

**PROPOSED REMOVAL OF AGRICULTURAL OCCUPANCY CONDITION NUMBER 1
CONTAINED WITHIN PLANNING PERMISSION SU214/66 RELATING TO
1 ELM LANE (formerly Dalrhua), FULNEY, SPALDING, LINCOLNSHIRE, PE12 6EQ.**

NEED IN THE LOCALITY AND NEED ON THE HOLDING

Report prepared for

**Mr J Stock
1 Elm Lane
Fulney
Spalding
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PE12 6EQ**

Prepared by:

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FOREWORD

This report has been written by Acorus Rural Property Services Ltd.

The company trades as Chartered Surveyors being registered as such with The Royal Institution of Chartered Surveyors.

SUMMARY

This report considers the need for an agricultural dwelling in the locality of Fulney, Spalding, Lincolnshire and on the holding.

A. NEED IN LOCALITY

There are various methods that can be employed to assess the need for an agricultural dwelling in a certain locality:-

- i) Efficient marketing of the property
 - through marketing on the open market;
 - through a direct marketing campaign to agricultural and horticultural businesses in the locality; and
- ii) assessment of the potential likely demand by identifying the type of agriculture/horticulture in the locality and the associated labour requirements.

All of these methods have been looked at in this case with the following results.

Marketing Campaign

Acorus were instructed to market the property in January 2014 at a guide price of £165,000. As general property prices increased during the marketing period, the guide price remained unaltered. The agricultural occupancy condition has been clearly emphasised throughout. Limited interest was generated with four requests to view the property. No offers were received.

Direct Marketing to Agricultural Businesses in the Locality

A questionnaire has been undertaken relating to agricultural dwellings in the area around this property to ascertain potential demand.

A total of eight forms were returned, two of which requested further details. Further details of the property were sent to these respondents accordingly. No requests to view the property and no offers were received from these persons.

There is no need in the locality.

B. NEED ON HOLDING

There is no longer a need on the holding for an agricultural dwelling.

LIST OF APPENDICES

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1. INTRODUCTION

This report has been prepared at the request of Mr J Stock of 1 Elm Lane, Fulney, Spalding, Lincolnshire.

The report has been written on an impartial basis with the intention of outlining the facts considered relevant to the proposed removal of the agricultural occupancy condition contained within planning permission SU214/66 which states:-

'The occupation of the house shall be limited to persons employed, or last employed, locally in agriculture or to their dependents.'

The report outlines the facts related to whether there is a need on the holding or in the locality for the current dwelling occupied by Mr Stock and his family.

The report should allow the Local Authority to assess both issues related to the proposal to remove the agricultural occupancy condition.

2. SITE VISIT AND INSPECTION

An initial site visit and inspection was undertaken on 25 November 2013 when Mr Stock was interviewed regarding the history of the site as he understood it.

This report is based on the information as obtained at the visit and from Mr Stock together with personal observations where appropriate.

3. EXISTING FARM BUSINESS

3.1 Background

1 Elm Lane is occupied by Mr J Stock and his family.

It is understood the dwelling was constructed in the late 1960s following planning permission dated 5 January 1967 to replace an existing cottage on site suffering from subsidence issues. It is understood this cottage was not subject to an agricultural occupancy condition although is assumed to have been connected at the time to the neighbouring farm.

In May 2005 the property was bought by Mr Stock.

In January 2006 Mr Stock sought permission to extend the dwelling with a two storey extension and construct a detached double garage. Permission was granted on 17 March 2006 (reference H16-0107-06).

3.2 Area Occupied

The property in total extends to approximately 0.13 hectare (0.33 acre) subject to survey.

3.3 Business History

There has been no agricultural business associated with the property for many many years. The exact date the property was divided away from the neighbouring farm is not known.

3.4 Buildings

There are no buildings associated with the property.

3.5 Labour

There is no business associated with the property and therefore no labour.

4. BASIS OF ASSESSMENT

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

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

National Planning Policy

Detailed guidance on the removal of Agricultural Occupancy Conditions was included in Paragraph 17 of Annex A within Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas, and Paragraph 105 of Circular 11/95: Use of Conditions in Planning Permission, as detailed below:-

Annex A: Agricultural, Forestry and Other Occupational Dwellings

Occupancy conditions

'17. Changes in the scale and character of farming and forestry may affect the longer-term requirement for dwellings for which permission has been granted subject to an agricultural or forestry occupancy condition. Such dwellings, and others in the countryside with an occupancy condition attached, should not be kept vacant, nor should their present occupants be unnecessarily obliged to remain in occupation simply by virtue of planning conditions restricting occupancy which have outlived their usefulness. Local planning authorities should set out in LDDs their policy approach to the retention or removal of agricultural and, where relevant, forestry and other forms of occupancy conditions. These policies should be based on an up to date assessment of the demand for farm (or other

occupational) dwellings in the area, bearing in mind that it is the need for a dwelling for someone solely, mainly or last working in agriculture or forestry in an area as a whole, and not just on the particular holding, that is relevant in the case of farm or forestry workers' dwellings.'

Circular 11/95: Use of Conditions in Planning Permission

Agricultural dwellings

'105. Where an agricultural occupancy condition has been imposed it will not be appropriate to remove it on a subsequent application unless it is shown that the existing need for dwellings for agricultural workers in the locality no longer warrants reserving the house for that purpose. This assessment will be necessary in all cases, including those where the condition was originally inappropriately imposed (Sevenoaks DC v Secretary of State for the Environment and Mr and Mrs Geer (1995) 69 P. & C.R. 87). However, the fact that planning permission for a dwelling would in all probability be granted today without an agricultural occupancy condition is a material consideration (Hambleton DC v Secretary of State for the Environment and others [1994] EGCS 202).'

PPS7 was revoked and replaced by Paragraph 55 contained within Section 6 of the National Planning Policy Framework in March 2012.

Circular 11/95 was revoked and replaced by Use of Planning Conditions contained within Planning Practice Guidance in March 2014.

Planning Practice Guidance

Use of Planning Conditions

'Sets out expectations on use of conditions on planning decisions.

1. Why and how are conditions imposed?
2. Application of the six tests in National Planning Policy Framework policy which state; Conditions should only be imposed where they are:-
 - necessary;
 - relevant to planning and;
 - to the development to be permitted;
 - enforceable;
 - precise and;
 - reasonable in all other respects.
3. What approach should be taken to imposing conditions?
4. Conditions relating to time limits.
5. Discharging and modifying conditions once planning permission is granted.'

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 and necessary.

Local Policy

South Holland Local Plan Adopted July 2006 states:-

Agricultural Occupancy Clauses

Changes in farming practices have resulted in some agricultural dwellings no longer being required for that purpose. Although it is not appropriate for them to remain permanently vacant, applications for the removal of the condition will need to be carefully assessed in order to establish whether there is a continuing need for an agricultural dwelling on the holding or in the locality. Such assessment should be submitted with the application and particular attention will be paid to the attempts which have been made to dispose of the property for agricultural use. The dwelling should have been advertised for a reasonable period, normally a minimum of six months, at a price which reflects the occupancy condition and genuine attempts made to sell the property to persons who could satisfy the occupancy condition.

Policy HS15 - Agricultural Occupancy Clauses

Where planning permission has been granted subject to an agricultural occupancy condition, restricting occupation to certain persons, removal of the condition will only be permitted if it can be demonstrated that there is no longer a need for the dwelling on the holding/business or in the locality.

South Holland Agricultural Workers' Dwellings and Occupancy Conditions Policy Guidance Notes states:-

'3.5 In essence, prior to consenting to the removal of an agricultural occupancy condition the District Council will need to be sure that the agricultural occupancy condition is redundant and can no longer be justified. It will also be necessary to demonstrate to the satisfaction of the District Council that there is no possibility of the dwelling being required to house an agricultural/forestry worker in the future either on the site itself or within the wider area. The District Council will only consider the removal of an agricultural occupancy condition after a reasonable period of time has elapsed from the date of the imposition of the initial condition and when every attempt has been made to explore the need in the locality through the advertising of the dwelling in the local press at regular intervals over a minimum period of twelve months at a price which adequately reflects the existence of the agricultural occupancy condition. The property should be advertised for sale and/or rent.

3.6 Currently, departmental advice requires the marketing of the tied dwelling at a realistic price for a period of some 6 months. If no need is demonstrated, and the price is deemed to be realistic, then the condition may be removed. There is independent assessment of this process since the price at which the property is marketed is assessed by a local valuation agent with knowledge of the

District. This process is somewhat at odds with the advice given in PPS7 'Sustainable Communities in Rural Areas', which states that assessment of the demand for agricultural dwellings in the area should be based on up-to-date information of the wider area and assessment should not be based solely on particular holding the subject of the application.

3.7 Nationally, local authorities tend to require marketing at a price between 20% and 50% below open market value for a period of at least twelve (12) months. In addition, marketing must be targeted towards the likely client group. It should in this context include marketing which is aimed at the agricultural sector and particulars which describe the holding in detail as well as the wider area in general. This is particularly important when the property in question is devoid of an attendant or realistic holding.

3.8 An analysis of appeal decisions in this arena would suggest that marketing at around 30% below open market value is realistic whereas attempts to promote policies which seek greater reductions up to and including 50% are unrealistic and rarely achieve the support of the Inspectorate.

3.9 In the context of the above, and prior to considering a request to remove an agricultural occupancy condition, the District Council will require the following information to be supplied with the application itself:

- a. Details of the disposal(s) of the agricultural land/unit(s), which has extinguished the original or subsequent need for the dwelling and/or a statement from an independent consultant, indicating that there are valid reasons why the original or subsequent agricultural need for the dwelling is now redundant.*
- b. Details of the scope of the advertisement for sale and the price requested. Advertisements for sale shall be made in an appropriate publication, including in related agricultural publications (such as 'The Grower' or 'Farmers Weekly') and not just the local press, over a reasonable period of time (usually a minimum period of 12 months) and at a value which reflects the existence of the occupancy condition. This value would normally be expected to fall in the range of 25-40% below open market value and the property must be actively marketed.*

3.10 When considering applications for the removal of agricultural occupancy conditions it is important that such applications are independently assessed. Currently, the District Council seeks the independent advice of suitably qualified agricultural consultant on all applications for planning permission to construct a new dwelling in the open countryside. Applications which involve the potential removal of an agricultural occupancy condition must properly be the subject of the same procedure and this will enable independent assessment of the information submitted by the applicants' consultant.

3.11 Furthermore, the independent assessment of the marketing exercise by a valuer with local knowledge should also include parallel independent assessment by a valuer operating within the wider region. Information gained from the procedures outlined above will assist the District Council in its assessment of

cases concerning the removal of agricultural occupancy conditions. The District Council will expect comprehensive and detailed information relating to the circumstances which have resulted in the application to remove the condition. Advertisements for sale or rent will need to highlight the existence of the occupancy condition, outline the extent of the holding (if any) and should be published in a selection of acknowledged agricultural journals and local papers. If these conditions are not met in full then it is unlikely that the District Council will have sufficient evidence on which to consider the removal of an occupancy condition. This will result in refusal of the application on the basis of the submission of the insufficient information to enable the District Council to properly determine the proposals, irrespective of the merits or otherwise of the case itself.'

5. NEED ON THE HOLDING

The property comprises the dwelling, double garage and garden.

There is no land associated with the site.

Originally the property was associated with the neighbouring farm but it is not known when the farm sold the property.

Mr Stock acquired the property in May 2005 and extended it in 2006.

With no land available to the property there is no need for an agricultural dwelling on the holding.

6. NEED IN THE LOCALITY

There are various methods that can be employed to assess the need for an agricultural dwelling in a certain locality:-

- i) Efficient marketing of the property.
- ii) Direct marketing to local agricultural/horticultural businesses.
- iii) Assessment of agriculture (including labour) in the county, how it has changed and resultant potential need.

7. EFFICIENT MARKETING OF THE PROPERTY

7.1 Marketing campaign through an Estate Agent

Acorus Rural Property Services have marketed the property since January 2014 to the date of this statement.

An important aspect of marketing is price.

Following research of comparable properties in the locality (see **Appendix 1a**), it was concluded the value of the property, without the imposition of the tie, would be in the region of £210,000. Deduct 25% to reflect the tie gave a value of £157,500. A guide price of £165,000 was adopted which would, allowing for offers of 5% to 10% below the guide, give a sale price of approximately £150,000 to £157,000.

The guide price was reviewed during the course of the marketing period but as general property prices in the East Midlands were increasing steadily, the guide price remained unaltered. See Nationwide House Price Index information at **Appendix 1b** which shows from the date of the valuation an increase from Quarter 1 2014 to Quarter 2 of 2.96%, from Quarter 1 to Quarter 3 of 5.06% and Quarter 1 to Quarter 4 of 4.03%. This in effect takes the unencumbered value of the property up to £218,000 over the course of the marketing period. If this had been applied to the guide price the discount effectively becomes greater.

Property details can be seen at **Appendix 1c**.

As with any marketing exercise, the aim must be to ensure that the target 'audience' know the property is for sale, in this case the audience being those that satisfy the condition in the locality, although qualifying persons from everywhere are potential purchasers. The procedure outlined at Section 7.2 is particularly useful as part of this process.

In addition however, national advertising was undertaken in the Farmers Weekly (see **Appendix 1d**) and the Farmers Guardian (see **Appendix 1e**), and local advertising in the Lincolnshire Free Press and the Spalding Guardian (see **Appendix 1f**).

All our properties are placed on our website throughout the marketing period and an example of this can be found at **Appendix 1g**.

The property also appeared on rightmove.co.uk and attached at **Appendix 1h** are Sales Reports detailing property performance.

7.2 Marketing the property by direct contact with agricultural holdings in the locality.

Identification of "the locality" is fundamental to a direct marketing campaign.

Many local authorities are of the opinion that the locality should reflect an approximate 10-15 minutes drive to the furthest point from the dwelling. This is estimated to be an appropriate travelling time for an agricultural worker on his journey to work bearing in mind he may be required at short notice. This equates to approximately 10 km/6 miles from the property.

After identification of the locality, Acorus Rural Property Services extracted a list of agricultural holdings from a database. This list contained a total of

120 holdings (See **Appendix 3**).

Each holding was contacted through a postal questionnaire (see **Appendix 4**) which was designed to identify basic details of individual agricultural businesses in the locality and whether further details of the subject dwelling was required. A total of eight forms were returned, two of which requested further details (see **Appendix 5**).

7.3 Interested Parties Generated from Both Forms of Marketing

In total, all forms of marketing generated twenty six requests for further details (see **Appendix 6**). This excludes the number of times the property details were viewed on line via our website and rightmove.co.uk. Four requests to view the property were received but no offers forthcoming.

8. COMPARABLE EVIDENCE ON AGRICULTURE IN THE AREA

Appendix 7 contains details of agriculture within Lincolnshire, the information being extracted from DEFRA census data.

The figures for 2005 and 2013 show falls in agricultural production, in particular:-

	2005		2013		+/- %
	Hectares/Nos.		Hectares/Nos.		
Total pigs	178,948		169,053		-5.5%
Sheep - Female breeding flock	70,070		66,244		-5.5%
Total sheep and lambs	152,800		140,512		-8%
Total vegetables grown in open	30,189	ha	24,950	ha	-17%

All of these factors will have an effect on the demand for agricultural dwellings and ability for people to comply.

This is shown in the labour figures. Total labour has fallen from 15,170 to 13,272 (-12.5%).

9. ACORUS COMMENTS

The two key tests when looking at the removal of occupancy conditions are '**need on the holding**' and '**need in the locality**'.

9.1 Need on the Holding

There is no agricultural business associated with 1 Elm Lane and with no land available to the property there is no need for an agricultural dwelling on the holding.

9.2 Need in the Locality

In this case a number of tasks have been undertaken to assess demand.

- a) All known agricultural and horticultural businesses have been contacted. This specified no price and as such represented a fair reflection of those interested in a dwelling.
- b) The positive respondents to the above were sent further details of the property.
- c) The property was advertised nationally several times and locally.
- d) Twenty six requests for further details were received over the marketing period excluding on-line enquiries with four viewings undertaken. No offers were received.

Overall, it is considered that the activity undertaken over the course of the marketing period has demonstrated there to be no requirement for this dwelling in the locality.