

ITEM:		RECOMMENDATION:	APPROVAL
REF NO:	3PL/2021/0731/F	CASE OFFICER	Nicolla Ellis
LOCATION:	BEETLEY Lakeside East Bilney	APPNTYPE:	Full
APPLICANT:	Mr and Mrs Carver Lakeside East Bilney	POLICY:	Out Settlemnt Bndry
AGENT:	dfal Arkitech House 35 Whiffler Road	CONS AREA:	N
PROPOSAL:	Removal of agricultural occupancy restriction condition on pp 3PL/1991/0440		
		LB GRADE:	N
		TPO:	N

REASON FOR COMMITTEE CONSIDERATION

This application is brought to Planning Committee at the request of Chairman's Panel as the proposal is contrary to planning policy.

KEY ISSUES

Appropriateness of the removal of the condition
Impact upon the character of the area
Impact upon amenity

DESCRIPTION OF DEVELOPMENT

The proposal seeks planning permission for the removal of an agricultural occupancy condition (condition 6) attached to outline planning permission 3PL/1991/0440/O and subsequently varied in 2000 under planning permission 3PL/2000/1390/F and states the following,

"The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed in connection with the management of the adjacent fish commercial fishing lakes or in agriculture in the locality as defined in Section 336 of the Town & Country Planning Act 1990, or in forestry, or a dependant of such person residing with him or her, or a widow or widower of such a person, and to any resident dependants.

Reason for condition:-

The Local Planning Authority's policy for this rural area is to resist the erection of dwellings, which are not essential to the needs of local agriculture."

SITE AND LOCATION

Lakeside is a large detached dwelling located in an isolated location outside of the village of East Bilney. The site comprises of a dwelling with 4no. associated fishing lakes which have previously been used for day

licence fishing. The dwelling was constructed c.1992 and the occupiers are restricted by way of condition to be employed in agricultural or as part of the fishery. The fishery has been closed for a number of years.

EIA REQUIRED

No

RELEVANT SITE HISTORY

3PL/1991/0440/O	Permission	28-08-91
Erection of agricultural dwelling in connection with fish farm		
3PL/1991/1469/D	Refusal	24-03-92
Erection of agricultural dwelling in connection with fish farm and re-excavation of existing pond		
3PL/1992/0826/D	Permission	20-10-92
Erection of agricultural dwelling in connection with fish farm, and including re-excavation of existing pond		
3PL/1999/0890/F	Permission	21-02-01
Extension to existing amenity lakes		
3PL/2000/0064/F	Permission	24-02-00
Fishing shed to keep nets and tackle in		
3PL/2000/1390/F	Permission	22-12-00
Variation of agricultural occupancy condition to occupancy of dwelling by owner/manager of fishing lakes		
3PL/2008/0907/F	Permission	17-07-08
Proposed Garage/store		

POLICY CONSIDERATIONS

The following policies of the Breckland Local Plan, including the Proposals Maps, have been taken into consideration in the determination of this application. The provisions of the National Planning Policy Framework and National Planning Policy Guidance have also been taken into account, where appropriate

COM01	Design
COM03	Protection of Amenity
GEN01	Sustainable Development in Breckland
GEN03	Settlement Hierarchy
GEN05	Settlement Boundaries
HOU05	Small Villages and Hamlets Outside of Settlement Boundaries
HOU13	Rural Workers Dwellings
NPPF	National Planning Policy Framework

OBLIGATIONS/CIL

Not applicable

CONSULTATIONS

BEETLEY PARISH COUNCIL

The Parish Council applauds the new owners of Lakeside in their wish to maintain and upgrade the facilities of the property. However, the Parish Council is of the opinion that there are not sufficient grounds by the applicant to remove the agricultural occupancy restriction. The Parish Council has been advised the restriction can only be removed on 3 grounds. 1, non compliance however this is not the case here as the fisheries has been in continuous use throughout the proceeding years. 2, no market, however this property was recently advertised and sold on the open market with the agricultural occupancy in place and therefore the owners have benefited from a lower market price therefore this reason for removal does not exist. 3, non accordance, the Parish Council understands that the building was built in accordance with the planning application and therefore this condition does not apply. The Parish Council therefore objects to the removal as it sees no valid reason for change.

REPRESENTATIONS

7 Letters of representation have been received in response to the application. In relation to the proposal, the following issue has been raised:

- The proposal does not meet the criteria for the restriction to be lifted - there has been no breach of the condition, the property has been successfully sold in the last 12 months and the property was built in accordance with the approved plans at the time.

In response to the applicant's reference to future plans, the following issues have been raised:

- Concerns the lakes are to be turned into a tourist attraction and the impact upon highway safety this would cause
- Impact of the proposed works upon wildlife
- Feasibility of the future development

One representation does state that they do not object to the lakes being restored but this does not require the occupancy condition to be removed.

ASSESSMENT NOTES

1.0 Principle of Development

1.1 The application seeks consent for the removal of an occupancy condition attached to the dwelling restricting occupiers to be employed/last employed in agriculture or the management of the fishery as it is no longer seen to be fit for purpose by the applicant given the substantial size of the dwelling.

1.2 The LPA use these conditions to restrict occupancy of dwellings where a new dwelling is proposed in an area (often rural) where the principle of residential development in that location is not considered to be sustainable or have a positive impact upon the character of the area but where it is recognised that there is a need for a worker to live in an isolated location to ensure that the business can operate effectively. As such, the removal of such a condition requires clear and convincing justification.

1.3 Policy HOU13 states that the removal of an occupancy condition related to rural workers will only be permitted where it can be demonstrated that:

1. There is no longer a need for accommodation on the holding/business and in the local area
2. The property has been marketed for a reasonable period (at least 1 year) and at a price which reflects the existence of the occupancy condition. The applicant will be required to submit an independent valuation to justify the market price, for which the applicant will bear the cost.

1.4 Whilst it is acknowledged that the property has recently been purchased and therefore the applicant is not currently attempting to sell the property to meet point 2 above, information provided by the applicant suggests that the value of the property is over and above what the average wage of a rural worker could raise a mortgage for; the average wage is around £8.97 in the UK, equating to approximately £18,600 per annum based upon a 40 hour working week. This would allow for a mortgage of around £74,400 assuming a lender would allow a worker to borrow 4 times their salary. The applicant has provided valuations from 2 different estate agents valuing the property at between £1,000,000 and £1,300,000 which clearly would not be affordable for many rural workers. It could therefore be argued that the dwelling with the occupation restriction does not meet the needs of the market at which it is aimed.

1.5 In addition to the above, the applicants have provided information detailing how the condition attached to the planning permission has prevented the applicant from obtaining a mortgage and have therefore had to fund the purchase themselves further suggesting that the condition may no longer be fit for purpose and could in the future leave the property vacant, which could bring about potential negative visual impacts. Adding to this, as the fishery business is no longer operating, and the applicants are new to this business venture, a bank loan to fund the business has not been secured due to the current uncertainty in financial market owing to the coronavirus pandemic. The lack of financial aid from a business loan has thus led the applicants to need a mortgage on the property to help fund the fishery and bring the business back in to use.

1.6 The occupancy condition does tie the occupiers of the dwelling to either the fishery or agriculture and given the isolated location of the dwelling it is likely that any occupier is likely to be employed, or own, the fishery rather than be connected with another agricultural business away from the site. It is noted that the applicant has provided further details on the reasoning behind the removal of the condition and whilst personal financial circumstances are not a material planning consideration, the reasoning for raising funds would ultimately benefit the site, bring it back into use, with the likelihood of creating employment and tourism within the local area which is generally supported by Policy EC07 of the Breckland Local Plan and Section 6 of the NPPF (2021). Paragraph 80 of the NPPF (2021) states:

Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

1.7 As such, the proposed removal of the occupancy condition does provide a mechanism for future viability of the fishery business through the release of a dwelling that is considered no longer fit for purpose as a rural worker's dwelling and I am of the view that some weight can be given to the financial implications for the site of not lifting the occupancy condition, including likely ecological gains for both the immediate site and potential wider area in accordance with Policy ENV02 of the Breckland Local Plan, as well as the reopening of a rural business.

1.8 In summary, there is a mix of considerations, some of which are material and others which are not. Attention is drawn to the large scale of the dwelling and the current market for rural workers dwellings, which are material planning considerations as the dwelling is considered too expensive to be considered against the typical rural worker's wage in the District. Whilst the proposal does not meet the requirements of Policy HOU13 of the Local Plan, significant weight is given to the future viability of the property and the market need for such a large rural worker property. The removal of the condition would also facilitate the retention and maintenance of the building for the future and would aid support for a rural business, to which modest weight can be attached as its upkeep would ensure that the visual appearance of the site does not have a harmful impact upon the intrinsic beauty and character of the countryside.

1.9 As such, whilst the proposal does not meet the requirements of Policy HOU13, the size of the dwelling does not lend itself to be an attractive rural worker's dwelling in today's housing market owing to its size and value when considered against the average wage of a rural worker. As such, to ensure the longevity of the building and the surrounding land, as well as supporting a rural business, it is considered that the principle of removing the occupancy condition from dwelling is acceptable in this instance.

2.0 Impact upon the character and appearance of the area and amenity

2.1 The dwelling is already in situ and used for residential purposes and as such from a visual and amenity perspective the removal of the condition is unlikely to have any impact upon the character of the area nor indeed the amenities of any surrounding properties. Whilst the end user may change, the physical appearance would remain unchanged, as would the overall use of the dwelling and land within its curtilage, with no greater intensity of use than that currently. As such, I would not expect the proposal to have any adverse impact upon the character and appearance of the area or neighbour amenity.

3.0 Conclusion

3.1 The proposal seeks to remove a condition placed upon the dwelling which restricts occupiers of the property to be employed, or last employed either within agriculture or the management of the fishery. The proposal is considered contrary to Policy HOU13 of the Breckland Local Plan (adopted 2019). However, in accordance with planning legislation and the NPPF, taking into consideration the other material planning considerations, in that the dwelling is of a considerable size and thus the value of the property is likely to be significantly greater than the average rural worker's dwelling within the District. Therefore the condition is no longer considered to be fit for purpose and is also limiting the financial viability of the business, which goes against the aims of paragraph 84 of the NPPF (2021). As such, in weighing up the ecological, rural economy gains, the proposal is, on balance considered to be acceptable.

RECOMMENDATION

The application is recommended for approval, removing condition 6 attached to planning application reference 3PL/1991/0440/O. No further conditions are considered necessary.

CONDITIONS

1

Non-standard condition

The applicant shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority, and shall allow him/her to observe the excavations and record items of interest and finds.

Reason for condition:-

To allow for the proper recording of any archaeological remains uncovered during construction work.