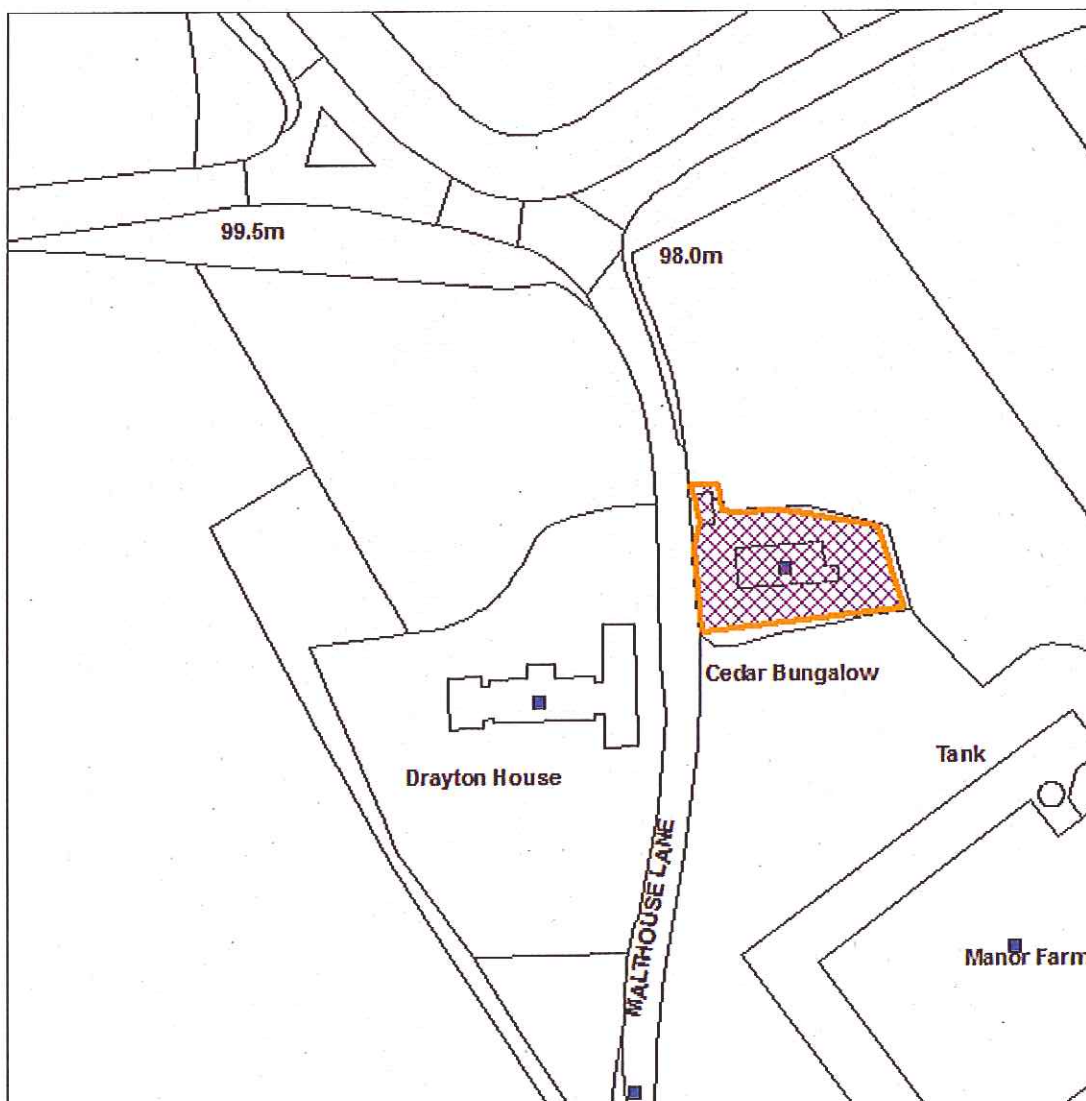


Item No: 7
Case No: 16/01348/FUL
Proposal Description: Modification of Clause 5 of the Deed of Agreement (dated 31 August 2010) to substitute the requirement for named agricultural workers with a generic requirement for Cedar Bungalow (see full description below).
Address: Cedar Bungalow Malthouse Lane Bighton Alresford Hampshire
Parish, or Ward if within Winchester City: Bighton
Applicants Name: Manor Farms Ltd Et Al
Case Officer: Lorna Hutchings
Date Valid: 4 October 2016
Recommendation: Application Refused



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General Comments

Cllr Jeffs has requested that the application is referred to Committee for decision.

Site Description

Cedar Bungalow is located off Malthouse Lane, Brighton in close proximity to the Manor Farm, farmyard complex, approximately 2.1 mile drive from Bishops Sutton and approximately 2.7 mile drive from Alresford.

It is understood that Cedar Bungalow is owned by Mr Dogilvie and Mr Monnigton and Manor Farm Ltd own and operate Manor Farm.

There are a range of modern farm buildings primarily tailored to the arable enterprise located in the main Manor Farm, farmyard complex.

It is understood that in addition to two houses occupied by two of the partners in the farm business, there are six dwellings available to the business, (four cottages and two bungalows). These are occupied by two current farm employees, two retired employees, a dependant of a current farm employee and an individual who runs the stable yard at Manor Farm. The farm business also rents a cottage in the parish of Bishops Sutton for a current farm employee.

Proposal

The proposal is for the Modification of Clause 5 of the Deed of Agreement (dated 31 August 2010) which tied the existing bungalow to the following with the permission granted in 2005 when a large new agricultural workers dwelling was built which was significantly over the size specified in the policy. It was granted on the basis that this existing dwelling was demolished (secured via S106) and additional justification was provided.

The section 106 was varied on 31st August 2010 so that two estate workers could occupy the existing bungalow for their lifetimes, which was then to be demolished six months after they had left the existing bungalow.

Then a new application in 2013 was made and approved to vary the section 106 agreement further for a further three reasons:

1. Because under the Trust the existing bungalow has now vested in Simon McCowen (John Simon Bruce McCowen) and the Trustees would like to transfer the legal title as well to Simon McCowen and then they can wind up the settlement.

The solicitors acting for the Owners say that "After the transfer by the Trustees to Simon McCowen, Clause 5 of the First Planning Agreement will then revert to the original restriction on disposal of Manor Farm and Cedar Bungalow – that the two properties can only be disposed of together and not separately"

2. To add a new clause to the section 106 so that a person who has disposed of his interest in the Land is no longer bound by the terms of the section 106. (This was quite usual and not contentious).

3. To record the fact that one of the mortgages has been redeemed and that a second mortgage has been taken over Manor Farm. (Again not contentious).

It was not considered with the Legal team that the changes were material as they were usual and not contentious and the S106 was varied.

The current proposal is for the following:

- 1) Substitute the requirement for named agricultural workers with a generic requirement for Cedar Bungalow to be occupied by current or retired agricultural workers or their immediate surviving spouse or lawful partner;
- 2) that agricultural workers are required to occupy Cedar Bungalow only by means of an agricultural tenancy such as an assured agricultural tenancy;
- 3) to enable a maximum vacant period of 8 weeks between agricultural occupants;
- 4) for the carrying out of improvement works to Cedar Bungalow; and
- 5) so that the requirement for the demolition of the bungalow in any case where there is no occupation by a current or retired agricultural worker as required by the modified planning obligation is unchanged.

Relevant Planning History

04/02711/FUL Demolition of bungalow and erection of a detached four-bedroom dwelling with detached double garage and new access permitted 03.10.2005

Consultations

New Homes Team

There may be scope for the property to be used as an affordable home, for someone who meets the local connection criteria and the proposal may therefore meet the requirements of policy MTRA4 of the Winchester District Local Plan Part 1 – Joint Core Strategy. It is important that the requirements (outlined in detail to the applicant) and requirements of the NPPF are fully met.

The owner may be interested that the Council has a scheme known as City Lets Scheme which may be relevant to this proposal. The scheme is an initiative aimed at helping people who are in housing need to find accommodation in the private rented sector. The Council works closely with private landlords and offers various benefits such as the potential to influence the decision as which persons occupy the property.

Representations:

Bighton Parish Council

- Bighton Parish Council supports this application. The Council agrees with the five points set out in the application. The councillors would like to see some form of safeguards to retain the building for "general affordable" housing, should the farm not be able to provide a tenant in the future. The council has commented in the past that they would be disappointed if the bungalow was demolished as this would remove a small dwelling from the village. It is important for the farm and the village that there continues to be a supply of affordable houses in the parish.

No other representations were made.

Relevant Planning Policy:

Winchester Local Plan Part 1 – Joint Core Strategy
MTRA4.

Winchester Local Plan Part 2 – Development Management and Allocations
DM11, DM23.

National Planning Policy Guidance/Statements:
National Planning Policy Framework

Supplementary Planning Guidance
None

Planning Considerations

Principle of development

The proposed modifications subject to this application are set out above and are assessed in line with the Development Plan. They require assessment through the planning application process because they are a material change to the existing clauses in the S106 Legal Agreement. If the application is approved no formal planning decision is needed but legal will be further instructed to complete a Deed of Variation setting out the modifications. If the application is refused then a planning decision notice will be issued giving the reasons why.

It is understood the McCowen family have run a farm business from Manor Farm since 1952. The farm business consists of an arable enterprise extending to approximately 3400 acres, comprising 'in hand' land and contract farmed land. The business also manages a commercial shooting operation. It is understood that it is the intention to develop and grow the business which will include extending the arable enterprise, extending the shoot operation to incorporate a game farm and possibly a beef enterprise.

In addition to the partners in the farm business, the business currently employs 3 full time farm workers (2 additional seasonal workers are employed at harvest), 1 full time game keeper and 1 part time game keeper. Two of the farm workers are in their late 50s.

It is understood that there is a requirement for Cedar Bungalow to be demolished when it is vacated by the current occupier, Mr Appleton. The application seeks a modification of clause 5 of the Deed of Agreement dated 31st August 2010 to:-

- 1) Substitute the requirement for named agricultural workers with a generic requirement for Cedar Bungalow to be occupied by current or retired agricultural workers or their immediate surviving spouse or lawful partner;
- 2) that agricultural workers are required to occupy Cedar Bungalow only by means of an agricultural tenancy such as an assured agricultural tenancy;
- 3) to enable a maximum vacant period of 8 weeks between agricultural occupants;
- 4) for the carrying out of improvement works to Cedar Bungalow; and
- 5) so that the requirement for the demolition of the bungalow in any case where there is no occupation by a current or retired agricultural worker as required by the modified

planning obligation is unchanged.

The main consideration is whether the proposal to retain Cedar Bungalow following the vacation of the current occupier, Mr Appleton, as set out, would meet criteria set out in planning policy in respect of residential accommodation for 'essential' rural workers. National Planning Policy Framework (NPPF), provides guidance in respect of the rural economy and on isolated homes in the countryside and states :

i) At paragraph 55 that:

'Local authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

The essential need for a rural worker to live permanently at or near to their place of work in the countryside...'

Policy DM11 - 'Housing for Essential Rural Workers', includes criteria for the assessment of applications in respect of temporary and permanent residential accommodation. It is assumed that Cedar Bungalow would be treated as a 'new' permanent dwelling, if Mr Appleton vacates it and it is to be retained on the basis proposed. The appraisal refers to the criteria of DM.11 in respect of permanent agricultural dwellings.

Criteria (i) refers to a requirement to demonstrate an 'essential need' for an on-site residential presence. Essential need may include, for example, a requirement for a worker or workers to be on hand day and night in case livestock require care at short notice or to deal with emergencies that could cause serious loss of crops.

It is stated that arable employees work long hours for 4 months of the year and it is considered unreasonable for employees to commute in view of the hours worked. It has also been stated that it is farm policy to offer housing to new employees as well as retired employees where possible. The farm wishes to support people living and working within a rural community.

Criteria (ii) It is not considered that a functional need has been proven. No labour assessment has been provided in respect of the labour requirements of the business. The bungalow is currently occupied by a retired farm worker. If the bungalow is retained on the basis proposed, there is the prospect that it could be offered to an existing farm worker as a retirement home, (when it is no longer required by Mr Appleton). Were this to be the case, we do not consider criteria ii) would be met. It is however noted that there are other residential properties available to the business, so it may be that a 'new' employee working full time on the holding could be accommodated in the bungalow, but the 'functional need' would still need to be proven. It is not considered that it has been demonstrated that it is essential for an additional worker to be housed on site, though understand it may be beneficial to the operation of the farm business.

Criteria (iii) It has been stated that the McCowen family have run a farm business from Manor Farm since 1952. Financial accounts for the year end 31st March 2016 (which includes accounting information relating to year end 31st March 2015) have been provided, together with a budget for harvest 2017.

A profit was been made in the year ended 31st March 2016. Having regard to both profit and loss accounts and the balance sheets, it is considered that the business is viable and has the clear prospect of remaining so.

It is considered that the business is well established and financially viable. There has been investment in the farm business and the contract farming element of the business has expanded. It has been stated that it is the intention to develop the farm business over the next five years, expanding the arable operation, incorporating a game farm and possibly a beef enterprise.

Criteria (iv) It is understood that not all the dwellings currently available to the farm business are occupied by individuals currently employed by it. Two are occupied by retired farm workers, one is occupied by a dependant of a farm worker and one is occupied by an individual running a stable yard located at Manor Farm.

It is noted that the two retired workers are protected tenants and have security of tenure. There are limited grounds for possession in certain specific circumstances such as where suitable alternative accommodation can be provided, but it has been stated that it is farm policy to house retired employees, who have lived and worked on the farm for many years, where possible. It is not clear whether the other two properties could be made available to the farm business. It is also noted that the farm business rents a property in the neighbouring parish of Bishops Sutton for a current farm worker.

A search of the Rightmove website has been undertaken for properties available to buy and to rent of a scale and nature to render them suitable for an agricultural worker in the locality. As it is not considered that an essential need for an additional on-site residential presence has been proven, it is suggested that there are properties available in the locality which could potentially accommodate an additional employee.

Having regard to the current farm enterprises, it is suggested that the existing accommodation available to those currently employed by the farm business is adequate to meet the current needs of the business. There also appears to be property available within the locality. As the business develops there may be a requirement to review 'essential need' accommodation, however this will depend on the enterprise mix, their nature and location, in the light of a review of existing housing stock and other property available in the locality.

It is not known that any dwellings or buildings suitable for conversion have been sold separately or alienated from the holding.

Criteria (vi) The existing bungalow may be considered of an appropriate size, were an essential need for a dwelling to be established.

In conclusion taking into account of the evidence submitted, it is not considered that the proposal meets all of the criteria of policy DM11.

Impact on character of area

The proposed modification in itself will have no impact on the character of the area as one resident interchanges with another. However the principle of not demolishing the bungalow, without further justification in accordance either policy MTRA4 or DM11, to offset the impact of the approved dwelling, will therefore fail to mitigate the harm identified by the size of the dwelling that justified this condition requirement. Housing in the countryside which is not in accordance with Development Plan-Led strategy undermines the objectives of the Local Plan and intrinsically harms it's the quality, tranquillity and character. The bungalow is however not particularly prominent and is not considered to

be visually intrusive development in itself and it is also noted that this arrangement has existed for some length of time since the new house was built.

It is not considered that there is a substantive argument to demonstrate that the retention of the dwelling is harmful to the character of the countryside contrary to DM23 and CP20.

Highways/Parking

There is considered to be no detrimental impacts to the highway network or highway safety.

Affordable Housing and other options

Alternative policy compliant options have been considered with the applicant. It is suggested that there is potential for holiday let accommodation in accordance with MTRA4 or to be used by the farm business as rest facilities or for seasonal workers to stay at harvest time for example if the game farm enterprise is developed, there may be seasonal requirements with that, if the birds were reared at Manor Farm.

The main option considered in detail is for the building to be retained as a small affordable unit for local people in accordance with the Parishes desire to see this. The New Homes team have advised on the criteria to be met and that there is scope for this, however the applicants wish to retain control over the property and would not accept it being put on the social housing list and now suggest that they would like to use it to house one of their retired employees who has worked for them for over 40 years and has friends and family living in the village.

Recommendation

Application Refused for the following reasons(s):

Reason(s):

01 Based upon the information submitted it has not been demonstrated that the provision of a, 'on-site' dwellinghouse is essential to support the applicant's business and therefore the proposal does not meet the functional tests of national and Local Plan policies. The development is therefore considered to be contrary to the National Planning Policy Framework, DM11 of the 2017 Local Plan Part Two in that it would represent an additional dwelling in the countryside for which there is no overriding justification which would therefore be materially harmful to the character of the countryside.

Informatives:

1. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Local Plan Part 1 Joint Core Strategy: MTRA1, MTRA4, CP20, CP8.

Local Plan Part Two: DM11, DM23.

2. In accordance with paragraphs 186 and 187 of the NPPF Winchester City Council (WCC) take a positive and proactive approach to development proposals focused on solutions. WCC work with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service and,
- updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.