based Enterprise

## Consultation by South Cambridgeshire District Council as Local Planning Authority

11. **Willingham Parish Council** recommends refusal and 'feels that the property should remain in agricultural use in accordance with the appeal decision'.
12. An **Independent Report** commissioned by the District Council into the marketing of the property is attached at Appendix A. It raises concerns about the marketing exercise and the price for both the bungalow and the land/buildings

## Representations by Members of the Public

13. None received.

## Representations on behalf of the Applicant

14. In response to the appraisal undertaken on behalf of the Council the applicants agent has submitted a further letter which is attached as Appendix 2. It argues that the Inspectors issue was with marketing price and not the process of marketing. The guide price for the bungalow is in line with that suggested by the Inspector, and it is the bungalow to which the condition applies. It does not agree with the valuation of the land and buildings set out in the report undertaken by the Council.

## **Material Planning Considerations**

15. 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), and in particular whether the recent marketing of the property had satisfactorily addressed the concerns raised by the Inspector, mainly regarding the value at which the property has been marketed. In coming to a recommendation officers have had regard to the independent report, the view of the applicant and have balanced these against the Inspector's conclusions
16. It is clear 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.
17. Officers are of the view that the scope of the marketing undertaken is acceptable, given the views of the Inspector. It includes a trawl of local farms as well as advertising in both the local press and national agricultural journals. In his decision letter the Inspector commented that whether a more localised marketing approach, coupled with the use of additional umbrella internet arrangements such as 'Rightmove' may have elicited a more positive outcome could only be speculation, however the recent marketing exercise includes the use of Rightmove.
18. The main concern of the appeal Inspector was the price at which the property had been marketed. Prior to the 2010 application the bungalow and its garden, the agricultural land and buildings were marketed as a single lot with a guide price of £465,000. At the appeal parties broadly agreed that a reasonable valuation of the bungalow with a reasonable sized curtilage would have a value of around £350,000 without the tie, and that this could rise to around £400,000 with a plot in the region of 1ha. The Inspector concluded that a reduction in value of 30% was reasonable to reflect the tie, suggesting that a reasonable valuation for the bungalow at that time with the tie would lie somewhere within the range of £245,000-£280,000 or close to it, depending on the amount of land put with it.
19. The bungalow has been marketed with 0.81ha of land at a guide price of £285,000, which in officer's view, is a figure which reflects the conclusions of the Inspector, and would allow for offers within a reasonable range.
20. At the appeal there was disagreement between parties over the valuation of the agricultural land and other buildings on the site, which given the valuation accepted for the bungalow would have equated to around £200,000. The Inspector supported the Council's view that this figure was too high and that as the property had been marketed as a whole the resultant guide price of £465,000 was too high and the potential to find a prospective occupation will have been materially compromised. The land and buildings have subsequently been marketed with guide price of £160,000, which officers have expressed concern about, however it would not have precluded someone interested in the property from coming forward with a reduced offer for the land and buildings.

21. Officers are of the view that advertising the property in two lots, with the guide price for the bungalow reflecting that broadly agreed at the appeal, has adequately addressed the previous valuation concerns.
22. The applicant's agent has advised that two requests to view the property were received and one offer was subsequently received in March of £320,000 for the whole property, £125,000 below the combined guide price. This offer was rejected and officers are of the view that given the low figure that it was reasonable to do so.
23. In respect of the requirement to assess the on-going demand for the property with the occupational condition, the Inspector concluded that a sound judgement could not be made that there was no demand for the property at a price which reflected the tie due to the price at which it was originally marketed.
24. Officers are of the view that the revised marketing of the property, at a price for the bungalow which, in the Inspectors view, reflects encumbrance of the agricultural tie, has reasonably demonstrated that there is no longer a demand for the property with the tie, and are of the view that the condition should be lifted.

### **Recommendation**

25. That having considered the available information and balanced this against the Inspector's views in the appeal decision that application is approved.

**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/1987/12/VC, S/1392/10 and S/0077/74

**Case Officer:** Paul Sexton – Principal Planning Officer  
Telephone: (01954) 713255