

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	16/04/2019
Planning Development Manager authorisation:	AN	16/4/19
Admin checks / despatch completed	AS	16/4/19

*AK*

**Application:** 19/00185/FUL **Town / Parish:** Ardleigh Parish Council

**Applicant:** Mr Farrer

**Address:** Birchwood Nursery Harts Lane Ardleigh

**Development:** Removal of condition 1 of TEN/180/71 to allow unrestricted occupation.

### 1. Town / Parish Council

Ardleigh Parish Council No comments received.

### 2. Consultation Responses

None required.

### 3. Planning History

93/01351/FUL	Continued occupation of bungalow without compliance with Condition No. 1 on planning permission TEN/180/71 (removal of agricultural occupancy)	Refused	11.01.1994
98/00752/FUL	Erection of stables and store building and additional use of land for grazing of horses with continued use for cropping of hay	Approved	29.07.1998
80/00396/FUL	Extn to existing bungalow	Approved	07.05.1980
80/02001/FUL	Use of dwelling in variation of agricultural occupancy	Refused	24.03.1981
85/00166/FUL	Two bedroom extn together with store and shower room	Approved	19.03.1985
87/00905/FUL	Reconstruct existing utility / W.C and construct double garage	Approved	20.07.1987
88/01310/FUL	Three bedroom bungalow	Refused	27.09.1988
10/00139/FUL	Demolition of existing glasshouses and erection of single storey timber framed and clad mobile lodge for residential use only in association	Refused	08.06.2010

with equine use and together with all necessary external works, landscaping, parking arrangements and drainage, as amended by drawing no. 301A received on 12/04/10.

10/00986/FUL	Change of use of privately used equine land to use of land for running livery business.	Refused	23.11.2010
11/00657/FUL	Demolition of existing glass-house and erection of mobile home with associated landscaping, parking and drainage works for residential use in association with authorised commercial livery use.	Refused	15.09.2011
15/00779/FUL	Permanent retention of bungalow previously approved for a temporary period under application number 11/00657/FUL for use in connection with commercial livery business.	Approved	27.08.2015
18/01621/FUL	Removal of condition 1 of TEN/180/71 to allow unrestricted occupation.	Refused	27.11.2018

#### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

HG19 Removal of Occupancy Conditions

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

PP13 The Rural Economy

#### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.



With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The application relates to Birchwood Nursery, Harts Lane, Ardleigh. The property is a 3 bed bungalow situated on the north side of Harts Lane. It is a dwelling typical of the 1970's in terms of design and form. It is located upon a plot extending to 0.2 hectares largely laid to lawn. The land to the north comprises a series of paddocks and stables operating as an equestrian and livery business unconnected to the occupation of Birchwood Nursery bungalow. This land has the benefit of a separate dwelling unit, for which planning permission was granted in 2015 (reference 15/00779/FUL).

### Description of Application

The application seeks the removal of Condition 1 imposed upon planning permission TEN/180/71 relating to an agricultural occupancy restriction as set out below;

'The occupation of the dwelling shall be limited to a person employed, or last employed, locally in agriculture as defined in section 221 (1) of the Town and Country Planning Act 1962, or in forestry, or a dependent of such a person residing with him (but including a widow or widower of such a person).

Reason - The site lies outside any area which would be considered for normal residential development but in view of the agricultural significance attaching to the proposal the Local Planning Authority have decided to grant consent on condition that the dwelling remains for an agricultural worker.'

### Assessment

The main considerations in this instance are;



- Planning History;
- Policy Considerations;
- Evidence and Justification;
- Representations.

### Planning History

The Agent's supporting statement provides a summary of the site history as follows;

Planning permission was granted in 1971 for the dwelling subject to the agricultural occupancy condition in conjunction with the use of the land as a horticultural nursery. The site was subsequently developed with a number of glasshouses. In 1993 the then owner decided to sell the property due to retirement. An application to remove the occupancy condition was submitted but refused permission (reference TEN/93/01351). The current owner then acquired the property and continued to use the site for horticultural purposes until 2005. At that time, the applicant was unable to maintain two contracts, which left him with no choice but to cease horticultural production.

The land was subsequently used by the applicant's daughter to develop an equine business. This activity developed to the stage where in 2010, permission was granted to cease use of the land for horticultural purposes and to develop the paddocks and livery use which continues today. The following year, permission was granted on appeal for the siting of a mobile home in connection with the equine business (reference 11/00657/FUL). This permission was made permanent in 2015 (reference 15/00779/FUL). The dwelling unit remains occupied pursuant to the terms of that permission.

Following the appeal decision in 2011, the applicant has had no requirement to occupy the property for an agricultural or horticultural worker. In fact, the property has been let on a formal tenancy basis since that time to a person who has no connection with agriculture. This situation remains today.

### Policy Considerations

Saved Policy HG19 of the adopted Tendring District Local Plan 2007 states that:

Applications to relax planning conditions that restrict occupancy of agricultural or forestry workers dwellings will only be permitted in the following circumstances:

- where an applicant is able to demonstrate that there is no long term demand for an agricultural or forestry workers dwelling on the particular unit or in the locality generally; and
- where all reasonable attempts have been made to market the property for a period of 12 months immediately prior to the application date at a discounted value to reflect the agricultural occupancy condition.

### Evidence and Justification

The application is accompanied by a statement and appendices providing information on the marketing particulars and interest expressed in the property and why these did not result in the sale of the property.

The property was initially valued at an open market price of value free of any encumbrances for a three bedroom property together with 0.5 acres would be £450,000 to £475,000 (comparables are shown within appendix PLG1). A value with a reduction considered to be appropriate to reflect the occupancy restriction resulted in an asking price of £350,000.

During the marketing period, particulars have been sent out to clients who matched similar requirements on Stanfords extensive database. The property has also been advertised on Rightmove, Zoopla and Stanfords own website since 12th August 2017, and upon which it is continued to be displayed. In addition to the initial mailing exercise from Stanfords database, a further 44 sets of particulars were produced and circulated amongst the local farming community within a radius of 5 miles of house, offering it for sale. Advertisements were placed in the Ipswich Evening Star and East Anglian Daily Times newspapers and on-line versions on 9th February 2018 and in the Essex County Standard on 13th July 2018. The property was also advertised in The



Farmers Weekly on 9th February 2018. Copies of these advertisements are included as Appendix PLG3.

Throughout the months leading up to the application, seventeen formal enquiries were received but most did not meet the terms of the occupancy condition or withdrew their interest for various reasons. Only one potentially credible offer has been received but this was under the asking price of an already discounted price and the interested party could not demonstrate the ability to meet the restriction on occupancy (subject of a previous refusal 18/01621/FUL). No other offers have been received from this interested party or others.

Although the marketing campaign and asking price were not agreed with the Council in advance, it is considered the valuation is a fair valuation, taking into account the comparable prices for similar properties in the local area. The marketing campaign has been carried out continuously through appropriate channels in excess of a 12 month period.

The dwelling has not been occupied by an agricultural worker since 2011. There is no agricultural activity taking place at the former nursery. The applicant's daughter has a separate unrelated dwelling in connection with the adjoining equestrian business. The land associated with the dwelling since 2010 comprises only 0.5 acres and could not therefore sustain an agricultural worker, while it would be necessary to undertake considerable investment to develop any other form of agricultural business, even if other land was available.

#### Representations

No other letters of representation have been received.

#### Conclusion

It is considered that sufficient information has been provided for the Council to conclude that there is no long term demand for an agricultural or forestry workers dwelling on the particular unit or in the locality generally and that reasonable attempts have been made to market the property for a period of 12 months immediately prior to the application date at a discounted value to reflect the agricultural occupancy condition. The removal of the agricultural occupancy condition would therefore be in accordance with Policy HG19 of the Tendring District Local Plan 2007.

### **6. Recommendation**

Approval - Full

### **7. Conditions**

1 No conditions.

### **8. Informatives**

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.