AGRICULTURAL JUSTIFICATION REPORT

FOR THE REMOVAL OF AN

AGRICULTURAL OCCUPANCY CONDITION

ON

MANDERVILLE AND SHANDON,

LLYNDIR LANE, BURTON, ROSSETT, WREXHAM, LL12 0AY

Prepared on behalf of

R A Rogers (Rossett Limited)
8 Belgrave Garden Mews
Pulford
Cheshire
CH4 9GH

Prepared by: Sarah Gerrard

West View House
Whitchurch Road
Hatton Heath
Chester
CH3 9AU
Telephone: 01829 773000
Facsimile: 01829 773001
Email: sarahgerrard@rostons.co.uk
Ref: SG.CP15449

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1. INTRODUCTION

1.1. This report has been prepared by Rostons following instructions from Mrs Jenny Rogers.

Qualifications and Experts Duty

1.2. I, Sarah Gerrard, am a Rural Chartered Surveyor who works for the firm Rostons.

1.3. I understand my duties in the preparation of this report and have complied with that duty. The substance of the instruction I have received and the information I have been provided with are set out within this report and its appendices.

1.4. I am also a probationer member of the Central Association of Agricultural Valuers and have a degree in Rural Enterprise and Land Management from Harper Adams University. I have been involved in the agricultural sector and country matters for the majority of my life. I act on behalf of farmers and landowners throughout Cheshire and surrounding counties. I specialise in agricultural planning matters.

Purpose of Report

1.5. The purpose of this report is to fully justify the planning application for the removal of the Agricultural Occupancy Condition (AOC) at the pair of cottages known as Manderville and Shandon, Llyndir Lane, Burton, Rossett, LL12 0AY. The AOC restricts the occupancy of the dwelling to persons working or last working in agriculture or forestry.

1.6. This report will demonstrate the AOC at Manderville and Shandon has outlived its usefulness and therefore should be removed. This statement has been prepared to demonstrate compliance with the policy principles, whilst supporting the removal of the AOC.

2. PROPERTY CONTEXT

2.1. Manderville and Shandon are a pair of two bedroomed semi-detached cottages within a rural location. The properties are located in the borough of Wrexham County Borough Council and are not subject to any designations.

2.2. The properties were built on land owned and farmed by Mr R A Rogers trading as R A Rogers (Rossett) Ltd Collynie Farm and Broadoak Farm, and the properties lie approximately 300m to the South-East of Broadoak Farm, off Llyndir Lane.

2.3. Manderville and Shandon were built with the purpose of housing farm workers from Broadoak Farm.

2.4. The dwellings were granted planning permission in 1971, subject to a condition restricting the occupation:

"*Occupation of the dwelling shall be limited to persons employed, or last employed locally in agriculture as defined in Section 221 of the Town and Country Planning Act 1962, or in forestry and the dependants of such persons".*

2.5. The dwellings were constructed in accordance with the permission, as part of a wider agricultural holding between Collynie Farm and Broadoak Farm.

3. PLANNING HISTORY

3.1. The relevant planning history is as follows:

Application Reference	Description	Decision	Date
Code no: BUR/5716	Erection of one pair of semi-detached dwellings for occupation by farm labourers, installation of septic tank and construction of accesses on land adjoining and forming part of Collynie Farm, Rossett (previously approved under Code No. BUR/5716).	Granted	25th March 1971

3.2. Planning permission was granted in 1971 under application reference BUR/5716, for the erection of one pair of semi-detached dwellings for occupation by farm labourers, installation of septic tank and construction of accesses on land adjoining and forming part of Collynie Farm, Rossett (previously approved under Code No. BUR/5716) for Mr R.A Rogers (the Applicant's late husband).

3.3. The planning permission effectively gave planning permission to construct the pair of agricultural worker's dwellings at Collynie Farm, with the occupancy being restricted to a person employed or last employed in agriculture.

3.4. A copy of the decision notice for application reference BUR/5716 is included at Appendix 1.

4. THE FARMING ENTERPRISE

4.1. At the time of the application for the workers dwellings, Collynie Farm and Broadoak Farm were run as one agricultural unit, comprising arable land and a substantial pig enterprise. The holding continued to expand through 1970s to mid-1980s to its peak when the enterprise had over 2000 head of pigs.

4.2. In 2000, Mr R A Rogers retired as no family members were interested in continuing the farming business. Land and farm buildings were sold. Retained land was rented for grazing and arable use.

4.3. With the disposal of the pig enterprise and significant reduction in land since 2000, the agricultural business operations no longer required additional full-time labour, and four members of staff were given notice under Transfer of Undertakings (Protection of Employment) Regulations 2006 ('TUPE').

5. THE APPLICATION

5.1. The applicant is seeking approval to remove the AOC restriction. This application is not seeking consent for any material or operational change to the property.

5.2. Manderville and Shandon were occupied by agricultural workers employed by the farming business at Collynie and Broadoak Farms until 2001. Following the sale of the pig herd, the need for a property to house the farm's agricultural workers fell away.

5.3. Since 2001, Manderville and Shandon have been occupied by tenants who have not been employed in agriculture.

5.4. The AOC at both properties has therefore been breached for more than 20 years.

5.5. As contained within section 4 of this report, the essential need for a dwelling to serve the agricultural enterprise at Collynie and Broadoak Farms has fallen away.

5.6. The sale of land in 2000, closure of the farming enterprise and subsequent sale of agricultural buildings at Collynie Farm and Broad Oak Farm means there is no realistic prospect of Collynie Farm and Broadoak Farm returning to an agricultural enterprise that will justify a full-time agricultural worker living on site.

5.6.1. In respect of Collynie Farm buildings, planning permission ROS P/1999/0150 was granted 08/03/2000 for conversion to business units and sold 28/04/2000. The buildings at Broad Oak Farm were granted planning permission under application ROS P/2018/0888 on 18/07/2019 for conversion to residential units and sold 19/08/2021.

5.7. In consequence, Manderville and Shandon are dwellings no longer required for agricultural purposes.

6. PLANNING POLICY CONTEXT

6.1. In accordance with Section 38 (part 3) of the Planning and Compulsory Purchase Act 2004, there is a requirement for all applications for planning permission to be considered in relation to the Development Plan unless material circumstances are contradictory.

Planning Policy Wales

6.2. Where Planning Policy Wales makes reference to planning conditions / obligations, the document directs readers to Welsh Government Circular

numbers 13/97 and 016/2014. These documents are discussed further below.

6.3. Section 5 discusses rural development and includes policies for enabling the removal of agricultural occupancy conditions. It outlines that conditions should only be imposed if they are necessary for the proper planning of an area and that their removal may be justified if the need for the agricultural occupancy no longer exists.

Planning Obligations (circular 13/97)

6.4. This document sets out when and how planning obligations should be used. Under section 7, planning obligations should only be sought where they meet the stipulated tests, including being necessary and relevant to planning.

6.5. The condition on Manderville and Shandon does not meet these tests, as it is no longer necessary or reasonable to continue to require the property to be occupied by qualifying persons.

The Use of Planning Conditions for Development Management (WGC 016/2014)

6.6. Chapter 3.0 of this document details the six tests that must be applied for planning conditions. Conditions should only be imposed where they are:

- Necessary;
- Relevant to planning;
- Relevant to the development to be permitted;
- Enforceable;
- Precise
- Reasonable in all other respects

6.7. Paragraph 3.18 states "A condition should not be imposed if it cannot be enforced". As the condition on the planning permission has not been complied with for more than 10 years, a Lawful Development Certificate could be obtained. This breach of condition can no longer be contested.

6.8. There is no longer a need to warrant reserving the house for the purpose of housing agricultural workers.

Local Planning Policy – Wrexham Local Development Plan

6.9. The site sits within Wrexham County Borough Council.

6.10. The current Wrexham County Borough Local Development Plan 2013-2028 does not make reference to agricultural occupancy conditions.

6.11. Under the previous Wrexham County Borough Council Unitary Development Plan 1996 – 2011, Policy H6 dealt with Residential Occupancy Conditions.

6.12. Policy H6 stated:

"*Planning applications for the discharge of conditions restricting the occupancy of dwellings to agricultural or forestry key workers will only be permitted where it can be demonstrated to the satisfaction of the local planning authority that:-*

a) the long term key worker housing need has ceased; and

b) bona fide attempts over a period of at least twelve months at a price reflecting the existence of the occupancy condition, bearing in mind general market conditions, have been unsuccessfully made to sell or rent the property to persons eligible under the original condition".

6.13. Paragraph 6.15 goes on to state:

"Changes in the scale and character of agriculture may affect the requirement for dwellings for occupation by agricultural or forestry workers. Such dwellings should not be kept vacant simply by virtue of planning conditions restricting occupancy which have outlived their usefulness. Applications to discharge agricultural or forestry occupancy conditions will be considered realistically in relation to evidence that the long term need for such dwellings is no longer warranted and that unsuccessful attempts have been made over a reasonable period, and at a price reflecting the existence of the occupancy condition, to sell or rent the dwelling."

6.14. An agricultural occupancy condition can be removed where there is evidence of a lack of demand for the property as a dwelling for an agricultural worker in the area.

6.15. This application to remove the condition is clearly in alignment with policy H6. The need to house agricultural workers has ceased. The properties have been let to tenants in breach of the occupation condition for over 20 years. A Lawful Development Certificate could therefore be obtained, making the condition exempt from enforcement. It can be argued where a condition cannot be enforced, it has outlived its usefulness.

TAN6: Planning for Sustainable Rural Communities

6.16. TAN6 provides guidance on rural development and the removal of agricultural occupancy conditions. Where it can be demonstrated that a property is no longer needed for agricultural purposes, the condition may be removed. In this case, the farming business ceased operations and the need for a worker, and more so a worker to live on site is no longer present.

6.17. Section 4.13 deals with occupancy conditions. It states that an occupancy condition will ensure that the dwelling is kept available to meet the needs of other rural enterprises in the locality if it is no longer needed by the original business, avoiding a proliferation of dwellings in the open countryside.

6.18. In this case, there are nearby residential areas in Rossett which could afford accommodation for workers for other local rural enterprises.

6.19. The dwellings are already being occupied in breach of the condition and as such they would not contribute to a 'proliferation of dwellings in the open countryside'. Retaining an occupancy condition on the properties is not necessary or relevant.

7. APPLICATION OF PLANNING POLICY

7.1. Under national planning policy, conditions should be necessary, relevant to planning and to the development permitted, enforceable, precise and

reasonable in all other respects. In the case of the AOC at Manderville and Shandon, it is evidenced that it cannot meet the six requirements outlined to justify a condition. The condition has outlived its usefulness and is no longer necessary.

7.2. For over 20 years Manderville and Shandon have been occupied by persons not employed or last employed in agriculture, breaching the condition. This therefore exceeds the time limits laid down in Section 171b of the Town and Country Planning Act 1990 for the Local Planning Authority to take enforcement action.

7.3. The long-term need for a dwelling on the site has ceased.

7.4. Manderville and Shandon were occupied by rural workers until the dispersal of the pig herd, when the essential need fell away. The removal of the AOC is therefore supported by both national and local planning policy as detailed above.

8. JUSTIFICATION FOR THE REMOVAL OF THE AGRICULTURAL OCCUPANCY CONDITION

8.1. Manderville and Shandon no longer serve any functional purpose as a property for agricultural workers and the retention of the AOC is therefore not justified.

8.2. The removal of the AOC would therefore legalise the current position.

8.3. Planning obligations must need to be necessary, enforceable and reasonable. It is evidenced that the condition on the properties has been in breach for more than 10 years, therefore the usefulness and effectiveness of the original planning condition is now no longer appropriate.

8.4. This breach is immune from enforcement action and could otherwise obtain a Lawful Development Certificate.

9. SUMMARY AND CONCLUSIONS

9.1. This application seeks to remove the agricultural occupancy condition attached to the planning permission for Manderville and Shandon. The Applicant and his family have owned the property since its construction. In this time, the pig farming enterprise that required the dwellings to house agricultural workers has ceased.

9.2. The cessation of the agricultural business and sales of farm land and buildings means there is no likelihood of these dwellings being required for agricultural workers.

9.3. The condition restricting the occupancy of Manderville and Shandon to those last employed in agriculture is no longer suitable or necessary. It has outlived its usefulness. The removal of the agricultural occupancy condition will legalise the current position.

9.4. The application to remove the AOC on Manderville and Shandon has been fully justified, examining this application within the context of national and local planning policy guidance.

9.5. For over 20 years Manderville and Shandon have been occupied by a person not employed or last employed in agriculture, breaching the condition. This therefore exceeds the time limits laid down in Section 171b of the Town and Country Planning Act 1990 for the Local Planning Authority to take enforcement action.

9.6. The appendices contain the original planning permission and copies of tenancy agreements for Manderville and Shandon.

9.7. For the reasons outlined in this supporting statement, it is requested that planning permission is granted to remove the AOC at Manderville and Shandon because it has been demonstrated that the essential need for the dwellings to serve the agricultural enterprise has fallen away.

APPENDIX 1

Planning History Decision Notice

Cert. No. [illegible]/5045

Code No. BUR/5716

LOCAL PLANNING AUTHORITY—DENBIGHSHIRE COUNTY COUNCIL.

WREXHAM RURAL DISTRICT COUNCIL.

To Mr. R.A. Rogers,
per Messrs. Howard Fairbairn and Partners,
27 Newgate Street,
CHESTER.

TOWN AND COUNTRY PLANNING ACTS 1947 to 1968.

TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER 1963 as amended

In pursuance of their powers under the above-mentioned Acts and Orders, the Rural District Council acting on behalf of the local planning authority, hereby permit on the 25th March, 1971.

Erection of one pair of semi-detached dwellings for occupation by farm labourers, installation of septic tank and construction of accesses on land adjoining and forming part of Collynie Farm, Rossett (previously approved under Code No. BUR/5716).

in accordance with the particulars and plans submitted with your application dated 5th February, 1971.

subject to due compliance with the byelaws and general statutory provisions in force in the district and with the condition/s specified hereunder :—

1. The development hereby permitted shall be commenced within five (5) years from the date of this permission.

2. Occupation of the dwelling shall be limited to persons employed or last employed locally in agriculture as defined in Section 221 of the Town and Country Planning Act, 1962 or in forestry and the dependants of such persons.

The reason/s for the Council's decision to grant permission for the development, subject to compliance with the condition/s hereinbefore specified ~~is~~/are :—

Condition 1: In order to comply with the Town and Country Planning Act, 1968.

Condition 2: In the interest of agriculture.

Dated this 26th day of March, 19 71.

Clerk of the Wrexham Rural District Council.

Imperial Buildings,
Regent Street,
WREXHAM.

LY/MP/RR.

A

(SEE OVER)

NOTE:

1. If the applicant is aggrieved by the decision of the Rural District Council to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for Wales in accordance with Section 23 of the Town and Country Planning Act, 1962, within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Welsh Office, Summit House, Windsor Place, Cardiff.) The Secretary of State has 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 Rural District Council, 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. (The statutory requirements include section 6 of the Control of Office and Industrial Development Act, 1965 and section 23 of the Industrial Development Act, 1966.)

2. If permission to develop land is refused or granted subject to conditions, whether by the Rural District Council or by the Secretary of State for Wales 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 Rural District Council a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Part VIII of the Town and Country Planning Act, 1962 (as amended by the Town and Country Planning Act, 1968).

3. In certain circumstances, a claim may be made against the Rural District Council for compensation, where permission is refused or 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 123 of the Town and Country Planning Act, 1962.

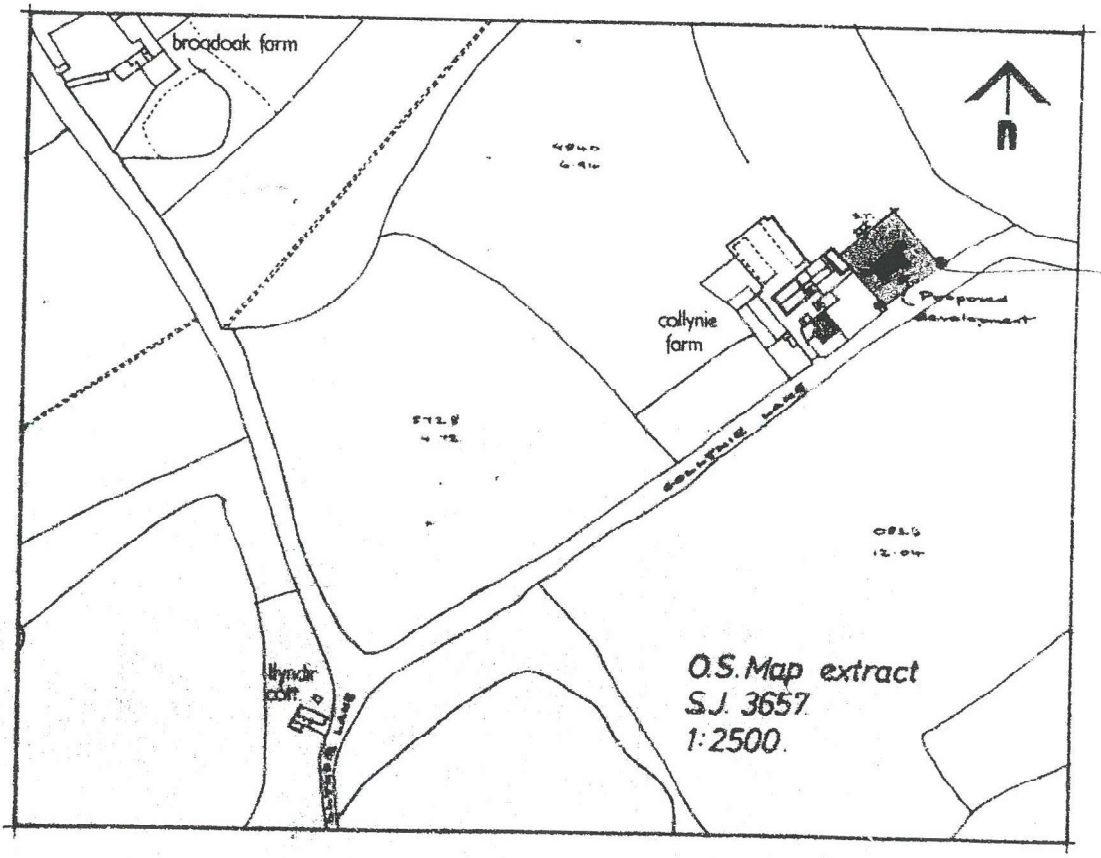
4. This permission relates to planning control only and does not cover any other statutory consent which must also be obtained from the appropriate authority.

Should the appellant wish the Secretary of State for Wales to appoint a Welsh Speaking Inspector to hear any appeal against the Rural District Council's decision such request should be made to the Welsh Office, when notice of appeal is forwarded to that Office at the address given above.

north west elevation

What are these.

Store Cattlehouse, bin store



location plan

APPENDIX 2

Site Plan

Rostons
LAND & PROPERTY SPECIALISTS

Site Plan

Land App



Produced on Nov 20, 2024.
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CP15449

10 m
Scale 1:500 (at A4)

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