

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	18/05/2020
Planning Development Manager authorisation:	AN	18/05/2020
Admin checks / despatch completed	CC	19/05/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	19/05/2020

Application: 20/00422/FUL **Town / Parish:** Weeley Parish Council

Applicant: Mr & Mrs Norris

Address: 23 Colchester Road Weeley Clacton On Sea

Development: Proposed removal of condition 5 (agricultural occupancy) for planning application TEN/316/69.

1. Town / Parish Council

Weeley Parish Council Weeley Parish Council does not object to this application.
30.04.2020

2. Consultation Responses

None required.

3. Planning History

00/00504/FUL	Proposed two storey side extension to form ground floor study and first floor additional bedroom	Approved	24.05.2000
01/01603/FUL	Change of use of outbuilding to be used for storage, workshop and office purposes	Approved	08.11.2001
98/00574/FUL	(Tall Pines, 23 Colchester Road, Weeley) Single storey rear extension	Approved	10.06.1998
06/00602/FUL	Proposed ground floor extension to form family room and internal alterations.	Approved	25.05.2006
15/00559/FUL	New dwelling to rear of existing property.	Approved	12.06.2015
15/01247/FUL	Separation of Agricultural tied dwelling from commercial nursery.	Withdrawn	10.12.2015
17/01955/OUT	Outline planning application with all matters reserved for the construction of 9 detached bungalows.	Approved	08.03.2018

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

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to number 23 Colchester Road, Weeley a large 5 bedroom detached house on a plot measuring approximately 0.23 acres. It is associated with a long established wholesale horticultural nursery known as Rainbow Nursery. The business does not operate any retail element but supplies the landscaping and wholesale market. To the rear and north of the house are a range of glasshouses, barns and storage buildings all associated with the business. Beyond, to the north, are open fields and outdoor planting areas. This open land is also a certificated caravan site available to accommodate 5 touring caravans. Within the rear garden of No.23 is an area for which planning permission has been granted for a bungalow. Planning permission was also granted in March 2018 (reference 17/01955/OUT) for the redevelopment of the nursery site for 9 detached bungalows.

The site lies outside of a defined settlement boundary within both the Saved Tendring District Local Plan (2007) and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Description of the Proposal

Planning permission is sought for the non-compliance with an agricultural occupancy condition which was imposed upon the property in 1969. Condition No.5 imposed upon planning permission TEN/316/69 states:-

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).

Assessment

Saved Policy HG19 states applications to relax planning conditions that restrict occupancy of agricultural workers dwellings will only be permitted in the following circumstances:

- i. where an applicant is able to demonstrate that there is no long term demand for an agricultural workers dwelling on the particular unit or in the locality generally; and
- ii. 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.

- Demonstration of Demand

Planning permission was granted in 1969 for the dwelling subject to the agricultural occupancy condition in conjunction with the use of the land as a horticultural nursery. The site has been developed with a number of glasshouses, barns and storage buildings.

The Planning Statement accompanying the application explains that Rainbow Nursery is unable to compete effectively in the wholesale horticultural business as a consequence of its limited size and competition from major competitors and operators from European markets. Furthermore, without a retail element as evident at most other nurseries in the district, including Parkers Nurseries, Frinton-on-Sea, St John's Plant Centre in Clacton-on-Sea and Hearts Delight, Lawford, the business is unable to offer an alternative source of income. With the considerable uncertainty in this particular market having regard to the post Brexit situation and reliance on trade with the Low Countries, the company has looked at alternative activities on the site. It has also been necessary to examine the relationship of the premises to the adjoining residential area, including the recent development of Festival Close which abuts the site, together with the nature of the access road to the premises. As a consequence, a planning application was submitted and permission granted in March 2018 (reference 17/01955/OUT) for the redevelopment of the nursery site with 9 detached bungalows.

With difficulties in the development of the site for wholesale nursery purposes and the absence of any retail element, planning permission was sought and granted for the redevelopment of the nursery site for 9 detached bungalows. The dwelling associated with the horticultural business will therefore no longer be required for the purposes as stated back in 1969 and thereby no longer necessary to be occupied in conjunction with the operation of the nursery.

This application has been the result of the applicant wishing to sell or lease 23 Colchester Road with 0.23 acres of land and not being able to find a suitable buyer or occupant that could demonstrate that they are, or were, employed locally in agricultural or forestry or a dependent or widow of such a person. Such consideration would today also include a 'rural' worker. While the nursery business will continue for the immediate future, the redevelopment of the site has been granted planning permission and clearly is a more viable option when compared business difficulties as described above. The applicants therefore wish to relocate from the site.

- Marketing

In this instance, the property was the subject of an appraisal and valuation in June 2018. The property was valued at £460,000 having regard to the extent of accommodation and considered to be a very fair reflection of the market value of the property with a restricted Agricultural Occupancy

Condition. The property was initially valued with an open market price of value free of any encumbrances for a five bedroom property together with 0.23 acres at £650,000 to £675,000. It was decided to place the property on the market in June 2018. Subsequently the asking price was reduced to £450,000 in February 2019. A copy of the sale particulars accompany this application.

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 and the discounted value due to the agricultural tie.

Over the past 1 year and 9 months, particulars have been sent out to clients who matched similar requirements on Stanfords extensive agricultural database. The property has also been advertised on Rightmove, Zoopla and Stanfords own website since 8th June 2018, and upon which it is continued to be displayed. Advertisements were placed in the Essex County Standard on 13th July 2018, 1st March 2019, 19th July 2019 and 6th September 2019. The property was also advertised in the national Farmers Guardian on 15th March 2019. Copies of these advertisements accompany this application. Throughout the past 21 months, twenty one formal enquiries were received. In addition to the 21 formal enquiries, a considerable number of other interested parties expressed their interest but did not leave their details or who showed no further interest following an explanation of the occupancy restriction circumstances. The majority following subsequent discussion did not meet the terms of the occupancy condition and withdrew their interest. No request was made to view the property. Details of all those interested and prepared to leave their name are shown within Appendix PLG3 accompanying the application.

In addition to the initial mailing exercise from Stanfords database, a further 25 sets of particulars were produced and circulated amongst the local farming community within a radius of 5 miles of house, offering it for sale. These details are attached as Appendix PLG4. No response was received. No offers have been received from any person in the past 21 months regardless whether they demonstrated their ability to meet the restriction on occupancy.

Conclusion

The circumstances of the applicants indicate that the dwelling will no longer be required in association with the adjoining premises pending its redevelopment. Having taken into account the extensive marketing exercise for the sale of the property over a period far in excess of the Council's stated requirements, no reasonable interest has been shown. It is therefore considered that sufficient information has been provided for the Council to assess that there is no demand for this particular house or the need for it to be occupied by someone solely, mainly or last working in agriculture, forestry or a rural-based enterprise. 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.