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CHARTERED SURVEYORS

PLANNING STATEMENT

On behalf of

Mr and Mrs R Hart

In respect of a Planning Application for

'The Burrells'
Stockhouse Lane
Surfleet,
Spalding
LINCOLNSHIRE
PE11 4AT

For removal of the Agricultural Habitation Clause, being Condition No. 4 of the original Outline Planning Consent originally registered as H17-0271-91 and then re-registered as H17-1306-91 granted and dated 4/2/92.

Prepared by:

Messrs R Longstaff & Co.
Chartered Surveyors
5 New Road
Spalding
Lincolnshire PE11 1BS
Tel No: 01775 765538
Fax No: 01775 762289
Email: annabel@longstaff.com
Web: www.longstaff.com

1. INTRODUCTION

Outline Planning permission was originally applied for by Mr M Burrell, of Messrs Temple and Burrell, to build a detached 3 bedroom bungalow with garage and farm buildings at Stockhouse Lane, Surfleet, Spalding. Consent was granted by the South Holland District Council under original planning application reference No.H17-0271-91, then re-registered as H17-1306-91 on the 4/2/92, subject to conditions, one of which (Condition No. 4) reflected the normal wording for an Agricultural Habitation Clause restriction. A s106 planning obligation was also entered into by the applicants at the time to restrict the ownership of the dwelling in connection with the proposed farm buildings.

The specific Agricultural Habitation Clause wording under Condition No. 4 of the Planning Consent stated that *'The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed, locally in agriculture as defined in section 290(1) of the Town and Country Planning Act 1971, or a dependent of such a person residing with him, or a widow or widower of such a person".*

2. THE PRESENT SITUATION:

Mr Burrell passed away in 1998, and the present occupiers of the property Mr and Mrs Hart, have resided in the property since 2007. They have not complied with Condition 4 of the planning permission since 2008, so most of the duration of their occupancy of the property.

A Certificate of Lawful Existing Use or Development (CLEUD) was applied for in June 2022 for non compliance with the planning consent (Condition 4 of H17-1306-91), and this was accepted and granted on 11th August 2022 (H17-0601-22). See Appendix C.

3. PLANNING POLICY:

Government Circular 11/95, paragraph 105 states:-
'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).

4. AGRICULTURE IN THE AREA

Agriculture is continuously changing with a move in some areas away from traditional to more intensive arable production, and smaller family run farms being bought out by larger farms. This has reduced the amount of full time regular labour which has been needed in the farming industry.

The DEFRA Statistics show that in the UK of the people employed in agriculture has fallen between 2008-2020, (483,000 to 472,000), and of this number agriculture typically has an aging workforce. In 2016 approximately 36% of all workforce were over the typical retirement age of 65 years, an increase of 5% since 2005, while the proportion of young people aged less than 35 years was 3%, a decrease of 5% since 2005..A great number are partners, directors and spouses (Full time) and regular full time workers who generally already live on farms. See Appendix D.

The 'pool' of buyers for an agricultural dwelling is therefore very small.

5. THE CASE

The consequence of the Certificate of Lawfulness is that the condition has no effect on the value of the dwelling as the bungalow can be occupied by anyone not just those employed in agriculture. The condition is also of course now unenforceable against the current occupiers. There is therefore no ability to enforce, so it fails the test of enforceability (reference Paragraph 26 of Circular 11/95).

As the condition is no longer enforceable, the need issue no longer applies. It could, for example, not be practical to market a property to prove a lack of need for an agriculturally tied property when effectively the tie has no effect, i.e. it could not be advertised at a normal discount as it is worth its full value.

5. CONCLUSION

There is decreased employment in the area so reducing the need for an agricultural dwelling. The planning condition has therefore effectively outlived it usefulness. However, as the dwelling is subject to a CLEUD the condition is unenforceable, so also fails a key test of what is reasonable for a condition. We respectfully therefore ask that condition 4 be removed.

Signed: 

Mrs A S Brotherton, BSc Hons MRICS
Messrs. R. Longstaff & Co
5 New Road, Spalding, Lincolnshire, PE11 1BS
Tel: 01775 765538
Email: annabel@longstaff.com

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Ref: ASB/Hart/2022

LIST OF APPENDICES

1.	APPENDIX A:	Original Planning application plan showing the application site edged red
2.	APPENDIX B:	Copy of the original Planning Consent H17-1306-91
3.	APPENDIX C:	Copy of the CLUED Planning Consent H17-0601-22
4.	APPENDIX D:	Defra Labour Force statistics 2008-2020

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