



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

**to
NORTH WESTERN AREA PLANNING COMMITTEE
05 FEBRUARY 2018**

Application Number	FUL/MAL/17/01407
Location	Honeywood Farm, Honeypot Lane, Purleigh, Essex
Proposal	Removal of condition 1 on approved planning permission FUL/MAL/16/01044 allowed on appeal APP/X1545/W/17/3167028 (Removal of condition 3 (agricultural occupancy condition) on approved planning permission FUL/MAL/82/00003)
Applicant	Mr A Brown
Agent	Mrs L Frost
Target Decision Date	2 February 2018
Case Officer	Yee Cheung Tel: 01621 876220
Parish	COLD NORTON
Reason for Referral to the Committee / Council	Member Call In

1. RECOMMENDATION


REFUSE for the reasons as detailed in Section 8 of this report.

2. SITE MAP

Please see overleaf.

Honeywood Farm Honeypot Lane Purleigh **FUL/MAL/17/01407**



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	<p>www.maldon.gov.uk</p>	<p>Organisation: Maldon District Council</p>
		<p>Department: Department</p>
		<p>Comments: NW Committee 17/01407/FUL</p>
		<p>Date: 23/01/2018</p>
		<p>MSA Number: 100018588</p>

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 Honeywood Farm is located to the north east of Honeypot Lane, Purleigh and is occupied by a detached bungalow with poultry sheds immediately to the rear. Planning permission was granted in 1982 for a bungalow to be erected within the farm holding subject to a restrictive agricultural occupancy condition imposed on the building.

3.1.2 The application is for the removal of Condition 1 on approved planning permission FUL/MAL/16/01044 allowed on appeal APP/X1545/W/17/3167028 dated 4 September 2017 for the removal of Condition 3 (agricultural occupancy condition) on approved planning permission FUL/MAL/82/00003.

3.1.3 To accompany the planning application, a report for the proposed removal of the agricultural occupancy condition prepared by Acorus (rural property specialists) dated November 2017 was submitted and attached were the following Appendices:-

- Alternative Uses
- Planning Practice Guidance and the Six Tests
- Examples of other planning and appeal decisions for an agricultural dwelling
- Rightmove:- Properties that were sold in 2015
- A particular advertising Honeywood Farm for sale at the Guide Price of £318:000 which was previously submitted in support of application FUL/MAL/16/01044)
- Advertisement on Farmers Weekly for sale at the Guide Price of £318:000 which was previously submitted in support of application FUL/MAL/16/01044).
 - 4 September 2015
 - 2 October 2015
 - 1 January 2016
 - 5 February 2016
 - 6 November 2016
- Advertisement on Auction Finder for sale at the Guide Price of £318:000 which was previously submitted in support of application FUL/MAL/16/01044)
 - 4 December 2015
 - 6 February 2016
- Advertisement on Maldon and Burnham Standard for sale at the Guide Price of £318:000 which was previously submitted in support of application FUL/MAL/16/01044)
 - 17 September 2015
 - 12 November 2015
- Honeywood Farm advertised on Acorus Rural Property Services on the following dates:-
 - 1 October 2015
 - 30 October 2015
 - 27 November 2015
 - 23 December 2015

- 4 February 2016
 - 19 February 2016
 - A letter dated 26 November 2015 prepared by Acorus was sent to farmers whether there are demands / interests for an agricultural dwelling in the locality of Purleigh
 - A location plan submitted to show the existing poultry sheds and their distances away from Fowler's Farm, New House Farm and adjacent golf course
 - Copies of extracts showing the cost of cattle raising and profits
 - A list showing planning applications approved and refused by the Council
- 3.1.4 The above submitted is to show the unsuitability of reuse and redevelopment of the site and evidence of marketing of the bungalow has been undertaken in support of the removal of the agricultural occupancy condition.

3.2 Conclusion

- 3.2.1 It is concluded that the condition imposed on Honeywood Farm by the Planning Inspectorate in the recent appeal decision APP/X1545/W/17/3167028 dated 4 September 2017 meets the six tests as contained in the National Planning Practice Guidance (NPPG) and therefore it would be unreasonable to remove this condition without the justification as outlined in the appeal decision. As such, the proposal would fail to accord with policies E4 and H7 of Maldon District Local Development Plan and the National Planning Policy Framework.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2012 including paragraphs:

- 7, 14, 17, 28, 56, 57, 203, 206

4.2 Maldon District Local Development Plan was approved on 21 July 2017 by the Secretary of State:-

- S1 – Sustainable Development
- S8 – Settlement Boundaries and the Countryside
- D1 – Design Quality and Built Environment
- E4 – Agricultural and Rural Diversification
- H7 – Agricultural and Essential Workers' Accommodation

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The planning regime has permitted dwellings in the rural areas for agricultural workers as an exception to the general national policy of protecting the countryside from unnecessary and instructive build development. In most cases conditions are attached to such dwellings to ensure that they remain part of the dwelling stock that assists the agricultural industry in this District in maintaining its viability and functionality.
- 5.1.2 In the previous planning application that was dismissed on appeal (appeal reference: APP/X1545/W/17/3167028 dated 4 September 2017). Policy CC16 ‘Agricultural Occupancy Conditions’ in the Maldon District Replacement Local Plan 2005 was cited. The purpose behind Policy CC16 was to ensure that dwellings built as exceptions to the normal restraints upon development in rural areas continue to serve the needs of the agricultural community unless rigorous examination demonstrates otherwise. This is consistent with the overarching principles of the National Planning Policy Framework (NPPF) to protect the character and beauty of the countryside and to avoid new isolated homes in rural areas unless special materials circumstances prevail otherwise.
- 5.1.3 Policy CC16 has been carried forward to be replaced by Policy H7 ‘Agricultural & Essential; Workers’ Accommodation’ of the LDP.
- 5.1.4 In addition to Policy H7, the NPPG makes it clear that conditions should not be retained unless there are sound and clear cut reasons for doing so. With specific reference to agricultural occupancy conditions, *Paragraph 105 of the Circular stresses that it will not be appropriate to remove such conditions unless it is shown that that the existing need for dwellings for agricultural workers in the locality no longer warrants reserving houses for that propose.* Further, Paragraph 206 of the National Planning Framework (NPPF) advises that *any proposed condition that fails to meet any of the six tests should not be used ... Every condition must always be justified by the local planning authority on its own planning merits on a case by case basis.* Following the Appeal Hearing that took place on 18 July 2017, the Planning Inspectorate had assessed the appeal case and imposed an up to date wording of the agricultural occupancy condition on planning application MAL/3/82 dated 8 March 1982 (Condition 3) which read:-

‘The occupation of the dwelling hereby permitted shall be limited to persons wholly or mainly employed, or last employed, locally in agriculture as defined in Section 290 (1) of the Town and Country Planning Act, 1971, or in forestry, or a dependent of such a person residing with him (but including a widow or widower of such a person).’

- 5.1.5 The Planning Inspectorate reworded the planning condition imposed on FUL/MAL16/01044 dated 4 September 2017 to now read:-

'The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependents.'

- 5.1.6 The material consideration when determining this application for the removal of Condition 1 imposed by the Planning Inspectorate is whether the condition is legally sound and if there are other justification submitted to warrant the removal of it.

5.2 Assessment

- 5.2.1 Policy H7 of the LDP states that *'to protect the rural nature of the District and encourage sustainable development, the Council's spatial approach is to locate new dwellings within the development boundaries of existing built up areas. However, it is recognised that in some circumstances the demands of farming, forestry, or other rural-based enterprises can make it essential for one or more full-time employees to live at, or very close to, their location of work.'* While this policy relates to new permanent or temporary accommodation in the countryside related to and located in the immediate vicinity of a rural enterprise and this current application relates to an existing agricultural workers dwelling with an agricultural occupancy condition, the argument would be similar as the removal of the condition would effectively tantamount a new dwelling in the countryside with no restrictions. Such proposal would not normally be viewed favourably as the development would be contrary to Policies S1, S2, S8, D1, E4 and H4 of the LDP.
- 5.2.2 In the Planning Inspectorates (PI) appeal decision, it was highlighted that Policy CC16 had set out specific criteria requiring proof of no further agricultural need for the property; evidence of marketing among the agricultural community for a minimum period of time and at a price to reflect the occupancy condition; and the dwelling to be occupied in connection with agriculture for a period of ten years. While PI were fully aware of the emerging LDP policies at the time, the tests under policy CC16 remained relevant to the PI's decision, as LDP Policies E4 and H7 do not contain such detailed criteria.
- 5.2.3 In Paragraphs 9 and 10 of the appeal decision, the PI acknowledged that the existing poultry buildings on site were in a very poor condition, and agrees that the buildings in their current form are no longer suitable for poultry farming. However, it goes on to say that *'this would not necessarily prevent modernisation or a different agricultural use in tune with paragraph 28 of the Framework. The appellant suggested that there are very limited options for other rural enterprises on the site, due to the cost of replacement buildings and the physical constraints of the wider site. There is little evidence to support either point, even with Mr Brown's background in agriculture. There is also no reason why, new agricultural buildings would not be granted planning permission.'* There is also a need to plan for a mix of housing based on the needs of different groups in the community. Condition No. 3 of planning application MAL/3/82 dated 8 March 1982 does not restrict the occupation of the dwelling solely to Honeywood Farm. Someone unrelated to the site that is mainly employed or last employed in agriculture or forestry locally could occupy the dwelling. The dwelling could also be occupied by a widow or widower of such a

person'. Hence, the Planning Inspectorate was not persuaded that there was no longer a functional need for the property for agriculture or a rural business at the site.

5.2.4 It is noted that the Planning Inspectorate (PI) had considered the marketing aspect of the property by the Applicant and agreed that the site had been suitably marketed in the local farming community and in the national press. The PI had attached greater weight to the Applicant's guide price at the time and the Council has accepted the reasoning behind this. The PI has also highlighted that Policy E4 and H7 do not require the property to be marketed for rent and therefore the Applicant's submission just in relation to the property's market price would be sufficient. However, based on the Applicant's submission in support of the application, it appears that the marketing for the site has stopped on the Farmers Weekly, Auction Finder, Maldon and Burnham Standard and on the Acorus Rural Property Services. (Last marketed on 6 November 2016, 6 February 2016, 12 November 2015 and 19 February 2016) As these guide prices are over a year old, the Council cannot ascertain if this still reflects today's property market price. Concern is also raised to the historical nature of these marketing campaigns.

5.2.5 Paragraph 15 of the appeal decision is considered pertinent to this case. In the Appeal Hearing, it was discussed that there has been a steady number of planning permissions for new agricultural dwellings in the district over eleven years. The Planning Inspectorate considered that new agricultural dwellings do need specific and detailed justification as typically new homes in the countryside would not ordinarily be granted planning permission. These planning permissions listed in the Applicant's submission show that there is a steady and continuing demand for such accommodation in the District. It has been concluded that:

'Persons viewing the site expressed concern with the condition of the buildings insofar as their needs. But, even with the lack of offers, this does not alter my view that it has not been sufficiently demonstrated that there is no further functional need for the property for agriculture or a rural business at the site.'

5.2.6 The Planning Inspectorate stated that Condition No 3 on planning application MAL/3/82 remains to have a useful functional purpose in providing agricultural and rural workers accommodation in the district or for their dependents. Thus, the removal of Condition No 3 would be contrary to Policy H7 of the LDP, which emphasises the value of the existing stock of restricted dwellings in avoiding the need for further dwellings in the countryside.

5.2.7 Based on the above, it is considered that the appropriately worded condition on Appeal Ref: APP/X1545/W/17/3167028 should remain on Honeywood Farm as insufficient information has been submitted for the removal of it.

5.3 Alternative Uses

5.3.1 Policy E4 of the LDP states that the diversification of agricultural land and buildings to alternative activities is vital to the viability of many farm enterprises. The Council recognizes that the District's economic functions are not only based on formally allocated employment sites but also through employment activities that occur on farm conversions and similar rural sites which provide relatively lower cost accommodation and encourage local entrepreneurial activity.

- 5.3.2 The Council recognises the importance of encouraging economic growth in rural areas in order to create jobs and prosperity. Therefore, the Council will seek to promote the development and diversification of agricultural and other land-based rural business where appropriate.
- 5.3.3 In the recent appeal decision, the Planning Inspectorate clearly states that alternative uses for the site has not been sufficiently demonstrated that there is no further functional need for the property for agriculture or a rural business at the site. In this submission, the Applicant has submitted some information to possible alternative uses on site and why the uses would be unviable. These uses are in relation to broilers, poultry laying, caged / free range egg production, cattle, sheep, horticulture, and forestry. While the explanation for each alternative is generic and could be considered to be in support of the current application, it still does not justify the removal of the condition as mentioned in Paragraph 10 of the appeal decision where the site can be occupied by someone mainly employed or last employed in agriculture or forestry could occupy by the dwelling. In the Appeal Hearing, Mr A Brown explained that he has and is likely to continue to play a role in the running of a beef livestock farm at Morris Farm. As such, Mr A Brown is in compliance with the agricultural occupancy condition and therefore there is no justification in removing this condition imposed on APP/X1545/W/17/3167028 dated 4 September 2017. Again, if the application is approved, the proposal would not only go against Policy E4 of the LDP but also Policy H7 as mentioned in the report above.

5.4 Use of Planning Conditions - The Six Test

- 5.4.1 The NPPF and Planning Practice Guidance states that when planning conditions are properly used, they can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.

- 5.4.2 The planning application seeks to remove Condition 1 imposed by the Planning Inspectorate on appeal decision APP/X1545/W/17/3167028 dated 4 September 2017 which stipulates:-

‘The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependents.’

- 5.4.3 The Applicant does not consider that the above condition meets the six tests i.e. necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise and reasonable in all other aspects.
- 5.4.4 The Planning Inspectorate concluded that the condition and the evidence provided at the Appeal Hearing suggested that it continues to serve a purpose, but had made changes to the wording to the original 1982 planning condition as it was necessary so that it reflects current planning legislation and guidance. The condition is still

relevant to planning and relevant to the development to be permitted, as Policy H7 of the LDP makes it clear that all planning permissions in relation to agricultural and essential workers' accommodation will be subject to an appropriate occupancy condition. The condition imposed by the PI is enforceable, precise and reasonable and is not considered disproportionate in terms of a dwelling which was intended to be used in conjunction with the agricultural holding. Further, the updated condition also includes '*surviving civil partner as such*' which gives a greater degree of flexibility to who can be occupied at Honeywod Farm. In this respect, the condition imposed by the PI should remain.

- 5.4.5 As Mr A Brown still has connection to agriculture as mentioned in the report above, there is no reason for the removal as this could deplete this type of accommodation in the district.

5.5 Design and Impact on the Character of the Area

- 5.5.1 It is accepted that the removal of an agricultural occupancy condition on the property would not have an impact on the design and appearance of the building or the wider rural area. In this respect, the proposal would accord with policies E4 and H7 of the LDP.

5.6 Impact on Residential Amenity

- 5.6.1 It is accepted that the removal of an agricultural occupancy condition on the property would not have any adverse impact on the amenity of neighbouring residential properties at 'New House Farm' which is positioned approximately 70 metres to the south west and 'Fowler's Farm' which is located approximately 90 metres away to the north of the site. The proposal therefore accords with policy D1 of the LDP.

5.7 Access, Parking and Highway Safety

- 5.7.1 The existing access to the bungalow and poultry buildings would not be altered and as such the removal of the agricultural occupancy condition would have no impact on all highway users in accordance with policy T2 of the LDP.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/3/82** – Agricultural dwelling. Approved: 27.07.1982
- **FUL/MAL/16/00270** - Removal of Condition 3 (Agricultural Occupancy Condition) on approved planning permission FUL/MAL/82/00003. Refused: 15.06.2016
- **COUPA/MAL/16/00593** - Prior approval of proposed change of use of Agricultural Building to a Dwellinghouse (Class C3), and for Associated Operational Development. Refused: 07.07.2016
- **FUL/MAL/16/01044** – Removal of an agricultural occupancy condition. Refused: 4 November 2016. Allowed on appeal on 4 September 2017

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Cold Norton Parish Council	No reply at the time of writing this report	Any comments received will be reported on the members Update
Stow Maries Parish Council	No reply at the time of writing this report	Any comments received will be reported on the members Update

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health Services	No objection to the removal of condition	Noted
Planning Policy Team	Need to assess if the condition is compliant with the six tests as set out in the NPPF and NPPG	Noted

7.3 Representations received from Interested Parties

7.3.1 No letters of representation received at the time of writing the report.

8 REASON FOR REFUSAL

- 1 Policy H7 of the Maldon District Local Development Plan requires stringent criteria are met before planning permission is granted for permanent or temporary accommodation in the countryside. This policy also states that all planning permission in relation to agricultural and essential workers' accommodation will be subject to an appropriate occupancy condition. In this instance, it is considered that the evidence provided is insufficient to demonstrate that there is no longer an agricultural need for the property and on this basis the application does not satisfy the policy requirement. Further, the removal of an agricultural occupancy condition at Honeywood Farm would deplete the number of agricultural workers' dwellings within the district, contrary to policy H7 of the Maldon District Local Development Plan, and Government advice as contained within the National Planning Policy Framework.