

Item No: 10 Reference: B/07/01418/ROC
Parish: ASSINGTON
Location: Solar Farm, Further Street
Proposal: Variation of condition 02 attached to P.P. B/78/00679/FUL to enable the mobile home to be occupied by Mr S Norfolk or for persons employed in agriculture.
Applicant: Mr S Norfolk
Case Officer: Ben Elvin Date for Determination: 20 October 2007

This application is referred to the Committee as the proposal is contrary to the Development Plan.

THE SITE

1. Solar Farm lies adjacent to the A134 to the north of Assington village. The site is accessed via an existing vehicular access off the A134.
2. The site currently hosts a mobile home and some outbuildings, in various states of repair.

THE PROPOSAL

3. Planning permission was granted in 1978 for the stationing of a mobile home to replace an existing caravan. A condition was imposed which stated that "*This permission shall only enure for the benefit of Mr D. J. Bass*".
4. This application proposes the variation of this condition to enable the mobile home to be occupied by the applicant, Mr S Norfolk, or for other persons employed in agriculture.

RELEVANT HISTORY

5. B/78/679 (1978) – Permission granted for stationing of mobile home to replace existing caravan
6. S73/1006/M (1973) – Permission refused for Bungalow to replace existing dwelling.
7. S/72/1515/M (1972) – Permission refused for agricultural dwelling.
8. S/63/315/M (1963) – Renewal – stationing of caravan.
9. S/62/215/M (1962) - Renewal – stationing of caravan.
10. S/1937/M (1958) – Stationing of caravan for residential purposes.

NATIONAL GUIDANCE

11. PPS7 – Sustainable Development in Rural Areas.
12. Circular 11/95 – Use of Conditions in Planning Permission.

PLANNING POLICIES

13. The following Development Plan policies are applicable to the proposal:
 - CR12 – Agricultural Workers Dwellings
 - HS04 – Countryside General
 - HS29 – Residential Caravans

This report only includes policy references. For further details please see Page 4.

OBSERVATIONS

14. PC – Support.
15. LHA – No objections.

REPRESENTATIONS

16. One letter of support has been received which makes the following points;
 - The occupation of the property is better than the site being left vacant.
 - The applicant is a young, local, agricultural worker and Babergh’s policies are trying to help local people on lower wages find affordable housing in their local area.
 - The mobile home was occupied until recently and therefore it seems reasonable for it to be occupied again.
 - They would support the replacement of the dwelling with a more permanent structure.
17. One letter of objection has been received which makes the following points;
 - It is clear that following the death of Mr Bass that the right to station the mobile home ceased.
 - It logically follows that if permission no longer exists to station the mobile home it must be removed from the site.
 - The Council can lawfully insist on the removal of the mobile home.
 - The Council is under no obligation to grant permission for the occupation of the mobile home.
 - If permission is granted, it would flaunt all Local and National Planning Policies.
 - The site is not an economic agricultural unit, and therefore cannot support a mobile home.

- There have been significant works on the site, which may have changed the use of the land.
- An application for a permanent dwelling could follow if permission is given.

PLANNING CONSIDERATIONS

18. The mobile home was positioned on the site with the benefit of planning permission in 1978, following applications in 1958, 1962 and 1963 for the retention of a caravan on the site. The conditions attached to the 1978 permission required that the caravan be removed from the site when the new mobile home was occupied, that the mobile home be sited as close as possible to the previous caravan, and that the permission would only enure for the benefit of Mr Bass. It is this condition that it is proposed to vary as Mr Bass is now deceased.
19. Circular 11/95 was published in July 1995 and is entitled the “Use of conditions in Planning Permission”. It provides the framework by which planning conditions should be tested and constructed. It identifies, at paragraphs 35 and 36 of Annex A that personal permissions should be restricted through two conditions, one identifying the name of the person and the period of time for which permission is granted, and the other requiring that the use permitted should cease once the occupation by that person has ceased (and that all materials and equipment brought on to the premises in connection with the use shall be removed).
20. The permission granted in 1978 was given because of the personal circumstances of the applicant at that time. Indeed, a note was attached to the permission to that effect. The permission did not however include a condition requiring the use to cease once the applicant no longer occupied the mobile home. The permission was not a temporary permission and granted permission for the stationing of the mobile home on this land, with the existing caravan to be removed.
21. The issues here therefore fall around the occupation by Mr Norfolk, or by others employed in agriculture, and whether the circumstances of the variation of the condition are acceptable in view of the permission previously granted.
22. The land has been the site of a caravan or mobile home since 1958, with occupation until recently by Mr Bass. Mr Norfolk is employed in agriculture and works in Ardleigh. He currently resides with his parents in Nayland.
23. The application does not include an assessment of the financial and functional need for an agricultural unit on this site, as is provided for in, and required by, PPS7. The previous permission did not however tie the occupation to an agricultural worker as the circumstances at the time of that permission were not based on agricultural need in isolation, although this was a key consideration in the determination of the application. PPS7 does provide that, in considering sites for new agricultural dwellings, the applicant would need to demonstrate that the functional need could not be met by another dwelling in the locality. In this instance, this long-established mobile home could provide a dwelling for an agricultural worker without the need for further residential development elsewhere in the countryside.

24. Whilst this application proposes the variation of an existing condition, this does not prevent the Local Planning Authority (LPA) imposing further conditions where these are reasonable and are not fundamentally different to what the previous condition/permission attempted to achieve. From the information that has been provided, and from understanding the previous grant of permission, it is apparent that the imposition of further conditions to restrict the occupation of the mobile home to use by Mr Norfolk or by others employed in agriculture would be reasonable and would provide a sufficient level of control for the LPA without being fundamentally different to the permission previously granted.
25. Further, the mobile home has the benefit of planning permission. It can remain on the site unoccupied without breaching planning control. The occupation of the mobile home therefore provides a viable use for this building.

REASON FOR APPROVAL

The occupation of the mobile home by Mr Norfolk or by others employed in agriculture is an appropriate use of this mobile home, which has been sited on this land for many years. The proposal would not detract from the character of the countryside or conflict with national or local planning policy (contained within PPS7 and policies CR01 and CR12 of the Babergh Local Plan Alteration No.2 (2006) in respect of development in the countryside.

RECOMMENDATION

That the condition be varied to state;

“The occupation of the mobile home shall be limited to Mr S Norfolk, or to a person solely or mainly working or last working, in the locality in agriculture (as defined in Section 336(1) of the Town and Country Planning Act 1990) or in forestry, or a widow or widower of such a person, and to any resident dependents”.

An explanatory note in respect of these definitions should also be attached.

DECISION

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