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13.10.2023

Application by _____ for the removal of Condition 3 relating to agricultural occupancy on application ERB 22125 at Fourteen Acres, Old Hall Farm, Erbistock, Wrexham, LL13 0DD.

1. This Section 73 application seeks to remove the agricultural occupancy condition No.3 from the reserved matters consent granted in 1994, for the erection of an agricultural workers dwelling.
2. The application follows the issuing of the 2019 certificate of lawfulness (reference ERB P/2018/1044 – appendix 1), where it was successfully proven that the dwelling referred to above has in fact been occupied without compliance with the planning condition on the reserved matters limiting occupancy to a person solely or mainly employed or last employed, in the locality in agriculture for a period of more than 10 years.
3. The certificate gained immunity against the reserved matters consent ERB 22125, and not the outline consent. However, the outline consent ERB 18802 also had an agricultural occupancy condition attached, which is in effect the primary permission. Details of the permissions are within appendix 2.
4. We therefore recently applied for the condition to be removed on the outline under planning reference ERB P/2023/0256 and this was granted consent on the 11/10/2023 (appendix 3). The decision notice contained a note to the applicant reminding them that the tie still existed on the reserved matters. This

is noted, however we are not sure why it was imposed in 1994, as it didn't relate to the matters reserved and the occupancy was already perfectly controlled via the outline conditions. Nevertheless, some councils historically used to duplicate the condition for completeness.

5. This application therefore seeks to remove the agricultural occupancy condition from the reserved matters. This is more of a 'belt and braces' approach, just to remove an ambiguity regarding the permissions if the dwelling is ever sold, as technically whilst we have a certificate of lawfulness against reserved matters and the condition is removed on the outline, it does still exist on the reserved matters.
6. The certificate of lawfulness provides immunity against the reserved matters condition being enforced, providing the dwelling continues to be occupied in breach of the agricultural restriction which it is. My client is now retired and last worked in engineering therefore is still in breach of the tie.
7. The main issue is whether condition 3 of the reserved matters permission remains necessary, enforceable and reasonable, having regard to the development plan, the need for rural worker dwellings in the local area and other material considerations.
8. We consider that the issuing of the certificate against the reserved matters makes the condition unenforceable, and the fact that its removed from the outline makes it unnecessary. We also consider it was unreasonable to impose in the first place and it cannot be retained given the agricultural tie is removed on the outline consent. We also consider it has no legal standing on the reserved matters and couldn't be enforced.
9. Its usefulness and effectiveness is now no longer appropriate. Therefore, condition 3 of decision ERB 22125 serves no useful purpose for 'Fourteen Acres'. For the above reasons a new unconditional, permission should be issued freeing the tie from the property (reserved matters).

Appendix 1 – Copy of the Certificate of lawfulness

Appendix 2 – Original approvals Outline ERB 18802 and Reserved Matters

ERB22125

Appendix 3 – ERB P/2023/0256