

<b>Agenda Item</b> A7	<b>Committee Date</b> 15 March 2010	<b>Application Number</b> 09/01260/RCN
<b>Application Site</b> Yew Tree Bungalow, Yew Tree Farm, Capernwray Road, Capernwray, Over Kellet	<b>Proposal</b> Removal of condition 2 on application 2/5/4466 (1973) relating to agricultural occupation	
<b>Name of Applicant</b> Mrs S Harris	<b>Name of Agent</b> Anthony Atkinson, Lincoln House, Lincoln Way, Sherburn in Elmet, Leeds, W Yorks LS25 6PJ	
<b>Decision Target Date</b> 17 February 2010	<b>Reason For Delay</b> Awaiting consultation replies.	
<b>Case Officer</b>	Peter Rivet	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Refusal.	

## **1.0 The Site and its Surroundings**

- 1.1 This application was originally identified as one which could be determined under delegated powers. It has been placed on the Committee agenda as it was considered prudent to seek the advice of the County Council's Rural Estates Surveyor.
- 1.2 The property concerned is a modern four bedroom bungalow, dating from 1974, in countryside to the north of Over Kellet village. It is on the east side of the road to Capernwray and is concealed from it by a hedge. There is a group of farm buildings (chicken sheds) immediately to the north east. The total area of the farmland associated with the dwelling is approximately 7.28 hectares (18 acres), of which 4.45 hectares (11 acres) is let as grazing land to a neighbouring farmer.

## **2.0 The Proposal**

- 2.1 The dwelling was approved in 1973 as a dwelling for occupation by a person or persons employed in agriculture, on the basis that on-site accommodation was needed to supervise the adjoining farm, which at that time raised dairy cattle. At a later date it became a chicken farm.
- 2.2 The owner of the farm, John Harris, died in 1993. His widow, Sheila Harris, continued to run the farm for several years, until 1999, but then let out the chicken sheds first to her daughter and then to other people. They operated in this manner until 2006. The information accompanying the application states that the sheds have reached the end of their lives. Most of them are effectively derelict, though some of those closest to the bungalow are used for the storage of machinery.
- 2.3 It is argued on behalf of the applicant that the bungalow is no longer needed to meet an agricultural need and that attempts to sell it at a discounted price as a dwelling for a farm worker have been unsuccessful. It is therefore sought to have the occupancy restriction removed.
- 2.4 The application is supported by a large amount of information indicating how and where the property has been marketed.

### **3.0 Site History**

The recent history of the site is apparent from the planning applications received:

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
1/79/1105	Erection of a broiler house	Approved
1/84/0942	Demolition of cow sheds and erection of 2 broiler sheds and hopper	Approved
1/91/00393	Construction of weighbridge and weighbridge house	Approved
93/00427/FUL	Erection of a chicken house	Approved
98/00591/FUL	Renewal of consent for a chicken house	Approved

### **4.0 Consultation Responses**

4.1 These are as follows:

<b>Consultees</b>	<b>Response</b>
<b>Over Kellet Parish Council</b>	Object to the removal of the condition regarding agricultural occupancy as they feel that this would create a precedent. It is their opinion that there is little or no demand for this type of accommodation in a rural setting away from any other residential properties. i.e. separate from the 'built-up' area of the village of Over Kellet itself, other than for agricultural occupancy.
<b>County Council Rural Estates</b>	Consider that the marketing exercise carried out in respect of the property has been too narrow, in that has been in respect of the bungalow only, without the associated land and buildings. They also note that a 'for sale' board "was not erected". On that basis they do not support the application. A copy of the letter explaining their reasoning in full appears as an appendix at the end of this report.

### **5.0 Neighbour Representations**

5.1 No representations had been received at the time this report was drafted.

### **6.0 Principal Development Plan Policies**

6.1 "Saved" Policy **H9** of the Lancaster District Local Plan sets out criteria for considering applications for the removal of agricultural occupancy restrictions. It states that:

*"Proposals for the removal of agricultural or other key worker occupancy conditions from dwellings in the countryside will not be permitted. Exceptions will only be considered where it can be demonstrated that the dwelling is not required to meet the existing amended future needs of any agricultural or forestry enterprise in the locality for key worker housing".*

### **7.0 Comment and Analysis**

7.1 This site is in a rural location, outside any recognised settlement. Permission for the bungalow was only granted in 1973 because it was associated with a working farm, and met the strict national and local criteria for dwellings in the countryside.

7.2 The material submitted on behalf of the applicant appears at first sight to offer a clear cut case for removing the agricultural occupancy condition. However Members will note the County Council's formal assessment, attached as a background paper. They act as the local planning authority's rural advisor on such issues. Their assessment highlights what they perceive to be deficiencies with the marketing of the property.

7.3 The bungalow has been marketed as a dwelling in its own right, rather than in association with its 7.28 hectare landholding. This amount of land is sufficient to support a small agricultural enterprise;

it has done so in the past and there is no reason why it should not do so again. The County Council also question the valuation of the property, which they consider to be simplistic and “too high”.

7.4 The applicant's agent has responded to the points made in the County Council's letter. He argues that there is no legal agreement tying the bungalow to the associated farm land. He also disputes the argument put forward about the valuation of the property.

7.5 It is probably true that the present buildings on the site have reached the end of their useful life, as the applicant's agent suggests. However recent experience is that there is a significant amount of interest in establishing new free range poultry units, meeting the current regulations that require the chickens to have access to the open air. One of these has recently been built at Redwell, within Over Kellet parish; as there was no existing accommodation on the site a three year temporary permission was granted for a caravan, while the viability of the business could be established (application 07/00991/CU). If the Yew Tree Farm site had been available it would appear to have been suitable for this enterprise, without there being any need to establish a new farm unit.

## **8.0 Conclusions**

8.1 Taking the advice of the County Council into account, in particular their view that the marketing exercise was flawed, it is recommended that permission should be refused.

## **Recommendation**

That Planning Permission **BE REFUSED** for the following reasons:

1. Contrary to saved policy H9 of the Lancaster District Local Plan - bungalow has been marketed in isolation rather than with the associated landholding; insufficient evidence that there is no demand for an agricultural holding in this location.
2. Precedent for sale of other farm dwellings without the associated landholding.

## **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. Letter from Lancashire County Council Rural Estates dated 12 February 2010