

W2004/0237

Rodenhurst Hall Farm, Rodenhurst Lane, Rodington, Shropshire.

Change of use of redundant farm buildings to storage/workshop/office uses

**APPLICANT**

E Sankey and Son

**RECEIVED**

12/02/2004

**PARISH**

Rodington

**WARD**

Wrockwardine

**OFFICER** Andrew Gittins

**THE PROPOSAL SEEKS TO MODIFY A SECTION 106 LEGAL AGREEMENT**

**1.0 PURPOSE OF THE REPORT**

- 1.1 To modify the planning obligation attached to planning permission W2004/0237 under section 106a of the Town and Country Planning Act 1990. A request may be made to change an obligation where it “no longer serves a useful planning purpose” or would continue to serve a useful purpose in a modified way.
- 1.2 The request to modify the s106 was validated on the 1<sup>st</sup> June 2017 and sought permission to modify one obligation and remove one other obligation. Originally Officer Recommendation was to approve modification of the one obligation and removal of the other obligation. However, following legal advice Officers circulated an updated recommendation advising that the obligation tying the Business Park to Rodenhurst Hall was considered to still serve a useful planning purpose and should not be removed. The applicant requested that the proposal was deferred from consideration at the 26<sup>th</sup> July 2017 committee meeting but after further consideration has indicated that they no longer want to pursue the request to sever the link between the Hall and Business Park.
- 1.3 Unlike the request on W2002/0630 there is no requirement to modify the description in The First Schedule as this allows all uses within the B1 and B8 Use Classes and does not restrict the permitted uses to storage and warehousing.

**2.0 BACKGROUND**

- 2.1 The proposal relates to Rodenhurst Business Park, Rodenhurst Lane, Rodington which accommodates 16 former agricultural buildings subdivided into 21 business units.
- 2.2 Planning permission W2002/0630 granted consent, subject to a Section 106 Legal Agreement, for the change of use of seven redundant farm buildings to storage / warehouse uses (B1 and B8 Uses).

- 2.3 Permission was then granted under W2004/0237 for the change of use of a further nine buildings to storage / workshop / offices uses with 'The First Schedule' of a Section 106 describing 'The Development' as a 'Change of Use of redundant farm buildings to classes B1 and B8.

### **3.0 PROPOSAL**

- 3.1 The applicant wishes to remove obligation 1 of The Second Schedule, which currently reads:

'In the event of an intended change of operator or use of an individual unit (irrespective of whether or not the proposed use falls within the same use class as an existing permitted use pursuant to the First Schedule hereof), written details of the proposed operator and the intended use to be carried out from the individual unit, shall be submitted to the Council and no change of operator or change of use will take place without the Council's prior written consent, such consent not to be unreasonably withheld or delayed'.

- 3.2 A copy of the Committee Report has been attached as Appendix 1 for reference.

### **4.0 SITE AND SURROUNDINGS**

- 4.1 The application site is located within the rural area of the District and comprises part of the existing agricultural unit at Rodenhurst Farm, near Rodington. The site, which is relatively remote, can be accessed from the north via a driveway leading from the B5062 between High Ercall and Roden and alternatively from an existing lane that leads from Rodington Heath to the south, although the Routing Agreement prevents use of the latter.
- 4.2 The buildings in question form part of an extensive range of farm buildings of differing ages and types and predominately consist of 20<sup>th</sup> century portal framed buildings. The traditional brick and tile outbuildings of both single and two storeys in height and some former pig buildings with lower eaves are yet to be converted. The farmhouse, which is separate from the application site, is a pleasant two storey dwelling situated within a courtyard formed by historic farm buildings. The dwelling is typical in design to the local Sutherland estate form and retains historic merit and integrity.

### **5.0 RELEVANT PLANNING HISTORY**

- 5.1 W2002/0630 - Change of use of redundant farm buildings to storage/warehouse (B1/B8 uses) – Full Granted 22/07/2013.
- 5.2 W2004/0237 - Change of use of redundant farm buildings to storage/workshop/office uses – Full Granted 07/01/2007. This is subject to a separate request to modify.

## **6.0 PLANNING POLICY CONTEXT**

6.1 National Planning Policy Framework (the NPPF) – The NPPF is a material consideration in this case because all of the Borough’s development plan policies have to be viewed in light of this more recent national guidance:

- Section 1: Building a strong, competitive economy
- Section 3: Supporting a prosperous rural economy

6.2 Core Strategy

- CS2: Jobs
- CS7: Rural Area

6.3 Saved Wrekin Local Plan

- E6: Rural Employment General

6.4 Telford & Wrekin Local Plan (Publication Version)

- SP 3: Rural Area
- SP4: Presumption in favour of sustainable development
- EC3: Employment in the rural area

## **7.0 SUMMARY OF CONSULTATION RESPONSES**

7.1 With the exception of the highways no consultation responses were received on the original application.

7.2 This request to modify has been advertised by Site Notice and no responses were initially received. However, whilst not statutory consultees Rodington Parish Council and the Local Ward Member who consulted following publication of the Committee Report online and the Parish have provided comment.

7.3 Rodington Parish Council:

- We agree totally to the removal of the first two conditions harmonising the terms of use and removing the need for written permission on new tenants.
- The condition relating to single ownership we feel strongly should remain. Allowing the development was based on aiding and ensuring the future of the Farm. Also fragmentation of ownership will increase the possibility and need for more oversight of the estate as individual owners follow different paths that may be at odds with the original permissions or at odds of the well-being of the local community.

## **8.0 PLANNING CONSIDERATIONS**

### Removal of obligation 1 attached to The Second Schedule

8.1 The proposed removal would remove the requirement for the submission and written approval of details prior to a change of operator, or change of use of

an individual unit (irrespective of whether or not the proposal falls within the permitted Use Classes).

8.2 The Committee Report for W2002/0630 (attached as Appendix 1) provided the justification for this requirement on the basis that any future occupiers/uses should remain low key as per the original end users which were anticipated to be accessed by 35 vehicles, primarily cars and small vans, per day to serve the following uses:

- Storage and despatch of pallets of agricultural produce, associated products and plants,
- Manufacture of steel, iron and timber furniture,
- Storage and distribution of antique furniture,
- Storage of lightweight garden furniture,

8.3 In the current request, the Agent has noted that during the last 15 years the prior consent of the Council was only sought on one occasion and on that one occasion the Applicant did not receive a response. As such the end users have frequently changed with being vetted by the Council without any detriment to the locality. The obligation no longer serves a useful planning purpose and Officers have no objection to its removal which would not be contrary to policies CS7, E6 or policies in the emerging TWLP.

## **9.0 CONCLUSION**

9.1 The removal of obligation 1 of The Second Schedule to remove the requirement to gain written approval prior to a change of operator, or change of use of an individual unit no longer serves a useful planning purpose given that consent has only been sought once in the last 15 years and no response was provided by the Council. During this time operators and uses have changed a number of times without any detrimental impact on the locality and Officers have no objection to the removal of this condition of the Schedules.

## **10.0 RECOMMENDATION**

10.1 Based on the conclusions above, it is recommended that:

The request to enter into a Deed of Variation of the Section 106 Agreement relating to planning permission number W2004/0237 be granted to:

- a) **remove** obligation 1 of The Second Schedule in its entirety so there is no longer a requirement to submit for written approval of details prior to a change of operator, or use of an individual unit (irrespective of whether or not the proposed use falls within the same use class as an existing permitted use).

**APPENDIX 1**  
**COMMITTEE REPORT FOR W2004/0237**

OBJECTIONS RECEIVED: No

MAIN ISSUES: Policy, principle of use, scale, intensification, traffic generation, impact upon the locality

INTRODUCTION: The applicants have owned Rodenhurst Hall Farm for more than 30 years. The scale of the agricultural enterprise grew over this period and around ten years ago the farm extended to 500 acres of owner occupied arable land, predominantly combinable crops to support an indoor herd of 200 sows plus 1200 rearing pigs. Approximately seven years ago the pig enterprise began to provide poor returns coupled with changes in operational requirements due to new legislation. This situation was then compounded by the foot and mouth outbreak of 2000 and the decision to scale down the operation was taken around four years ago.

Subsequently, the favoured enterprise was arable cropping and due to the relatively light soil types, potato growing was particularly well suited. However, due to poor weather conditions the potato growing seasons were not good and the decision to cease potato production was made and the potato growing equipment sold in January 2002.

The owned land (now 350 acres) is currently contract farmed by a well-established local farmer. The applicant provides land, seed, fertiliser and other inputs and the contractor carries out the mechanical operations and grain storage. It is only practical for the contractor to store at his main holding, therefore, the majority of the remaining buildings on site are no longer utilised nor required for the farming operation. Subsequently, planning permission was granted for the change of use of seven buildings to form business use in 2003.

The applicant is now seeking further diversification of the farm in order to utilise an additional 9 buildings for similar use.

SITE AND SURROUNDINGS: The application site is located within the rural area of the District and comprises part of the existing agricultural unit at Rodenhurst Farm, near Rodington. The site, which is relatively remote, can be accessed from the north via a driveway leading from the B5062 between High Ercall and Roden and alternatively from an existing lane that leads from Rodington Heath to the south.

The buildings in question form part of an extensive range of farm buildings of differing ages and types including a number of traditional brick and tile outbuildings of both single and two storeys in height and some former pig buildings with lower eaves.

The farmhouse, which is separate from the application site, is a pleasant two storey dwelling situated within a courtyard formed by historic farm buildings. The dwelling is typical in design to the local Sutherland estate form and retains historic merit and integrity.

PROPOSAL: This application seeks planning permission for the change of use of

nine agricultural buildings to general industrial, storage and office use (Use Class B1/B8).

CONSULTATION: The Council's Highways Engineer has no objection to the proposal: It is advised that the proposed levels of traffic movements would not have a significant impact upon the highway network on the basis that all traffic movements serving the site are from the adjacent B5062.

Rodington Parish Council has no objections to the proposal.

POLICY: Planning Guidance Note 4 states that many businesses can be carried on in rural areas without causing unacceptable disturbance through increased traffic, noise, pollution or other adverse effects. Individual planning decisions will of course depend on such factors as the scale of development, the nature of the use and its location. In rural areas, applications for development necessary to sustain the rural economy should be weighed with the need to protect the countryside in terms of, for example, its landscape, wildlife, agricultural and recreational value.

Where they are disposed to permit industrial or commercial development in rural areas, planning authorities should bear in mind that subsequent intensification of the use may become unacceptably intrusive. Planning authorities should, therefore, consider the use of planning conditions or planning obligations to safeguard local amenity, where they would be an appropriate means of preventing foreseeable harm.

Planning Guidance Note 7 states that the range of industries that can be successfully located in rural areas is expanding. Many commercial and light manufacturing activities can be carried on in rural areas without causing unacceptable disturbance.

The re-use and adaptation of existing rural buildings has an important role in meeting the needs of rural areas for commercial and industrial development. It can reduce the need for new buildings within the countryside, avoid dereliction and provide jobs. There should be no reason for preventing the conversion of rural buildings for business use providing they are of permanent and substantial construction, conversion does not lead to a dispersal of activity on such a scale as to prejudice town and village vitality, imposing reasonable conditions could overcome any legitimate planning objections and the buildings are capable of conversion without major re-construction.

If re-use is associated with farm diversification, a planning authority may wish to seek a planning obligation under section 106 to tie the building to the land so as to discourage the subsequent fragmentation of the agricultural unit by separate sale of buildings.

Policy E6 of the Wrekin Local Plan states within the rural area employment development must be related to local agriculture or forestry or assist in the diversification of the rural economy. It should be of an appropriate scale, type and design sensitive to its location and located within existing rural buildings within a farm unit.

Policy E12 states the Council will, as a priority, encourage proposals to convert and reuse existing buildings for employment uses of an appropriate scale in relation to

their location provided that the proposed use would not have an unacceptable impact in terms of traffic generation, noise or pollution and would not otherwise detrimentally impact upon the rural environment.

Policy T20 states the Council will, in approving any development outside of Telford and Newport, protect the character of rural roads.

**PLANNING CONSIDERATIONS:** The principle of re-using existing rural farm buildings that do not require substantive re-construction for appropriate uses is considered to be acceptable, subject to the criteria as set out in the policy outlined above. In this case, the proposed buildings are generally of traditional form and character, of sound construction and would require minimal alteration to allow the development to proceed. They are set within an existing farm complex and can be accessed directly from the main driveway into the site which allows for vehicles to pass in opposite directions. The buildings are a significant distance from the nearest residential area and their use would not have an impact upon the character and appearance of the site nor the area.

Both Government and Council policy encourages the diversification of farms through the re-use of agricultural buildings where the scale and type of use would not have a detrimental impact upon the locality. Having identified that this is best achieved by using existing buildings within existing farm complexes, it is essential to consider the potential impacts of allowing industrial and storage uses on the site, particularly in respect of the impact upon the highway network and any increases in traffic. It is also necessary to assess the type of end users involved as to their suitability for this location.

At present, the applicant has a number of potential users for the buildings which demonstrates an existing demand for this type of offer. The proposals are primarily low key; however, it is essential that end users should not result in a detrimental impact upon the locality, dispersal of employment from urban areas or the intensification of development within the rural area.

The overall figures for traffic movements proposed in support of the previous application were approximately 35 vehicle movements per day, the majority of which were cars and small vans/vehicles under 5 tonnes. The applicant contended that this level of traffic was much less than that generated by the previous agricultural operations and that the majority of movements would be made by much smaller vehicles than the previous use.

There have been no problems associated with this operation and it is considered that the current proposal would have a minimal impact upon the highway network (subject to appropriate controls).

Whilst this type of business use should not represent an overly intensive use of the site and would not have a significant impact upon the area, it is important to ensure that there is adequate control of the uses of individual units and subsequent changes in occupiers.

It is considered, therefore, that the proposal can only be recommended for approval if appropriate levels of control could be achieved. Some of the required controls,

such as a routing agreement for traffic has previously been established and should be re-iterated in this case. Also, the requirement for a schedule of users has been incorporated within a legal agreement and should be extended to include this additional development. This would introduce certainty of control in respect of the risk of future change and intensification of use. It would also ensure that the use of the premises remained low key without detriment to the character of the rural area. It is considered, however, that general office uses should not be approved unless only ancillary to a low key business use.

**CONCLUSION:** The proposed use is a relatively low-key proposal that would not have a significant impact upon the site and the character and appearance of this part of the rural area. The type of uses proposed is considered acceptable in respect of scale and does not result in significant alteration to existing buildings or likely to cause unacceptable levels of traffic generation combined with the existing permission.

It is considered that the proposal can be supported subject to a number of reasonable and necessary controls to ensure that there is not inappropriate intensification of use.

**RECOMMENDATION:** subject to the introduction of a S.106 agreement to restrict changes of operator, tie buildings to the site and to agree a traffic routing agreement, provide delegated authority to Head of Planning to GRANT PERMISSION subject to the following conditions:

A3 - timescale C118 -plans B16 - materials D137 - removal of permitted development rights and primary office use D135 - hours of use D142 - restriction on open storage