

Planning Statement

Removal of Planning Condition 2
of approval TEN/483/63
(agricultural occupancy condition).

“Nightingales” 23 Mill Lane, Weeley
Heath, Clacton on Sea, CO16 9BZ.

Messrs S & D Partridge

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PLANNING CONSULTANTS

Introduction

- 1.0 This statement has been prepared by Pomery Planning Consultants Limited on behalf of our clients, Messrs S.C. & D.A. Partridge (the applicants). The statement has been prepared to explain and support the applicant's proposal to remove condition 2 of planning approval TEN/483/63, which related to the construction of an agricultural workers dwelling, where the development at the time was described as :

"1 Dwelling house for farming partner, on field 264, part of property known as Willow Farm, Weeley Heath".

- 1.1 The planning permission was subject to conditions and condition 2 read:

"The occupation of the dwelling shall be limited to persons employed locally in agriculture as defined in section 221(1) of the Town and Country Planning Act 1962, or in forestry, and dependants of such persons."

- 1.2 The property was subsequently constructed and was occupied by the Partridge family, who farmed the surrounding land and operated a pig farming business for some 58 years, on the land opposite Nightingales. In 2015, planning permission was granted under outline approval 15/00541/OUT for the:

"Redevelopment of existing Pig Farm, removal of existing buildings and associated structures. Remediation of contaminated land. Provision of a new residential development providing 10 dwellings accessed via Mill Lane and 36 dwellings accessed via Clacton Road, garages and associated works".

The outline approval was followed by reserved matters consent and the piggery buildings were cleared in 2018, when work began on the 46 dwellings, which are all now constructed and occupied.

The Application Site

- 2.0 The application site is centred on “Nightingales”, a large chalet bungalow on a generous plot with a double garage and games room. However, the wider farm is also relevant to this application and that can be identified in the aerial image below.



- 2.1 The red line area above indicates the plot of “Nightingales”, and the light blue line indicates the main farm land, before parts of the site were developed for housing. Over the page, is an image of the farm in 2017 just before the piggery was redeveloped.



2.2 The pig farming unit was the only source of income for the farm business. Once the main piggery units were replaced, the farm business was completely shut down. Following the redevelopment Mrs Partridge continued to be resident in “Nightingales” until her death in October 2022.

The Proposal

3.0 The proposal amounts to the removal of condition 2 of planning permission TEN/483/63 under section s73 of the Town and Country Planning Act 1990. Condition 2 of the permission restricts the occupancy of “Nightingales” to agricultural or forestry workers and their dependants. It is the applicants view that the condition has outlived its usefulness as the property is no longer part of a farming business.

The Planning Policy Framework

- 4.0 The development plan in Tendring consists of the adopted Tendring Local Plan which is in two parts. Part One is a joint document prepared between Braintree and Tendring District Councils and Colchester City Council (the North Essex Authorities). Part One deals with strategic matters and policies across all three authority areas, including their overall housing requirements. Part One of the BLP was adopted on the 22nd February 2021. Part Two of the BLP was adopted on the 25th January 2022 and contains Tendring-specific development management policies, along with allocations to meet the District's housing needs, which are defined in Part One.
- 4.1 With respect to relevant planning policy within the Local Plan the position is, that there is no policy within the Local Plan, that specifically addresses the removal of agricultural occupancy conditions. This has not always been the case and the last Local Plan, contained Policy HG 19 which provide specific criteria for the removal of outdated agricultural occupancy conditions.

The Material Planning Considerations

- 5.0 Planning decisions in England need to be determined in accordance with the development plan unless material considerations indicate otherwise. This doctrine is given statutory force by s38(6) of the Planning and Compulsory Purchase Act 2004. Therefore, the decision as to whether the removal of the occupancy condition on this historic planning permission can be lifted, will need to be determined in accordance with the policies of the current Local Plan. However, as already stated above, the Council chose not to carry through Policy HG19 to the new Local Plan, the reasons for this are unknown. It is unlikely to have been an oversight, so one must assume that it was a conscious decision, so it appears that the planning authority is content to no longer control the relaxation of such conditions of occupancy. Therefore, the Council has no

policy framework that can be applied to the application proposal. In short, the proposal cannot be said to conflict with policy, when there is no policy to apply.

- 5.1 The National Planning Policy Framework provides the Government's planning policy position on all matters, including plan making and decision taking. It too is silent on the removal of agricultural workers dwellings, as is the Government's Planning Practice Guidance.
- 5.2 There appears therefore to be a planning policy vacuum on this subject. What is clear is that without policy justification, the Council is not in a position to sustain a refusal of this planning application. However, the normal planning considerations, in respect of the principle of the removal of occupancy conditions, are whether there is a continued need for a dwelling to support the farm business and whether there is demand locally for an agricultural worker dwelling. On the first consideration, there is no farm business remaining. The majority of the land and the main piggery buildings have been redeveloped. The need for the dwelling has therefore disappeared. In relation to the second consideration, the dwelling would attract a high selling price, due to its size, location, condition and generous plot. Even at a significant discount reflecting the occupancy restriction, the value of the dwelling is considered to be beyond the reaches of agricultural workers in the area.
- 5.3 Were there to be specific governing policy in place, then the circumstances of the case would be compliant with such policy and consent could be granted. With no policy in place, then there can be no conflict with the development plan and as such, no reasonable or justifiable purpose in not granting approval for the removal of the condition.

