Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/25/0869
2 Hilland Farm Cottages, Hilland Road, Billingshurst, West Sussex, RH14 9HN

DESCRIPTION:
Removal of Condition 3 of previously approved application BL/85/62 (Proposed pair of agricultural cottages) relating to agricultural occupancy.

RELEVANT PLANNING HISTORY:

BL/85/62	Proposed pair of agricultural cottages Comment: Outline (From old Planning History)	Application Permitted on 14.12.1962
DC/17/0701	Occupation of dwelling known as 1 Hilland Farm Cottages in breach of the agricultural occupancy condition attached to planning permission BL/85/62 for a pair of agricultural cottages (Certificate of Lawful Development - Existing)	Application Permitted on 09.06.2017

DESCRIPTION OF THE SITE

Nos.1 and 2 Hilland Farm Cottages are a pair of semi-detached dwellings located just to the north of the newly constructed Hilland Road (northeast section of the Billingshurst by-pass). Immediately to the north lies the recently built Billingshurst Trade Park. The site is within the Built

DESCRIPTION OF THE APPLICATION

This S73 application seeks to remove the agricultural occupancy condition attached to the property under BL/85/62. Condition 3 states:

The occupation of the houses shall be limited to persons employed or last employed, locally in agriculture as defined in Section 119(1) of the Town & Country Planning Act 1947, or in forestry, and the dependents of such persons.

RELEVANT PLANNING POLICIES
The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):
Policy 1 - Strategic Policy: Sustainable Development
Policy 2 - Strategic Policy: Strategic Development
Policy 3 - Strategic Policy: Development Hierarchy
Policy 15 - Strategic Policy: Housing Provision
Policy 20 - Rural Workers Accommodation
Policy 33 - Development Principles
Policy 35 - Strategic Policy: Climate Change
Policy 40 - Sustainable Transport
Policy 41 - Parking

Billingshurst Neighbourhood Plan (201902031):
Policy Bill 1: Billingshurst Built-Up-Area Boundary

Paragraph 33 of the NPPF requires that all development plans complete their reviews no later than 5 years from their adoption. Horsham District Council is currently in the process of reviewing its development plan however at this stage the emerging policies carry only limited weight in decision making. As the HDPF is now over 5 years old, the most important policies for the determination of this application must be considered as to whether they are 'out of date' (NPPF paragraph 11d). This includes, for applications involving the provision of housing, whether the Council can demonstrate a five year supply of deliverable housing sites (NPPF footnote 8).

The Council is currently unable to demonstrate a five year supply of deliverable housing sites, with the supply currently calculated as being 2.9 years. The presumption in favour of development within Paragraph 11d) of the NPPF therefore applies in the consideration of all applications for housing development within the District (unless footnote 7 or Paragraph 14 applies to relevant applications), with Policies 2, 4, 15 and 26 now carrying only moderate weight in decision making.

All other policies within the HDPF as itemised above have been assessed against the NPPF and are considered to be consistent such that they continue to attract significant weight in decision making.

Horsham District Local Plan (2023-40) (Regulation 19):
Strategic Policy 1: Sustainable Development
Strategic Policy 2: Development Hierarchy
Strategic Policy 9: Water Neutrality
Strategic Policy 20: Development Principles
Policy 44: Rural Workers Accommodation

Supplementary Planning Guidance:
Planning Obligations and Affordable Housing SPD (2017)
Community Infrastructure Levy (CIL) Charging Schedule (2017)

Planning Advice Notes:
Facilitating Appropriate Development
Biodiversity and Green Infrastructure

REPRESENTATIONS AND CONSULTATIONS RESPONSES
Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Consultations:

Natural England: (standing advice) Objection
It cannot be concluded that existing abstraction within the Sussex North Water Supply Zone is not having an adverse effect on the integrity of the Arun Valley SAC/SPA/Ramsar sites. Developments within Sussex North must therefore must not add to this impact and one way of achieving this is to demonstrate water neutrality. The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.

To achieve this Natural England is working in partnership with all the relevant authorities to secure water neutrality collectively through a water neutrality strategy. Whilst the strategy is evolving, Natural England advises that decisions on planning applications should await its completion. However, if there are applications which a planning authority deems critical to proceed in the absence of the strategy, then Natural England advises that any application needs to demonstrate water neutrality.

Reading Agricultural: No Objection (Summarised)

This is a planning application under s73 of the Town and Country Planning Act 1990 for the removal of Condition 3 of a previously approved planning application BL/85/62 which approved the erection of a pair of semi-detached rural worker dwellings (Nos 1 and 2 Hilland Cottages). This planning application relates to 2 Hilland Cottages only.

The longstanding principle relevant to residential development in the countryside is that it should be avoided unless special circumstances dictate otherwise. One such circumstance is the essential need for a rural worker to live permanently at or near to their place of work in the countryside.

Where a special need for an agricultural worker or rural worker is demonstrated, it has been and remains the case that the occupancy of the relevant property is restricted to ensure that it is occupied in compliance with the need and is retained as an available property to meet wider compliant needs in the interest of reducing the unnecessary proliferation of residential property in the open countryside.

Prior to the introduction of the NPPF, national policy guidance referred specifically to occupancy conditions and to the appropriate assessment of any continuing demand for agricultural accommodation where the release of such conditions was sought. While the NPPF no longer makes specific reference to this issue, it is axiomatic in the terms of paragraph 84 of the NPPF that, if special circumstances need to be demonstrated in order to allow a dwelling against the general restriction of development in the countryside, the converse must equally be the case, and special circumstances demonstrated for a restricted property to enter the general open market housing stock.

It continues to be the case that appropriate marketing remains a central aspect of the demonstration of the absence of need for the occupation of a dwelling in compliance with the occupancy condition(s). In these circumstances an absence of 'demand' is taken as a proxy for the absence of 'need'. Market testing would only apply were there to be no continuing agricultural functional need for a dwelling on the holding with which it was associated at the time of the granting of planning permission.

Where a restricted property is placed on the market for sale, the accepted practice which has been adopted over many years is that it is valued as an open market property, and then to discount that valuation by 25%-30% to reflect the constraint of the occupancy condition. The normal period of market testing adopted is from 6 to 12 months.

RAC draws the Council's attention to an appeal reference: APP/M2840/W/22/3313880 for the removal of an occupancy condition in North Northamptonshire where the settlement boundary line had been drawn to include the dwelling which was subject to an occupancy condition.

RAC were instructed by the Council to appraise the application using the need on the holding, need in the locality and marketing method. As the dwelling was no longer located in an isolated and open-countryside location, it was considered at the Hearing by the Council, Appellant and Planning Inspectorate that an assessment of the agricultural need was not relevant.

RAC considers that the case at No.2 Hilland Farm Cottages is similar to the above Appeal Hearing and therefore the applicants' application for removal of the occupancy condition is considered compliant with national and local planning policy.

PUBLIC CONSULTATIONS:

Representations:
None Received

Parish Comments:
None Received

Member Comments:
None received

HUMAN RIGHTS AND EQUALITY:
The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING ASSESSMENT

The main considerations material to this application relate to the reason for the agricultural occupancy condition and whether this is still relevant and appropriate.

Condition 3 of BL/85/62 states:

"The occupation of the houses shall be limited to persons employed or last employed, locally in agriculture as defined in Section 119(1) of the Town & Country Planning Act 1947, or in forestry, and the dependents of such persons."

Policy Background

Paragraph 57 of the National Planning Policy Framework (NPPF) notes:

"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."

Policy 20 of the HDPF considers rural workers' accommodation and states that:

"Outside the defined built-up area new housing for rural workers will be supported provided that:
1. there is a functional need for the dwelling and the occupation of the dwelling is to support the established business use.
2. evidence is submitted to demonstrate the viability of the rural business for which the housing is required."

There is no specific policy within the current Local Plan for the removal of occupancy conditions.

Principle of Removing the Condition

The longstanding principle relevant to residential development in the countryside is that it should be avoided unless special circumstances dictate otherwise. One such circumstance is the essential need for a rural worker to live permanently at or near to their place of work in the countryside.

Where a special need for an agricultural worker or rural worker is demonstrated, it has been and remains the case that the occupancy of the relevant property is restricted to ensure that it is occupied in compliance with the need and is retained as an available property to meet wider compliant needs in the interest of reducing the unnecessary proliferation of residential property in the open countryside.

Prior to the introduction of the NPPF, national policy guidance referred specifically to occupancy conditions and to the appropriate assessment of any continuing demand for agricultural accommodation where the release of such conditions was sought. While the NPPF no longer makes specific reference to this issue, it is axiomatic in the terms of paragraph 84 of the NPPF that, if special circumstances need to be demonstrated in order to allow a dwelling against the general restriction of development in the countryside, the converse must equally be the case, and special circumstances demonstrated for a restricted property to enter the general open market housing stock.

It continues to be the case that appropriate marketing remains a central aspect of the demonstration of the absence of need for the occupation of a dwelling in compliance with the occupancy condition(s). In these circumstances an absence of 'demand' is taken as a proxy for the absence of 'need'. Market testing

would only apply were there to be no continuing agricultural functional need for a dwelling on the holding with which it was associated at the time of the granting of planning permission.

Where a restricted property is placed on the market for sale, the accepted practice which has been adopted over many years is that it is valued as an open market property, and then to discount that valuation by 25%-30% to reflect the constraint of the occupancy condition. The normal period of market testing adopted is from 6 to 12 months.

Appeal reference: APP/M2840/W/22/3313880 for the removal of an occupancy condition in North Northamptonshire where the settlement boundary line had been drawn to include the dwelling which was subject to an occupancy condition. RAC were instructed by the Council to appraise the application using the need on the holding, need in the locality and marketing method. As the dwelling was no longer located in an isolated and open-countryside location, it was considered at the Hearing by the Council, Appellant and Planning Inspectorate that an assessment of the agricultural need was not relevant.

No.2 Hilland Farm Cottages is similar to the above Appeal Hearing. The Planning Statement details that the applicants have lived at No.2 Hilland Farm Cottages since 1987 and they have not lived in compliance with Condition 3 during this time. No Certificate of Lawfulness for the breach of occupancy condition has been submitted to the Council and no evidence has been provided with this application.

There is no agricultural land associated with the dwelling. The settlement of Billingshurst has developed over the years since the 1962 approval and the application site is now bordered by residential development to the immediate south and a commercial development to the immediate north. The site is now included within the Built Up Area Boundary of Billingshurst and does not sit within the countryside. It is understood that Mr Keen is a self-employed fencing contractor and Mrs Keen works for a local business in customer services.

It is therefore considered that there is no necessary or reasonable purpose for retaining the condition and the application for removal of the occupancy condition is considered compliant with national and local planning policy.

Water Neutrality:

The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

Natural England advises that plans and projects affecting sites where an existing adverse effect is known will be required to demonstrate, with sufficient certainty, that they will not contribute further to an existing adverse effect. The received advice note advises that the matter of water neutrality should be addressed in assessments to agree and ensure that water use is offset for all new developments within the Sussex North Water Supply Zone.

There is no clear or compelling evidence to suggest the removal of the condition would result in a more intensive occupation of the dwelling necessitating an increased consumption of water that would result in a significant impact on the Arun Valley SAC, SPA and Ramsar sites, either alone or in combination with other plans and projects. The grant of planning permission would not therefore adversely affect the integrity of these sites or otherwise conflict with policy 31 of the HDPF, NPPF paragraph 194 and the Council's obligations under the Conservation of Habitats and Species Regulations 2017.

Recommendation: Application Permitted

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/25/0869
Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan		NONE	26.05.2025
Supporting Statement	Planning	NONE	26.05.2025

DELEGATED

Case Officer sign/initial Kate Turner Date: 17/7/25

Authorising Officer sign/initial RHERMITAGE Date: 21.07.2025