

APPLICATION NO	PA/2016/301
APPLICANT	Ms Jean Chappell
DEVELOPMENT	Application for removal of condition 4 of planning permission reference 7/400/87 dated 06/08/87
LOCATION	Building plot, The Hatcheries, Marsh Lane, Barnetby le Wold, DN38 6JW
PARISH	Barnetby le Wold
WARD	Brigg and Wolds
CASE OFFICER	James Roberts
SUMMARY RECOMMENDATION	Refuse permission
REASONS FOR REFERENCE TO COMMITTEE	Member 'call in' (Councillor Rob Waltham – significant public interest)

POLICIES

National Planning Policy Framework:

Paragraph 14 sets out the presumption in favour of sustainable development.

Paragraph 17 emphasises that planning should be genuinely plan-led.

Paragraph 28 relates to rural development and encourages sustainable forms of development in such areas.

Chapter 4 encourages sustainable patterns of development to reduce reliance on private vehicles.

Chapter 6 encourages local planning authorities to ensure they provide appropriate levels of housing to boost supply of housing.

Paragraph 55 states that local planning authorities should avoid isolated new homes in the countryside unless there are special circumstances, including "...the essential need for a rural worker to live permanently at or near their place of work in the countryside".

Chapter 7 is concerned with high quality design.

Paragraph 206 relates to planning conditions and is consistent with the guidance contained at section 21a-003 of the National Planning Practice Guidance (NPPG). This states that planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning; and

3. to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

North Lincolnshire Local Plan:

Policy ST2 (Settlement Hierarchy)

Policy ST3 (Development Limits)

Policy RD2 (Development in the Open Countryside)

Policy RD12 (Removal of Agricultural Occupancy Conditions)

North Lincolnshire Core Strategy:

Policy CS1 (Spatial Strategy for North Lincolnshire)

Policy CS2 (Delivering More Sustainable Development)

Policy CS3 (Development Limits)

Policy CS8 (Spatial Distribution of Housing Sites)

Policy CS25 (Promoting Sustainable Transport)

Housing & Employment Land Allocations Development Plan Document: The application site falls outside established development limits.

CONSULTATIONS

Highways: No objection.

Drainage: No response received.

PARISH COUNCIL

No comments received.

PUBLICITY

Neighbouring properties have been notified. No comments have been received.

ASSESSMENT

Permission is sought to remove an agricultural occupancy condition attached to a previously approved bungalow in the open countryside. The scheme was approved by Glanford Borough Council for Mr A Brett under 7/400/87 (outline) dated 6 August 1987 and 7/720/87 (reserved matters). Condition 4 of the outline approval read as follows:

“The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality 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).”

The reason for the condition was not stated in the decision notice but it is clear that the site is located in a rural location, outside settlement limits where open market housing would not normally be permitted.

Construction of the approved scheme has commenced with the foundations laid. The applicant states that she is unable to complete the build due to her age and the death of her spouse and that the funds from the sale of the land (without the agricultural occupancy condition) would allow her to maintain her existing property (on the adjacent plot of land) and fund disability-related alterations.

In assessing the acceptability of the proposal it is considered that the existing condition needs to be assessed against the six tests of a condition set out in national guidance. This assessment should take place in the context of relevant development plan policies and national planning guidance relating to dwellings in the open countryside. Policy RD12 is of particular relevance as it relates directly to the removal of agricultural occupancy conditions and states that the council *“...will only consider the removal of an agricultural occupancy condition if conclusive evidence is submitted by way of an independent report that includes:*

i) a substantiated reason why there is no longer a justified need for an agriculturally tied dwelling on the holding;

and

ii) evidence of attempts made to sell the dwelling at a price which reflects the effect of the occupancy condition on the property market for the twelve months prior to the application being made to remove the condition.

It will be inappropriate to retain an occupancy condition on a dwelling located within a defined development limit.”

The six tests of a condition are as follows:

1. necessary

The partially constructed dwelling was approved on the basis that it would be used by a person employed in agriculture. The condition in question ensured that the development was acceptable having regard to local and national policy objectives to strictly control new dwellings in the open countryside. The site remains outside the settlement limits as set out in the adopted Housing and Employment Land Allocations Development Plan Document (HELA DPD). This level of control has not been relaxed in the intervening period and the submitted documentation does not appear to provide any robust policy justification to remove the condition.

The applicant has not provided any evidence to demonstrate why there is no longer a need for the condition. Furthermore, they have provided little evidence to demonstrate that the site has been marketed at an appropriate sale price which reflects the effect of the occupancy condition. Whilst DDM Residential have confirmed that they have marketed the building plot at £110,000 since 21 August 2015, and by 24 March 2016 had only had one

viewing, it is considered that the price of the land does not adequately reflect the agricultural occupancy condition.

It should also be noted that these points are largely peripheral given that the building has only been constructed to foundation level; if there is no longer a need for the building to provide accommodation for an agricultural worker then the most natural course of action would be to discontinue the build.

It is considered that the original condition is wholly necessary to prevent unacceptable development within the open countryside.

2. relevant to planning

The condition is clearly relevant to planning as it is worded to ensure that the dwelling is of a nature which complies with current policies relating to the control of development in the open countryside.

3. and to the development to be permitted

The condition is directly relevant to the development permitted.

4. enforceable

The condition is enforceable.

5. precise

The wording of the condition in question is considered sufficiently precise and unambiguous.

6. and reasonable in all other respects

The condition is considered reasonable given the need to strictly control new dwellings in the open countryside. The applicant has highlighted the need to fund home improvements to meet disability needs. Whilst sympathetic to these needs it is considered that they are peripheral to the key merits of the case and cannot be afforded significant weight in the planning balance. The site remains outside the development boundary for Barnetby, in a location where general housing does not comply with the development plan.

Conclusion

Permission is sought to remove an agricultural occupancy condition from a previously approved dwelling which is only built to foundation level. Given the stage of construction it is considered that any arguments relating to the 'need' for the condition or marketability of the site are largely academic given that an obvious solution is to discontinue the build.

Notwithstanding this, the applicant has failed to provide any substantive evidence to suggest that the property has been marketed at an appropriate price. Furthermore, it is clear that current local policy, and national guidance, seek to strictly control the construction of new dwellings in the open countryside and that the condition originally imposed serves a reasonable and necessary purpose. It is therefore considered that the proposal to remove the condition would be contrary to adopted planning policy and guidance and the application is recommended for refusal.

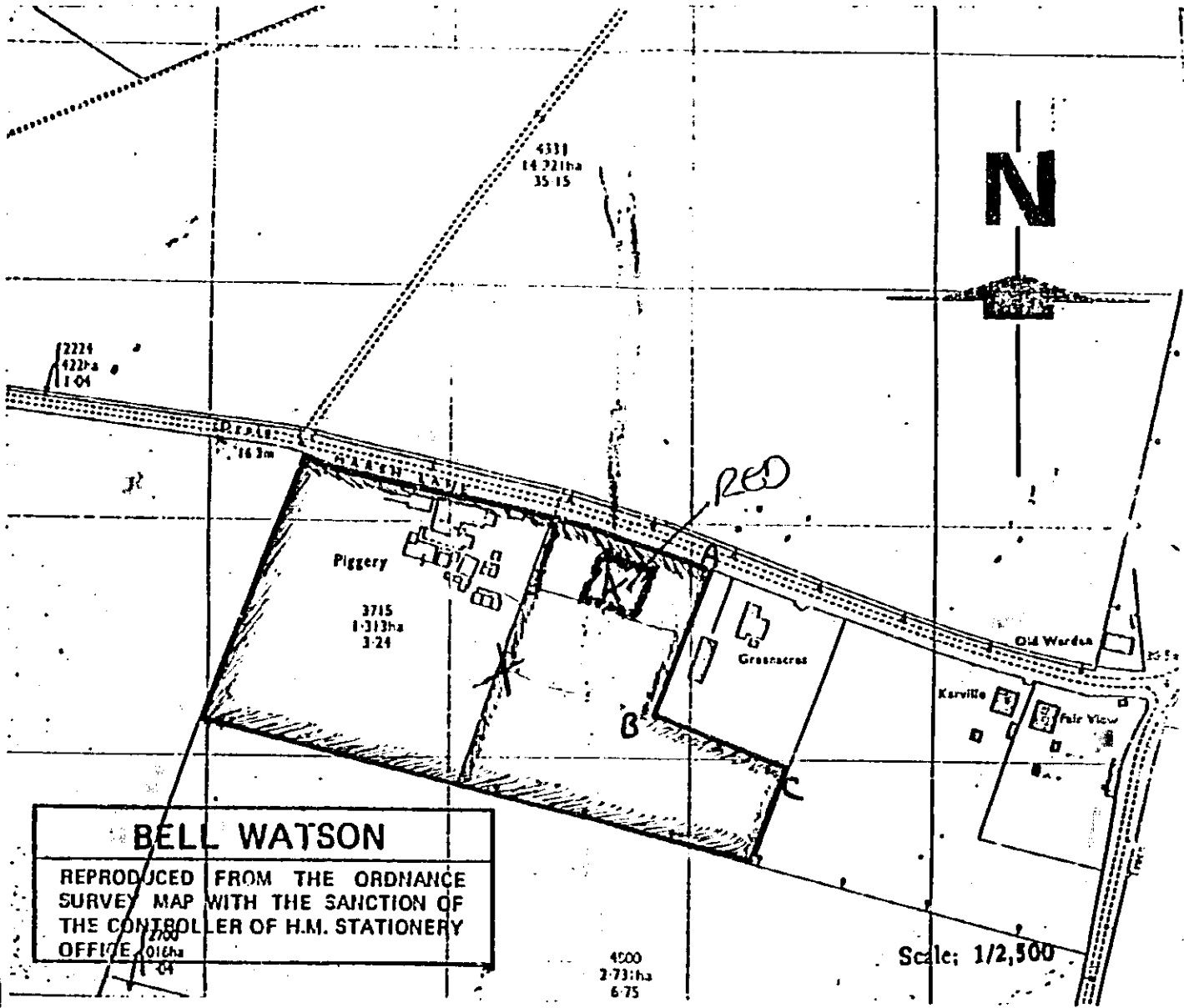
RECOMMENDATION Refuse permission for the following reason:

The condition as originally imposed continues to meet the six tests of a condition and insufficient evidence has been provided to justify removal of the condition which would be contrary to policies RD2 and RD12 of the North Lincolnshire Local Plan, policies CS3 and CS8 of the adopted Core Strategy, the adopted Housing and Employment Land Allocations Development Plan Document and guidance contained within paragraph 55 of the National Planning Policy Framework.

Informative

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

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RECEIVED
 PLANNING DEPARTMENT
 14 MAY 1987
 Entry No.
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