

DEVELOPMENT MANAGEMENT COMMITTEE – 29 APRIL 2020

Application Number	3/19/1979/SV
Proposal	Variation of a S52 (Section 106) agreement under planning reference 3/0364/85; to remove the discharge of obligation recital no1 - not to occupy as a separate unit from the riding school and stables on the land known as Petasfield Stables.
Location	Land at Petasfield Stables, Mangrove Lane, Brickendon
Parish	Brickendon Liberty Parish Council
Ward	Hertford Heath

Date of Registration of Application	27 th September 2019
Target Determination Date	Not applicable
Reason for Committee Report	Variation of Legal Agreement
Case officer	James Mead

RECOMMENDATION

That the planning obligation required by the legal agreement be discharged.

1.0 Summary of Proposal and Main Issues

- 1.1 The site comprises a commercial equestrian riding school and stables situated on the west side of Mangrove Lane. This use of the site dates from the 1980's. The site contains a dwelling (the subject of the application), 4 one bedroom holiday let units, 9 stables, a manage and a lecture room.
- 1.2 Members are advised that this is not a planning application. It is an application to discharge (remove) the requirements of a legal agreement.
- 1.3 In 1986 planning permission was granted under references: 3/85/0364/OP and 3/86/1333/RP for a rural workers dwelling for

the equestrian use. This permission was subject to a Section 52 Agreement (of the Town and Country Planning Act 1971, similar to Section 106 of the 1990 Act). The legal agreement restricted occupation of the dwelling to a rural worker, specifically at the site.

- 1.4 The site lies in the Green Belt wherein under planning policy at the time and now new dwellings are not permitted, except in circumstances where they could be justified. The need for a rural workers dwelling is such a circumstance.
- 1.5 The occupier of the dwelling has operated the riding school/stables for many years but she is now retired and it is operated by a third party who does not live on the site.

2.0 Site Description

- 2.1 The site comprises a commercial riding school and stables situated on the west side of Mangrove Lane. This use of the site dates from the 1980's. The site contains a dwelling (the subject of the application), 4 one bedroom holiday let units, 9 stables, a menage and a lecture room.

3.0 Planning History

- 3.1 The planning history of the site comprises:

3/85/0364/OP – erection of a rural workers dwelling (Outline) granted November 1986.

3/86/1333/RP – erection of rural workers dwelling (Reserved Matters).

3/03/0618/FP - creation of four holiday lets by the conversion of stables and a calving unit granted in May 2003.

3/16/1861/FUL – erection of detached stable block and lecture room granted in October 2016.

4.0 Main Policy Issues

- 4.1 These relate to the relevant policies in the East Herts District Plan and the National Planning Policy Framework 2018 (NPPF).

Key Issue	District Plan	NPPF
Green Belt	GBR1	Section 13
Rural workers dwellings	HOU5	Section 5

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

5.0 Summary of Consultee Responses

- 5.1 No consultation is required for this type of application. However, the application was advertised by neighbour notification and press and site notices. No responses were received.

6.0 Consideration of Relevant Issues

- 6.1 The planning permission for a rural worker's dwelling granted in 1986 was subject to a legal agreement restricting occupation to a rural worker specifically at the stables/riding school in the circumstances that new dwellings were not permitted in the Green Belt.
- 6.2 Members are advised that it is no longer the practice to use of a legal agreement in these circumstances. The current practice is to impose the model (which is recommended by government advice) restrictive occupancy condition. An occupancy condition was not imposed on the planning permission in this case. However, a condition was imposed that the dwelling be first occupied by the current occupier who has occupied the dwelling since it was built.

- 6.3 The then practice would now be regarded as overly restrictive and unreasonable and it would not pass the current tests of reasonableness for Section 106 legal agreements or conditions.
- 6.4 The current model condition restricts occupancy to a rural worker (not necessarily specifically at the application site), dependents of a rural worker and a former rural worker (i.e. a retired rural worker) and their dependents. So the restriction is less onerous than the legal agreement imposed in this case in 1986.
- 6.5 The current practice would permit occupation by a retired rural worker, such as the current long term occupier (the applicant). However, in this case the continued occupation of the dwelling by the existing resident would be contrary to the historic legal agreement.
- 6.6 Having regard to current practice and reasonableness tests it is considered that the legal obligation should be removed to enable continued occupation by the long term resident who is a retired rural worker. It is considered the legal obligation imposed in 1986 would no longer be held to be reasonable. Furthermore, the current operator of the use lives off-site and there is no longer a need for the linked accommodation.
- 6.7 It is accepted that the removal of the occupancy restriction could enable the property to be sold on the open market. However, Members are advised that this is not considered to be a material planning consideration in this case. In recommending that the restriction be removed officers have had regard to the historic nature of the legal agreement, current legal agreement/conditions tests and the circumstances of the applicant.

RECOMMENDATION

That the planning obligation required by the legal agreement be discharged.