

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	18/05/2020
Planning Development Manager authorisation:	AN	19/05/2020
Admin checks / despatch completed	CC	21.05.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	21/05/2020

Application: 20/00430/FUL **Town / Parish:** Thorpe Le Soken Parish Council

Applicant: Mr C Neilson

Address: Comarques Farm House Colchester Road Thorpe Le Soken

Development: Non-compliance with Condition 4 imposed upon planning permission TEN/803/72 relating to an agricultural occupancy condition.

1. Town / Parish Council

Thorpe Le Soken Parish Council No comments received.

2. Consultation Responses

None required.

3. Planning History

98/01642/FUL	Erection of new close board fence 2.1 metres in height with scalloped tops and ball and collars on posts to replace existing	Approved	26.02.1999
18/30041/PREAPP	Proposal to remove the AOR (Agricultural Occupancy Restriction).		26.03.2018

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 Condition

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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 the property known as Comarques Farm House, a large 4 bedroom detached house on a plot measuring approximately 0.37 acres. Planning permission was granted in 1972 for the dwelling subject to the agricultural occupancy condition in conjunction with the use of the land as a livestock rearing business originally associated with a long established agricultural holding which comprised in excess of 70 beef cattle, 150 sheep and 50 sows. Upon the retirement of the applicant in 2006, the farmland was sold to a neighbouring farmer, leaving just the house and 0.37 acres upon part of which planning permission has been granted for a new dwelling under planning application reference 17/00257/OUT.

Description of the Proposal

Planning permission is sought for the non-compliance with an agricultural occupancy condition which was imposed upon the property in 1972. Condition 4 imposed upon planning permission TEN/803/72 states:-

The occupation of the dwelling shall be limited to a person wholly or mainly employed, or last employed, locally in agriculture as defined in section 290 of the Town and Country Planning Act 1971, 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

The land forming part of the agricultural holding was sold away in 2006 following the applicant's retirement. The circumstances which applied in 1972 have not existed for at least 14 years. The cessation of the agricultural business has not been a short-term decision, as the applicant was able to continue living in the property following his retirement. Unfortunately, he is now of an age where it is necessary to consider the future and the inability to continue living in a four bedroom family house. The land associated with the dwelling since 2006 comprises only 0.37 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.

First, this application has been the result of the applicant wishing to sell or lease Comarques Farm House with 0.37 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. The applicant now wishes to relocate from the site given his age and infirmity.

- *Marketing*

The property was the subject of an appraisal and valuation in November 2017. The property was valued at £320,000 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 four bedroom property together with 0.37 acres at £450,000 to £475,000. It was decided to place the property on the market in December 2017. A copy of the sale particulars is contained at Appendix PLG2.

Over the past 2 years and 4 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 7th December 2017, and upon which it is continued to be displayed. Advertisements were placed in the Essex County Standard on 23rd November 2018 and in the East Anglian Daily Times and Ipswich Star both on 15th February 2018. The property was also advertised in the national Farmers Weekly on 9th February 2018. Copies of these advertisements are included as Appendix PLG3.

Throughout the past 28 months, seventeen formal enquiries were received. In addition to the 17 formal enquiries, we received a considerable number of other interested parties who either would not leave their details or were not familiar with the occupancy restriction and showed no further interest following an explanation of the 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 upon Appendix PLG4. It is understood that one of these parties, submitted a pre-application enquiry to the Council in January 2018. However, the individual did not comply with the occupancy condition.

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 PLG5. No offers have been received from any person in the past 28 months regardless whether or not they demonstrated their ability to meet the restriction on occupancy.

Conclusion

The circumstances of the applicant, and status of the agricultural holding and associated land indicate that the dwelling is no longer required. 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.