

Planning Statement

James Mead Farm, Winchester Road, Fair Oak, Eastleigh



Planning Statement

Application for removal of agricultural occupancy condition imposed under condition 2 of Planning Application 24178/C

James Mead Farm, Crowd Hill, Winchester Road, Fair Oak

Mr Thomas Paganga

March 2024

YOUR REF:

OUR REF: M23/1111

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Introduction

Section 1

1.1 This statement is submitted to support a planning application to remove the agricultural occupancy condition (AOC) of planning permission 24178/006 issued by Eastleigh Council and imposed on the property known as James Mead Farm, Crowd Hill, Winchester Road, Fair Oak. This dwelling was originally permitted with a standard agricultural occupancy condition under outline application 24178/002 on the 5th January 1981 with a second details pursuant application permitted under 24178/003 On the 17th June 1981. A copy of these original permissions is attached as Appendix 1 & 2.

1.2 On the 25th February 1987 the retention of the house for occupation by persons engaged in horse breeding or agriculture was allowed under application 24178/006, this application imposed a fresh occupancy condition to include the horse breeding.

1.3 Condition 2 of that permission states:

“The occupation of the dwelling shall be limited to a person solely or mainly employed in the locality in agriculture as defined in Section 290 (1) of the Town and Country Planning Act 1971 or in horse breeding on the holding outlined in red on the attached plan, including any dependents of such person residing with him or her or a widow or widower of such a person.”

Reason

“The site is in an area where new dwellings are not normally permitted except where there is an overriding need in the interests of agriculture”.

1.4 This permission is attached as Appendix 3. It is this second varied condition we are seeking to remove.

1.5 The application is submitted on behalf of the owner of the property Mr Thomas Paganga.

1.6 The application is supported by the following documents:

- Decision notice for the original AOC dwelling Appendix 1.
- Decision notice for the detail's pursuant application Appendix 2.

- Decision for the variation of condition to allow horse breeding Appendix 3.
- Agricultural Viability report by Ian Judd and Partners LLP Appendix 4.
- Marketing brochures by Charters Agents 5.
- EBC planning officers report X/17/80709 Appendix 6.
- Appeal Decision relating to an AOC and marketing need Appendix 7.

Site and Surroundings

Section 2

- 2.1 James Mead Farm comprises a large, detached dwelling originally set in 10.72 ha (26.489 acres) and being comprised of the main farmhouse which is a large, detached property of brick construction under a slate roof. It is in poor condition, requiring significant investment to make the property fit for human occupation. The house has parking and turning area and garden with dilapidated swimming pool totalling 0.79 acres of residential space. The house has not been occupied for a number of years.
- 2.2 The property lies on the east side of the B3354 approximately 1km from the centre of Fair Oak and has no immediate neighbours being set back approximately 200 metres from the road.

Planning History

Section 3

3.1 James Mead was granted outline planning permission by Eastleigh Borough Council for the erection of a beef rearing unit with ancillary buildings and dwelling house and garage under application reference Z/24178/002/00. It was subject to a number of conditions of which condition 3 imposed an occupancy restriction.

3.2 We have not been able to ascertain if there was an earlier permission for a mobile home in connection with the agricultural holding, a planning history search does not show any such permission. At the time planning guidance in the form of PPG 7 stated:

“New permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing:

- a. there is a clearly established existing functional need (see paragraph I6);*
- b. the need relates to a full-time worker or one who is primarily employed in agriculture and does not relate to a part-time requirement;*
- c. the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so (see paragraph I10);*
- d. the functional need could not be fulfilled by another dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and*
- e. other normal planning requirements, for example on siting and access, are satisfied.”*

3.3 The usual situation was for new agricultural businesses to have to demonstrate their viability via a temporary permission (a mobile home) before any permanent dwelling was permitted. A permanent dwelling would only be granted if the viability of the unit had been demonstrated and there was still a requirement to live on site.

3.4 The situation, therefore, is that James Mead was permitted as a residential dwelling in accordance with a planning permission, and subject to an agricultural occupancy condition latterly varied to include horse breeding.

- 3.5 At that time Section 290(1) of the Town and Country Planning Act 1971 defined agriculture as:

"agriculture includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly"

- 3.6 As to when the dwelling was commenced, we have no records of commencement dates. Please note therefore that for the purposes of the planning portal upload where dates have to be entered to complete the application form, an estimated start date for the development has been entered (commencement being 6 months after the details pursuant application was permitted) and a completion date of a year after. These dates are, however, unknown, and largely irrelevant for the purposes of this application. What is clear is that the dwelling as built is that permitted, and it is subject to the occupancy condition.
- 3.7 The beef enterprise was clearly not viable because in 1987 (only 6 years after the details pursuant application for the house was permitted) the applicant sought to vary the condition to include horse breeding (which is not agriculture).
- 3.8 In terms of the personal history of the site, from information from previous owners the following personal history has been ascertained.
- 3.9 The house and grounds were bought by the James White's mother in 1988. She was the widow of a farmer, and she bought it as a retired farmer rather than with the intention of doing any farming. We believe her son James lived with her at this time. She died in 2005 and the son James inherited the property and ran it as a livery yard called James Mead Liveries. However, this was not his main business and it apparently only ever had 10-20 horses and never actually made a profit.
- 3.10 That business is now completely wound up. The son (James White) died in March 2022 and the property then passed (we believe) to his sister's children. It was in a poor state of repair at that time and has remained so since as evidenced by the

photographs on the sales particulars. The current owner, who is the applicant, does not live there.

- 3.11 An equestrian yard/livery is not a horse breeding establishment and nor is it agricultural, the AOC condition was therefore breached from 2005 when the sons mother died (as a farmer's wife she would have complied with the condition). The son would have been a dependent, but he breached the condition from 2005 onwards by not undertaking agriculture or horse breeding. He breached it until 2022 when he died, a period of 17 years.
- 3.12 Notwithstanding that, he has now died, and the property as well as any period of breach has ceased, and the AOC remains in force. The current owner wishes to remove the condition.

Development Proposals

Section 4

- 4.1 This proposal seeks the removal of the agricultural occupancy condition imposed on James Mead under condition 2 of Planning Permission Z/24178/003. Policy DM27 of the Eastleigh Borough Local Plan deals with rural workers' dwellings and states:

"1. The provision of dwellings for rural workers in the countryside will only be permitted where:

- a. it is essential for the worker to live at their place of work;*
- b. the work is an activity that can only be carried out in a rural area and supports management of the countryside;*
- c. the enterprise can be demonstrated to be economically viable in the long term, and the dwelling is essential to its continued viability;*
- d. there are no suitable alternative dwellings or buildings available for use or conversion in the immediate locality;*
- e. no dwellings connected with the enterprise have been sold off in the past 5 years;*
- f. the dwelling is sited and designed so as to limit its impact on the countryside; and*
- g. the internal floor area of the dwelling does not exceed 120 sq.m unless special justification is provided in terms of the operation of the agricultural enterprise.*

2. Conditions will be imposed on any permission for a rural workers dwelling limiting the occupancy of the dwelling to workers engaged in the enterprise for which the dwelling was sought. These conditions will not be removed unless the Borough Council is satisfied that:

- a. there is no longer-term need for a rural workers dwelling in the locality;*
- b. reasonable efforts have been made to sell or lease the property with the occupancy restrictions; and*
- c. the property is not suitable or needed as a rural affordable dwelling.*

3. Permission will not normally be given for extensions to or replacement of rural workers dwellings which result in the internal floor area exceeding 120 sq.m, unless

special justification is provided.”

- 4.2 Paragraph 2 a, b & c are relevant to our application.
- 4.3 By way of background, paragraph 56 of the National Planning Policy Framework states
“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions”

Paragraph 57 of the National Planning Policy Framework states:

“Planning conditions should only be imposed where they are:

- 1. necessary;*
- 2. relevant to planning and;*
- 3. to the development to be permitted;*
- 4. enforceable;*
- 5. precise and;*
- 6. reasonable in all other respects.”*

The policy requirement above is referred to as the 6 tests.

- 4.4 Circular 11/95 ‘The use of conditions in planning permissions’ was cancelled by the planning practice guidance suite. However, whilst cancelled the advice contained therein remains pertinent to planning decision making in relation to conditions.
- 4.5 In considering the validity of the planning conditions, the proper approach must be, as stated in Circular 11/95, to consider the need for the condition. A condition ought not to be imposed unless there is a sound and clear-cut reason for doing so. This principle applies equally to applications made under section 73 and 73a of the Town and Country Planning Act 1990 (The Act) where a condition must not be retained unless there is a similar justification.
- 4.6 In terms of the need for the condition, from what we can see, the site does not appear to have ever had a temporary agricultural mobile home permitted in the first instance to assess the viability of the agricultural unit. The dwelling that was subsequently permitted is considerably larger than one would normally expect to see associated with a startup farm business.
- 4.7 In terms of need, the property was originally marketed with the adjoining land at £1.95m and with the Ag tie mentioned. No offers were received, and the property was

eventually sold for £600,000 without the land. Whilst there may be other 'need' in the borough for agricultural dwellings, it is our experience that most agricultural dwellings permitted are much smaller with 200m² being the upper limit, the existing house here is 337.5m². Even if there were need in the borough for AOC dwellings, the size and design of this property as well as the poor state of repair and investment required to bring it up to a habitable modern standard, is likely to be well outside of an agricultural workers affordability.

Viability

- 4.8 The dwelling was permitted as a beef unit, that obviously failed to be profitable as horse breeding was introduced, and that too appeared to fail as there is no evidence that it actually ever occurred, and the house and land became an equestrian/livery yard. The land holding at 10 hectares is not viable for most modern agricultural business.
- 4.9 This application is accompanied by a report from Ian Judd and Partners (appendix 3), chartered surveyors, rural property consultants and land agents, who have considered the viability of this land at James Mead Farm to be use for a variety of different agricultural businesses. They initially considered a variety of arable uses, as well as dairy. In each case, having used industry approved costings, their calculations make it clear that none of these agricultural uses would be profitable or viable.
- 4.10 Ian Judd considered that only dairy could be potentially viable with a gross margin less fixed costs of £16,499 however, the report concluded that James Mead Farm does not have infrastructure to allow a dairy unit to be operated and as such would require an investment into a milking parlour and cattle housing, a conservative estimate for a small dairy set up is £350,000. A farmer earning £16,500 pa would not be in a position to borrow £350,000 to set up a dairy enterprise. In addition, the upfront cost of cows would need to be funded.

Property Value

- 4.11 Property value – The relevant adopted Local Plan and emerging Local Plan policies both require that reasonable efforts have been made to sell or lease the property with the occupancy restrictions and this has been an ongoing exercise with the property advertised with Charters Estate Agents from October 2023 at a price reflecting the tie and the land. No offers were received for the house and the land and the site was readvertised as the dwelling only for £750,000. It subsequently sold for £600,000.
- 4.12 It is clear from these valuations that James Mead is of such a high value that it would

be beyond the reach of most agricultural workers. This has been recognised elsewhere at appeal where inspectors have taken the view that AOC properties with a high value are unlikely to fulfil a specific functional need to accommodate a worker, should it arise, either in connection with the application property or from a farm elsewhere.

- 4.13 This application is accompanied by an appeal decision from 2019 relating to the removal of an agricultural tie on a property in Newquay, Cornwall (APP/D0840/W/19/3229734) (Appendix 7). This is an often quoted appeal relating to the removal of an AOC where the Inspector noted the value of the property, believed from the appeal submissions to be £450,000 at the time and considered that the property value *“is so high that it would be unaffordable to a worker on an agricultural wage unless they had substantial savings or had inherited a large sum of money”... “Whilst agricultural workers may have access to restricted properties and so need not necessarily look to the unrestricted open market, there is no clear reason that they would not do so if suitable, more affordable dwellings were available there”.*
- 4.14 The Inspector continued *“given its undisputed high value, even encumbered by the occupancy condition, Sea Breezes would only be available to retired farm workers with significant additional funds. Those able to purchase a property at such a value would have access to a substantial number of other properties within the housing market and so would be unlikely to be precluded from securing a dwelling”.* The appeal was allowed, and the occupancy condition lifted.
- 4.15 Eastleigh Borough Council has also previously recognised that marketing does not always need to be carried out. When consent was allowed for removal of an agricultural occupancy condition on a property in Botley in 2017 (X/17/80709). The case officer assessing the Cricketwood, Tanhouse Lane Botley application in 2017 (X/17/80709) commented as follows:
- “Further evidence has been provided by an independent local land agent specialising in agriculture. This sets out that the land associated with the dwelling is no longer of a size where a viable agricultural business could be undertaken without the need for additional land being available. It also sets out that there is little market demand in the locality and even if there were, the value of the site at between £650,000 and £675,000 even with the current tie in place, is beyond the affordability of most agricultural workers. It also points out that there are many dwellings available in nearby Hedge End which are significantly cheaper were there to be a need for agricultural workers accommodation.*

Based on this evidence the first part of saved Policy 7.CO is met, i.e. there is no longer a long-term need for such a dwelling in the locality. With regards to the second part of the policy, while no marketing of the dwelling has taken place because the applicant does not wish to move, it is clear that the value of the dwelling even with the tie still in place is beyond the reach of the agricultural works which the restriction was intended for. It would therefore be hard to argue that the second element of the policy has not or could not be met. That being the case it is considered the requirements of saved Policy 7.CO have been met and that the agricultural tie can reasonably be lifted and the condition relieved.”

- 4.16 It is notable that no marketing was carried out. The Council accepted that the value of the property was beyond the affordability of most agricultural workers and there were many dwellings available in nearby Hedge End which were significantly cheaper, were there to be a need for agricultural workers’ accommodation. A similar case was argued immediately to the north of James Mead where an AOC was lifted at the property known as Fieldfare.
- 4.17 Fieldfare had been valued at between £750,000 and £850,000 (encumbered by the tie). Again, in that case there were a variety of accommodation options in the immediate area that were considerably more affordable and within easier reach of an agricultural worker. That value is very similar to the case of James Mead.
- 4.18 A further point to note is that an agricultural worker purchasing another non-AOC property would not be tied to it and by their occupation, they would have more flexibility for the future, the property value would not be reduced, and they would find it easier to sell.

Conclusion

Section 5

- 5.1 The agricultural occupancy condition imposed as condition 2 on planning permission 24178/006 is now considered to fail part of the required 6 tests relating to planning conditions. Firstly, the condition is considered to no longer be necessary because there is no agricultural holding or horse breeding enterprise here and nor is there likely to be one in the future.
- 5.2 There is no demand for the property by any occupier that could comply with the condition and the value of the property puts it outside the likely purchasing power of an agricultural worker who, in the absence of any other tied dwelling being available, would simply purchase a less expensive unrestricted dwelling.
- 5.3 The condition is no longer considered to be reasonable given the limited land available (the original land has since been sold off independently) and the substantial investment required to bring the house back to a habitable modern standard.
- 5.4 In view of this, we consider that the removal of the occupancy condition would accord with Policy DM27 of the Eastleigh Borough Local Plan and the Council is respectfully requested to remove the planning condition replicating the determinations it has previously made for similar cases at Fieldfare and Cricketwood.

**HAMPSHIRE
EASTLEIGH BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT, 1971**

TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDERS, 1973 TO 1974

**Princcrest Limited,
c/o Gutteridge Woodford Chambers,
45, Westwood Road,
SOUTHAMPTON. SO9 2RA**

Ref. No. 24178/2

In pursuance of their powers under the above-mentioned Act and Orders the Council, as the local planning authority, hereby grant **OUTLINE PERMISSSION** for **erection of a Beef Rearing Unit with ancillary buildings and dwelling house and garage at Land off Crowdhill, Winchester Road, Fair Oak.**

in accordance with your application on **13.10.80. (as amended by plans and letter received 18.12.80.)** and the plans and particulars submitted in connection therewith and subject also to due compliance with the conditions specified hereunder:—

1. The development hereby permitted must be begun either before the expiration of five years from the date of the grant of this outline permission, or the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved whichever is the later date.
2. In the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of this outline planning permission.
3. 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(1) of the Town and Country Planning Act 1971, or in forestry including any dependents of such person residing with him or a widow or widower of such a person.
4. Details relating to the siting, design and external appearance of the proposed buildings, the means of access thereto and the landscaping of the site shall be submitted to, and approved by, the Local Planning Authority before any development is commenced.
5. Plans and particulars showing the detailed proposals for all the following aspects of the development shall be submitted to the Local Planning Authority and development shall not be commenced before these details have been approved:
 - a) the layout of foul sewers and surface water drains.
6. Details of all external facing and roofing materials shall be submitted to, and approved by, the Local Planning Authority before development commences.

contd/...

The reasons for the conditions above are:—

1. & 2. To comply with Section 42 of the Town and Country Planning Act, 1971.
3. The site is in an area where new dwellings are not normally permitted except where there is an overriding need in the interests of agriculture or forestry.
4. To secure properly planned development and since no such details have been submitted.

Civic Offices, Leigh Road,
Eastleigh, SO5 4YN.
Telephone: Eastleigh 4646.

CHIEF PLANNING OFFICER
Date **5 JAN 1981**

All enquiries relating to this permission should be made of the
Planning Officer, Civic Offices, Leigh Road, Eastleigh, SO5 4YN. Telephone: Eastleigh 4646.



N.B.—See notes overleaf.

NOTIFICATION

(1) If the applicant is aggrieved by the decision of the local planning authority to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Section 36 of the Town and Country Planning Act, 1971, within six months of receipt of this notice. Appeals must be made on a form which is obtainable from the Department of the Environment, Beckett House, Lambeth Palace Road, London, SE1 7ER. The Secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the Order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him. (The statutory requirements are those set out in Section 36(7) of the Town and Country Planning Act, 1971, namely Sections 29(1), 30(1), 67 and 74 of the Act).

(2) In cases where a Government Department has expressed views on the proposals which are incorporated in the reasons for the imposition of conditions and the applicant wishes to lodge an appeal against such decision then a representative from that Government Department will attend any Planning Inquiry and be available to give evidence if the appellant asks for the presence of such a witness at the Inquiry. In such cases the appellant should notify the Council at the address given on the front of this form without delay. The representative would not be liable to cross-examination on questions of Ministerial policy but only on matters of fact and expert opinion.

(3) If permission to develop the land is granted subject to conditions whether by the local Planning Authority or by the Secretary of the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council of the county district in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act, 1971.

(4) In certain circumstances, a claim may be made against the local planning authority for compensation where permission is granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 169 of the Town and Country Planning Act, 1971.

(5) The applicant is recommended to retain this form with the title deeds of the property.

IMPORTANT

Any failure to adhere to the details of the plans hereby approved or to comply with any conditions detailed in this notice constitutes a contravention of the provisions of the Town and Country Planning Act, 1971, in respect of which enforcement action may be taken.

If it is desired to depart in any way from the approved proposals, you should consult the Council at the address overleaf before carrying out the development.

- NOTES: (1) This permission does not purport to convey any approval or consent which may be required under the Town and Country Planning Act, 1971, otherwise than under Section 29—34 and where by virtue of Section 55 the permission operates as a "listed building consent", or which may be required under any other Acts, including any Byelaws, Orders or Regulations made under such other Acts.
- (2) Developers are reminded that the grant of planning permission does not entitle them to obstruct a right of way and that, if it is necessary to stop up or divert a right of way in order to enable the development to be carried out, they should apply without delay:—
- (a) in the case of a footpath or bridleway, for an Authority under Section 210 of the Town and Country Planning Act, 1971;
 - (b) in any other case to the Secretary of State for the Environment for an Order under Section 209 of the Town and Country Planning Act, 1971;
- (3) Attention is drawn to the provisions of Section 43 of the Hampshire County Council Act, 1972, relating to access for the Fire Brigade. A copy of the Section can be obtained at the local planning office.

HAMPSHIRE
EASTLEIGH BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT, 1971

contd/.....

Reference No.: 24178/2

The following conditions are also imposed on the grant of the ~~permission~~/outline permission to which this schedule is attached:—

7. The access including the footway crossing and verge crossing shall be constructed and satisfactory lines of sight provided and maintained to the satisfaction of the Local Planning Authority.
8. Notwithstanding the provisions of the Town and Country Planning General Development Order 1977 the level of land hatched green on the approved plan shall be lowered so that the land and anything on it shall not be more than 1 metre above the level of the carriageway and the resultant visibility splays shall be kept free of obstacles.
9. Before the development commences a landscaping and tree planting scheme and details of other hard surfacing shall be submitted to, and approved by, the Local Planning Authority. Such scheme shall specify the position, species and size of trees to be planted, the phasing and timing of such planting and shall include provision for its maintenance during the first 10 years from the date of planting.
10. The landscaping scheme shall be completed within 12 months from the completion of the dwelling or such other date as may be agreed in writing with the Local Planning Authority. Any trees or plants which die during the first 5 years shall be replaced during the next planting season.
11. The dwelling not being occupied until after the approved agricultural buildings have been completed and the holding has been stocked and brought into operation.
12. Unless otherwise stated these conditions shall be complied with before the buildings are occupied or the use commenced.

Reasons (contd/..)

5. To ensure that the external appearance of the buildings is satisfactory.
6. To provide satisfactory access.
7. In the interests of highway safety.
8. To ensure that the appearance of the development is satisfactory.
9. To ensure that the development is completed satisfactorily.

The reasons for imposing these conditions are set out on the ~~permission~~ outline ~~permission~~ to which this schedule is attached.

Civic Offices,
 Leigh Road,
 Eastleigh, SO5 4YN.
 Telephone: Eastleigh (93) 614646.

CHIEF PLANNING OFFICER

Date 5 JAN 1981 Executive.

HAMPSHIRE

EASTLEIGH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT, 1971

TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER, 1977

To:— Prime Crest Limited,
c/o Gutteridge Woodford Chambers,
45 Westwood Road,
SOUTHAMPTON. SO9 2RA

Reference No.: 24178/3

In pursuance of their powers under the above mentioned Act and Orders, the Council, as the local planning authority, approve the detailed plans and particulars relating to the erection of agricultural dwelling and garage and associated beef rearing unit at Land off Crowhill, Winchester Road, Fair Oak.

(as amended by plans & letter rec'd 13.4.81. & 4.6.81.)

received on 16.3.81. in accordance with the condition numbers 4, 5, 6, 7 & 8 subject to which outline planning permission was granted under Article 5(2) of the Town and Country Planning General Development Order 1977 under Reference No. 24178/2

This approval is granted subject to compliance with the conditions imposed on the grant of the aforementioned outline planning permission and to the following additional conditions;

The reasons for the conditions above are:—

N.B.—See notes overleaf.

Civic Offices,
Leigh Road,
Eastleigh, SO5 4YN.
Telephone: Eastleigh (93) 614646.

CHIEF PLANNING OFFICER

Date 17 JUN 1981

All enquiries relating to this permission should be made of the
Chief Planning Officer, Civic Offices, Leigh Road, Eastleigh, SO5 4YN. Tel.: Eastleigh 614646.

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NOTIFICATION

(1) If the applicant is aggrieved by the decision of the local planning authority to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Section 36 of the Town and Country Planning Act, 1971, within six months of receipt of this notice. Appeals must be made on a form which is obtainable from the Department of the Environment, Tollgate House, Houlton Street, Bristol, BS2 9DJ. The Secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him. (The statutory requirements are those set out in Section 36(7) of the Town and Country Planning Act, 1971, namely Sections 29(1), 30(1), 67 and 74 of the Act).

(2) In cases where a Government Department has expressed views on the proposals which are incorporated in the reasons for the imposition of conditions and the applicant wishes to lodge an appeal against such decision then a representative from that Government Department will attend any Planning Inquiry and be available to give evidence if the appellant asks for the presence of such a witness at the Inquiry. In such cases the appellant should notify the Council at the address given on the front of this form without delay. The representative would not be liable to cross-examination on questions of Ministerial policy but only on matters of fact and expert opinion.

(3) If permission to develop the land is granted subject to conditions whether by the local Planning Authority or by the Secretary of the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council of the district in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act, 1971.

(4) In certain circumstances, a claim may be made against the local planning authority for compensation where permission is granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 169 of the Town and Country Planning Act, 1971.

(5) The applicant is recommended to retain this form with the title deeds of the property.

IMPORTANT

Any failure to adhere to the details of the plans hereby approved or to comply with any conditions detailed in this notice constitutes a contravention of the provisions of the Town and Country Planning Act, 1971, in respect of which enforcement action may be taken.

If it is desired to depart in any way from the approved proposals, you should consult the Council at the address overleaf before carrying out the development.

- NOTES:
- (1) This permission does not purport to convey any approval or consent which may be required under the Town and Country Planning Act, 1971, otherwise than under Section 29—34 and where by virtue of Section 55 the permission operates as a 'listed building consent', or which may be required under any other Acts, including any Byelaws, Orders or Regulations made under such other Acts.
 - (2) Developers are reminded that the grant of planning permission does not entitle them to obstruct a right of way and that, if it is necessary to stop up or divert a right of way in order to enable the development to be carried out, they should apply without delay:—
 - (a) in the case of a footpath or bridleway, for an Authority under Section 210 of the Town and Country Planning Act, 1971;
 - (b) in any other case to the Secretary of State for the Environment for an Order under Section 209 of the Town and Country Planning Act, 1971;
 - (3) Attention is drawn to the provisions of Section 43 of the Hampshire County Council Act, 1972, relating to access for the Fire Brigade. A copy of the Section can be obtained at the local planning office.



Borough of Eastleigh

Civic Offices Leigh Road Eastleigh
Hampshire SO54YN
Telephone: Eastleigh (0703) 614646

E.S. Benfield FRICS.

Director of Planning & Development

To: Mr M. R. Channon

25Feb87

c/o Hephard Winstanley and Pugh
21 Kings Park Road
SOUTHAMPTON

TOWN AND COUNTRY PLANNING ACT, 1971

Application No. 24178/6

In pursuance of their powers under the above Act and in accordance with your application received on 06Nov85, with subsequent amendments dated NONE, the Council, as Local Planning Authority hereby PERMIT the following:

RETENTION OF HOUSE FOR OCCUPATION BY PERSONS ENGAGED IN
HORSE BREEDING OR AGRICULTURE
AT JAMESMEAD FARM, CROWD HILL, WINCHESTER ROAD, FAIR OAK

Subject to due compliance with the following conditions:

01 - The development hereby permitted must be begun within a period of five years beginning with the date on which this permission is granted.

Reason: To comply with Section 41 of the Town and Country Planning Act 1971.

02 - 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(1) of the Town & Country Planning Act 1971 or in horse breeding on the holding outlined in red on the attached plan, including any dependants of such person residing with him or her or a widow or widower of such a person. Reason: The site is in an area where new dwellings are not normally permitted except where there is an overriding need in the interests of agriculture.

N.B. SEE ENCLOSED NOTES (PER)

DIRECTOR OF PLANNING AND DEVELOPMENT

Agricultural Viability Report

**Jamesmead Farm, Winchester Road,
Crowd Hill, Eastleigh**

On behalf of CKS Property Investments Ltd



Prepared by: Ian Judd and Partners
Rural Chartered Surveyors and Land Agents
4 High Street
Bishops Waltham
Southampton
SO32 1AB

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1. Introduction

- 1.1. Ian Judd and Partners have been instructed to prepare a Report to demonstrate whether Jamesmead Farm is capable of generating income from agriculture or horse breeding, capable of employing a rural worker to meet the Agricultural Occupancy Condition to reside in Jamesmead Farm House.
- 1.2. This Report has been prepared by Henry E R Brice MRICS FAAV, a Partner of Ian Judd & Partners LLP, Rural Chartered Surveyors and Land Agents.

2. The Property

- 2.1. Jamesmead Farm totals 10.72 ha (26.489 acres) and comprises **Jamesmead House**, a large detached property of brick construction under a slate roof, in poor condition, requiring significant investment to make the property fit for human occupation, with parking and turning area and garden with dilapidated swimming pool totalling 0.79 acres of residential space. The house has not been occupied for a number of years.
- 2.2. A range of outbuildings extending to a steel framed **Stable Barn**, comprising 12 stables, A timber **Stable Block** comprising 4 stables, an open fronted 2 bay **Pole Barn** and an **Equestrian Sand School**.
- 2.3. The land extends to 25.7 acres of permanent pasture, all used for horse grazing on DIY livery.

3. Agricultural Occupancy Condition

- 3.1. The Farm House was Approved on 25th February 1987 (Application Reference: 2417816). Condition 2 stated "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(1) of the Town & Country Planning Act 1971 or in horse breeding on the holding outlined on the plan including any dependants of such person residing with him or her or a widow or widower of such a person".
- 3.2. Section 290(1) of the Town & Country Planning Act 1970 defines Agriculture "includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock for the production of food, wool, skin or fur, or for the purpose of its use in the farming of land. The use of land for grazing meadow land, osier lane, market gardens and nursery ground and the use of land for woodland where it is ancillary to the farming of land for other agricultural purposes".

4. The Land Type

- 4.1. The land is classified as Grade 4 agricultural land by National England Provisional Agricultural Land Classification. The Soilscape Classification is a slowly permeable seasonally wet, slightly acid but base rich loamy and clayey soils. The soil type is known as Windsor-0712c.

- 4.2. The soils are heavy clay and remain waterlogged for long periods in winter, surface wetness and standing water in furrows are common and the land type is inaccessible to machinery or stock in winter.
- 4.3. As such the soils are suited to permanent pasture, long term leys and limited arable cropping.

5. Land Use

- 5.1. The land at Jamesmead is in permanent pasture, used for horse grazing. There is no historic evidence of alternative cropping in recent years. The land would be suitable for an annual hay cut, when ground conditions permit.

6. Assessment Methodology

- 6.1. We have attempted to provide an assessment of the income that could be generated using industry approved budgeting data.
- 6.2. We assessed standard Gross Margin & Fixed Cost Data taken from The Agricultural Budgeting & Costing Book, 97th Edition – November 2023 to evidence whether an agricultural worker could earn their main income from Jamesmead Farm. We have used The Equine Business Guide 8th Edition, November 2022 to evidence the equestrian income.
- 6.3. In assessing Main Income, we have assumed mainly employed, as 51% of the income from agriculture. It has been assumed a worker working 40 hours a week on a minimum wage (over 23) £10.42/hr = £416.80 per week, equating to £21,673.60 per annum. We have assumed their main income, being 51% income to equating to a wage of £11,053.54 per year.
- 6.4. We therefore assess that to comply with the Agricultural Occupancy Condition the occupy must earn an income of **£11,053.54** from agriculture or horse breeding on the holding.
- 6.5. Gross Margin Analysis considers income from an enterprise, less variable costs to arrive at a Gross Margin. They do not take into consideration fixed costs for example labour, machinery depreciation or repairs, rent, interest or property running costs, which are all required to grow the crop.
- 6.6. We have taken the Whole Farm Fixed Costs from The Agricultural Budgeting & Costing Book, 97th Edition – November 2023, and deducted all fixed labour costs to arrive a fixed cost excluding labour.

Farm Type	Total Fixed Cost-£/ac	Fixed Costs Excluding Labour £/ac
Small Cereals Farm	£403	£310
Small Dairy Farm	£909	£506
Lowland Grazing livestock	£478	£270

7. Assessment

7.1. We have assumed all 25.7 acres of land can be farmed in each crop type:-

	Gross Margin	Fixed Cost Excl Labour	Gross Margin Less Fixed Costs
Crop – Arable	£/ac	£/ac	£/25.7 acres
Winter Wheat - Feed	426	310	£ 2,981.20
Winter Wheat - Milling	443	310	£ 3,418.10
Spring Barley	306	310	-£ 102.80
Winter Oil Seed Rape	319	310	£ 231.30

7.2. The above analysis of farm budget data provides evidence that it would not be possible to earn your main income from arable cropping at Jamesmead Farm.

Livestock	Gross Margin	Fixed Cost Excl Labour	Gross Margin Less Fixed Costs
Livestock	£/ac	£/ac	£/25.7 acres
Dairy	1,148	506	£16,499.40
Beef Suckler	90	270	-£ 4,626.00
Beef Finishing	330	270	£ 1,542.00
Sheep – Spring lambing	179	270	-£ 2,338.70

7.3. The above analysis of farm budget data indicates that only dairy will generate an income sufficient to generate an income to mainly employ a worker on the holding.

7.4. Jamesmead Farm does not have infrastructure to allow a dairy unit to be operated and as such would require an investment into a milking parlour and cattle housing, a conservative estimate for a small dairy set up is £350,000. A farmer earning £16,500 pa would not be in a position to borrow £350,000 to set up a dairy enterprise. In addition, the upfront cost of cows would need to be funded.

8. Equestrian Use

8.1. The Occupancy Conditions permits the breeding of horses on the holding.

8.2. We have assessed the ability to have 15 brood mares and 1 stallion. This fills all stables on the holding

	Stallion	Brood Mare	1 Stallion and 15 Mares
Gross Margin	25,365	365	30840
Fixed Costs Excl Labour	2100	2100	33600
Profit before labour	22415	-1735	-3610

*Fixed Cost for DIY Livery

- 8.3. The above analysis is swayed by income from a Stallion. A stallion will need to be of a standard which warrants over 50 coverings a year. The costs of these bloodlines in the first instance could be significant.
- 8.4. In competition horses (Show Jumping & Dressage) artificial insemination is most common, this reduces the need for the stallion and relies solely on foal sales.
- 8.5. We deem it highly unlikely that a stud manager would generate an income from 16 mares suitable to be mainly employed in horse breeding at Jamesmead Farm.

9. Conclusion

- 9.1. Having analysed industry standard budgeting data, it is unlikely that an occupier of Jamesmead Farmhouse would earn their main income from agricultural or horse breeding enterprises undertaken at Jamesmead Farm.
- 9.2. The existing infrastructure (barns, stables and other facilities) are in a poor and unmaintained state, unsuitable for modern farming and unlikely to conform with animal welfare/ farm assurance standards and would require significant investment to bring into a commercially viable use.
- 9.3. The land is heavy clay, with impeded drainage and is unsuitable for most crops other than grassland and some arable farming, significantly limiting the potential for alternative uses of the land.
- 9.4. The Farmhouse is in very poor state of repair and would require significant investment to become habitable.
- 9.5. I conclude that in my opinion, as a Rural Chartered Surveyor and Agricultural Valuer, it is highly unlikely that any farmer or breeder is capable of running an agricultural business at Jamesmead Farm which will generate a return capable of being their main income and therefore it being highly unlikely the occupier of the farmhouse can comply with the Agricultural Occupancy Condition from Jamesmead Farm alone.

Plan of Jamesmead Farm





Photo 1.- Jamesmead Farmhouse- Front (North) Elevation



Photo2.- Jamesmead Farmhouse- Back (south) Elevation



Photo 3.- Jamesmead Farmhouse Garden



Photo 4 Pasture Land



Photo 5. Main Stable Building



Photo 6. Internal Main Stable Building



Photo 7. - Sand School



Photo 8. Open fronted store



Photo 9. Timber Stable Block



James Mead Farm, Winchester Road, Fair Oak, Hampshire, SO50 7HD



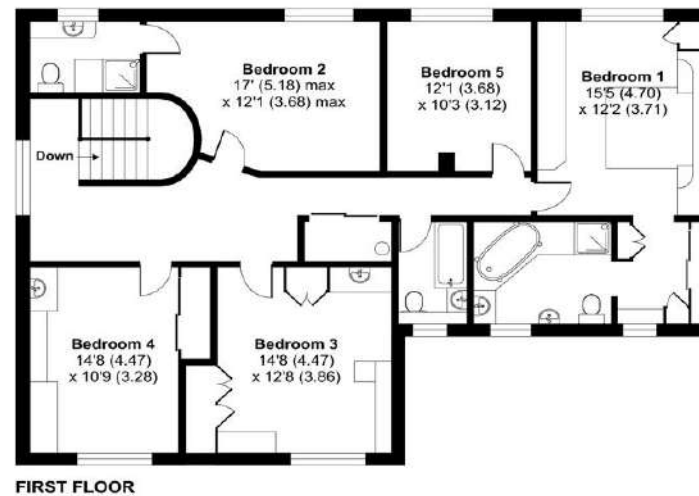
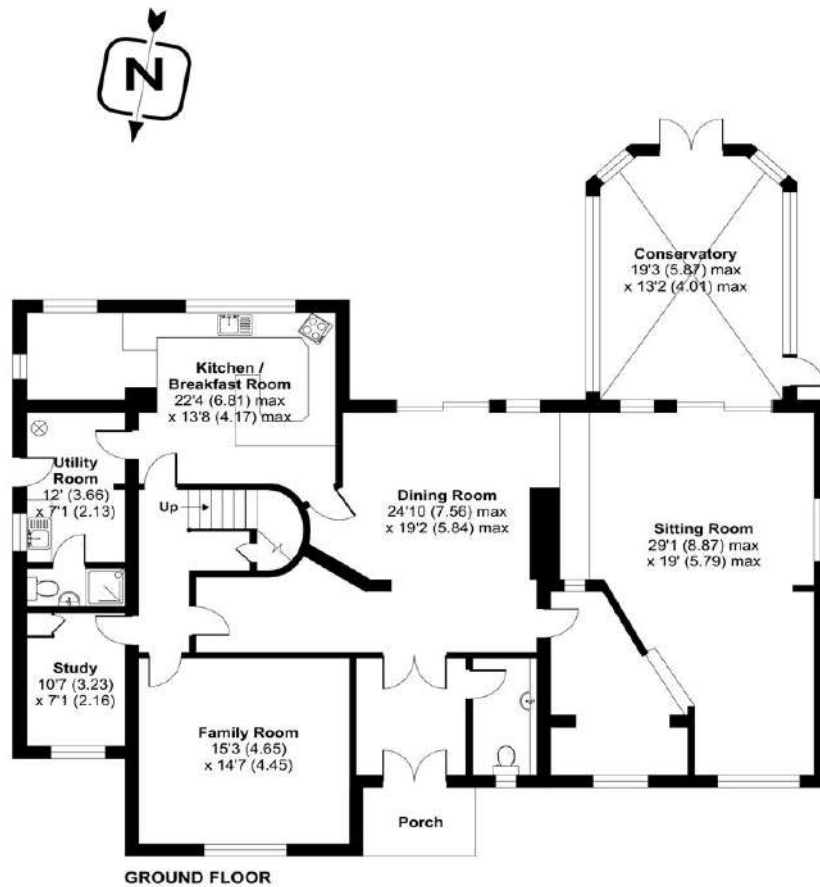
ACCOMMODATION

James Mead Farm is a substantial five-bedroom detached house with over 3600 sq ft of living space, tucked away off the beaten track on the outskirts of Fair Oak, and sat on a level plot of approximately half an acre. The property needs comprehensive renovation and represents a wonderful opportunity to create a truly unique and spacious contemporary home. The accommodation on the ground floor is impressive with four reception rooms, including a particularly large sitting room, a dining room, a family room, and a study. There is also a kitchen/breakfast room, utility room, shower room, cloakroom, and a conservatory. On the first floor there are five double sized bedrooms, with an en-suite and dressing room to the principal bedroom, a further en-suite to bedroom two and a family bathroom. The property is approached via a private lane just off Winchester Road and sits near the centre of the plot, lined with trees on both sides and with ample space for further extension, garaging or outbuildings (subject to the relevant planning consents).

Agents Note - We are aware of a proposal for residential development on the land bordering James Mead Farm. There is currently an agricultural tie on this property which the owners have applied to have removed. Please call us for further information.

Approximate Area = 3634 sq ft / 337.5 sq m

For identification only - Not to scale



Energy Efficiency Rating		Current	Potential
Very energy efficient - lower running costs			
(92-100)	A		
(81-91)	B		
(69-80)	C		76
(55-68)	D		
(39-54)	E	42	
(21-38)	F		
(1-20)	G		
Not energy efficient - higher running costs			
England, Scotland & Wales		EU Directive 2002/91/EC	



Floor plan produced in accordance with RICS Property Measurement Standards incorporating International Property Measurement Standards (IPMS2 Residential). © nichecom 2023. Produced for Charters Estate Agents Limited. REF: 1048967



SITUATION

Set within the village of Fair Oak, only a short drive from the historic city of Winchester. Fair Oak is an excellent community which offers many shops, popular restaurants, well-regarded schools and a network of footpaths and bridleways for walking and riding in the surrounding woodlands and countryside. Eastleigh town is only a 10-minute drive with its variety of shops, restaurants, sports facilities and a new cinema and bowling complex. The area enjoys excellent transport links via the M27, M3 and railway networks.



SPECIFICATION

- Rare renovation opportunity
- Substantial five-bedroom detached home
- Half an acre plot
- 3600 sq ft of living space
- Ample space for extension, garaging or outbuildings (STPP)
- Set on a private lane
- Requiring comprehensive refurbishment

LOCAL AUTHORITY

Eastleigh Borough Council

Council Tax Band – H

GUIDE PRICE

Guide Price £750,000

TENURE

Freehold



James Mead Farm, Winchester Road, Fair Oak, Eastleigh, Hampshire, SO50 7HD



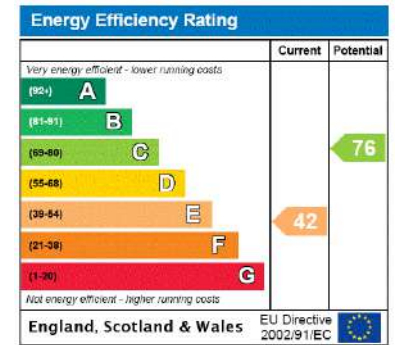
Renovation/potential development opportunity.*

AGENTS NOTE - Interested parties must be able to demonstrate that they are eligible to occupy the property in accordance with the Agricultural Tie which binds the property.

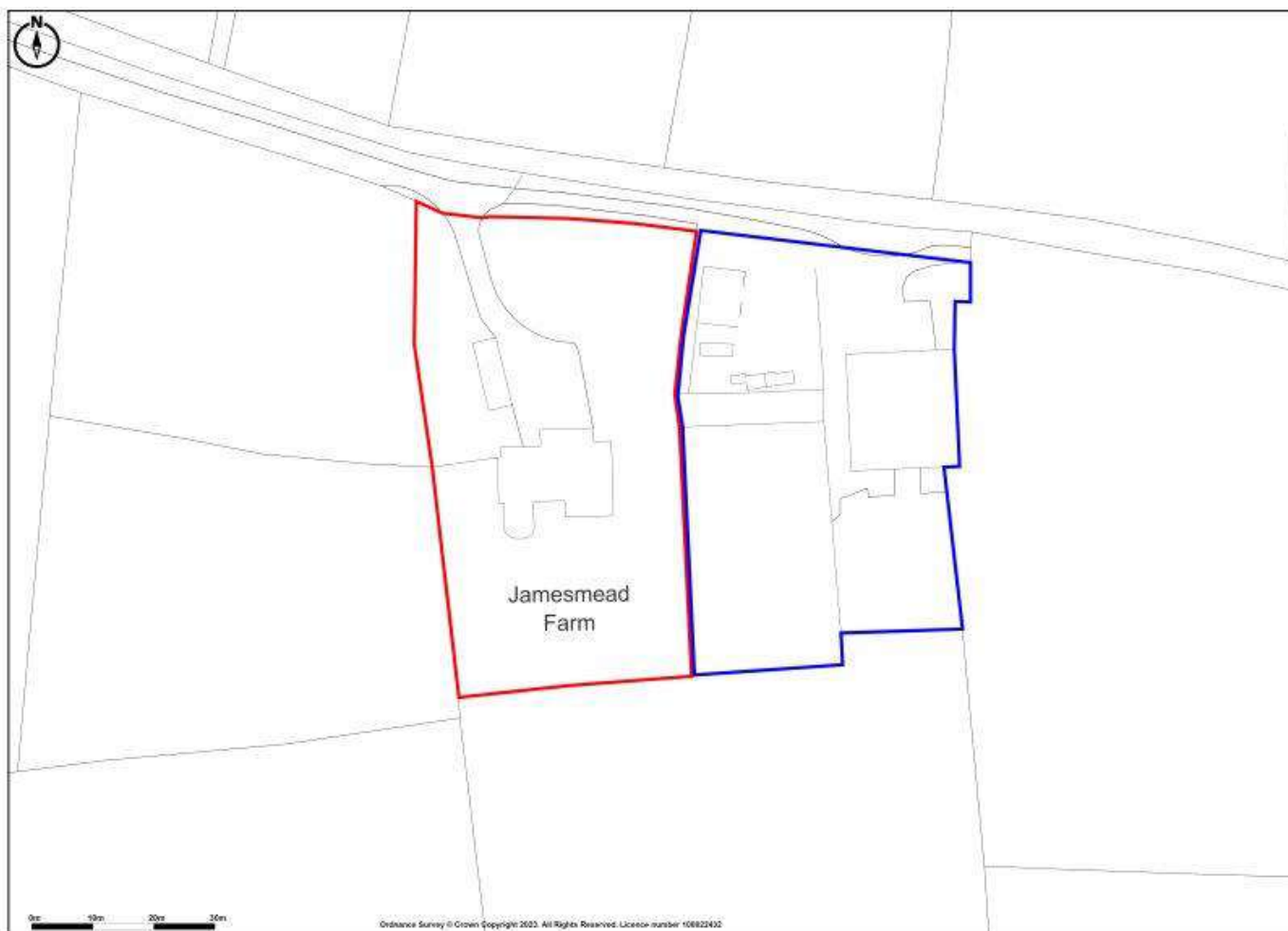
James Mead Farm is a substantial five-bedroom detached house with over 3600 sq ft of living space, tucked away off the beaten track on the outskirts of Fair Oak, and sat in approximately 25 acres. The property is in need of comprehensive renovation, and represents a wonderful opportunity to create a truly unique and spacious contemporary home.

The accommodation on the ground floor is impressive with four reception rooms, including a particularly large sitting room, a dining room, a family room, and a study. There is also a kitchen/breakfast room, utility room, shower room, cloakroom, and a conservatory. On the first floor there are five double sized bedrooms, with an en suite and dressing room to the principal bedroom, a further en-suite to bedroom two and a family bathroom. The property is approached via a private lane just off of Winchester Road and sits near the centre of the plot, lined with trees on both sides and with ample space for further extension, garaging or outbuildings (*subject to the relevant planning consents).

For identification only - Not to scale



Set within the village of Fair Oak, only a short drive from the historic city of Winchester. Fair Oak is an excellent community which offers many shops, popular restaurants, well-regarded schools and a network of footpaths and bridleways for walking and riding in the surrounding woodlands and countryside. Eastleigh town is only a 10-minute drive with its variety of shops, restaurants, sports facilities and a new cinema and bowling complex. The area enjoys excellent transport links via the M27, M3 and railway networks.



Promap
LANDMARK INFORMATION

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Licence number 100022432
Plotted Scale - 1:10000. Paper Size - A4

SPECIFICATION

- Rare renovation/development opportunity
- Agricultural tie
- 25 acres
- Substantial five-bedroom detached home
- 3600 sq ft of living space
- Ample space for extension, garaging or outbuildings (STPP)
- Set on a private lane
- Requiring comprehensive refurbishment

LOCAL AUTHORITY

Eastleigh Borough Council

GUIDE PRICE

Guide Price £1,950,000

TENURE

Freehold

Disclaimer Property Details: These particulars, whilst believed to be accurate are set out as a general outline only for guidance and do not constitute any part of an offer or contract. Intending purchasers should not rely on them as statements or representation of fact, but must satisfy themselves by inspection or otherwise as to their accuracy. We have not carried out a detailed survey nor tested the services, appliances and specific fittings. Room sizes should not be relied upon for carpets and furnishings. The measurements given are approximate. No person in this firms' employment has the authority to make or give any representation or warranty in respect of the property.

The Square, Bishops Waltham, Southampton, Hampshire, SO32 1AF
bishopswaltham@chartersestateagents.co.uk

PLANNING APPLICATION REPORT

DESCRIPTION ADDRESS	Removal of Condition 4 of planning permission Z/31341/004/00 to lift agricultural tie. CRICKETWOOD, TANHOUSE LANE, BOTLEY, SOUTHAMPTON, SO30 2SZ
------------------------	---

SITE VISIT DATE – 27/07/2017
ARE PLANS ACCURATE? – N/A
HAVE ALL NECESSARY NEIGHBOURS BEEN CONSULTED? – Yes and site notice displayed.

THE SITE AND ITS SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	n/a
RESIDENTIAL DEVELOPMENT DENSITY (NET)	No change.
TOPOGRAPHY	n/a
TREES	n/a
BOUNDARY TREATMENT	n/a
SITE CHARACTERISTICS	Modern two storey detached dwelling on a sizable plot with adjoining paddock to the east and barns/workshops to the rear (south), accessed via a track off Tanhouse Lane.
CHARACTER OF LOCALITY	The site is outside the urban edge but close to Hedge End. There are a number of other properties in the near vicinity in residential use, with some part of small holdings, as well as a number of Gypsy sites.

RELEVANT PLANNING HISTORY

REFERENCE	DESCRIPTION	DECISION
Z/31341/004/00	Construction of agricultural works dwelling with detached double garage and removal of existing mobile home.	Approved Jul 2001

REPRESENTATIONS RECEIVED

SOURCE	SUMMARY OF CONTENT
None received.	

CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
Botley Parish Council	The parish did not wish to make a comment on this application.

POLICY CONTEXT

DESIGNATION APPLICABLE TO SITE
Outside Built-up Area Boundary

DEVELOPMENT PLAN SAVED POLICIES, EMERGING LOCAL PLAN POLICIES AND SPD'S

Eastleigh Borough Local Plan Review (2001-2011), saved Policy 7.CO

Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014, (the Submitted Local Plan) comprising:

- Revised Pre-submission Eastleigh Borough Local Plan 2011 - 2029, published February 2014; and
- Schedule of Proposed Minor Changes, submitted to the Secretary of State in July 2014' Policy DM27

NATIONAL PLANNING POLICY GUIDANCE

The National Planning Policy Framework (NPPF) supports and encourages sustainable development which is considered to have three roles, economic, social and environmental. Paragraph 8 of the NPPF states that "These roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions."

POLICY COMMENTARY

The above policies and guidance combine to form the criteria against which this application will be assessed with particular regard to the relevant planning policy, the original condition, justification for its removal, and the resulting impact upon the amenity and character of the surrounding area.

COMMENT ON CONSULTATION RESPONSES

Noted.

COMMENT ON REPRESENTATIONS RECEIVED

n/a

PLANNING OBLIGATION/CONSIDERATIONS

Lifting the agricultural tie would not result in any increase pressure upon local resources or facilities. As such no contributions could be required.

ASSESSMENT OF PROPOSAL

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

In this case policy issues for consideration include:

**ASSESSMENT OF PROPOSAL
DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Planning Policy – The most relevant policy in this instance is saved Policy 7.CO of the adopted Local Plan, which states, “Planning applications for the removal of agricultural occupancy conditions will not be permitted unless: i). the Borough Council is satisfied that there is no longer a long-term need for an agricultural, horticultural or forestry workers dwelling in the locality and there is no evidence of a continuing need for housing for persons employed or last employed in the locality in these categories; and ii). every reasonable effort has been made to sell or lease the property at a reasonable price reflecting the restriction on occupancy to people who could occupy it in accordance with the agricultural occupancy condition.”

Original Condition – Condition 4 of Planning Permission Z/31341/004/00 states:

“The occupation of the dwelling must be limited to a person solely or mainly employed, or, if retired from employment, last employed, in the locality in agriculture as defined in Section 336 (1) of the Town and Country Planning Act 1990, or in forestry (including any dependents of such person residing with him/her) or widow or widower of such a person. Reason: The site is in an area where new dwellings are not normally permitted except where there is an overriding need in the interests of agriculture or forestry.”

Justification for Removal – Reviewing the original application shows that the site had been used for a number of years by the previous owner as part of a livestock business, although this did include other land nearby and not just that currently associated with the dwelling. The dwelling also replaced a mobile home which had been present on the site for a number of years, so the site already had an established agricultural use giving justification for the planning approval being granted in 2001.

However, when the previous owner died the dwelling and associated land and buildings was bought by the present owner/applicant in 2012, who runs a timber joinery business from the neighbouring barns and sheds. The land is not currently used for any agricultural or forestry purpose. Supporting evidence has been provided by way of a letter from neighbour’s at Tansfield Stud which states that prior to the site being purchased in 2012 the land had not been used for any agricultural purposes for more than five years, and that the barns and yard had been rented out to various businesses for many years prior to this. It therefore appears that the site has not been used for any agricultural purposes for nearly a decade.

Further evidence has been provided by an independent local land agent specialising in agriculture. This sets out that the land associated with the dwelling is no longer of a size where a viable agricultural business could be undertaken without the need for additional land being available. It also sets out that there is little market demand in the locality and even if there were, the value of the site at between £650,000 and £675,000 even with the current tie in place, is beyond the affordability of most agricultural workers. It also points out that there are many dwellings available in nearby Hedge End which are significantly cheaper were there to be a need for agricultural workers accommodation.

Based on this evidence the first part of saved Policy 7.CO is met, i.e. there is no longer a long-term need for such a dwelling in the locality. With regards to the second part of the policy, while no marketing of the dwelling has taken place because the applicant does not wish to move, it is clear that the value of the dwelling even with the tie still in place is beyond the reach of the agricultural workers which the restriction was intended for. It would therefore be hard to argue that the second element of the policy has not or could not be met. That being the case it is considered the requirements of saved Policy 7.CO have been met and that the agricultural tie can reasonably be lifted and the condition relieved.

Amenity & Area Character – In terms of amenity and the general character of the area, it is not considered that the lifting of the original tie would have any noticeable impact given the length of time the site has not been used for agricultural purposes.

OTHER MATERIAL CONSIDERATIONS

Reference needs to be made to the submitted Eastleigh Borough Local plan 2011-2029 July 2014. However, very little weight can be given to these policies as, although the Submission Local Plan has not been formally withdrawn, the Council has confirmed that it has decided to prepare a new local plan which will cover the period up to 2036. With regard to this application, the new policies essentially echo those of the current plan and are not considered to affect the recommendation put forward.

CONCLUSIONS

For the reasons given above, the application is recommended for approval.



Appeal Decision

Hearing Held on 22 October 2019

Site visit made on 22 October 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2019

Appeal Ref: APP/D0840/W/19/3229734

**Sea Breezes, Road from Mawgan Porth Hill to Mawgan Porth Holiday Park,
Mawgan Porth, Newquay TR8 4BG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Richard Rawlings against the decision of Cornwall Council.
 - The application Ref PA19/00212, dated 10 January 2019, was refused by notice dated 20 March 2019.
 - The application sought planning permission for the erection of farmhouse and garage without complying with a condition attached to planning permission Ref 89/13/01541/F, dated 25 October 1989.
 - The condition in dispute is No. 3 which states that: the occupation of the dwelling hereby permitted shall be limited to a person wholly or mainly employed or last so employed, in agriculture (as defined by Section 290(1) of the Town and Country Planning Act 1971), or in forestry or a dependant of such a person residing with him (including a widow or widower of such a person).
 - The reason given for the condition is: The site is within a rural area in which it is intended to provide primarily for the needs of agriculture.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of farmhouse and garage at Sea Breezes, Road from Mawgan Porth Hill to Mawgan Porth Holiday Park, Mawgan Porth, Newquay TR8 4BG in accordance with the application Ref PA19/00212, dated 10 January 2019, without compliance with the conditions previously imposed on planning permission Ref 89/13/01541/F, dated 25 October 1989.

Main Issue

2. Whether the disputed condition is necessary, with particular regard to the need for an agricultural worker's dwelling in the location of the appeal site.

Reasons

3. Sea Breezes was originally permitted as an agricultural worker's dwelling, although over the years the land holding associated with the dwelling has reduced in size. There is no dispute that there is now insufficient land at the holding to generate a functional need for a dwelling at the site, or to create a viable agricultural enterprise.

4. The site is in a countryside location where an unrestricted dwelling would not ordinarily be permitted under Policy 7 of the Cornwall Local Plan 2010-2030 or the National Planning Policy Framework (the Framework). However, the proposal is not to erect a new dwelling and this appeal will turn on whether there is a continuing need for the disputed condition.
5. At the present time, the dwelling is fulfilling the accommodation needs of the appellant as a retired farm worker, but for personal reasons he would like to leave the property. Although no longer part of Government policy, the parties agree that guidance in former Planning Policy Statement 7, Annex A which related to agricultural, forestry and other occupational dwellings, remains relevant. This included advice¹ indicating that dwellings should not be kept vacant or occupiers unnecessarily obliged to remain simply by virtue of occupancy conditions which have outlived their usefulness.
6. There have been a number of applications for agricultural workers dwellings in the area around the appeal site in the last 5 years. However, at the hearing, the Council did not dispute the appellant's assertion that in each of those cases, the Council's Land Agent had concluded that the need justifying those dwellings arose at the particular site and could not be met by other dwellings in the locality. Therefore, whilst these other applications may demonstrate a need for agricultural dwellings generally, and even if the term locality was drawn widely, I find that Sea Breezes is unlikely to fulfil a specific functional need to accommodate a worker, should it arise on another farm.
7. The dwelling could be occupied by a worker employed in agriculture but where there was not a need for them to be resident on a particular farm holding. However, there is no dispute that the value of Sea Breezes, which has been extended over the years and now includes an indoor swimming pool, is so high that it would be unaffordable to a worker on an agricultural wage unless they had substantial savings or had inherited a large sum of money.
8. The appellant's verbal evidence that there were numerous other 3 bedroomed properties within a small radius of the appeal site that were significantly cheaper and so more affordable to an agricultural worker was not disputed by the Council. Whilst agricultural workers may have access to restricted properties and so need not necessarily look to the unrestricted open market, there is no clear reason that they would not do so if suitable, more affordable dwellings were available there.
9. The dwelling could also be occupied by a retired farm worker and such could allow that worker to vacate another property elsewhere. At the hearing, the Council suggested that one of the purposes of an agricultural occupancy condition was to assist the agricultural community. Given the often low wages in the agricultural sector, I can see that having a pool of dwellings where restrictive conditions act to suppress property values could enable some retired farm workers to purchase dwellings when they may not otherwise be able to do so on the open market.
10. However, as with those employed in agriculture now, given its undisputed high value, even encumbered by the occupancy condition, Sea Breezes would only be available to retired farm workers with significant additional funds. Those able to purchase a property at such a value would have access to a substantial

¹ At paragraph 17.

number of other properties within the housing market and so would be unlikely to be precluded from securing a dwelling.

11. I appreciate that property prices in the area are high and that the value of a restricted dwelling would be relative. However, the evidence does not suggest that cheaper or comparably valued properties are not available. In that regard, the condition would only serve to allow a farm worker access to a wider housing market, rather than assisting the agricultural community in accessing the housing market generally. This may be attractive to parts of the agricultural worker's community, but it is not necessary to meet their needs.
12. Notwithstanding the above, the main area of dispute between the parties is whether it is necessary to market the property. Marketing has not taken place. The Council directed me to a number of appeal decisions where it has been found that marketing is essential to establish whether a need exists.
13. In cases at Hay Nurseries² and Colrose³, Inspector's concluded that without marketing it was not possible to demonstrate that the restrictive conditions were not necessary. Whilst it had been suggested in the Colrose case that the value of the property was beyond the reach of an agricultural worker, it was found this could only properly be tested through marketing.
14. However, I note that the dwellings at both Hay Nurseries and Colrose were smaller and less than half the anticipated value of Sea Breezes. Whilst they may be in lower value housing market areas, they would not be so far in excess of that which an agricultural worker may be able to afford as the appeal property. I can, therefore, appreciate that a marketing exercise may reveal an unmet need in those cases.
15. It may well be that a test of whether Sea Breezes is truly beyond the means of an agricultural worker can similarly only be tested by marketing. However, in the present case, the condition does not moderate the price to that which would put it below other potentially suitable properties in the area such that it may be needed to ensure the availability of housing to agricultural workers.
16. In a more recent case at The Lawns Farmhouse⁴ marketing had taken place, but it was found that the marketing exercise was inadequate to have satisfactorily found that there was no demand. Although higher in value than Hay Nurseries and Colrose, it was still anticipated to be below that of Sea Breezes. Moreover, the Inspector at The Lawns Farmhouse also found that, whilst the appellant's business activities at the site had moved away from livestock towards a dairy business, a significant land holding remained associated with The Lawns Farmhouse such that the need for a dwelling at the site in the future could not be ruled out. The overall situation at The Lawns would, therefore, appear to be very different to the present case.
17. There are other cases⁵, referred to by the appellant, when marketing was found not to be required. Such an approach is not unprecedented, therefore, where the particular evidence and circumstances of the case dictate.

² APP/D0840/W/16/3153920

³ APP/D0840/W/16/3155923

⁴ APP/D0840/W/19/3220751

⁵ Such as APP/X2410/W/16/3143751, APP/D0840/A/12/2168539, APP/D3315/C/14/2218684 & 2218685

18. In the present case, two estate agents⁶ have suggested that selling agriculturally restricted dwellings is problematic as the demand is low. However, whilst those employed in agriculture are a small percentage of the overall population, there are still a sizeable number in the area. Accordingly, as the estate agents have not ruled out the possibility of finding a purchaser, I can accept that a rigorous marketing exercise could root out some demand in the market and that marketing may be the only robust way to thoroughly test such demand.
19. However, even if a purchaser could be found, the particular circumstances of this case where the high value of the property means that somebody with the ability to purchase it also has access to the wider open market, mean that the condition no longer serves a useful purpose in providing access to housing for the agricultural worker's community. Nor is there any compelling evidence that it would serve another useful purpose.
20. I acknowledge that some of the arguments presented could be repeated elsewhere. However, given that I have been presented with earlier decisions where marketing has and has not been deemed necessary, I am satisfied that each case is dependent on the specific circumstances at play. Even if the condition were to be amended to allow occupation by other, non-agricultural, rural workers that may be permissible under current local and national policy, there is no substantive evidence that this would lead me to a different conclusion.

Other conditions

21. At the hearing, the Council confirmed that the other conditions previously imposed on planning permission ref 89/13/01541/F had outlived their useful purpose. There was some debate about whether condition No. 4 that required the grey roof covering to be retained in perpetuity should be re-imposed, particularly given the site's location within an Area of Great Landscape Value. However, at the site visit I noted that the appeal site is located close to a number of other buildings, including a mobile home site where structures have a variety of roof coverings. Therefore, I find that no demonstrable harm would arise if this condition were not re-imposed.

Conclusion

22. For the reasons given above, I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition or the other conditions imposed on the original permission.

M Bale

INSPECTOR

⁶ Letters from Lodge & Thomas and Jefferys appended to WM Bunt (3 January 2019) Report In Relation to an Application for Removal of the Agricultural Occupancy Condition: Sea Breezes, Mawgan Porth, Newquay, Cornwall TR8 4BG (Ref WMB/JEH)

APPEARANCES

FOR THE APPELLANT:

Christopher Tofts – Solicitor (Stephens Scown)
Mark Bunt – Chartered Surveyor (Kivells)
Richard Rawlings

FOR THE LOCAL PLANNING AUTHORITY:

Jack Bromley – Development Officer
James Holman MRICS MRTPI FAAV – Principle Development Officer

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Signed Statement of Common Ground
- 2 Summary of appeal decisions re: marketing, prepared by Christopher Tofts.