

On Instructions From

Eastleigh Borough Council

Appraisal for



*Removal of condition 2 (agricultural tie)
from planning permission Z/24178/006/00
for the retention of house for occupation
by persons engaged in horse breeding and
agriculture.*

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

Contact Details

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1. Reference

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|----------------------------------|--|
| 1.1 Proposed Development | - Removal of condition 2 (agricultural tie) from planning permission Z/24178/006/00 for the retention of house for occupation by persons engaged in horse breeding and agriculture |
| 1.2 Planning Authority | - Eastleigh Borough Council |
| 1.3 Planning Application | - X/24/97156 |
| 1.4 Applicant | - Mr Thomas Paganga |
| 1.5 Site Address | - James Mead Farm Winchester Road
Fair Oak Eastleigh SO50 7HD |
| 1.6 Caveat to Instruction | - We have considered this application in accordance with the principles of the National Planning Policy Framework and the Eastleigh Borough Local Plan 2016-2036 on 25th April 2022

No site visit has been undertaken |
| 1.7 Information Provided | - We have been provided with the following information in conjunction with the planning application; planning statement with supporting appendices and plans |

2 Description

2.1 Location

- 2.1.1 James Mead Farm is located off the B3354 Winchester Road on the outskirts of Fair Oak, accessed via a private lane.

2.2 Land & Tenure

- 2.2.1 Planning Statement states that the property, comprising house, parking area, garden and dilapidated swimming pool has a total of 0.79 acres of residential space, albeit no plan has been provided showing the extent of property.
- 2.2.2 It is understood that the property is owned by the Applicant. It is stated in the Planning Statement that the property is unoccupied.

2.3 Property

2.3.1 Residential Property

It is understood that the dwelling was permitted under outline application 24178/002 on 5th January 1981 with a second details pursuant application permitted under 24178/003 on 17th June 1981. Permission 24178/002 contained an agricultural occupancy condition which was subsequently varied under planning permission 24178/006 dated 25th February 1987.

Condition no 2 of permission 24178/006 states that:-

“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.”

It is understood from the sales particulars that James Mead Farmhouse extends to approximately 337.5m² comprising on the first floor; 5 bedrooms, 1 with dressing room and ensuite bathroom and 1 with ensuite shower room and a separate bathroom, and on the ground floor; kitchen, utility with shower room, study, hall, cloakroom dining room, family room, sitting room, conservatory and porch, and is stated to require refurbishment.

3 Business Operations

- 3.1 It is stated that James Mead Farm extended to 10.72 ha (26.489 acres), with 25.7 acres of pasture, a range of outbuildings including steel framed barn with 12 stables, a timber stable block with 4 stables, an open fronted 2 bay pole barn and a sand school. It is understood that historically agricultural and equestrian enterprises were operated from the farm and at the time of the agricultural viability report a DIY livery enterprise was operated.
- 3.2 It has been stated, in respect of the property owned by the Applicant, that there are no agricultural or equestrian enterprises being operated and neither can there be as the property only now comprises the dwelling and its curtilage.

4. Proposed Development

- 4.1 The application seeks consent for the removal of condition 2 (agricultural tie) from planning permission Z/24178/006/00 for the retention of house for occupation by persons engaged in horse breeding and agriculture.
- 4.2 Relief from the occupancy condition is proposed, as stated in the Planning Statement on the basis that it;
- *... '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.*
 - *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.*
 - *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. Planning Policy Considerations & General Comments

- 5.1 National Planning Policy Framework (NPPF) does not contain explicit policy guidance on the removal of rural occupancy conditions. However, Paragraph 84 urges restraint in respect of the provision of new isolated dwellings in the open countryside. One exception to this is where there is an essential need for a rural worker to live at or near their place of work. Given this policy of restraint, by the same measure it is reasonable to expect that conditions that restrict occupancy of a dwelling provided as an exception should not readily be removed without sufficient justification.
- 5.2 The Eastleigh Borough Local Plan 2016-2036 was adopted on 25th April 2022
- 5.3 Policy DM27 of the Local Plan refers to rural workers dwellings (see Appendix 1). In respect of rural occupancy conditions it states at 2 that :-
- ‘...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.*
- 5.4 It is therefore considered incumbent upon an applicant to demonstrate that the criteria set out in policy DM27 2 a-c have been met.
- 5.5 Bruton Knowles are instructed to consider the application submissions having regard to 2 a and b of policy DM27.

6. Appraisal

- 6.1 For ease of reference the appraisal refers to paragraph 2 of policy DM27.
- 6.2. 2 a *‘there is no longer-term need for a rural workers dwelling in the locality’*
- 6.2.1. Firstly, it is usual to consider need on the holding. Evidence has been provided in respect of an agricultural viability report undertaken prior to the Applicant’s ownership of James Mead Farmhouse. Whilst it is noted that it can be more difficult to establish viable businesses with limited land holdings, there are cases where small

holdings are viable (as may be evidenced by some applications for permanent rural workers dwellings) and there are some enterprises where requirements for land is not as critical such as some more intensive ventures. It is considered that the agricultural viability report does not give due consideration to all potential enterprises (aside from a combination of enterprises) that could be operated from the holding and for example in respect of the horse breeding enterprise referred to, consideration has been given to only one scenario. It is considered that a rural business requiring a rural worker's dwelling could potentially have been operated from the original holding.

- 6.2.2 However, it has been stated that James Mead Farm is now a standalone dwelling, without any land or buildings from which to operate a rural enterprise, however no evidence has been provided showing the extent of ownership to confirm this. No information has been provided about the Applicant and his circumstances (including potential for compliance with the condition), other than it is assumed he cannot comply and/or has no need for such a dwelling having lodged an application for removal, but some clarification would be usual.
- 6.2.3 Whilst policy does not prescribe exactly how assessments of need in the locality is to be carried out, a sustained period of marketing (for rental and sale) both directly and indirectly is generally a meaningful way of determining whether there is demand for a dwelling subject to a rural occupancy restriction, supported by other assessments as referred to in 6.2.6.
- 6.2.4 There are two main factors relevant to the assessment of demand where marketing is carried out. These are; firstly, whether the property has been offered at a price that reflects the rural occupancy restriction (in addition to other relevant factors such as condition of the property) and secondly, whether the marketing approach adopted has been sufficiently extensive to be seen as being robust. Further comment on marketing will be made at 6.3, however given the limited information provided it is not considered possible to conclude that an assessment of need in the locality has been established from the marketing undertaken.
- 6.2.5 It is noted that in purchasing the property the Applicant confirmed some demand for James Mead Farmhouse subject to a rural occupancy condition, albeit the purpose for purchase has not been detailed.
- 6.2.6 A survey of relevant businesses in the locality, to establish whether they have potential need for a dwelling and on what basis, is generally also used to establish need for rural workers dwellings in the locality. In addition, a review of planning applications in the locality for new rural workers dwellings may also be undertaken. Other than the limited information provided in connection with the marketing of James Mead Farm and subsequently James Mead Farmhouse, no evidence has been provided of other 'need' assessments being undertaken.
- 6.3 *2b. 'reasonable efforts have been made to sell or lease the property with the occupancy restrictions'*

- 6.3.1 There is no policy guidance on what may constitute 'reasonable efforts', however comments have been made on marketing at 6.2.3 and 6.2.4 above.
- 6.3.2 It is noted that James Mead Farm and subsequently James Mead Farmhouse were marketed prior to the Applicant purchasing James Mead Farmhouse.
- 6.2.3 Both James Mead Farm and James Mead Farmhouse appear only to have been marketed for sale rather than also for rental. To thoroughly test the market this would also be undertaken, unless there is special justification for not offering a property as also being for rent.
- 6.3.5 No valuation evidence has been provided to confirm that the guide prices adopted for the marketing of both James Mead Farm and James Mead Farmhouse were reasonable. It is stated that no offers were received for James Mead Farm and no reductions in guide price appear to have been attempted. It is not clear what offers were received for James Mead Farmhouse but is stated that it was sold for £600,000, significantly under the guide. It is queried whether the guide prices adopted were reasonable.
- 6.3.6 It is stated that James Mead Farm was marketed in October 2023 and then subsequently remarketed as James Mead Farmhouse and sold to the Applicant. The Planning Statement is dated March 2024. Allowing for time for conveyancing to the Applicant, it would appear that neither James Mead Farm or James Mead Farmhouse were marketed for very long. It is queried whether the length of the marketing periods can be considered reasonable, particularly having regard to the nature of property.
- 6.3.6 No details have been provided in respect of the marketing strategy, in terms of where it was marketed and whether any targeted marketing took place, in terms of relevant press and any direct mailing of particulars to relevant businesses in the locality. It is therefore not possible to conclude whether the marketing of both James Mead Farm and James Mead Farmhouse was robust.
- 6.3 It will be for the LPA to consider all other relevant planning policy and associated matters.

7. Conclusion

- 7.1 Taking into account the evidence submitted, it is considered that the application does not fully meet criteria set out in paragraph 2 of policy DM27, notwithstanding it will be for the LPA to comment on criteria 2c.

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Date: 8th October 2024

Appendix 1

Policy DM27, Rural workers' dwellings

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.

