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**Removal of Condition 2 from  
Planning permission 74/0191/9**

PREPARED FOR

**Mr Andrew Allen  
6 Station Road  
Whissendine  
Rutland  
LE15 7HG**

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**PREPARED BY:**

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## 1. INTRODUCTION

This application has been submitted on behalf Mr Andrew Allen to outline the facts considered relevant for the removal of Condition 2 from planning permission 74/0191/9, the use of land for the erection of a bungalow and the construction of a vehicular access at Pt O.S. 401a, Whissendine.

## 2. BACKGROUND

Planning permission was granted in 1974 for the use of Past O.S. 401a, Whissendine for the use of land for the rection of a bungalow and the construction of a vehicular access. Condition 2 states the following:-

*3. The occupation of the dwelling shall be limited to a personal wholly or mainly employed, or last employed locally in agriculture as defined in Section 290 (1) of the Town and Country Planning Act 1971, or in forestry, or a dependant of such a person residing with him (but excluding a widow or widower of such a person).*

The property at 6 Station Road extends to 2 hectares (5 Acres) and has been owned by the applicant, Mr A Allen for approximately a year. It was formerly owned by his Uncle. The family have farmed in the area for many years although Mr Allen is no longer involved in agriculture.

At the time of the application the development would have been within open countryside and a case made for an agricultural need for the property. However, the dwelling is now sited within the development boundary as identified for the Whissendine Site Allocations and Policies Development plan Document Adopted October 2014 which also forms part of the Neighbourhood plan – see area in red on the plana at Appendix 1

## 3. PROPOSAL

The proposal is for the removal of Condition 2 from planning permission 74/0291/9.

The application to remove the condition is done under Section 73. If a Section 73 permission is granted the original permission still exists, but the LPA in effect determine a new permission which can include the same conditions or different conditions. It is therefore a new planning application which should be considered under current policies.

The permission for the agricultural dwelling predates all versions of the National Planning Policy Framework. The dwelling is also now located within the settlement boundary and should be considered against relevant up to date policies.

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Planning policy, both national and local today is positive towards residential development in settlements.

#### 4. PLANNING POLICY

National planning policy is contained in the National Planning Policy Framework (NPPF) as follows:-

*“The purpose of the planning system is to contribute to the achievement of sustainable development.*

*Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

- a) ***an economic objective*** – *to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) ***a social objective*** – *to support, strong vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well designed beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well being; and*
- c) ***an environmental objective*** – *to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

**Paragraph 10** states that *“So that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11).*

**Paragraph 60** - *To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.*

Policy for Planning Conditions and Obligations are as follows:-

*“Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”*

### **Paragraph 56**

*“Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning 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 commencements should be avoided, unless there is a clear justification.”*

### **Planning Practice Guidance**

The Planning Practice Guidance explains how conditions attached to a planning permission should be used and discharged effectively. Paragraph 003 states:-

*“Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following test:-*

1. *necessary;*
2. *relevant to planning;*
3. *relevant to the development to be permitted;*
4. *enforceable;*
5. *precise; and*
6. *reasonable in all other respects*

*These are referred to in this guidance as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply.*

Also a key consideration is

*Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.*

### **Local Planning Policy**

Local Plan Policies are contained in the Rutland Local Plan Site Allocations and Policies Development Plan Document Adopted October 2014 as follows:-

Policy SP5 - Built development in the towns and villages

*Sustainable development within the Planned Limits of Development of Oakham, Uppingham and the villages will be supported provided that:*

- a) it is appropriate in scale and design to its location and to the size and character of the settlement;*
- b) it would not adversely affect the environment or local amenity;*
- c) it would not individually or cumulatively with other proposals, have a detrimental impact upon the form, character, appearance and setting of the settlement or neighbourhood and its surroundings;*
- d) it would not be detrimental to features and spaces which contribute to the important character of the settlement and the locality.*

The Whissendine Neighbourhood Plan states:-

WH1: Housing 1.

*Residential development will be supported in the following locations: a. Within the Planned Limits of Development (see Plan);*

## **5. ACORUS COMMENTS**

The proposal is for the removal of an agricultural tie which was attached to a dwelling granted in 1970's. This was based on 1970's planning policies when the permitted dwelling was presumed to be outside of the settlement boundary and was necessary to make the dwelling acceptable in planning terms.

It is considered that an approach to remove the condition based on no need would only be relevant where the condition would be necessary to make the development acceptable today (ref: Paragraph 55 of the NPPF). If the development would otherwise be acceptable under the current policies, no condition is in effect necessary so an alternative permission can be granted via Section 73.

The requirement of an occupancy condition to make a development acceptable was dealt within the example appeal at Appendix 1. In Paragraph 9 the Inspector stated:

*'As such, if the original development were to be considered afresh today, it would comply with policy BE4 and, in turn, policy H1 of the Local Plan without the disputed condition.'*

Paragraphs 55 and 56 of the NPPF are considered to be the key policy considerations with this case. They make it clear that planning conditions should only be applied where they are necessary to make a development acceptable. Paragraph 003 of the Planning Practice Guidance also makes it clear that all 6 tests of conditions need to be satisfied for each condition which an authority intends to apply.

It is considered that if applied for today the proposal would in effect be acceptable as a dwelling as it is within the settlement boundary of a village. The development would not comprise land allocated or safeguarded for purposes other than a residential use and would not extend development beyond the current limits of the village.

The core thread of the NPPF is sustainability for which there are three dimensions in planning terms:-

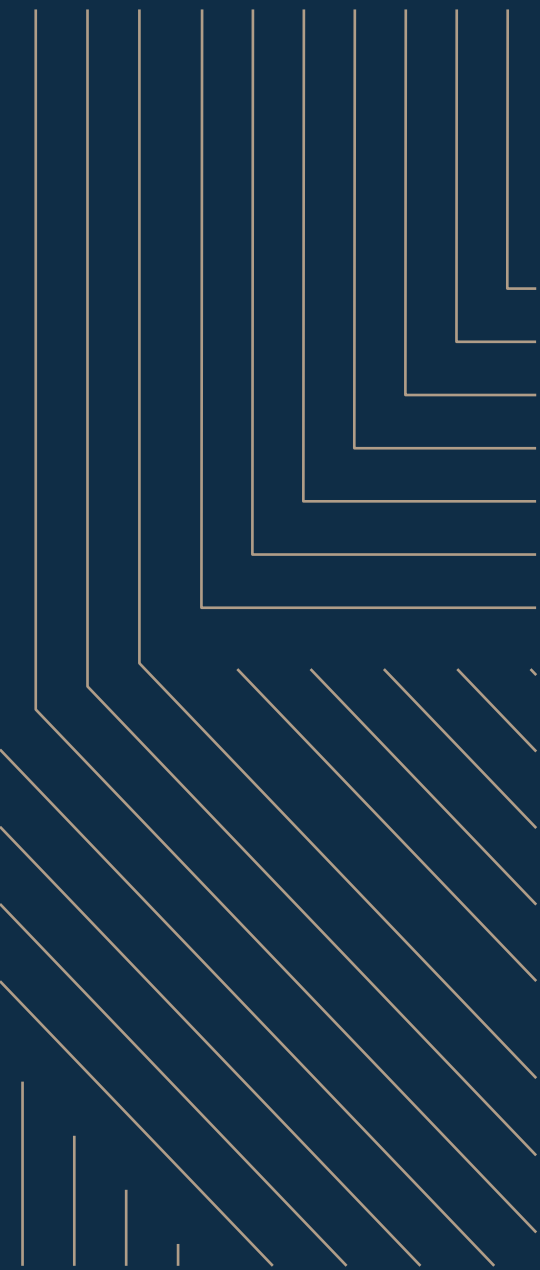
- Economic objective
- Social objective
- Environmental objective

These three objectives cannot be taken in isolation. Economic growth can secure higher social and environmental standards and well designed buildings and places can improve the lives of people and community.

The dwelling is within a sustainable location being within a settlement boundary of a smaller service centre as identified in the settlement hierarchy as having a more limited range of services and facilities as such can only accommodate a minor level of development where appropriate to the scale and character of the village. Minor level development is defined as being an individual development of up to 5 dwellings. This development is only one dwelling.

The village benefits from regular bus services to Melton Mowbray, Oakham and Uppingham.

Overall it is considered that the development in today's terms is acceptable and the condition therefore is not **necessary** nor **reasonable** so would fail the tests on conditions.



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