

Agenda Item A10	Committee Date 24 August 2009	Application Number 09/00665/RCN
Application Site 1 Epoch Cottages, Borwick Mews, Borwick	Proposal Removal of condition on section 52 (now section 106) agreement on application 01/87/0300 relating to occupancy for holiday use only	
Name of Applicant Mr John Fletcher	Name of Agent N/A	
Decision Target Date 11 September 2009	Reason For Delay None	
Case Officer	Peter Rivet	
Departure	No	
Summary of Recommendation	Approval	

1.0 The Site and its Surroundings

- 1.1 This property is one of a terrace of small single storey cottages on the south side of the road between the A6/A6070 road junction and the village of Borwick.
- 1.2 No.1 is at the western end of the terrace. Unlike the others it has the benefit of a curtilage, with a garden area at the front and a very small back yard on the Borwick Lane side. However, the only available off street parking is a shared area at the eastern end of the site.

2.0 The Proposal

- 2.1 The present application has been submitted following discussions and correspondence between Mr Fletcher and officers of the City Council's Planning Service.
- 2.2 When consent for the conversion of the former farm buildings here to dwellings was approved in 1987, the five smallest ones on the north side of the site - now known as Epoch Cottages - were restricted to holiday occupation only. This was secured by means of an agreement under section 52 of the Town & Country Planning Act 1971 (since superseded by section 106 of the Town & Country Planning Act 1990). The terms of the agreement require that:
- The dwellings covered shall only be let for holiday use;
 - No tenancy shall be created which could become protected under the Rent Act 1977;
 - The accommodation shall not be let during February (or such other four week period as may be agreed); and
 - Copies of the letting or equivalent agreements shall be produced on demand.
- 2.3 The applicant states in a covering letter that he has been living in 1 Epoch Cottages since 1997 and wishes to regularise the position. He is therefore seeking to have the agreement set aside in respect of no.1. At least some of the remaining holiday units, nos. 2 - 5, have been occupied as permanent residences in the past but all of them are currently vacant.
- 2.4 The letter also indicates that Mr Fletcher is willing to enter into a new legal agreement to ensure that nos. 2-5 are in future let for holiday occupation only.

3.0 Site History

The consent relating to the conversion of the farm group was granted in 1987:

Application Number	Proposal	Decision
01/87/0300	Conversion of farm buildings into 5 holiday units and 9 houses.	Approval

4.0 Consultation Responses

4.1 The following responses have been received from statutory consultees:

Consultees	Response
Borwick Parish Meeting	Observations to follow - 21 day period expires on 19 August.

5.0 Neighbour Representations

5.1 Any representations received will be reported orally at Committee.

6.0 Principal Development Plan Policies

6.1 Core Strategy policy **SC3** seeks to concentrate all but 10% of new homes in the urban area.

6.2 Lancaster District Local Plan policies **H8** (housing in the countryside) and **E20** (barn conversions) are both relevant to the application.

7.0 Comment and Analysis

7.1 This proposal is not consistent with normal policies covering dwellings in the countryside. However the circumstances are unusual.

7.2 It appears that Mr Fletcher has lived in no. 1 for a period of more than 10 years. On this basis, it is open to him to apply for a Certificate of Lawful Use. He has not done so, partly it seems because he does not at present possess all the relevant documentation. However Planning Officers remain reasonably satisfied that Mr Fletcher has resided at the property for over 10 years.

7.3 Of all the dwellings in the terrace this is the one which most lends itself to permanent occupation, since as noted already it is the only one with its own defined residential curtilage. It can credibly be regarded as in effect a "management unit" for the other four dwellings. A planning condition can be reasonably imposed to this effect.

7.4 While approval of the application may appear to be condoning a long standing breach of planning control, it would now be very difficult, if not impossible, to pursue it successfully. At the same time the fact that the other cottages are vacant means that this is a good moment to draw a line under the problem, and replace the 1987 agreement with a new one which can be more effectively monitored.

8.0 Conclusions

8.1 Taking this into account, it is recommended that permission should be granted, subject to the applicant first entering into a new legal agreement covering the other holiday units, similar in its requirements to the earlier one.

Recommendation

That subject to the applicant entering into a new agreement under s. 106 of the Town & Country Planning Act 1990 restricting occupation of nos. 2-5 Epoch Cottages to holiday occupation only, Planning Permission **BE GRANTED** with the following condition attached:

1. Consent does not grant or imply permission for the occupation of Numbers 2–5 Epoch Cottages other than as holiday accommodation.
2. Occupation of Number 1 Epoch Cottages shall be restricted to that of a person(s) responsible for managing the remaining Holiday Cottages (Numbers 2-5 Epoch Cottages).

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

Background Papers

1. None.