

Lancaster City Council
Planning Services
PO Box 4
Town Hall
LANCASTER
LA1 1QR

Tel (01772) 536871
Fax (01772) 533550
e-mail wayne.selway@lancashire.gov.uk

Your ref 09/01260/RCN
Our ref PG/EVP/DE/1/22/7933/LK
Date: 12 February 2010

Dear Sirs

**APPLICATION NUMBER 09/01260/RCN
YEW TREE FARM, CAPERNWRAY ROAD, CAPERNWRAY, CARNFORTH
GRID REFERENCE 352334 4770539**

I refer to your consultation letter in respect of the above application and have the following comments to make:

Introduction

A planning application has been submitted by Mr A Atkinson of Acorus Rural Property Services Ltd on behalf of Mrs S Harris for the removal of the agricultural occupancy condition imposed on a planning consent under application number 2/5/4466. A site inspection was made when Mrs Harris and her agent were present. The information provided at this meeting, together with written submissions forms the basis of this report.

Background Information

Yew Tree Farm was originally a dairy farm which operated from Kirkby Lonsdale Road in the centre of Over Kellet. I understand that the applicant's husband diversified the farming operations into broiler production, and erected poultry buildings both to the rear of the original house in the centre of Over Kellet and subsequently buildings were erected near the application site. In 1973 an application was made for the construction of a bungalow at the application site close to some of the poultry buildings which was granted subject to an agricultural occupancy condition. In 1974 the original farm house was sold off and the bungalow was constructed.

Originally the dairy farm had approximately 70 acres (28.33 hectares), but over the years these have been sold and there now remain 18 acres (7.28 hectares),

together with seven poultry buildings. I understand that the dairy enterprise ceased in the 1980s with the poultry activity becoming the principle business.

In 1993, the applicant's husband died and the applicant continued with the poultry business for a further five to six years. The applicant's daughter then ran the business for a couple of years following which the buildings adjacent to the bungalow were let out to others for the rearing of chickens. I was informed that the buildings were last used for poultry in 2006.

Agricultural land

The applicant informed me that the area with the bungalow and buildings is some 18 acres (7.28 hectares) of land, 11 acres (4.45 hectares) of which is grassland and is let on an annual grazing licence for sheep grazing.

Agricultural Buildings

Adjacent to Yew Tree Bungalow there are four poultry buildings constructed of timber with metal roofs which are now used for some minimal storage.

In addition there are three poultry buildings at Over Kellet which are now dilapidated and not used.

Occupancy Condition

Yew Tree Farm was approved subject to an agricultural occupancy condition being imposed 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 (i) 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).'

Policy H9 of the Lancaster District Local Plan states:

'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 and future needs of any agricultural or forestry enterprise in the locality for key working housing.'

The commentary to the policy states that ;

'The Council will only allow removal of a forestry or agricultural occupancy condition, where it is completely satisfied that the dwelling has been previously marketed for the purposes envisaged'.

The applicant has undertaken a marketing exercise which commenced in January 2009. At that time, two valuations were obtained, one of £360,000 and one of £500,000.

The average of the two valuations was then taken and discounted by 25% to reflect the occupancy condition. The property was therefore advertised by the agent at a guide price of £322,500. This was subsequently reduced to £306,500 in June 2009.

Advertising has taken place in the local newspapers, namely the Lancaster Guardian and the Farmers Guardian and has also been advertised in the Farmer's Weekly and the Farmer's Trader over the 12 month period.

In addition, Acorus, the applicant's agent, advertised it within their property list and on the company website.

Acorus also undertook a postal survey on behalf of the applicant of 77 farm holdings in the vicinity. No 'For Sale' board was erected.

I am informed that the advertising exercise generated 20 requests for particulars and that the survey generated three returned survey forms and one respondent expressed interest in receiving details.

The applicant informed me that one individual expressed an interest to view the property, and a compliance form was sent to the individual which returned indicating that the interested party was solely employed in agriculture. However, the viewing of the property did not take place and I am informed that no offers have been received in respect of the property.

I am of the opinion that there have been a number of flaws in the marketing campaign.

In respect of the marketing price, I note that whilst two valuations were carried out, they were extremely varied I am of the opinion that taking an average of the two was rather simplistic. Having examined properties for sale on the market it appears that one of the valuations was unrealistic and I am therefore of the opinion that the asking price was too high. When considering the asking price, given the fact the bungalow was advertised without the land and nearby buildings, it is likely that the uncertainty of future use of the nearby buildings would have a strong negative impact on any valuation. I am also of the opinion that the discount for the occupancy condition was too small and a minimum discount of 30% should have been applied. I would also add that it would have been beneficial for the marketing price to have been agreed with the local planning authority. Please also be aware that a for sale board was not erected.

I note from the sales particulars that the property advertised for sale was the bungalow at Yew Tree Farm and the plan attached to the sales particulars shows that the area of land offered for sale excluded any of the farm buildings and the 11 acres (4.45 hectares) of grassland.

The commentary to Policy H9 of the Lancaster Local Plan states that every attempt is to be made to ensure that where new forestry or agricultural occupancy housing is permitted that it remains an intricate part of a functioning forestry or agricultural enterprise and is occupied by persons involved in that enterprise in perpetuity.

Yew Tree Bungalow is part of a larger unit which comprises poultry buildings and 11 acres of grassland. Therefore for the marketing exercise to comply with requirements set out in the Local Plan, I am of the view that the bungalow together with the land and the buildings should be marketed as one unit. Indeed, reason 2 of the condition states 'The Reason for imposing the said condition is because the Council would not be prepared to permit the erection of a dwelling on this site unconnected with the use of the adjoining land for agricultural purposes'. Therefore when marketing the property, the land and buildings should have been marketed as a whole. Indeed I contacted the person who provided a positive response to the questionnaires submitted to surrounding farms and satisfied the condition. Whilst a viewing was not made, I understand that this was not due to inaction by this interested party. They also informed me that they would have been interested in possibly acquiring the adjoining land and buildings.

Conclusion

An advertising exercise has been carried out in respect of the bungalow only and that as a result of that exercise no viewings have taken place of the property and no offers have been received. I am of the opinion that the marketing exercise has been too narrow in that it has not offered for sale the unit as a whole, which would include the land and buildings. On this basis, I conclude that it has not been demonstrated that the dwelling is not required for the existing and future needs of any agricultural enterprise in the locality for key worker housing and does not therefore meet the criteria of Policy H9 of the Local Plan. In addition I am of the opinion that marketing price was too high, and that interest was shown following the completion of the questionnaire.

I would be obliged to receive a copy of your Decision Notice in due course.

Yours sincerely



Wayne Selway MRICS FAAV
Land Agent
On behalf of the Director of Property