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Planning Statement

Ellis Piece, Shottle, Belper, DE56 2DQ

Removal of agricultural occupancy condition

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Document Control Sheet

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1 Introduction

1.1 Planning & Design Practice is a multidisciplinary practice consisting of chartered town planners, architects and heritage specialists. The practice operates across England and Wales and has an exemplary track record of submitting successful planning applications and in creating sustainable development.

1.2 This report has been prepared to support an application for the removal of agricultural occupancy condition at Ellis Piece, Shottle, Belper, DE56 2DQ. The report has been structured to provide an introduction to the site and discuss its planning history; details of the proposed development and the rationale for it; and an examination of the key planning issues to be considered.

1.3 Also submitted to accompany the report are the following:

- Site Location Plan
- Marketing Evidence (Bagshaws)

1.4 Following a previously withdrawn application and receipt of advice from the Council, this application includes a 12-month marketing exercise to demonstrate support for the removal of the agricultural occupancy condition.

1.5 The purpose of the application is to allow the applicant to move into her inherited family home.

2 Site Description and Planning History

Site Location

2.1 The site consists of a detached dwelling situated off Spout Lane, Shottle, located to the northwest of Belper. The site is rurally located, adjacent to a cluster of farm buildings and extends approximately 757sqm.

2.2 The site is located within a Special Landscape Area, but there are no other planning designations on site.



Figure 1 *Aerial View of the Site*

Relevant Planning History

2.3 There site is subject to the following relevant planning history:

- AVA/2024/0533 | Removal of Condition 3 (agricultural occupancy) of AVA/686/545. Withdrawn October 2024.
- Ref. AVA/1187/1103 | Replacement farmhouse (R.M.). Granted December 1987.
- Ref. AVA/686/545 | Replacement farmhouse (Outline). Granted September 1986.

3 The Proposed Development

3.1 The proposal is for the removal of an agricultural tie of the dwelling on site, because it is no longer required for its original purpose. The property was constructed by the owner's mother and father to serve their farm holding. It was occupied by the owner's mother in her retirement. It has now been inherited by the applicant, who wishes to live at the property, but is not employed in agriculture.

3.2 The farmhouse ceased to be a working farmhouse a number of years ago. The mother of the applicant remained living in the property in accordance with the agricultural tie after the father passed away, but the house was not serving the land.

3.3 The land that used to be associated with the house is now owned, maintained and farmed by the applicant's brother who resides in a bungalow nearby, and has recently obtained a Class Q permission on the site next door, which is under construction.

3.4 The condition in question is condition 3 of the outline permission granted on site in 1986 (ref. AVA/686/545), which reads:

"The occupation of the dwelling(s) shall be limited to persons whose employment, or latest employment is or was wholly in agriculture as defined in Section 290 of the Town and Country Planning Act, 1971 or in forestry, and including the dependants of such persons residing with them, or the widow or widower of such a person."

3.5 The reason for this condition was as follows:

"The policy of the Local Planning Authority would not ordinarily permit residential development on this site but for the special case of justification which has been advanced in support of the application"

4 Planning Policy Context

4.1 The purpose of this section is to set out the relevant planning policy background which is pertinent to the site and proposed development.

4.2 Section 38(6) of the Planning & Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

4.3 In this case, the development plan consists of the Amber Valley Local Plan (adopted 2006). Other material considerations include the National Planning Policy Framework (2024), the associated Planning Practice Guidance and Supplementary Planning Documents (SPDs).

The Development Plan

Amber Valley Adopted Local Plan (2006)

4.4 Policy LS1 states:

"Proposals for development should be located taking account of the following sustainability criteria by:

a) being well-related to existing patterns of development

b) re-using previously developed land and buildings in preference to greenfield sites, except where circumstances such as location or accessibility preclude their use

c) protecting and enhancing the quality of the built and natural environment

d) minimising the need to travel between home, work and other activities and providing opportunities for journeys other than by car

e) ensuring the capacity of existing infrastructure to absorb further development

f) managing waste generated from the construction and occupation of, and operations resulting from new development (all applicants for major new developments will be required to supply full information regarding the waste production implications of the proposals)"

4.5 Policy LS3 states:

"The Borough Council will require development proposals to reflect the principles of good design, by:-

a) conserving or enhancing the quality and local distinctiveness of the natural and built environment

b) respecting the character of the locality in terms of the scale and nature of development, its layout, density, height, massing, architectural style, materials and landscaping

c) taking account of the relationship between the development proposals and neighbouring buildings, and the spaces between and around those buildings"

4.6 Policy H3 states:

"In addition to development on those sites identified in policy H1 and at Appendix 1, planning permission will be granted for housing development within the built framework of the following urban areas and villages:-

Alfreton, Ambergate, Belper, Codnor, Crich, Denby, Denby Bottles, Duffield, Fritchley, Heage, Heanor, Holbrook, Holloway, Horsley, Horsley Woodhouse, Ironville, Kilburn, Langley Mill, Loscoe, Milford, Nether Heage, Quarndon, Riddings, Ripley, Smalley, Somercotes, South Wingfield, Swanwick

providing the proposals:-

a) are in the form of one or more of the following:-

a. the conversion of existing dwellings to provide additional units, or of existing buildings to housing from other uses

b. extensions to or replacement of existing dwellings

c. new development on previously developed or brownfield land, or on other vacant land which has not been previously developed, providing the land is not specifically identified for any other form of development

b) satisfy all the criteria in policy H12

c) either individually or cumulatively, would not result in a significant over-provision of housing, having regard to the overall requirement for the Borough as identified in the Derby and Derbyshire Joint Structure Plan"

4.7 Policy H5 states:

"Outside the built framework of settlements, planning permission will not be granted for housing development unless the proposals are in the form of one or more of the following;-

a) extensions to existing dwellings, provided this would not result in a significant change to the scale or character of the dwelling and its surroundings

b) replacement of existing dwellings, providing that the number of dwelling units is not increased

c) new development which can be shown to be necessary for the operation of a rural based activity and where a countryside location is essential"

4.8 Policy EN6 states:

"Planning permission for new development, including conversions of and extensions to existing buildings, will only be permitted in Special Landscape Areas, if it does not have an adverse effect on the landscape quality or character"

Other Material Considerations

National Planning Policy Framework

4.9 Paragraph 8:

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy."

4.10 Paragraph 63:

"Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes."

5 Key Planning Issues

Principle of Development

5.1 The proposal is for the removal of the agricultural occupancy condition (condition 3 of AVA/686/545) to the dwelling at Ellis Piece, Shottle, as shown in Figure 2.

5.2 As shown in Figures 2 and 3, the dwelling no longer serves a working farm and is therefore no longer suitable for the purpose intended by the agricultural tie. The land it used to serve now has another house serving it, with both a Class Q conversion approved and the land being farmed by the applicant's brother.



Figure 2 The Dwelling



Figure 3 Extent of residential curtilage

5.3 Following the previously withdrawn planning application for the same proposal (ref: AVA/2024/0533), the applicant instructed Bagshaws to carry out a 12-month marketing exercise to determine if there was any local demand for the property as an agricultural workers dwelling. To suitably market the property, a 25% discount was applied to the sale value, to appropriately account for the agricultural worker occupancy restriction. This reflected an honest market value and was indeed lower than other comparable valuations (also accounting for the agricultural tie) received by the applicant during the process. Please refer to the report for further detail in this respect.

5.4 The marketing report concludes overall that over the 12-month period, whilst there was initial interest in the property, this was not carried forward when the sales particulars of the occupancy restriction were conveyed. There is subsequently no demonstrable demand for such a dwelling at this location.

5.5 It is worth highlighting here that the NPPF sets out the following tests that should be satisfied when applying conditions to approved development:

1. Necessary;
2. Relevant to planning;
3. Relevant to the development to be permitted;

4. Enforceable;
5. Precise; and
6. Reasonable in all other respects

5.6 In view of the above, despite the agricultural tie condition meeting all six criteria at the time of consent, this is not viewed to be the case now.

5.7 The proposal is also supported by paragraph 8 of the NPPF and Policy LS1 as it is allowing a currently restricted occupancy house to be opened up to the general housing market, meaning that future purchasers of the property will not be restricted to certain occupancies. The applicant can remain in their family home; it would be unreasonable to expect her to sell this property. It also supports paragraph 63 of the NPPF through providing housing choice for the wider market.

5.8 In summary, the dwelling is no longer attached to a farming operation, and no dependants of an agricultural worker reside in the property. It is important to note that the land has not been left without a dwelling. The supporting marketing evidence demonstrates that there is no local need or demand for an agricultural workers dwelling.

5.9 Therefore, there is appropriate justification for the removal of the agricultural occupancy condition and the proposals are subsequently viewed to be acceptable in principle.

Development Management Considerations

Amenity

5.10 No external changes are proposed, and therefore there will be no further impacts on the surrounding area for the use of the dwelling as a market dwelling.

5.11 Farming operations are no longer active on the land associated with the dwelling, therefore future occupiers of the dwelling will not be unduly impacted.

Highways

5.12 No changes to parking provision are proposed, and the number of trips made to and from the property will not be changing.

6 Conclusions

6.1 The application seeks the removal of an agricultural tie condition (condition 3 of AVA/686/545) at Ellis Piece, The Spout, Shottle, because it is no longer needed for the purpose originally intended.

6.2 The agricultural use on the site is no longer operational, as such, a marketing exercise carried out by Bagshaws has taken place over a 12-month period, which concluded that there is no market interest in an agricultural workers dwelling at this location.

6.3 It is therefore considered that the condition no longer meets all of the tests required to be implemented on a planning application.

6.4 The proposals therefore accord with relevant local and national policy, and it is politely requested that this application is approved.



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