

**The Proposed Variation of a
Restrictive Planning Condition
Relating to the Holiday Occupancy of
Two Dwellings**

**Site at
Maidensley Farm
Foston
Derbyshire
DE65 5DL**

SUPPLEMENTARY PLANNING STATEMENT - MSSRS J COX AND COX

Chris Thorp Planning Limited

1.0 INTRODUCTION

- 1.1 This planning statement is in support of a planning application for the variation of a holiday occupancy condition (Condition No. 3) that was imposed on planning permission reference 9/2011/0110/FM dated 27th May 2011. That application was for a proposal that comprised the demolition of redundant farm buildings and the construction of two holiday homes in their place at Maidensley Farm. These have been built, furnished and equipped to a very high standard and are known as '40 Winks' and 'Windy Hollow'.
- 1.2 The statement should be read in conjunction with the statements that were prepared for the previous planning applications, office code nos. 9/2014/0920 and 9/2015/1007, which were submitted in October 2014 and September 2015. Those documents form Appendices 1 and 2 to this statement. Application 9/2015/1007 followed discussions that were held with both planning officers and economic development officers in following the withdrawal of the first planning application in March 2015. The reasons for the first application are, arguably, far more pertinent now than they were at the time having widened the scope of the condition without any material gain.
- 1.3 This fresh application, the third in the series, once again seeks the entire removal of the restrictive occupancy condition to enable the properties to be let on the open market. The applicants stress that the properties will not be for sale because it has always been their intention to keep them in the family as a business investment. However, the current situation is financially untenable because, unless the restriction is lifted, it will be impossible to recoup the set-up costs and make a reasonable profit within the next 10-15 years. The investment will otherwise continue to make a significant trading loss indefinitely, and that is not acceptable for any business venture.

2.0 STATEMENT OF CASE

Background

- 2.1 As was the case with the first application, this one also seeks to enable the two holiday cottages to be used for both holiday and non-holiday lettings on the open market, thereby increasing the opportunities to create more income and pay off the development costs. If allowed, this proposal would allow the properties to be let on the open market without hindrance regarding type of occupancy or length of stay. It is only in this way that a profitable enterprise can be achieved.
- 2.2 The proposals do not involve the need for any alterations or extensions to the buildings, and nor does it involve the need for any external works either. There are double garages and external parking and turning spaces available for both units. There are separate garden areas for each unit (which have been previously been defined by low fencing for the benefit of holiday guests) so that each one has its own outdoor space for practical purposes such as sitting out, washing, play and so on.
- 2.3 Vehicular access to both units will continue to be made available either through the adjacent yard area from the north off Uttoxeter Road or from the south via Leathersley Lane.

Legislation

- 2.4 The relevant legislation is contained in the Governments National Planning Policy Guidance on the use of planning conditions. Included in the guidance are the 6 tests against which conditions may be considered, and the circumstances under which it would be appropriate to either modify or revoke a condition.
- 2.5 Assuming that the purpose of the condition is fair, reasonable and practicable the 6 tests to be considered are those of : necessary; relevant to planning; relevant to the development permitted; enforceable; precise; and reasonable in all other respects. It follows that when considering the desirability of retaining a condition the LPA must ask itself whether the condition still meets those tests. If not, then it should be removed. It is not necessary for all those tests to be met: if just one is not met, then the condition no longer serves the purpose intended.

2.6 With regard to the 6th test - "Is the condition reasonable in all other respects?" - the NPPG says that:

- Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness.
- Unreasonable conditions cannot be used to make development that is unacceptable in planning terms acceptable.

Letting Issues

2.7 Despite the terms of reference having been widened under planning permission ref. No. 9.2015/1007, there has been no material change in the attractiveness of the properties for short-term lets, either for tourists of business people, and hence to material change in the income being received. Appendix 3 to this statement comprises a personal statement by the applicants together with the enquiries statistics from the HomeAway and Holiday Lettings (part of Trip Advisor) websites for both properties.

2.8 Apart from issues that have been highlighted by the applicants in their statement, there are some other factors that are believed to be contributing to the difficulties in securing lettings. Firstly, there is circumstantial evidence that properties in the area have suffered as a result of the tragedy that occurred at the Alton Towers amusement park last year, which has resulted in a drop in visitors to the locality. Secondly, the solar farm nearby has had an adverse impact on the attractiveness of the locality, resulting in the application site being poorly located between that urbanisation and the HMP Foston Hall to the east. Thirdly, there is the continuing uncertainty over the potential pig farm on land immediately adjacent to the site on its eastern side. All these issues have worked against bringing in tourists to the area.

2.9 Whilst the lack of bookings from that particular website does not reflect the amount of bookings that have been taken, it does indicate that, despite a relatively high number of visits to the website, it is proving to be very difficult to turn them into confirmed reservation. The reasons for the difficulties that have been experienced are indicated in the applicants' personal statement.

2.10 Since the beginning of this year, there have only been two bookings for "40 Winks", each of one week in March and May. In the whole of the last 12

months this property has only achieved a total of 7 weeks, despite the prices being lowered a year ago and the broader terms of the condition. In "Windy Hollow" the number of weeks booked has been better, with a total of 11 weeks booked to for business people for up to 4 weeks at a time. However, the downside of such lets is that it is necessary to lower the price substantially in order to compete with open-market properties for rent. Consequently the achievable income per month is only about a quarter of that which can be achieved from short-term holiday occupation. So although the properties can be put to better use, there is no significant betterment in the potential income over the year.

- 2.11 The letting statistics for the past 12 months for both units, as taken from the HomeAway and Holiday Lettings websites are reproduced at Appendices 3 and 4 to this statement.
- 2.12 It is concluded that the condition clearly fails to meet the 6th test as set out in the NPPG because it evidently imposes an unreasonable financial burden on the applicants, for which there is no reasonable prospect of it being overcome.

5-Year Housing Supply

- 2.13 Aside from the individual circumstances described above, a further material consideration is the 5-year housing supply situation in the South Derbyshire District and at the national level. The Council has just published its Housing Position Paper, which is accordingly very up-to-date. Although there is now a demonstrable 5-year housing supply for the period from 2011 to 2028, there has been a major shortfall in the last 4 years of 1,628 units. In the past year there have only been 569 completions, and whilst that rate is expected to improve, the fact remains that 1,628 units need to be built now in order to catch up on the shortfall. Although an oversupply has been built into the projections that has been necessary because, as they admit, the Council could not deliver the annual requirement without starting from a position of no shortfall.
- 2.14 It is evident, therefore, that there is still a serious crisis in South Derbyshire's housing supply due to past persistent under-delivery. That will probably take 3 to 4 years to fully address in order to get back on target. Even if the delivery

rate improves as expected, the adjusted requirement is for a delivery of 1,282 houses per annum. There will accordingly be stiff challenge ahead if the annual completion rate is to be doubled from 569 to 1,282, which is difficult to accept. It will therefore be very important for all unexpected windfalls, however small, to be taken into account, and these two units at Maidensley Farm will make a small but essential contribution to that overall situation.

Sustainability

- 2.15 The Council will, understandably, need to take into account issues of sustainability which has several aspects or elements to it, including financial, economic, environmental and social considerations. In the current situation the units are clearly not financially sustainable, but removing the condition will virtually guarantee the financial sustainability of the enterprise. The existing situation does not contribute much at all to the local economy due to the very low level of interest for tourism, but releasing the restriction would enable the properties to be occupied by people who would live and work in the area for medium to long term stays, thereby contributing significantly more to the local economy. There are significant employment opportunities very close by at HMP Foston Hall and a little further afield at HMP Sudbury and the Dove Valley Park industrial estate.
- 2.16 Since there would be no changes to the design or layout of the buildings or their curtilages there would be no change in the environmental impact of the existing buildings, and there would be no changes in the relationships of the dwellings to the adjacent dwellings. Consequently there would be a neutral impact on environmental sustainability. And finally, although the site is not in or adjacent to a settlement, unrestricted occupation of the units would certainly contribute to the social sustainability of the communities in the nearby settlements of Sudbury, Foston and Scropton where facilities such as the schools, pubs, churches and village halls would all be given additional support, however modest, through the strong possibility of long-term family occupancies.

3.0 CONCLUDING REMARKS

- 3.1 The applicants seek to vary a condition that is considered to be too restrictive because it inhibits the full letting potential of the holiday units. This situation has been acknowledged by the Council's officers, with whom the applicants and their agent have co-operated to broaden the scope of the condition. That has not proved to be sufficient to create a viable rental business. The applicants have provided the letting units to a very high specification, actively marketed them and at a competitive rental rate, but despite their best endeavours have failed to increase the attractiveness of the properties for short term rentals. Over nearly five years of trading the business still makes a substantial loss, and clearly has no reasonable prospect of success unless the properties can be rented out on the open market for long-term occupancies.
- 3.2 The proposed development would make a modest but valuable contribution towards the Council's current and persistent shortfall in the provision of housing in the District, and the proposals performs well in respect of all indicators of sustainability. It is concluded that the development proposals will not conflict with any of the Council's policies for the control of development, or the thrust of policies within the National Planning Policy Framework.
- 3.3 The restrictive condition does not allow the applicants to draw a reasonable source of income from them and recover the development set-up costs. Every effort has been made to make the business work within the parameters that have been set by the Council, but to no avail. In the circumstances it is considered that the condition no longer serves a useful planning purpose and that it represents a very unreasonable burden. In the context of the NPPG advice it would surely be unreasonable to persist with the occupancy restriction, particularly now that the applicants have followed the advice that they have been given. For the reasons that have been described the Council is accordingly requested to revoke Condition No. 3 on planning permission 9/2011/0110/FM in its entirety.

APPENDICES

Appendix 1 - Planning Statement for Application 9/2014/0920

Appendix 2 - Planning Statement for Application 9/2015/1007

Appendix 3 - Letting Statistics for "40 Winks"

Appendix 4 - Letting Statistics for "Windy Hollow"

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