

Application No: 06/2548P

Location:

**BEXTON LEA PAVEMENT LANE MOBBERLEY KNUTSFORD
WA167EG**

Proposal:

**REMOVAL OF AGRICULTURAL OCCUPANCY CONDITION
ATTACHED TO PLANNING PERMISSION 8430PB
(RESUBMISSION OF 06/2013P)**

For

MRS B BATES

Registered

11-Oct-2006

Policy Item

Yes

Grid Reference

377707 379380

Date Report Prepared: 12 February 2010

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES

- Whether the proposal to remove the agricultural occupancy condition meets the requirements of Local Plan policy DC25

REASON FOR REPORT

This application was originally determined by Macclesfield Borough Council's Planning Sub Committee in November 2006 where it was resolved to approve the application subject to the prior completion of a S106 legal agreement. The S106 agreement has not been signed and there has subsequently been a change of ownership. The current owners are unwilling to enter into a legal agreement and therefore the application is before the Northern Committee for further consideration.

DESCRIPTION OF SITE AND CONTEXT

Bexton Lea is a detached dwelling located in the Green Belt to the north of Pavement Lane. It was built following the granting of consent in 1977 (5/8430P) as a second agricultural dwelling to Pavement Lane Farm which is

also located on Pavement Lane to the south east of Bexton Lea. Pavement Lane farmhouse is a Grade II Listed building and a number of outbuildings associated with the farmhouse are curtilage listed buildings.

DETAILS OF PROPOSAL

Consent is sought for the removal of an agricultural occupancy condition attached to 5/8430PB.

RELEVANT HISTORY

08/2023P

Discharge of legal agreement attached to application 8430PB
Pavement Lane Farm, Pavement Lane, Mobberley
Not yet determined

08/1906P

Alterations & extensions to farmhouse & outbuildings including change of use of outbuildings to 4 no dwellings (Listed Building Consent)
Pavement Lane Farm, Pavement Lane, Mobberley, Knutsford, Cheshire, WA16 7EG - Approved 29.01.09

08/1905P

Alterations & extensions to farmhouse & outbuildings including change of use of outbuildings to 4 dwellings (Full Planning)
Pavement Lane Farm, Pavement Lane, Mobberley, Knutsford, Cheshire, WA16 7EG - Approved 29.01.09

06/2013P

Removal of agricultural occupancy condition attached to planning permission 8430PB (Full Planning)
Bexton Lea Pavement Lane Mobberley - refused 04.10.06
APP/C0630/A/06/2030976/N Withdrawn 23.05.07

06/0454P

Removal of agricultural occupancy condition and single storey rear extension to farmhouse & conversion of roofspace to provide additional living accommodation, change of use & alterations to outbuildings to provide garaging & office space (Full Planning)
Pavement Lane Farm Pavement Lane Mobberley Knutsford WA16 7EG - Withdrawn 05.04.06

96/1212P

Removal of agricultural occupancy condition (Full Planning)
Bexton Lee Pavement Lane Mobberley - refused 14.08.96

5/8430PB

Erection of agricultural workers dwelling to be used in association with Pavement Lane Farm (Full Planning) on land adjacent to Sunnyhurst, Lavender Lane, Mobberley - Approved 07.04.77

POLICIES

Regional Spatial Strategy

RDF4 - Green Belts

EM1 - Integrated Enhancement and Protection of the Regions Environmental Assets

Local Plan Policy

DC25 Agricultural dwellings

Other Material Considerations

PPG2: Green Belts

PPS7: Sustainable development in Rural Areas

VIEWS OF THE PARISH / TOWN COUNCIL

Mobberley Parish Council: no comments received.

OTHER REPRESENTATIONS

None received.

APPLICANT'S SUPPORTING INFORMATION

The application is supported by a Supporting Statement, a Valuation Report and an Agricultural Appraisal. In addition to the papers which accompanied the previous application, this proposal includes a letter in which the agent highlights three key issues. These are: -

- One of the objects of the application is to prevent the listed farmhouse from deteriorating further and becoming 'at risk'. It is the applicant's intension to live in the restored farmhouse with her sons and to carry on farming at Pavement Lane Farm. Without removal of the occupancy condition, adequate funding would not be available to restore the farmhouse and if 'Bexton Lea' was disposed of with the condition in force it would deprive the family of their home.
- Given the legal agreement which is in force (which ties Bexton Lea, the farmhouse and all the land together), it could not be marketed nor sold (if marketing was successful). Even if the agreement tying the land together was relaxed then funds raised by its sale would not be adequate to restore the farmhouse.

- The applicant is not able to raise the funds for restoration by any other means. The business as it stands is not profitable. Requiring that Bexton Lea is marketed with the condition in place will exacerbate the financial crisis whilst allowing the farmhouse to deteriorate further and with no guarantee of success.

The Supporting Statement explains that in 1977 planning permission was granted for a second dwelling to serve the farm unit. At the time, an agreement was put in place to control occupation of the original farmhouse (Pavement Lane Farm) and also to require that both dwellings and the whole farming unit should be kept as one hereditament. The new dwelling was built and became known as Bexton Lea. In recent years a combination of factors, including BSE and the death of the farmer, have meant the farm failed to return a profit. Borrowing increased and both dwellings suffered from a lack of investment/maintenance. This was particularly apparent in Pavement Lane Farmhouse which is a Grade II Listed Building. Gradually it became uninhabitable. It is now proposed to discontinue stock rearing at the holding. Consequently, the requirement for on-site accommodation is reduced. Therefore, it is proposed to dispose of one of the houses in order to raise capital to reduce debts and to raise funds for the restoration of the main listed house. The initial intent was to lift the agricultural restriction on the listed house but this has now been changed to lifting the agricultural tie from Bexton Lea. If that were combined with lifting the agreement which ties the holding together, it is considered that sufficient funds could be raised. Three valuation bands are given for Bexton Lea. They are;

- i) Subject to the existing agricultural occupancy condition but free of the existing legal agreement. A value of between £275,000 - £300,000.
- ii) Free of the existing agricultural occupancy condition and also free of the existing legal agreement. A value of between £375,000 - £400,000.
- iii) Free of the existing agricultural occupancy condition, free of the existing legal agreement and with paddock areas adjacent to the dwelling. A value of between £375,000 - £400,000

The Valuation Report looks in detail at the main listed house. It notes that necessary repairs are likely to cost approximately £270,000. Costs are also given for upgrading (£118,000) and improvements to the curtilage buildings (£101,000). Valuations are given for the house as repaired and improved, with and without the existing agricultural tie in place.

The Agricultural Appraisal deals with the demonstrable agricultural need for dwellings on the holding. It notes that the former beef unit became unprofitable and, following the death of the farmer, it is proposed to move into hay and silage production. A number of the existing buildings are therefore not needed. It is considered that the unit would fail both the functional and financial tests were an application submitted for a dwelling. It is further considered that the unit could operate without a dwelling nearby especially

given that no stock is to be housed there. A situation where a 2nd dwelling might be needed cannot be foreseen.

Background papers are available for Members' inspection.

OFFICER APPRAISAL

Principle of Development

The principle of removing agricultural occupancy restrictions from dwellings can be acceptable provided that it is demonstrated that the agricultural dwelling is no longer required, either by the holding or by other agricultural workers employed locally.

Local Plan policy DC25 states that planning applications for the discharge of a condition attached to a planning permission issued, restricting the occupancy of the dwelling permitted to a person employed in agriculture, forestry or other rural enterprise, will be granted only when the Borough Council is satisfied that:

- 1 The long term need for a dwelling on the site has ceased and there is no evidence of need for the housing of persons employed or last employed in the locality in these categories.
- 2 Bona fide attempts have been made to dispose of the dwelling to persons who could occupy it in accord with the attached condition.

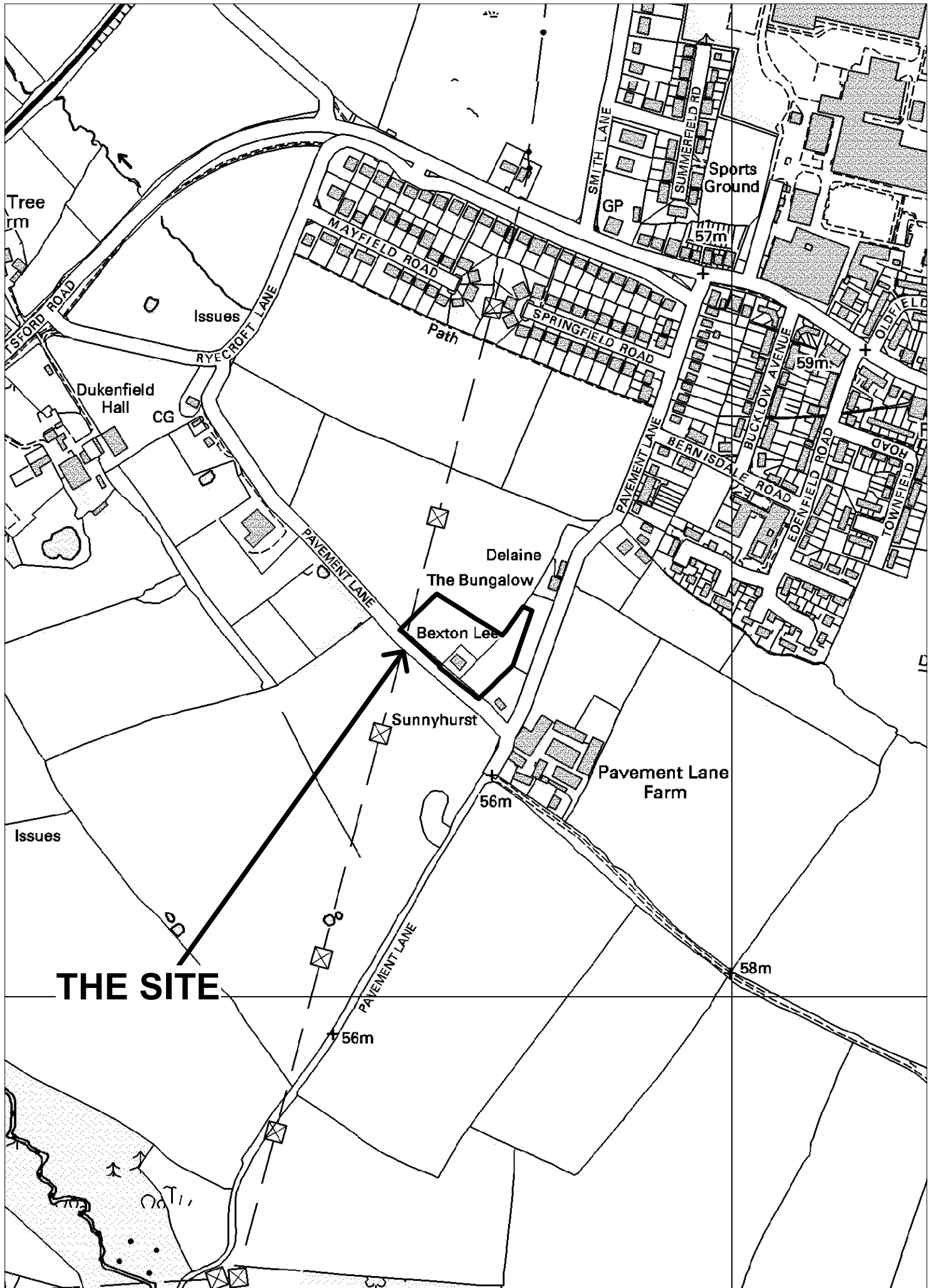
In this case, when the application was considered by Macclesfield Borough Council in 2006, it was accepted that based on the information submitted, there was no longer a need for two dwellings on the holding. However, no marketing exercise was undertaken to dispose of the dwelling as is required by Policy DC25. This was because of the urgency of the need for funding to be released to be invested in the listed farmhouse to prevent its further decline. At that time, even if Bexton Lea were to be sold with the agricultural tie, it was demonstrated that insufficient funds would be released to fund the restoration of the farmhouse whilst maintaining the viability of the agricultural business. Additionally, the requirement for a marketing exercise to be undertaken would be further time for the listed farmhouse to deteriorate.

Therefore based on the specific set of circumstances that existed at the time, Committee members resolved to approve the application subject to the prior completion of a S106 legal agreement to put in place a mechanism to ensure that funds from the sale of Bexton Lea should be used to restore the listed farmhouse. However, the S106 agreement was never signed and there has subsequently been a change in ownership. The current owners are unwilling to enter into a legal agreement as was required by the Council. This is largely due to the fact that the current owners now wish to retain the agricultural occupancy restriction on Bexton Lea and remove it from the listed farmhouse. This proposal is the subject of a separate application that is currently being considered by officers (08/2023P).

In the absence of a legal agreement being put in place to ensure that the funds from the sale of Bexton Lea on the open market are used to fund the renovation of the listed farmhouse, it is considered that the application should be refused as being contrary to Policy DC25. This is due to the fact that the applicant has failed to demonstrate that there is no evidence of need for the housing of persons employed or last employed in the locality in agriculture or forestry or that bona fide attempts have been made to dispose of the dwelling to persons who could occupy it in accordance with the agricultural occupancy condition.

CONCLUSIONS AND REASON FOR THE DECISION

Members of Macclesfield Borough Council's Planning Sub Committee previously resolved to approve the application subject to a S106 legal agreement which has not been signed and is not now capable of being signed given that the applicant is no longer the owner. In the absence of this and any other material considerations, the application is contrary to Local Plan policy DC25 and should therefore, be refused.



THE SITE

06/2548P - BEXTON LEA PAVEMENT LANE MOBBERLEY KNUTSFORD

NGR: 377 710 - 379 380

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Scale 1:5000



THIS REPORT IS A BACKGROUND PAPER TO APPLICATION 06/2548P

DATE REPORT PREPARED

2 November 2006

POLICIES

The site lies within the Green Belt and the development has implications for a building 'listed' for its architectural and historic interest. Accordingly, policies BE15, GC2, DC2, DC3 and DC25 of the Macclesfield Borough Local Plan and policies R1, GEN2 and GEN3 of the Cheshire 2016 Structure Plan Alteration apply.

RELEVANT PREVIOUS APPLICATIONS

- 5/8430p – Agricultural Workers Dwelling
Approved April 1977
- 96/1212p – Removal Of Agricultural Occupancy Condition
Refused 14-August-1996
- 06/0453p – Single Storey Rear Extension to Farmhouse & Conversion of
Roofspace to Provide Additional Living Accommodation.
Change of Use & Alterations to Outbuildings to Provide
Garaging & Office Space (LBC)
Withdrawn 05-April-2006
- 06/0454p – Removal of Agricultural Occupancy Condition and Single Storey
Rear Extension to Farmhouse & Conversion of Roofspace to
Provide Additional Living Accommodation, Change of Use &
Alterations to Outbuildings to Provide Garaging & Office Space
(Full Planning)
Withdrawn 05-April-2006
- 06/1248p – Single Storey Rear Extension To Farmhouse With Conversion
Of Roofspace To Provide Additional Living Accommodation,
Change Of Use & Alterations To Outbuildings To Provide
Garaging & Office Space.
Approved With Conditions 02-August- 2006
- 06/1249p – Single Storey Rear Extension To Farmhouse & Conversion Of
Roofspace To Provide Additional Living Accommodation.
Change Of Use & Alterations To Outbuildings To Provide
Garaging & Office Space (LBC)
Approved With Conditions 12-July-2006
- 06/2013p – Removal Of Agricultural Occupancy Condition Attached To
Planning Permission 5/8430
Refused 04-October-2006

CONSULTATIONS

Mobberley Parish Council – No response to date.

PUBLICITY

The application has been publicised with;

- letter(s) to affected neighbours,
- site notice,
- press notice.

REPRESENTATIONS

The last date for comment was 15 Nov 2006. To date no comments have been received.

APPLICANTS SUBMISSION

The application is supported by a Supporting Statement, a Valuation Report and an Agricultural Appraisal. In addition to the papers which accompanied the previous application, this proposal includes a letter in which the agent highlights three key issues. These are;

- One of the objects of the application is to prevent the listed farmhouse from deteriorating further and becoming 'at risk'. It is the applicant's intension to live in the restored farmhouse with her sons and to carry on farming at Pavement Lane Farm. Without removal of the occupancy condition, adequate funding would not be available to restore the farmhouse and if 'Bexton Lea' was disposed of with the condition in force it would deprive the family of their home.
- Given the legal agreement which is in force (which ties Bexton Lea, the farmhouse and all the land together), it could not be marketed nor sold (if marketing was successful). Even if the agreement tying the land together was relaxed then funds raised by its sale would not be adequate to restore the farmhouse.
- The applicant is not able to raise the funds for restoration by any other means. The business as it stands is not profitable. Requiring that Bexton Lea is marketed with the condition in place will exacerbate the financial crisis whilst allowing the farmhouse to deteriorate further and with no guarantee of success.

The Supporting Statement explains that in 1977 planning permission was granted for a second dwelling to serve the farm unit. At the time, an agreement was put in place to control occupation of the original farmhouse (Pavement Lane Farm) and also to require that both dwellings and the whole farming unit should be kept as one hereditament. The new dwelling was built and became known as Bexton Lea. In recent years a combination of factors,

including BSE and the death of the farmer, have meant the farm failed to return a profit. Borrowing increased and both dwellings suffered from a lack of investment/maintenance. This was particularly apparent in Pavement Lane Farmhouse which is a Grade II Listed Building. Gradually it became uninhabitable. It is now proposed to discontinue stock rearing at the holding. Consequently, the requirement for on-site accommodation is reduced. Therefore, it is proposed to dispose of one of the houses in order to raise capital to reduce debts and to raise funds for the restoration of the main listed house. The initial intent was to lift the agricultural restriction on the listed house but this has now been changed to lifting the agricultural tie from Bexton Lea. If that were combined with lifting the agreement which ties the holding together, it is considered that sufficient funds could be raised. Three valuation bands are given for Bexton Lea. They are;

- iv) Subject to the existing agricultural occupancy condition but free of the existing legal agreement. A value of between £275,000 - £300,000.
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The Agricultural Appraisal deals with the demonstrable agricultural need for dwellings on the holding. It notes that the former beef unit became unprofitable and, following the death of the farmer, it is proposed to move into hay and silage production. A number of the existing buildings are therefore not needed. It is considered that the unit would fail both the functional and financial tests were an application submitted for a dwelling. It is further considered that the unit could operate without a dwelling nearby especially given that no stock is to be housed there. A situation where a 2nd dwelling might be needed cannot be foreseen.

Background papers are available for Members' inspection.

KEY ISSUES

This application follows consideration and refusal of a similar proposal in October this year. That application (ref 06/2013p) was refused due the application's failure to satisfy all the relevant tests of Local Plan policy DC25 together with the advice of PPS7. Prior to the lifting of an Agricultural Occupancy condition, these normally require amongst other things that it

should be demonstrated that there is no demand in the area for the dwelling with the condition in place. The agents have now submitted additional information which, they feel, adds weight to their contention that the condition should be lifted without them having to undertake such a marketing campaign. Their submissions are summarised above.

The application is closely linked to the two previous applications affecting this farm holding (refs 06/1248p and 06/1249p). These applications were successful and planning permission and listed building consent have both now been granted for the works of restoration to the main farm house together with conversion and change of use to offices etc of the traditional buildings to the rear of the main house. As it was originally submitted, planning application ref 06/1248p proposed relaxing the agricultural restriction (imposed by a legal agreement in 1977) on the main farm house. However, the application was modified prior to its determination by removal of this element. The current application re-visits this issue although, as described below, the details of the proposal have been changed.

Specifically, this application relates to the dwelling known as Bexton Lea. This was built under a planning permission granted in 1977 as a second dwelling to serve the holding. At the time of the approval, a legal agreement was put in place imposing an agricultural tie on the main (listed) house as well as tying the whole unit (land and buildings) together. Unlike the previous application, this proposal seeks to lift the occupancy and disposal ties on Bexton Lea allowing its sale on the open housing market. It is also proposed to lift the tie restricting sale of any of the holding's land. To achieve this it is proposed to enter into a new legal agreement (under Section 106 of the T+CP Act 1990) to impose an agricultural condition on the occupation of the main (listed) farm house. Thus, if the application currently before the Committee was approved the consequence would be to;

- Permit Bexton Lea's unencumbered occupation and sale,
- Permit sale of buildings and land forming the original holding and
- Require occupation of Pavement Lane Farm by someone employed in agriculture.

This is an unusual application which raises a number of competing issues. These include the continuing justification (or not) for two dwellings to be tied to this unit and that if only one is deemed necessary, which that should be; improvements to the listed building and the impact of the development on housing supply in the Borough. These need to be carefully balanced and are dealt with in turn below.

RELEVANT PLANNING POLICIES

Agricultural Justification

Local Plan policy DC25 imposes tests in relation to the discharge of agricultural occupancy conditions from existing planning permissions. It generally follows the advice of PPS7 and requires that;

- i. The long term need for the dwelling on the site has ceased and there is no evidence of alternative need in the locality, and;
- ii. Bona fide attempts have been made to dispose of the dwelling with the condition in place.

The information submitted to support this application (and its predecessor) comes to the view that two dwellings are no longer required on the holding. Indeed, the Agricultural Appraisal suggests that even one might be excessive. This view is based on the holding's previous and proposed stocking level, the amount of land available and the business's profitability.

During consideration of the previous application, it was accepted that this holding is not particularly large and is comprised of relatively poor grade land. Given its recent stock levels, it is difficult to envisage how justification for two tied dwellings could be made. This view is supported by the farm's recent accounts which would barely justify one tied dwelling, let alone two. In subsequent discussions with the owner, it is clear that there are no obvious alternatives which might turn the holding's prospects around. On this basis it is therefore accepted that there is currently no demonstrable need for two dwellings on this holding.

Under the terms of the relevant policy, it is therefore necessary to consider whether the demand might exist locally for an agriculturally tied dwelling and whether measures which have been taken to test this demand are adequate. As explained above, the agents acting for the owners have declined to undertake either a local or more widespread marketing exercise. Their reasons relate to the urgency of funding improvements to the listed farm house and deficiencies with alternative arrangements. They have been discussed with officers. These issues are dealt with more fully below.

Enabling Development

The restoration and future maintenance of the listed house is a material consideration to this application. Funds from sale of Bexton Lea and, possibly, other land which could be sold separately from the holding, could be used towards restoration of the main house.

During consideration of the previous application Members visited the main house. This has suffered from a serious lack of investment for a number of years. Whilst not on the 'at risk' register it seems likely that it is only a matter of time before the building falls into that category. Further, given the business's current level of indebtedness and limited prospects for fund

raising, it seems unlikely that the decline will be halted without pro-active intervention.

This application offers the prospect of raising capital to re-invest in the main house and in that respect it is to be welcomed. However, the application deviates from what should be the normal sequence of events. The agents have now explained that Bexton Lea has not been marketed with the occupancy condition in place for three reasons. These are;

- i. its reduced market value (usually accepted as being a 1/3 reduction on market value) being insufficient to fund investment in the main house given the company's debts,
- ii. that the length of time to properly test the market would exacerbate the building's decline with no guarantee of success in any event, and
- iii. sale of Bexton Lea with the condition in place would deny the applicants their home as their only alternative is the listed farmhouse which would remain uninhabitable.

These factors have been carefully considered. They are all relevant. It is accepted that the circumstances in this case are unusual. For that reason it is unlikely that any 'on balance' decision would not set an uncomfortable precedent. Procrastination over testing the market for demand for Bexton Lea as it stands would, it seems, serve little purpose. Specifically, insufficient funds would be raised to cover the costs of restoration whilst maintaining the business's viability. Also, there is no guarantee that a buyer could be found. Given that the marketing process would take up to 12 months, this would be further time for the listed house to deteriorate.

In the circumstances it is considered that the desirability of promptly halting the listed building's decline should outweigh the normal requirements of policy DC25.

Housing Supply

Agricultural dwellings are defined as one of the exceptions to the Council's restrictive housing policy. It follows, therefore, that removal of an agricultural tie (thereby making the dwelling available on the open market) would add to the housing over-supply which the restrictive policy seeks to limit. In this respect the development would be contrary to the restrictive housing policy.

However, this consideration is capable of being outweighed by other material factors. In this case, and as explained above, it is considered that the desirability of promptly restoring the main listed house should take precedence over other issues. By the same token, it is considered that the needs of the listed building should outweigh policy concerns in relation to housing over-supply. In any event, the circumstances of this case are unusual and not capable of repeated repetition elsewhere.

OTHER RELEVANT INFORMATION

In conclusion, this proposal has undergone significant change since its first consideration by the Council. The scheme now proposed would see a relatively modern and remote house disposed of in favour of maintaining the listed building with the group of farm buildings. An agricultural occupancy condition would remain on the main house whilst the land holding would be capable of disposal (as are the vast majority of other holdings in the Borough).

Further information has now been submitted to support the merits of relaxing the agricultural occupancy condition and the legal agreement. It is considered that the scheme's benefits outweigh its disbenefits. On that basis it is recommended that planning permission should be granted. The submitted scheme would see the restoration of the listed house and its maintenance as an agricultural dwelling in the area. Whilst it would be possible for its land to be disposed of separately, it would be unreasonable not to accede to that part of this proposal as there is no longer policy backing to control land disposal in this way.

Any grant of planning permission should be on the basis of a legal agreement to impose an agricultural occupancy condition on the remaining dwelling (Pavement Lane Farmhouse) and to put in place a mechanism to ensure that funds from the sale of Bexton Lea should be used for the farm house's restoration.

Application for **Full Planning**

RECOMMENDATION : Refuse for the following reasons

1. R01LP - Contrary to Local Plan policies