

ITEM:		RECOMMENDATION: APPROVAL
REF NO:	3PL/2022/1197/VAR	CASE OFFICER Will Hornbuckle
LOCATION:	WENDLING The Oaks, Carr Lane	APPNTYPE: Variation of Cond's POLICY: Out Settlemnt Bndry CONS AREA: N LB GRADE: N TPO: N
APPLICANT:	Mr & Mrs R O'Neil The Oaks Carr Lane	
AGENT:	The Norfolk Planning and Self Build Unit 1, Enterprise House Lynn Road	
PROPOSAL:	Removal of Condition 3 on 3PL/2004/0013/O - agricultural tie	

REASON FOR COMMITTEE CONSIDERATION

This application has been brought to Planning Committee following referral from the Chairman's Panel.

KEY ISSUES

Acceptability regarding the removal of condition (3) (agricultural tie) on planning permission 3PL/2004/0013/O.

DESCRIPTION OF DEVELOPMENT

This application seeks the removal of planning condition (3) imposed under planning application reference 3PL/2004/0013/O. Condition (3) relates to the agricultural occupancy tie-in at The Oaks, Carr Lane.

SITE AND LOCATION

The site is situated off Carr Lane in Wendling. The A47 runs east-west to the site's north; Station Road lies to the west and runs up to the A47 and beyond; Dereham Road lies to the south of the site; and Carr Lane to the east.

EIA REQUIRED

No

RELEVANT SITE HISTORY

3PL/2004/0013/O	Permission	24-02-04
Erection of agricultural dwelling		
3PL/2004/1086/D	Permission	16-08-04

Construction of dwelling with garage

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
ENV05	Protection and Enhancement of the Landscape
GEN01	Sustainable Development in Breckland
GEN02	Promoting High Quality Design
HOU13	Rural Workers Dwellings
INF03	Local Plan Policy Review
NPPF	National Planning Policy Framework (Revised 2021)
NPPG	National Planning Practice Guidance

OBLIGATIONS/CIL

Not applicable

CONSULTATIONS

WENDLING P C

No Comments Received

REPRESENTATIONS

Site notice expired 09-12-22
Weekly List 02-12-22

One representation was received questioning the need for removing the agricultural tie condition.

ASSESSMENT NOTES

1.0 In deciding an application under section 73, the Council may only consider the question of the conditions subject to which planning permission should be granted, along with any other material considerations which may have changed significantly since the original grant of permission.

1.1 This application seeks the removal of condition (3) on planning permission 3PL/2004/0013/O, condition (3) is an agricultural occupancy condition and therefore Policy HOU 13 of the Breckland Local Plan (adopted 2019) is relevant. Policy HOU 13 of the Breckland Local Plan (adopted 2019) states:

Applications for the removal of an occupancy condition related to rural workers will only be permitted where it can be demonstrated that:

- There is no longer a need for accommodation on the holding/business and in the local area
- 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.

1.2 The applicant has advised:

"We purchased our agricultural holding around the years 1999 to 2000. We initially secured temporary living accommodation on our site whilst we ran our poultry business. Our business comprised of free range chickens, in the region of 300 to 350 at any one time plus in the region of around 100 ducks. We also reared around 50 to 100 Turkeys for our Christmas trade.

We continued to run our business successfully, with the support of family members as a combined family venture, to maintain the number of birds and sufficient high level of business identified above until around 2017. But we were then significantly impacted as a result of increased restrictions resulting from an Avian Flu epidemic which hit the UK around that time. This resulted in us being significantly restricted and being unable to continue to run our business in the way we needed to, which was based on free range birds. You can't barn store free range birds.

We ceased our business in 2019 to 2020 and subsequently instructed The Norfolk Agents to market our property for sale, with inclusion of the agricultural tie identified in their marketing. Our free range bird business is no longer in operation, and we are of an age where we are unable to reinstate it, plus our family members have moved on. The Avian Flu constraints we suffered at the time were the beginning of the end for our business on this land. These issues continue to impact the bird rearing industry to this day".

1.3 The key consideration in this instance is whether the occupancy condition serves a useful purpose. Evidence has been provided showing the property had been marketed from 6th July 2020 to 6th August 2021 (a period of 13 months) and during this period, no offers were made despite 5 viewings taking place. The agricultural occupancy restriction was included in the advertisement and it was marketed at a price that reflects the occupancy restriction.

1.4 This evidence therefore indicates that the agricultural occupancy tie-in is no longer viable or in demand and the removal of this occupancy condition would enable a more efficient use of the land in future, as well as the under-utilised outbuildings.

1.5 Furthermore, in support of the evidence provided demonstrating that the property was marketed with the agricultural occupancy restriction included, and as per the requirements of Policy HOU 13, an independent valuation was provided to justify the market price. An RICS Red Book Valuation was undertaken using comparable evidence; this method entails making a valuation by directly comparing the property under consideration with similar properties that have been sold or let in the past and using the evidence derived from those transactions (e.g. rent per m²) to assess the value of the property under consideration.

1.6 The valuer summarised within their report that he would consider the marketing price of £1,100,000 to have been a reasonable level at which to market the property at the time.

2.0 Conclusion

2.1 In light of the above, it is considered that the applicant has sufficiently demonstrated that the existing dwelling no longer serves a useful purpose, given the extensive marketing undertaken. This is further supported by the independent RICS Red Book Valuation provided demonstrating that the marketing price of £1,100,000 would have been a reasonable level at which to market the property at the time. In conclusion, it is considered the applicant has submitted a sufficient case to warrant the removal of the agricultural occupancy restriction and the proposal is therefore recommended for approval.

RECOMMENDATION

On the basis of the above assessment, the application is recommended for APPROVAL subject to conditions.

CONDITIONS

1 In accordance with submitted plans NEW 2017

The development shall be carried out in strict accordance with the application form, and approved documents and drawings as set out in the table at the end of this notice.

Reason for condition:- To ensure the satisfactory development of the site, in accordance with Policy COM01 of the Breckland Local Plan (adopted 2019).

2 Variation of approved plans

Any variation from the approved plans following commencement of the development, irrespective of the degree of variation, will constitute unauthorised development and may be liable to enforcement action.

You or your agent or any person responsible for implementing this permission should inform the Development Control Section immediately of any proposed variation from the approved plans and ask to be advised to the best method to resolve the matter. Most proposals for variation to the approved plans will require the submission of a new application.