

Modification or Discharge of Planning Obligations

Opperman Plants Limited, Littleworth Mission, Main Road, Deeping St Nicholas, Spalding,
PE11 3EN

5. The obligation in respect of which this application is now submitted to modify/discharge the planning obligation as set out in an Agreement under Section 52 of the Town & Country Planning Act 1971 as between South Holland District Council and Peter Alan Cooper (the original owner) to erect a single agricultural dwelling at Mallard Road, Low Fulney, Spalding, such Agreement being dated the 19th January 1990. A copy of the Section 52 together with a plan is attached to this application. The request is that this obligation should be discharged.
6. This application is being submitted contemporaneously with an application to remove/vary a condition following the grant of Planning Permission in 1990 to lift and shift Agricultural Habitation Clause restriction from No. 17a (the bungalow, garden and buildings) to No. 15 Mallard Road which is owned by the applicant company and occupied by a company employee.

The area/nursery to which the original Section 52 Agreement was related to being that property owned by Mr P A Cooper in 1990 has been incorporated within a much larger horticultural business operated by the present applicant (Opperman Plants Limited), the extent of which is edged red (owned property) and dotted red (rented property) together with the extent of the property being the subject to the Section 52 Agreement shown with the dotted green line. The position of No. 17a (bungalow) and No. 15 (semi-detached house) Mallard Road is also shown.

As a result of the continuing development of Opperman Plants Limited, the business has grown very significantly in the last 30 years to the extent that the original nursery was sold by Mr Cooper to Oppermans and is now incorporated within the overall business structure – it is no longer a standalone unit.

We also enclose a copy of our original letter to the South Holland District Council dated the 30th January 2019 together with plan referred to and a copy of the reply received from the Case Officer, Mr David Gedney, by email on the 12th February 2019.

South Holland District Council
Planning Department
Priory Road
Spalding
Lincolnshire
PE11 2XE

Our ref: CRML/TAD

30th January 2019

Dear Sirs

RE: OPPERMAN PLANTS LIMITED – NURSERY OPERATION,
MALLARD ROAD, FULNEY, NEAR SPALDING,
LINCOLNSHIRE PE12 6ND

We are instructed on behalf of Oppermans Plants Limited to approach the Planning Department of SHDC concerning two particular elements relating to planning/other restrictions concerning part of their premises at Mallard Road Fulney.

These relate specifically to:-

- a) An Agricultural Habitation Clause condition in an Outline Planning Consent granted by SHDC on the 31st January 1990 under Application No: H16/1748/88 which included the standard agricultural restriction habitation clause wording under Clause 4 (a copy of the Consent is attached hereto).
- b) A Section 52 Agreement between SHDC and Mr P A Cooper (the applicant) of which we attach a copy which included a restriction to link the bungalow and the horticultural unit at that time owned by Mr P A Cooper. This is dated 19th January 1990.

The Approval of Reserved Matters consented in February 1993 under Application No: H16/1317/92 refers to a bungalow with garage.

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As a consequence of the change in the business which has expanded very significantly over the last 20 years, the informal opinion of SHDC Planning Department is sought as to the following:-

1.

- a) The Agricultural Habitation Clause on the bungalow (No. 17a) may be lifted and transferred to a semi-detached house owned by the Company being No. 15 Mallard Road and occupied by a Company Employee.
- b) The Section 52 Agreement should no longer have effect on tying the occupation of No. 17a to that part of the Nursery which was formerly owned by the then applicant, Mr P A Cooper.

It will be appreciated that within the general area of Mallard Road (formerly the Land Settlement Association), there has been a significant change in the occupation and commercialisation of certain elements of the area whereby a number of properties have been sold away from horticultural units and are now in the occupation of non-related agricultural or horticultural occupants – all of these original houses are free of any Agricultural Habitation Clause restriction (as far as we are aware).

- c) There has been a significant concentration of the Nursery elements that operate in the Mallard Road area which has resulted in a reduced number of operators but with a significantly increase in the size of the units.

It is considered that the Section 52 Agreement no longer is needed if it is accepted that the Agricultural Habitation Clause may be 'lifted and shifted' from No. 17a to No. 15.

It is requested that pre-application advice is sought from SHDC on these two particular elements following such a significant change in the identification, operation and ownership of the former smaller Land Settlement Association units that existed pre-1985/87.

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Therefore, advice is requested from SHDC as to the support that will be given to:-

- a) The lifting and transferring of the Agricultural Habitation Clause restriction from No. 17a to No. 15.
- b) The cancellation of the original Section 52 Agreement as this has now been overtaken by events and in any case only relates to a relatively small area of the present nursery complex operated by Opperman Plants Limited.

A plan showing the following is enclosed:-

- a) The extent of the present Opperman Plants operation – the area owned is edged red and the adjoining area rented with red dotted lines.
- b) The extent of the area over which the original Section 52 Agreement had effect is shown with dotted green lines.
- c) The location of the bungalow (17a) presently subject to an Agricultural Habitation restriction is shown separately (edged black).
- d) The location of the semi-detached house No. 15 is also shown separately (edged black). It is that property to which it is proposed that the Agricultural Habitation clause should be transferred.

If further information is required to assist you in your consideration of our enquiry, please do not hesitate to contact us – otherwise, we look forward to hearing from you in due course.

Yours faithfully



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Encs.