

5b 3/13/1341/SV – Discharge of Section 52 Agreement (S106) obligation relating to the agricultural occupancy of Brookfield Farm, West End Road, Wormley West End, Broxbourne, Herts , EN10 7QN for Mr J Smith

Date of Receipt: 23.07.2013

Type: Variation of Section 106 –
Minor

Parish: BRICKENDON LIBERTY

Ward: HERTFORD HEATH

RECOMMENDATION:

That authorisation be **GRANTED** for the discharge of the Section 52 agreement relating to application 3/1179-82 and dated 8 April 1988.

_____ (134113SV.SD)

1.0 Background:

- 1.1 The application site is shown on the attached Ordnance Survey plan. The site at Brookfield Farm which comprises some 3.5 hectares of land is sited on the southern side of West End Road within the small settlement of Wormley West End and within the Metropolitan Green Belt.
- 1.2 The application bungalow is situated on a large plot of ½ an acre and is set back from the front of the site, behind a high hedge with its own vehicle access. The dwelling itself is a large, extended conventional brick and rendered bungalow with part single storey, part chalet style elements to the building. It has a garage annex, a large landscaped garden and a swimming pool.
- 1.3 To the west of the site is a detached single storey weatherboard building which has the benefit of Certificate of Lawful Use granted for residential use without restriction in 2009. To the rear of the site are two further detached dwellings, the Coach House and Paradise Barn, with their own curtilages and parking provision.
- 1.4 The bungalow was granted outline planning permission in April 1983 under reference 3/1179-82 together with a Section 52 agreement (now Section 106 under the 1990 Act) preventing the bungalow from being divided from the rest of the (then) agricultural land and restricting its occupancy to a person solely or mainly employed or last employed in agriculture, including any dependants of such a person residing with him or a widow or widower.

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- 1.5 The use of the wider site at the time of the permission being granted under ref: 3/1179/82 was that of a calf/cattle rearing business. However, that use appears to have ceased many years ago.
- 1.6 In April 2012 the site owner submitted an application for a Certificate of Lawful use under ref : 3/12/0679/CL stating that the bungalow had been occupied for many years without compliance with the agricultural occupancy condition. Although this appeared to Officers to be the case, the applicant could not provide the sufficiently robust evidence required in order for the Council to issue a certificate.
- 1.7 However, a subsequent application for planning permission to remove the agricultural occupancy restriction (which does not require the submission of that evidence) was granted on 4 July 2013 under ref: 3/13/0497/FO. Officers were satisfied that the dwelling no longer had any connection with the adjoining agricultural land and the original calving unit and the cattle livestock management on the site was no longer in operation and had not operated from this site for at least 10 years.
- 1.8 The current application now proposes to discharge the related section 52 agreement accordingly.

2.0 Site History:

- 2.1 The relevant planning history for this site is extensive and the following summary is limited to those permissions relating to the agricultural workers bungalow only:
- 3/0196-81 – Outline application for agricultural workers dwelling - Refused
 - Outline application – 3/1179-82 for an agricultural workers bungalow attached to the part of the site (3.84 hectares) - Approved subject to a S52 Agreement
 - 3/0622-83/RP – Reserve matter application for siting landscaping, access, external appearance and design Approved subject to occupancy condition in S52 (Section 106)
 - 3/89/0812/FO – Removal of agricultural occupancy condition - Withdrawn

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- 3/91/0900/FO – Removal of onerous condition (5) agriculturally tied occupancy ref:3/82/1179/OP – Refused.
- 3/12/0699/SV – Discharge of Section 52 for agriculturally tied dwelling withdrawn.
- 3/13/0497/FO – Variation of Condition to remove Condition 5 (Agricultural tie restriction) ref 3/1179/82 – Approved.

3.0 Consultation Responses:

3.1 No statutory consultations were necessary in this case.

4.0 Parish Council Representations:

4.1 No comments have been received from Brickendon Liberty Parish Council

5.0 Other Representations:

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 No letters of representation have been received.

6.0 Policy:

6.1 The relevant 'saved' Local Plan policies in this application include the following:

GBC1 Appropriate Development in the Green Belt
GBC6 Occupancy Conditions

6.2 The provisions of the National Planning Policy Framework (NPPF) are also relevant; in particular the section on Decision Taking at paragraphs 203 to 206 which advise on the tests for planning conditions and obligations.

7.0 Considerations:

7.1 The main issue to consider in the determination of this application is whether the s 52 agreement, which tied the agricultural dwelling to the land at Brookfield Farm and restricted its occupation, has any further planning purpose and whether it continues to meet the tests as set out

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in the NPPF.

- 7.2 Policy GBC6 of the Local Plan indicates that applications for the removal of occupancy conditions will only be permitted where there is no further need for an agricultural workers dwelling on the holding and where there is no need in the wider area. This policy reflects government guidance given in the NPPF.
- 7.3 The original Section 52 agreement sought to ensure that the bungalow would be retained to provide necessary accommodation in relation to the agricultural use of the site and in particular the welfare and security needs of the livestock on the site. However the use of the site has changed significantly over the years and there is no longer any livestock on the site. Indeed, any agricultural use appears to have ceased in 1991 and most of the buildings on the former farm are now in either commercial or residential use. Furthermore, it is apparent that the bungalow has not been occupied by any agricultural worker for many years (approximately 1988).
- 7.4 It was agreed therefore, under application ref: 3/13/0497/FO, that there was no longer a need for the dwelling to be tied to any agricultural use of the site.
- 7.5 As regards any wider need in the locality, the applicants set out, within application 3/13/0497/FO, the lack of interest that was shown in acquiring the property with the agricultural occupancy condition in place. This was largely due to the size of the property and the associated running costs. Officers accepted this evidence and consider that it is unlikely that the dwelling would provide appropriate or affordable accommodation for another agricultural worker in the area. Its size and isolated siting also make it unattractive to Housing Associations for affordable housing.
- 7.6 The retention of the restrictive occupancy clause within the section 52 agreement is therefore, like the previous occupancy condition, considered to be no longer justified.

8.0 Conclusion:

- 8.1 The dwelling was originally required for the specific livestock rearing business on the farm but this ceased many years ago. The Council has already considered whether there is a continuing need for an agricultural workers dwelling on the site itself, or within the surrounding area, but has concluded that this bungalow no longer provides appropriate accommodation for an agricultural worker. It has therefore

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removed the related agricultural occupancy condition on permission 3/1179-82 and the Section 52 Agreement has, in Officers opinion, therefore become obsolete.

- 8.2 Officers therefore recommend that the Section 52 agreement in this case is no longer relevant in planning terms and should be discharged.