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**MILLWOOD HOUSE**

**LITTLEHAMPTON ROAD**

**FERRING**

**WEST SUSSEX BN12 6PG**

# PLANNING APPLICATION TO REMOVE THE AGRICULTURAL OCCUPANCY CONDITION

# AGRICULTURAL SUPPORTING STATEMENT

## 1.0 INTRODUCTION

1.01 My name is David Campion. I qualified as Rural Practice Chartered Surveyor in 1975 and I am a Fellow of the British Institute of Agricultural Consultants. I work principally as an Agricultural and Rural Planning Consultant to Clifford Dann, Chartered Surveyors in Lewes, and also with a number of private clients and professional firms. Much of my work relates to the provision of new farm dwellings and the removal of agricultural occupancy conditions.

## 2.0 THE PLANNING APPLICATION

2.01 I have written this report to support a planning application to remove an agricultural occupancy condition (Condition 2) imposed by Mr Phil Grainger BA(Hons) MRTPI, an Inspector appointed by the Secretary of State when allowing an appeal and granting planning permission for the subject dwelling (then part of McIntyre's Nursery), in his decision letter dated 4

April 2001 under PINS reference APP/C3810/A/00/1055789 and LPA reference FG/80/00. The condition reads that "the occupation of the dwelling shall be limited to a person solely or mainly working, or last working in the locality, in agriculture or forestry or a widow or widower of such a person and to any resident dependents".

2.02 Millwood House is a substantial detached dwelling situated in Ferring on the north side of the A259 Littlehampton to Worthing Road, standing in gardens of approximately 1 acre with two reception rooms, a kitchen/breakfast room and cloakroom on the ground floor; 2 large bedrooms with dressing rooms (one en suite) and a bathroom on the first floor, together with 2 bedrooms on the ground floor. There is a detached double garage with an office above. The residence has its own gated entrance off the A259 and private gravel drive to access the house.

2.03 The dwelling was allowed on appeal in April 2001 to accommodate a key worker at what was formerly known as McIntyres Nursery which in turn was an integral part of a horticultural enterprise at Highdown Nursery, run by the Appellants the Macintyre Brothers. My research indicates that the site of McIntyres Nursery was developed for commercial, non-horticultural uses before the approved dwelling was built. The dwelling has never been occupied by a worker employed at either McIntyres or Highdown nurseries.

2.04 An application to remove the condition by a previous owner was made in July 2006 and registered under LPA reference FG/98/06 after an extensive marketing exercise during which no compliant occupier had been identified. Notwithstanding the results of the marketing exercise, the application was refused on 12 September 2006 for the following reason: "The propert (sic) which has only recently been completed, has not been occupied. The Local Planning Authority are not therefore satisfied that this proposal meets the criteria in PPS7 annex A and further that the asking price does not reflect a reasonable reduction in market price which is normal for agricultural dwellings".

2.05 Since then, PPS7 has been revoked as one of many PPGs and PPSs' replaced by the National Planning Policy Framework (NNPF) in March 2012. The applicants' planning solicitor deals with planning policy elsewhere in the planning application. My evidence to support removal of the agricultural occupancy condition is given at Section 3, below.

## 3.0 THE CASE FOR REMOVING THE AGRICULTURAL OCCUPANCY CONDITION

3.01 The occupancy condition is essentially in two parts. The first requires the occupier to be solely or mainly working in the locality in agriculture or forestry, the second requires the occupier to be last working in the locality in agriculture or forestry. Compliance with either part will satisfy the condition. Residential dependants of both categories would comply.

3.02 With regard to currently working in agriculture, it is very relevant to this application that the horticultural unit for which the dwelling was approved ceased to trade as a horticultural enterprise before the dwelling was even built. Examination of the site's planning history reveals an approval under reference FG/129/00 for the construction of an office, an approval under reference FG/160/05 for the change of use of a packhouse at the nursery to B1/B8 and an approval to use part of the former nursery for B8 uses and the storage and supply of fencing and associated materials under reference FG/59/10.

3.03 The applicants acquired Millwood House in March 2007, fully intending to establish an apple orchard to grow cider apples and make cider on site. They took comfort from a letter addressed to them by Arun District Council stating that "the use of the land for juice and cider production is considered an agricultural use"[1]. In my professional judgement, this would not satisfy the condition as the orchard is not of a size to generate sufficient work to be considered "sole or main" employment.

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[1] Arun District Council letter to Mr and Mrs Self under reference FG/19.5 8102/SL/1902SW2 dated 27 February 2007

3.04 The Council appears to have taken the same view when writing to the applicants that "I am not satisfied that an agricultural use is taking place at this site" [2] despite the fact that by then the applicants had planted 36 apple trees of specialist cider varieties.

3.05 On 17 August 2011, the Council wrote to Mr and Mrs Self suggesting that "the current use of the garden and dwelling is predominantly domestic in nature and the cider production proposal would appear to be more of a hobby than a sustainable agricultural enterprise".[3] By this time, they had planted a total of 60 apple trees.

3.06 The change of use approvals detailed above (paragraph 3.02) and the 17 August letter would therefore suggest that the Council has indicated that there is no potential for the property to be used for any other agricultural purpose than a "hobby". I totally agree that there is no scope for introducing a sustainable agricultural enterprise that would satisfy the occupancy condition.

3.07 Notwithstanding the fact that there is no scope for introducing a sustainable agricultural enterprise that would satisfy the occupancy condition, the application for its removal needs to be considered against the likelihood of it being required by a current, or last employed, agricultural farm worker living in the locality. With the revocation of PPS7, and in the absence of any saved policy in relation to the removal of agricultural occupancy conditions, any assessment can only be made against the provisions of Circular 11/95 which remains in force. Here, Government advice to Local Authorities is unequivocal. Paragraph 103 reads "The model occupancy condition will ensure that the dwelling is kept available to meet the needs of other farm or forestry businesses in the locality if it is no longer needed by the original business".

3.08 Circular 11/95 goes on to add at paragraph 105 that "where an agricultural occupancy condition has been imposed it will not be appropriate

[2] Arun District Council letter to Mr and Mrs Self under reference FG/80/00dated 23 June 2010

[3] Arun District Council letter to Mr and Mrs Self under reference ENF/290/10 dated 17 August 2011

to remove it on a subsequent application unless it is shown that the existing need for dwellings for agricultural workers in the locality no longer warrants reserving the house for that purpose". There is therefore a clear presumption in favour of removing the condition when it is *shown* (my italics for emphasis) that it is no longer needed by the original business or to be reserved for use as an agricultural dwelling.

3.09 Planning applications for new farm dwellings are invariably justified by an essential need for a person to live on site. The subject dwelling does not serve this purpose and that question is therefore irrelevant. The next question is whether it can be shown that there is a need for a tied dwelling to house a currently employed or last employed farm worker.

3.10 There is no statutory obligation to provide marketing evidence to show a lack of need in the locality for a tied dwelling. Indeed, in my experience this evidence has never been particularly reliable in the past. I say this because discounted valuations are not necessarily indicative of market value and such an exercise frequently produces potential occupiers who could not genuinely satisfy the condition. Additionally, a marketing exercise presents an opportunity for landowners and growers to acquire tied farm dwellings as a medium to long term investment rather than to meet a genuine agricultural housing need. There is more reliable evidence upon which to assess the extent of any agricultural need. I address this evidence in the following paragraphs.

3.11 The Arun Housing Strategy produced in October 2010 confirms that "the depth of the credit crunch has been game-changing as far as the housing market is concerned. The Coalition Government, mortgage lenders and house builders have all had to fundamentally review their plans and business models and respond to unprecedented conditions"[4]. As a Registered Valuer and member of the Royal Institution of Chartered Surveyors I can say that from my own experience "at the coal face" that this

[4] Raise the Roof: a community led housing strategy for the Arun District 2010 – 2015 produced October 2010

is absolutely true. One of the major difficulties in the rural housing market is obtaining mortgages for agriculturally tied dwellings. Lending institutions are not prepared to lend against such security and wait indefinitely for a compliant purchaser to be found when realising their asset. It would therefore be incongruous to argue that there is a need for a dwelling subject to an agricultural occupancy condition when one of the consequences of the "game-changing" credit crunch is that the same need, even if it did exist, cannot be satisfied when purchases cannot be financed. Millwood House is not realistically available for to purchase by a current or retired farm worker in the current economic climate.

3.12 As an RICS Registered Valuer I have valued Millwood House in the region of £450,000 subject to the occupancy condition. £450,000 would be beyond the reach of a farmworker whose wages are set annually by the Agricultural Wages Board where the highest minimum wage is around £18,500 a year. A typically retired farmworker would, in today's economic climate, be similarly unable to support a mortgage at this level or from a farmworker's retirement pension, even if a mortgage on a tied property could be obtained.

3.13 I have examined agricultural employment statistics in West Sussex. The number of full time agricultural workers has declined from 1,134 in 2000 to 868 in 2010[5] which would suggest a decreasing demand for dwellings to house locally employed farm workers. The number of part time workers has actually increased from 1,260 to 1,297. This would suggest two things: firstly, that part-time workers are already accommodated within the stock of unencumbered housing in the District and, secondly, that by definition a part-time worker would not be solely or mainly employed in agriculture and therefore unable to comply with the occupancy condition.

[5] Defra County/Unitary Authority breakdown for the agricultural labour force

3.14 That leaves the question of whether the dwelling is required to accommodate a retired farm worker. During my research, it has become clear that the value of the dwelling would be beyond the financial resource of a retired farm worker, both in terms of capital costs and rent, and its annual maintenance costs.

3.15 The District's housing position is clearly set out in the Council's document, Raise the Roof, when it says that "People in Arun now need nearly 10 times the average income to buy an average-priced house in the district". Putting this into context, Millwood House is not suitable as an agricultural retirement dwelling for a number of reasons:

1) As previously explained, the capital, rental and maintenance costs of a 4 bedroom dwelling standing an acre or so of garden are beyond the reach of the typically retired farm worker.

2) The property lies in a busy main road, not within easy distance of the local shops and where vehicular egress onto the dual carriageway is one way only and particularly difficult for the elderly driver.

3) The detached dwelling lacks any sense of community, with no immediate neighbours who could be alerted to any sudden incident or health emergency.

4) If the dwelling becomes vacant simply to avoid non-compliance with the agricultural occupancy condition, that will only add to the number of empty homes in the District, contrary to the Raise the Roof objections to empty properties because they "represent a wasted resource and can have a negative impact on local communities".

## 4.0 SUMMARY

4.01 Planning permission was granted on appeal in 2001 for the construction of Millwood House, subject to an agricultural occupancy condition.

4.02 The dwelling was erected in 2005 but not occupied until March 2007. An application to remove the occupancy conditionwas refused in 2006 when the supporting marketing exercise, required under local planning policy at that time, produced no interest from any potential occupier.

4.03 The applicants acquired Millwood House and attempted to establish a cider apple enterprise which the Council now considers is not a sustainable agricultural enterprise.

4.04 There is no agricultural or horticultural system that will generate sufficient work or income to enable the occupier to satisfy the occupancy condition by working on this land.

4.05 In these circumstances, the relevant planning advice in Circular 11/95 is that an applicant needs to "show" there is no need for the dwelling from either local currently or last employed farm workers before it can remove the occupancy condition. Reliable and authoritative statistics quoted above suggest this to be the case.

**5.0 CONCLUSION**

5.01 In view of the particular circumstances at Millwood House, I believe the agricultural occupancy condition serves no useful purpose and there is no valid reason why it should be retained.

*David Campion*

**DAVID CAMPION MRICS FBIAC**

25 July 2012