

F/YR12/0237/F

23 March 2012

Applicant : Mrs W Raven

Agent :

Horseway Farm, Horseway, Chatteris, Cambridgeshire

Removal of condition 2 of Planning Permission CU/71/26/D relating to agricultural occupancy

This proposal is before the Planning Committee due to a request from Cllr Melton as the bungalow is surplus to agricultural needs of the area and that an exception should be made for this applicant due to personal circumstances

This application is a minor application.

1. **SITE DESCRIPTION**

The site is located in open countryside at Byall Fen Drove between Chatteris and Manea. The bungalow does not appear to have any associated land although there is a large agricultural barn to the east. The site is heavily landscaped and is well screened from the road.

2. **HISTORY**

Of relevance to this proposal is:

CU/71/26 - Erection of an agricultural bungalow – granted 17 May 1971

3. **CONSULTATIONS**

**Parish/Town Council:** Raise no objection to the removal of a 40 year old condition.

**Local residents/interested parties:** None received

4. **POLICY FRAMEWORK**

FDWLP Policy	H17	- Applications to relax restrictive agricultural occupation conditions will not normally be approved unless certain criteria can be met.
Fenland Core Strategy Draft Consultation July 2011	Para 3.6.7	- To prevent the abuse of the process application to remove a restrictive occupancy condition will need to include considerable evidence about previous occupancy for this to be justified.

National Planning Para 2  
Policy Framework

- Planning law requires that applications for planning permission must be determined in accordance with the development plan.

## 5. ASSESSMENT

### ***Nature of Application***

This application seeks the removal of condition 2 of planning permission CU/71/26/D which restricted the occupation of the dwelling to persons employed locally in agriculture as defined in Section 221 of the Town and Country Planning Act, 1962, or in forestry, and the dependents of such persons.

The application is considered to raise the following key issues;

- Site history
- Principle and policy implications

### ***Site History***

Planning permission was gained in 1971 for an agricultural dwelling with an occupancy restriction relating to a smallholding of approximately 40 acres at Horseway Farm. The applicant has lived at the site for approximately 60 years and the dwelling has been replaced during that period with the earlier historic dwelling building about 1700 having no agricultural ties. The present dwelling was split from the smallholding approximately 15 years ago following retirement.

The applicant now wishes to pass on the property to a friend who is not employed in agriculture hence the need to apply to remove the occupancy condition.

### ***Principle and Policy Implications***

Policy H17 of the Fenland District Wide Local Plan 1993 states that the District Council will not normally approve applications to relax restrictive occupation conditions unless it can be shown that (i) the dwelling is surplus to the efficient management of the enterprise and (ii) that written evidence confirms that bona fide attempts have been made to market the surplus property for a minimum period of 12 months at a value which reflects the restrictive occupancy condition.

As mentioned above, the dwelling has been split from the smallholding for some considerable time and, therefore, criteria (i) of Policy H17 has been satisfied. However criteria (ii) has not been satisfied as no extended marketing of the dwelling has taken place. This is a requirement of the Policy to establish if there is a 'market' for a dwelling with an agricultural restriction locally, i.e. properties with the condition usually attract a lesser market rate by virtue of the tie, which may make them 'affordable' for someone who meets the criteria locally. For example someone who is employed in agriculture in the locality who does not necessarily have their own farm, or someone with land they farm who wants to be situated nearby to the same.

Guidance in the emerging Fenland Core Strategy also requires applications to include considerable evidence for such a condition to be removed.

The NPPF seeks to ensure that development is sustainable in terms of economic, social and environmental roles. Agricultural restrictions are placed on dwellings to ensure that the agricultural labour force have adequate homes in the countryside to reduce the need to travel. In addition, the occupation of a former farm dwelling by someone commuting daily to the town would clearly not comply with current sustainability objectives. In areas where there is a demand for agricultural dwellings it may also be argued that any reduction in the supply of accommodation available to the farming community generally would create pressure elsewhere for new dwellings in the countryside. It is generally recognised that planning permission would not have been granted for the particular dwelling had not strong agricultural justification have been put forward initially.

### **Conclusion**

The applicant has had pre-application discussions with the Local Planning Authority and were advised that if an application was submitted on the grounds that it is 'surplus to requirements' only then the LPA would have to recommend it for refusal. The applicant was also advised that as an interim measure perhaps the dwelling could be rented to someone who complies with the policy whilst marketing is undertaken.

Unfortunately no evidence has been put forward regarding any marketing of the dwelling although a statement is included on the application form stating that the applicant has tried to rent/sell the property for the past 6 months with no offers. However, there are no details relating to this exercise.

The LPA acknowledges the personal circumstances of the applicant but considers that an appropriate marketing exercise has not been undertaken to establish that the existing need for dwellings for agricultural workers in the locality no longer warrants reserving the dwelling for that purpose.

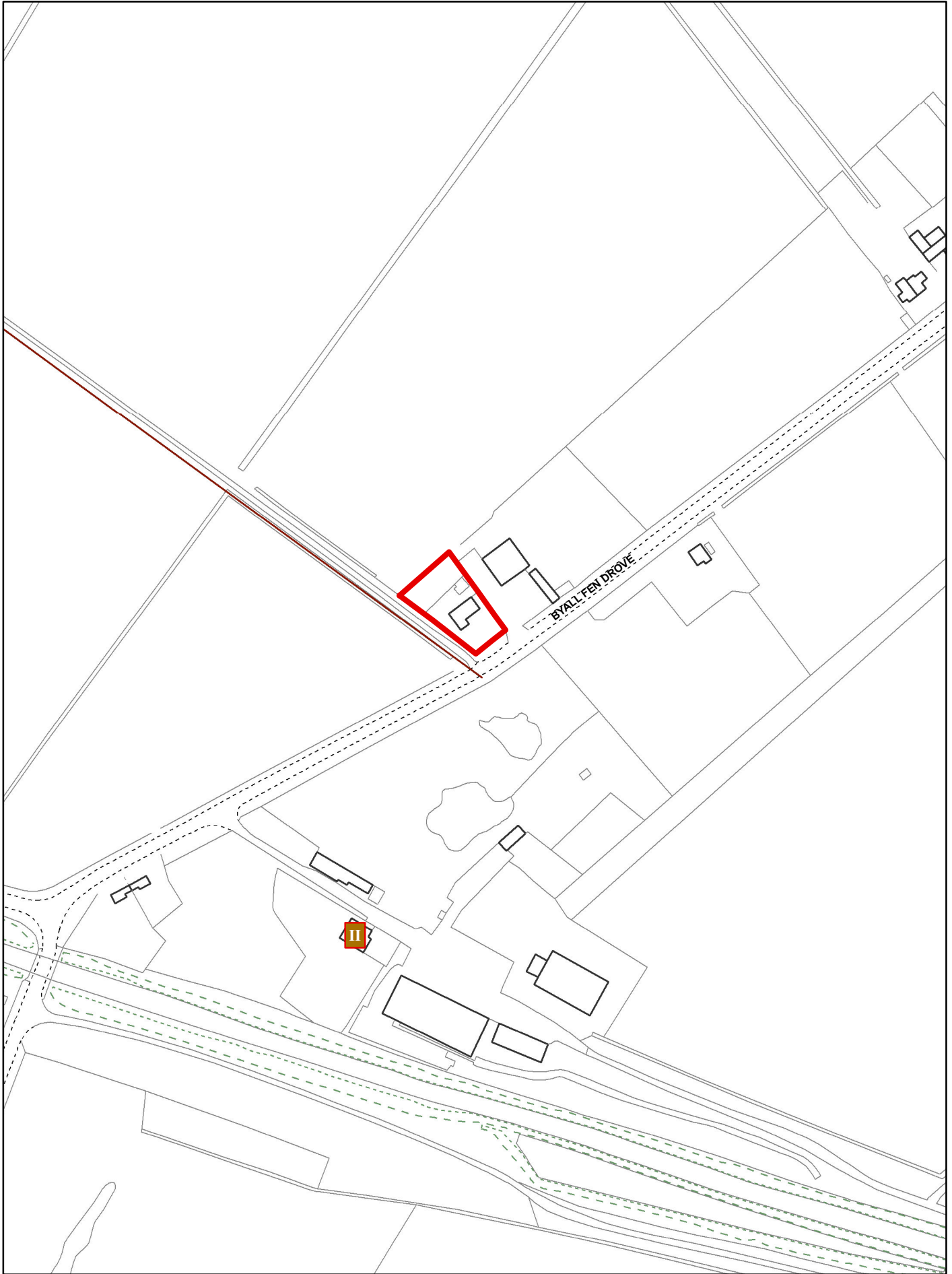
The LPA also acknowledges that changes may affect the longer term requirement for agricultural dwellings and are generally supportive of removing such restrictions on the evidence provided that the dwelling is no longer connected with agriculture and has been marketed accordingly.

However, given that there has been no bona fide attempt to market the property for an acceptable amount of time, the LPA has no option but to refuse the application to remove the agricultural occupancy restriction for Horseway Farm.

## **6. RECOMMENDATION**

### **REFUSE**

- 1. The applicant has failed to demonstrate that a bona fide attempt has been made to market the dwelling for at least 12 months at a value reflecting its occupation restriction and, therefore, the proposal is contrary to Policy H17 of the Fenland District Wide Local Plan 1993.**



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