PROPOSED REMOVAL OF AGRICULTURAL OCCUPANCY CONDITION NUMBER TWO

CONTAINED WITHIN PLANNING PERMISSION H20/0204/85 RELATING TO

ASHBY, OLD FENDYKE, SUTTON ST JAMES, SPALDING, LINCOLNSHIRE, PE12 0HE.

NEED IN THE LOCALITY AND NEED ON THE HOLDING

Report prepared for

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FOREWORD

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

Acorus Rural Property Services Ltd was founded in 2002. The company trade as Chartered Surveyors and are governed by The Royal Institution of Chartered Surveyors rules of conduct.

SUMMARY

This report considers the need for an agricultural dwelling in the locality of Sutton St James, Spalding and on the holding.

A. NEED IN LOCALITY

Various methods can be employed to assess the need for an agricultural dwelling in a certain locality such as:-

- efficient marketing of the property on the open market;
- direct marketing to local agricultural businesses;
- identification of the type of agriculture in the locality and the associated labour requirements; and
- The use of comparable properties in the locality.

The above methods have been looked at in this case with the following results.

Marketing Campaign

The property was marketed with Acorus from November 2019 to December 2020, initially at a guide price of £250,000 and subsequently reduced to £244,500. The agricultural occupancy condition was clearly emphasised throughout.

The direct marketing campaign was undertaken in the locality of the subject dwelling to ascertain if any potential demand existed. Three forms were returned, but neither party requested further details.

Overall, limited interest was generated with two requests to view the property and no offers received.

There is no need in the locality.

B. NEED ON HOLDING

There is no longer a need on the holding for an agricultural dwelling. Most of the land was sold in 2015 and the applicants now only retain approximately 5 acres (2 hectares) which will be used for their Granddaughter's pony.

LIST OF APPENDICES

Appendix 1: **Decision Notice**

Appendix 2: **Opinion on value including comparable properties for sale**

Appendix 3: **Nationwide House Price Index**

Appendix 4: **Property Brochures**

Appendix 5: **Farmers Weekly adverts**

Appendix 6: **Farmers Guardian Adverts**

Appendix 7: **Local adverts**

Appendix 8: **Property pages from Acorus website**

Appendix 9: **Zoopla Property Group Performance Reports**

Appendix 10: **Direct Marketing**

Appendix 11: **Compliance Questionnaires**

Appendix 12: **Agricultural Statistics**

Appendix 13: **Comparable tied property in the District**

1. INTRODUCTION

This report has been prepared at the request of Mr and Mrs North.

It has been written on an impartial basis with the intention of outlining the facts considered relevant to the removal of the agricultural occupancy condition contained within planning permission H20/0204/85 for; '1 no. proposed bungalow with garage including vehicular access' dated 17 April 1985 (see **Appendix 1**). The permission was granted subject to two conditions, one of which restricts the occupation of the dwelling as follows:-

Condition two states:-

'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.'

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 and Mrs North.

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 in November 2019 when the property was discussed with Mr and Mrs North.

This report is based on the information as obtained at that visit together with personal observations where appropriate.

3. BACKGROUND

Planning permission was obtained in outline for Ashby bungalow on the 17 April 1985 in association with Thistlewood Farm, Sutton St James.

Mr and Mrs North formerly farmed with Mr North's Brother but the land was sold in 2015. There were originally approximately 300 acres (121 hectares), however only 5 acres (2 hectares) are now owned by Mr and Mrs North and will be used for grazing a pony. This is to the side and rear of the bungalow.

4. BASIS OF ASSESSMENT

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

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

National Planning Policy

National Planning Policy Framework (NPPF)
(Updated 19 February 2019)

Paragraph 79 within Section 5, Delivering a Sufficient Supply of Homes, of the NPPF states:-

> *'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstance apply:*
>
> *a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
> *b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
> *c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
> *d) the development would involve the subdivision of an existing residential dwelling; or*
> *e) the design is of exceptional quality, in that it:*
> - *is truly outstanding or innovative, reflecting the highest standard in architecture, and would help to raise standards of design more generally in rural areas; and*
> - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.'*

Paragraph 55 within Section 4, Decision Making, of the NPPF states:-

> *'Planning conditions should be kept to a minimum and only imposed where they are;*
> ***necessary;***
> ***relevant to planning and 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 commences should be avoided, unless there is a clear justification.'

Planning Practice Guidance
(Updated 23 July 2019)

Use of Planning Conditions

Explains how conditions attached to a planning permission should be used and discharged effectively….

- Why and how are conditions imposed?
- What approach should be taken to using conditions?
- Conditions relating to time limits.
- The use of pre-commencement conditions.
- Discharging and modifying conditions once planning permission is granted.
- Deemed discharge.

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 or necessary.

<u>Local Policy</u>

Whilst the South East Lincolnshire Local Plan (March 2019) contains no policy in respect of removal of agricultural occupancy conditions, it is understood Policy HS15 referred to in South Holland District Council Policy Guidance Note September 2006 'Agricultural Workers' Dwellings and Occupancy Conditions' is considered best practice.

3.4 Policy HS15 to the Local Plan considers occupancy clauses and states:

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.

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 a 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

There is effectively now no holding only a small amount of land retained which will be used to graze a pony. It is insufficient in size to run a holding so there would be no need for a dwelling.

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.

iiiv) The use of local comparable properties.

7. MARKETING OF THE PROPERTY

7.1 Marketing campaign through an Estate Agent

Acorus has marketed the property from November 2019 to December 2020.

An important aspect of marketing is price. Research was undertaken to arrive at an appropriate guide price. **Appendix 2** contains a market appraisal letter with enclosed comparable properties for sale in the locality.

An initial guide price of £250,000 was adopted. This reflected a discount for the encumbrance of the condition of 25%.

In terms of discount, it is our experience a 25% reduction in value to reflect the imposition of the agricultural occupancy condition is appropriate and used as an average guide. Allowing for offers, which in the residential market typically ranges from 5% to 10% below the guide price, increases this discount further.

The key issue is judging what a compliant purchaser will pay. Often compared to a non-tied property, a 25% guide is substantial and is a good base for inviting offers.

It should be noted that the property market has been quite buoyant during parts of the marketing campaign due to the Stamp Duty holiday and the effects of the Covid crises, with persons wanting to relocate to the countryside. The Nationwide House Price Index from Quarter four of 2019 to Quarter four of 2020 confirms an 8.57% increase in house prices in the East Midlands. See **Appendix 3**.

Overall the availability price for Ashby has been quite favourable.

A copy of the sales brochure for the property can be seen at **Appendix 4**. Initially the additional land was available but in the Summer of 2020 it was decided to retain this for family use.

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 5**) and Farmers Guardian (see **Appendix 6**), and local advertising in the Spalding Guardian and Lincolnshire Free Press (see **Appendix 7**).

All our properties are placed on our website throughout the marketing period and an example of this can be found at **Appendix 8**.

The property also appeared on various property portals associated with the Zoopla Property Group including primelocation.com. Attached at **Appendix 9** are the reports detailing property performance.

7.2 Direct Marketing Campaign

Identification of "the locality" is fundamental to a direct marketing campaign to assess the need for an agricultural dwelling in the locality.

It is our experience that many Local Authorities are of the opinion that 'locality' should generally reflect an approximate ten to fifteen minute drive to the furthest point from the subject dwelling. This is estimated to be an appropriate travelling time for an agricultural worker on his/her journey to work, bearing in mind he/she may be required at short notice. This equates to approximately 10 km/6.2 miles from the property.

After identification of the locality, Acorus extracted a list of agricultural holdings in the area around this property from a database. This list contained a total of 93 holdings.

Each holding was contacted through a postal questionnaire which was designed to identify the need for an agricultural dwelling by individual agricultural businesses in the locality.

A total of three forms were returned but no party requested further details of the property.

All details of the Direct Marketing campaign can be seen at **Appendix 10**.

7.3 Interested Parties

In total, all forms of marketing generated the following direct requests for further details….

mail@c.....52.plus..... – 10.12.2019
…. Iqbal – 10.01.20
Ms Penney – 21.03.20
Ms Kerry – 04.07.20
Ms Gilbey – 25.09.20
Mr Howard – 12.11.20

The above excludes the number of times the property details were viewed on line.

Two requests to view the property were received as a result of the marketing campaign. No offers were received.

The Compliance Forms completed in relation to viewing the property can be seen at **Appendix 11**.

8. COMPARABLE EVIDENCE ON AGRICULTURE IN THE AREA

Appendix 12 contains details of agriculture within Lincolnshire, the information being extracted from DEFRA statistical data.

The figures for 2005 and 2016 show falls in agricultural production, in particular:-

	2005 Nos./ Hectares		**2016 Nos./Hectares**		**+/- %**
Total Holdings	6,615		3,749		-43%
Peas and Beans	10,951	ha	8,160	ha	-25%
All other veg & salad	19,239	ha	16,699	ha	-13%
Total Cattle	87,874		85,944		-2.2%
Total Pigs	178,948		168,042		-6.1%
Total sheep & lambs	152,800		149,201		-2.3%

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 13,575 (-10.5%). Full time workers has reduced from 3,252 to 2,967 (-8.8%) and part time workers from 1,231 to 1,048 (-15%).

9. COMPARABLE TIED PROPERTY IN THE DISTRICT

Acorus records show that three applications to remove the agricultural occupancy conditions from three dwellings within the South Holland district were granted in 2014, 2015 and 2020;

Sutton St James reference H20/1060/13 – 4 February 2014.

Fulney reference H16/0178/15 – 5 May 2015.

Fleet, Holbeach reference H05/1041/19 – 6 January 2020.

Details of these dwellings and the decision notices can be seen at **Appendix 13**.

The three dwellings are local to the subject dwelling, one neighbouring, and two ten and seven miles respectively.

This gives some additional indication regarding the lack of need in the locality.

10. ACORUS COMMENTS

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

10.1 Need on the Holding

There is no agricultural/horticultural business associated with Ashby bungalow.

10.2 Need in the Locality

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

a) All known agricultural businesses have been contacted providing details of the property with a questionnaire to complete. The details specified no price and as such those that responded represented a fair reflection of demand for such a dwelling.

b) The property was advertised nationally on line during the marketing period, in print several times and locally.

c) An assessment of agriculture (including labour) in the county was undertaken, how it has changed and the resultant potential need.

Six direct requests for further details were received and provided over the course of the marketing period excluding on-line enquiries. Two requests to view the property were received. 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 agriculturally tied dwelling in the locality.