

Parish: Skutterskelfe

Ward: Hutton Rudby

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Committee date: 25 May 2017

Officer dealing: Mrs H Laws

Target date: 31 May 2017

17/00381/MRC

Application for removal of conditions 2 & 3 attached to Planning Permissions 2/134/6D/PA (outline) and 2/134/6G/PA (reserved matters) – relating to agricultural occupancy conditions

At Leven Grove Farm, Stokesley Road, Hutton Rudby

For Mr Stuart Bainbridge

1.0 SITE, CONTEXT AND PROPOSAL

1.1 The dwelling lies at the north eastern edge of Rudby, positioned on the corner of the main Stokesley Road and the cul-de-sac of Rudby Lea.

1.2 The dwelling was originally constructed as an agricultural workers dwelling following the granting of outline and detailed planning permission in 1976 and 1978. The requirement for a dwelling at that time was for a farmworker on the holding immediately adjacent to the dwelling.

1.3 The application seeks planning permission for the removal of conditions 3 and 2 respectively of planning permissions 2/134/6D/PA and 2/134/6G/PA, relating to agricultural occupancy at Leven Grove. The conditions are identical and state:

The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed in the locality in agriculture as defined in Section 290 (1) of the Town and Country Planning Act 1971, or in forestry (including dependants of such a person residing with him) or a widow or widower of such a person.

1.4 The farm buildings associated with the dwelling were demolished in the 1990s when the farm unit was relocated to Middleton on Leven. The dwelling is currently unoccupied.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

2.1 2/134/6D/PA – Outline application for the construction of an agricultural workers bungalow; Granted 28 October 1976.

2.2 2/134/6G/PA - Details of the construction of an agricultural workers dwelling; Granted 30 March 1978.

3.0 RELEVANT PLANNING POLICIES

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 - Access

Core Strategy Policy CP4 - Settlement hierarchy

Development Policies DP9 - Development outside Development Limits

Interim Guidance Note - adopted by Council on 7th April 2015

National Planning Policy Framework - published 27 March 2012

4.0 CONSULTATIONS

- 4.1 Parish Council – recommends approval as the dwelling is within the village
- 4.2 Public comments – None received.

5.0 OBSERVATIONS

- 5.1 The only issue to be considered in this case is whether removal of the conditions is justified having regard to (i) whether planning permission would be granted for an unrestricted dwelling in this location, based on current planning policies; and (ii) whether there is still a need for an agricultural worker's dwelling in this location.

Whether planning permission would be granted for an unrestricted dwelling

- 5.2 One of the issues to consider in this instance is a decision made in the Courts. The case of Hambleton DC vs. Secretary of State and Barker (1994) concluded that it is necessary to consider the likelihood of granting planning permission for an unrestricted dwelling, taking into account contemporary planning policy, as a material planning consideration in an application to remove a rural occupancy restriction. In this case it is considered that the weight given to this case law would outweigh the issue of need for an agricultural dwelling on the holding or in the locality.

- 5.3 The application also includes details of an historic appeal decision relating to another site in another part of the country where the Inspector stated that:

“The fact that a present day application to build a dwelling on the appeal site would be unlikely to have an agricultural occupancy condition imposed is, in my view, a factor of considerable weight. ... Therefore notwithstanding ... that there is a continuing need on the locality to retain a dwelling for a person employed or last employed in agriculture or forestry, it is my conclusion ... that an agricultural occupancy condition would be unlikely to be imposed on a contemporary application for planning permission that I consider to be the determining issue in this appeal.”

- 5.4 The site lies beyond Development Limits and, as such, a new unrestricted dwelling would be a departure from the Development Plan. However, it is also necessary to consider more recent national policy in the form of the National Planning Policy Framework (NPPF) published in March 2012. Paragraph 55 of the NPPF states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances".

- 5.5 To ensure consistent interpretation of the NPPF alongside Policies CP4 and DP9, the Council adopted Interim Policy Guidance (IPG) relating to Settlement Hierarchy and Housing Development in the Rural Areas. This guidance is intended to bridge the gap between CP4/DP9 and the NPPF and relates to residential development within villages.

- 5.6 The IPG states that the Council will support small-scale housing development in villages where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community and where it meets all of the following criteria:

1. Development should be located where it will support local services including services in a village nearby.

2. Development must be small in scale, reflecting the existing built form and character of the village.
3. Development must not have a detrimental impact on the natural, built and historic environment.
4. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
5. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
6. Development must conform with all other relevant LDF policies.

- 5.7 Rudby is defined as an Other Settlement in the IPG settlement hierarchy. The IPG states that small scale development adjacent to the main built form of such settlements "will be supported where it results in incremental and organic growth". To satisfy criterion 1 of the IPG the proposed development must provide support to local services including services in a village nearby. Rudby is immediately adjacent to Hutton Rudby with good, well-lit footway links to all the facilities within that Service Village and the two are identified as a cluster in the IPG. Rudby is therefore considered to be a sustainable location for new residential development and a new unrestricted dwelling in this location would therefore comply with IPG criterion 1.
- 5.8 The other IPG criteria are concerned with the physical impact of development and do not need to be considered in connection with the occupancy conditions.
- 5.9 It is therefore considered that permission would be granted for an unrestricted dwelling in this location.

Agricultural need

- 5.10 The applicant has demonstrated that there is no longer a need on the holding for a dwelling in this location as the farm unit lies elsewhere. The property has not been advertised for sale as an agricultural worker's dwelling so there is no evidence to suggest there is no demand in the locality but, based on the case law detailed above, this issue carries less weight than the conclusion on the first point.

6.0 RECOMMENDATION

- 6.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.

The reasons are:

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.