

3.2 REFERENCE NO - 21/504388/FULL		
APPLICATION PROPOSAL Erection of a permanent agricultural dwelling with associated parking.		
ADDRESS Woodland Farm High Oak Hill Iwade Road Newington Kent ME9 7HY		
RECOMMENDATION That planning permission is Refused		
SUMMARY OF REASONS FOR REFUSAL The Planning Committee resolved to grant planning permission for the development on 23 rd June 2022, subject to completion of a S106 Agreement to tie the new agricultural dwelling to the surrounding farmland operated as an egg farm. The applicant has not entered into this Section 106 Agreement, and without this, the application is considered unacceptable and should be refused.		
REASON FOR REFERRAL TO COMMITTEE The resolution from the Planning Committee on 23 rd June 2022 did not include authority for officers to refuse the application under delegated powers delegated powers in the event that a S106 Agreement was not completed.		
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN COUNCIL Bobbing	APPLICANT Mr Jy Stedman AGENT Consilium Town Planning Services Limited
DECISION DUE DATE 05/11/21	PUBLICITY EXPIRY DATE 24/02/2022	CASE OFFICER Megan Harris

Planning History

As set out in the committee report attached as Appendix 1.

1. BACKGROUND

1.1 This application was reported to Planning Committee on 23rd June 2022, and was recommended for approval. A copy of this report is attached at Appendix 1. Members resolved to approve the application, subject to the applicant entering into a Section 106 Agreement which would tie the land and dwelling together to prevent one from being severed from the other. Such a mechanism via a S106 Agreement was considered necessary due to the relatively large size of the dwelling, the specific need for a permanent residential presence at the egg farm, and the ability of the egg farm enterprise to support, in financial terms, the costs associated with a dwelling of this size. Whilst the dwelling was deemed to be affordable for the farm enterprise itself, some concern was expressed about the potential for the dwelling to be severed from the unit and unaffordable to the wider agricultural worker community. Whilst condition 18 in the committee report attached at Appendix 1 ensures the occupation of the dwelling would be limited to agricultural workers, it does not prevent the farm being sold separately from the dwelling – nor can a planning condition achieve this. The Agreement provides an appropriate mechanism to secure this.

1.2 Whilst the applicant initially agreed to enter into this Agreement following the committee resolution, they subsequently raised concern over the drafted wording of the document,

and in particular the fact that the land and dwelling would be tied together in perpetuity. In my opinion, a time-limited mechanism that would free the dwelling from the terms of a S106 agreement at a set date would not be appropriate, nor am I aware of any similar circumstances where an agricultural dwelling has been tied for a time-limited period only. In addition, I note that there is an application process under the Planning Acts to modify or discharge a S106 Agreement if it no longer serves a useful purpose.

- 1.3 The agent subsequently advised by email dated 28/11/22 that their client was willing to sign an agreement in the terms required by the Council. However, since this date and despite numerous attempts to chase progress, a signed agreement has not been submitted. For this reason, the application is being reported back to Planning Committee.

2. DISCUSSION

- 2.1 The officer report attached at Appendix 1 did not include reference to the need for a Section 106 Agreement. However, a Planning Committee is entitled to reach a different planning outcome and judgement, including the use of planning conditions and S106 Agreements, provided that there are sound planning reasons for doing so. The key relevant tests for a planning obligation are as follows –

Necessary to make the development acceptable in planning terms – the Agreement is necessary to tie the dwelling to the need identified, i.e. as a farm dwelling, in an area where a new dwelling would not otherwise be permitted.

Directly related to the development – the Agreement sought directly relates to the dwelling and land holding that supports the farm enterprise and which has been used to support and justify the need for a dwelling of the size proposed as part of the planning application.

Fairly and reasonably related in scale and kind to the development – the Agreement only relates to the land holding and farm enterprise that supports the dwelling and is fairly and reasonably related.

- 2.2 In my opinion, the Planning Committee exercised sound planning reasons for the requirement to tie the agricultural dwelling to the wider farm enterprise. Without this Agreement in place, it is possible that the dwelling could be severed from the surrounding farm enterprise in the future. It is unlikely that a dwelling of the scale and design proposed would be within the reach of a general farm worker as part of the wider agricultural community. If the dwelling was to be severed from the enterprise, Officers would be concerned that it could result in pressure to remove the agricultural occupancy restriction completely, which in turn would remove the justification for the dwelling at this current time.

3. RECOMMENDATION – REFUSE for the following reason:

- (1) In the absence of a Section 106 Agreement to tie the ownership and occupation of the proposed agricultural dwelling to the wider farm unit, there is an unacceptable risk that the dwelling could become severed from the farm unit and, due to its size and scale, become unaffordable to the wider agricultural worker community. If the

unit is unable to be occupied by an agricultural worker, this would support the removal of the agricultural occupancy condition and ultimately could result in a large residential dwelling in the countryside, which is contrary to both local and national policies to protect the countryside and avoid isolated new dwellings in the countryside.. The application is therefore contrary policies ST3 and DM12 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.

The Council’s approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council’s website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

