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PROPOSED REMOVAL OF AGRICULTURAL OCCUPANCY CONDITION ATTACHED TO

Mint Farm, Stockwell Gate, Whaplode, Spalding, Lincolnshire PE12 6UE

REPORT PREPARED FOR

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1. INTRODUCTION

The applicants built the property at the site in 1991, following the granting of planning permission in 1990 reference H23/1001/90.

Condition 4 of this permission 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 dependant of such person residing with him, or a widow or widower of such person.

2. POLICY BACKGROUND

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). 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).'

A Certificate of Lawful Existing Use or Development (CLEUD) was submitted in June 2018 for non compliance with the tie (Condition 4 of H23/1001/90). This was accepted and granted on 30 July 2018. See **Appendix 1**.

3. AGRICULTURE IN THE AREA

Agriculture is continuously changing with a move in some areas away from traditional livestock towards more arable cropping, and smaller family run farms being bought out by larger farms. This has reduced the amount of labour which is generally higher on livestock farms than arable. Labour has also reduced due to the increase in average size of farms due to economies of scale.

The DEFRA Statistics show that in Lincolnshire (2010) of the people employed in agriculture 2,497 are causals (a -4% difference from 2009) and 995 part time (a -15% difference from 2010). However, 3,013 are farmers, partners, directors and spouses (Full time) and 2,894 regular full time workers who generally already live on farms. The 'pool' of buyers for an agricultural dwelling is therefore very small.

Total employment in agriculture in Lincolnshire has reduced over time as follows:-

	Employed Full Time	**Employed Part Time**	**Full time Farmers, Partners, directors and Spouses**
2000	4,445	1,358	4,121
2001	4,380	1,297	4,010
2002	3,969	1,256	3,842
2003	3,585	1,105	3,665
2004	3,329	1,188	3,524
2005	3,252	1,230	3,433
2006	3,014	1,213	3,305
2007	2,861	1,303	3,067
2008	2,903	1,224	3,115
2009	2,745	1,164	2,999
2010	2,894	995	3,013

The decrease in full time employees is down by 34.89% in ten years. It tends to be full time persons who would contemplate purchasing a permanent dwelling. It would also have to likely be full time agricultural employment in order to satisfy the criterial of the condition i.e. solely or mainly employed in agriculture.

The below DEFRA Statistics show the changes for agricultural labour in Lincolnshire;

Total labour		
Number of people		
2009	2010	% difference
12 906	12 935	0

Casual workers		
Number of people		
2009	2010	% difference
2 592	2 497	- 4

Regular workers full time			Regular workers part time		
Number of people			Number of people		
2009	2010	% difference	2009	2010	% difference
2 745	2 894	5	1 164	995	- 15

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Salaried managers		
Number of people		
2009	2010	% difference
724	758	5

Farmers, partners, directors and spouses full time			Farmers, partners, directors and spouses part time		
Number of people			Number of people		
2009	2010	% difference	2009	2010	% difference
2 999	3 013	0	2 682	2 778	4

With a general trend of agricultural employment decreasing and given the likely presence of existing homes for rural workers the above figures further reflect the relatively small pool of buyers for an agricultural dwelling at a district level.

4. THE CASE

The consequence of the Certificate of Lawfulness is that the condition has no effect on the value of the dwelling as the house can be occupied by anyone not just those employed in agriculture.

The condition is also of course now unenforceable. 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 would, 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 tie has therefore effectively outlived it usefulness.

However, as the dwelling is subject to a CLEUD the condition is unenforceable so fails a key test of what is reasonable for a condition and should be removed.

APPENDIX 1

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