

**PROPOSED REMOVAL OF AGRICULTURAL OCCUPANCY CONDITION FROM DAMONTS FARMHOUSE,  
DAMONTS FARM, THORPE-LE-SOKEN, CLACTON ON SEA, CO16 0NP**

**REPORT PREPARED FOR**

**STRUTT AND PARKER (FARMS) LTD  
1 OLD PARK FARM  
FORD END  
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**Report Prepared By**

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## **1. INTRODUCTION**

This report has been prepared at the request of Strutt and Parker (Farms) Limited, 1 Old Park Farm, Ford End, Chelmsford, Essex, CM3 1JN to outline the facts considered relevant to the proposed removal of the agricultural occupancy condition from Damonts Farmhouse, Damonts Farm, Thorpe-Le-Soken, Clacton-On-Sea, Essex, CO16 0NP.

The report has been written with the intention of outlining the facts considered relevant to the removal of the agricultural occupancy condition (Condition Two) contained within planning permission TEN/475/65 issued on 10 December 1965. (See Appendix 1) - Erection of a new farmhouse on site of existing substandard dwelling.

The permission was subject to two conditions, one of which was an agricultural occupancy condition. Condition 2 states:-

*'The dwelling erected in accordance with this permission may only be occupied by persons employed locally in agriculture as defined in Section 221 (1) of the Town and Country Planning Act 1962, or in forestry, and the dependents of such persons.'*

It is understood that the original dwelling on the site which was demolished was not subject to an agricultural occupancy condition. The report outlines the facts as to why this condition is now considered unreasonable and unenforceable.

## **2. BACKGROUND**

Damonts Farm forms part of a larger agricultural unit which comprises a collection of neighbouring farms (including New Hall; Kents Hill and Landermere Farm) which are collectively referred to as 'Landermere Farm'.

Landermere Farm is owned and managed by Strutt and Parker (Farms) Limited, with one farm worker mainly responsible for day to day tasks. This worker is overseen by the farm manager based at Lavenham Farm located at Thorpe Morieux, Suffolk. The Farm Manager and his team assist on site where necessary, i.e. mostly during harvest time.

Landermere Farm extends in total to approximately 657 hectares (1,600 acres) of arable land which is down to wheat and sugar beet with 60 hectares (150 acres) let to a third party for the growing of potatoes.

The agricultural buildings include a grain store as well as cold and ambient stores used in connection with the potato enterprise. The sugar beet is harvested by a specialist contractor and stored offsite.

There are a number of dwellings including Damonts Farmhouse (subject to this application) as well as a further 5 dwellings, 4 of which are let out to non agricultural tenants and one which is occupied by the farm worker, who is employed full time by Strutt and Parker (Farms) Limited.

Due to the size of the arable holding there is no requirement for a Farm Manager to live on the holding and the farmhouse is therefore currently let to a couple who work on London Rail.

### **3. BASIS OF ASSESSMENT**

This report considers the need for an agricultural dwelling in the surrounding area and on the holding.

This report has been written with regards to National and Local Planning Policies.

#### **National Planning Policy**

#### **National Planning Policy Framework (NPPF) (February 2019)**

Paragraph 79 within Section 5, Delivering a Sufficient Supply of Homes, of the NPPF states:-

*'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstance apply:*

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) the development would involve the subdivision of an existing residential dwelling; or*
- e) the design is of exceptional quality, in that it:*
  - is truly outstanding or innovative, reflecting the highest standard in architecture, and would help to raise standards of design more generally in rural areas; and*

- *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.'*

Paragraph 55 within Section 4, Decision Making, of the NPPF states:-

*'Planning conditions should be kept to a minimum and only imposed where they are;  
necessary;*

*relevant to planning and to the development to be permitted,  
enforceable;*

*precise; and*

*reasonable in all other respects.*

*Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.'*

### **Planning Practice Guidance**

(Published 6 March 2014, updated 23 July 2019)

#### **Use of Planning Conditions**

Explains how conditions attached to a planning permission should be used and discharged effectively.

- *Why and how are conditions imposed?*
- *What approach should be taken to using conditions?*
- *Conditions relating to time limits.*
- *The use of pre-commencement conditions.*
- *Discharging and modifying conditions once planning permission is granted.*
- *Deemed discharge.*

The National Planning Policy Framework and Planning Practice Guidance only contain key aspects on the use of conditions. However, it is considered that if a condition can be proven to have outlived its usefulness it is no longer **reasonable** or **necessary**.

#### Local Policy

Local plan policy is found in the Tendring Local Plan 2007 as follows:-

#### **Policy HG19 - Removal of Occupancy Conditions**

*Applications to relax planning conditions that restrict occupancy of agricultural or forestry workers dwellings will only be permitted in the following circumstances:*

- i. *where an applicant is able to demonstrate that there is no long term demand for an agricultural or forestry workers dwelling on the particular unit or in the locality generally; and*
- ii. *where all reasonable attempts have been made to market the property for a period of 12 months immediately prior to the application date at a discounted value to reflect the agricultural occupancy condition.*

**Policy HG12 – Extensions to or Replacement of Dwellings outside Settlement Development Boundaries**

*Proposals for an extension to or a replacement of an existing dwelling outside the defined development boundaries of settlements will be permitted provided that the extension or replacement satisfies the general design criteria set out in Policies QL9 and QL10 and, in addition, that it:*

- i. *is of a size, scale, and height in keeping with the character of the locality and in terms of design and materials would make a positive visual contribution to its setting;*
- ii. *is well related and in proportion to the original dwelling;*
- iii. *it is not visually intrusive on a skyline or in the open character of the surrounding countryside;*
- iv. *it retains sufficient space around the dwelling to protect its setting, that of any associated small group of rural housing, and the amenity and character of the countryside;*
- v. *would not represent over-development of the site;*
- vi. *would not be detrimental to highway safety;*
- vii. *would not adversely affect adjoining properties or main habitable rooms in terms of privacy, amenities and aspect;*
- viii. *would not replace an existing permanent dwelling which is capable of reasonable improvement and extension and which makes a positive contribution to local character;*
- ix. *would not be a replacement for a mobile home, dwelling already demolished or abandoned, or a building not in lawful use as a dwelling house; and*

- x. *would not exacerbate any existing access, drainage or other problems associated with the site.*

#### **4. AGRICULTURE IN THE AREA**

Agriculture is continuously changing with a move in some areas away from traditional livestock towards more arable cropping. This has reduced the amount of labour required which is generally higher on livestock farms than arable.

The DEFRA Statistics show that in 2016 in Essex, of the 7,557 people employed in agriculture, 1,172 were casual workers and 707 part time workers. However, 3,871 were farmers, partners, directors, spouses and salaried managers (full time) and 1,806 regular full time workers who generally already live on farms. The 'pool' of occupiers for an agricultural dwelling is therefore very small.

Agriculture in Essex has reduced over time as follows:-

	<b>2005 Nos/Hectares</b>	<b>2016 Nos/Hectares</b>	<b>+/- %</b>
Total Holdings	4,232	2,140	-49%
Total Cattle	32,389	25,862	-20%
Total Pigs	64,350	47,160	-27%
Total Sheep and Lambs	57,143	43,323	-24%
Broilers (table chicken)	2,345,959	1,733,219	-26%
Top Fruit	424 ha	278 ha	-34%
Hard Nursery Stock	138 ha	122 ha	-12%

This shows a significant reduction in need for an agricultural dwelling. This is likely to reduce further following changes in agricultural support following the UK leaving the European Union. This is predicted to see a reduction in beef and sheep, due to the removal of subsidies and an increase in environmental schemes, which will mean land doesn't need agricultural labour.

## 5. PLANNING DISCUSSION

An application to remove a condition is effectively an application for the same permission without it being imposed. Therefore the condition has to meet the current tests or should not be applied.

Therefore for the condition to be retained it has to meet the five tests outlined in the NPPF and Planning Practice Guidance and whether if applied for today whether the condition would be considered necessary to allow the development to be permitted. However, in this case it fails some of those tests as follows:-

### Is it Necessary?

There is no need on the holding for the agricultural dwelling. The land is all down to arable production with no stock or agricultural production needing close care or attention. In addition the only farm worker responsible for the day to day farm work on the holding lives on site in a farm workers cottage. The site is managed within the overall business owned by Strutt and Parker (Farms) Limited and there is a team of staff available based at Lavenham.

Damonts Farmhouse is therefore not required and to avoid it lying empty, it is currently rented out to a couple who do not comply with the tie in order for the property to remain occupied.

Research of the Tendring District Council planning website, currently shows no applications for agricultural dwellings being applied for at the current time due to no general demand.

In addition there is falling agricultural employment in the area thus also reducing the need for an agricultural dwelling.

Overall there is no need for the dwelling in agricultural terms at the present time.

### Relevant to Planning and to the Development to be Permitted

Damonts Farmhouse when applied for was to replace an existing dwelling which was not subject to an agricultural occupancy condition as it pre dated planning permissions. Replacement dwellings are supported under planning policy if applied for today. It is therefore considered that an agricultural occupancy condition would not have been **necessary** to make the development acceptable, as a dwelling was already in existence which was to be replaced.

### Is it Reasonable in Other Respects?

It is considered that the agricultural tie is not reasonable. The applicants have no wish to sell the farmhouse, as it forms part of the history of the site and is part of the fabric of the farm, however they have no agricultural need for the property. This will not change in the future with the farm to remain arable. There is also predicted to be a general reduction in livestock in the UK in any case, as a response to changes to farm subsidies following the leaving of the European Union.

The Tendring planning policy suggests marketing of the property but this policy is dated and pre dates the NPPF.

It is unreasonable to insist that the property be marketed, even if there was a market, as the applicants wish to retain the farm in its entirety. In order to market they have to be prepared to sell.

The Consumer Protection from Unfair Trading Regulations brought in in 2008 i.e. after the planning policy prohibit unfair commercial practices, which might affect the transactional decision making of the average consumer. Therefore, if a marketing exercise was undertaken to ascertain whether there was a compliant purchaser for the property this would be contrary to the Regulations. Making a misleading omission and failing to make clear that a property is not, in fact, available to buy or rent would be a misleading omission which would affect a consumer's decision about whether to proceed with the transaction and would be punishable by a fine. This is detailed in advice from the Central Association of Agricultural Valuers, extract contained at Appendix 2.

Therefore if the applicant did want to sell and was unable to, then the marketing would form the basis of a case that the condition is unreasonable and unnecessary. However where there is no desire to sell, marketing is not an option available, nor can the Planning Authority insist on it since 2008.

## **6. EXAMPLE CASES**

Appeal Decision APP/H1840/W/18/3197353, Martinbrook Farm, Claines is attached at Appendix 3 and dealt with an agricultural occupancy condition attached to the property and confirms the approach regarding being a new permission. The main issue in this case is whether the disputed condition is reasonable and necessary, having regard to national and local planning policy concerning the provision of dwellings within the countryside and the imposition of conditions.

The Inspector in Paragraph 22 stated:-

*Agricultural occupancy conditions are an important tool for the protection of the countryside. However, they should not be retained on the off-chance that there will be a functional need for the*



*dwelling at some future stage, unless substantive evidence is presented to demonstrate that there is a realistic prospect of such a need arising. The submissions in this case fail to persuade me on this critical point. The circumstances relating to the dwellings have changed considerably since the original planning permission. Moreover, the wording of condition No 1 does not materially restrict the occupancy of the dwellings. Consequently, based on the evidence before me, I find that in this case condition No 1 does not serve a useful purpose for the appeal site or the locality. On this basis, I conclude that it is not reasonable or necessary.*

This makes clear that agricultural occupancy conditions should not be retained without a functional need or indeed any need. In this instance there is no functional need for the dwelling to be subject to an agricultural occupancy condition, it is not required for the functional working of the farm and is occupied by non-compliant tenants. The farm in this case has a number of dwelling and only one is occupied by a farm worker in any case.

## **7. CONCLUSION**

The original permission in this case was for a replacement dwelling. Therefore, looking at it as a new permission today, the condition would not have been necessary.

The planning policy in this case pre dates the NPPF and the introduction of the Unfair Trading Regulations. Whilst it might be still relevant in some cases to submit such information, where there is no desire to sell that is not possible.

There have been no recent applications for agricultural dwellings and the statistics show falling labour so indicating a lack of demand and need.

The farm holding itself is purely arable and whilst there is one employee on site, he lives in another of the available dwellings. All the other historic dwellings are let on the open market where they help with general housing supply. The farm is managed by the Farm Manager and wider team based elsewhere. There is therefore no need for the dwelling for agricultural purposes now or in the future.

The agricultural occupancy condition need not be applied due to the fact it was a replacement dwelling, but even putting aside this aspect, there is clearly no need for the dwelling to remain agriculturally restricted.