

| | |
|--------------------------------------|--|
| Planning Reference No: | 10/0695N |
| Application Address: | The Shielings, Back Lane, Walgherton, Nantwich, CW5 7NQ |
| Proposal: | Removal of Condition 8 on application P96/0228 relating to occupancy |
| Applicant: | Mr M Clarke |
| Application Type: | Full Planning |
| Grid Reference: | 370188 348878 |
| Ward: | Doddington |
| Earliest Determination Date: | 13 th April 2010 |
| Expiry Dated: | 4 th May 2010 |
| Date of Officer's Site Visit: | 5 th May 2010 |
| Date Report Prepared: | 14 th April 2010 |
| Constraints: | Open Countryside |

SUMMARY RECOMMENDATION

APPROVE

MAIN ISSUES

Impact of the development on:-

- The amenities of the occupiers of The Shielings

1. REASON FOR REFERRAL

This application was to be dealt with under the Council's delegation scheme. However Cllr Walker has requested it is referred to Committee to allow members to assess the precedent implications.

2. DESCRIPTION OF SITE AND CONTEXT

The application site is located on the eastern side of Back Lane within the Open Countryside. The Shielings is a modern detached dwelling which has a red brick finish with a grey tiled pitched slate roof. A mature 3 metre high hedgerow screens the property from the road with the vehicular access taken to the south of the property. To the rear of the site is a former quarry which is currently undergoing restoration works.

3. DETAILS OF PROPOSAL

This proposal relates to the removal of condition 8 attached to planning application P96/0228. This permission relates to a replacement dwelling and the condition and its reason are as follows;

The dwelling shall only be occupied by Mr J Barrie and his dependents or, in the event of the disposal of his interests in the Hough Mill Quarry, another owner/operator of the quarry, during the duration of the life, and restoration period of the quarrying operations.

Reason :- The dwelling does not enjoy an acceptable level of residential amenity because of its proximity to the quarry operation occupancy would only be tolerable to a person with the ultimate control over the operation of the adjoining land use.

4. RELEVANT HISTORY

10/1149W – Application to vary condition 3 of planning permission 7/P05/0217 to extend the time period to complete restoration works – No decision made

P05/0217 - County Consultation for Restoration of Hough Mill Quarry – No objection 5th July 2005

P96/0471 - Relaxation of condition/replacement dwelling (county matter) – Approved 13th August 1996

P96/0228 - Demolition of existing dwelling and erection of replacement dwelling – Approved 30th May 1996

P95/0823 - Demolition of existing dwelling and erection of replacement dwelling – Refused 14th December 1995

7/P92/0153 – Extraction of approximately 1.44 million tonnes of sand and gravel, erection of processing plant, improvement of existing access, provision of weighbridge and ancillary buildings, infilling the site with inert waste, with restoration to agriculture and a nature conservation lake – Approved 26th May 1993

7/09110 - Alterations and extension – Approved 20th July 1982

7/05642 – Garage – Approved 9th August 1979

5. POLICIES

Local Plan policy

NE.2 – Open Countryside

BE.1 – Amenity

6. CONSULTATIONS (External to Planning)

Highways: No objections

Environmental Health: The quarrying activities have now ceased and landscaping is still in the process of being undertaken but will be completed in the foreseeable future.

Therefore this Division has no objections to the removal of condition 8 relating to the occupancy of the property.

7. VIEWS OF THE PARRISH COUNCIL

No comments received at the time of writing this report

8. OTHER REPRESENTATIONS

No representations received at the time of writing this report

9. APPLICANT'S SUPPORTING INFORMATION

Supporting Statement

- The dwelling is no longer associated with, required by, or part of the quarry which was the enterprise which generated the need for its construction. There is therefore no realistic prospect for any occupier to comply with the occupancy condition.

- When the permission was granted in 1996 this restriction was completely justified, however over the last 14 years all quarrying activity has ceased, the quarry has been filled and the land adjoining the house restored and landscaped. The property now sits on the edge of a field, sloping down to a lake. The dwelling now enjoys a high level of amenity so the reason underpinning the condition has been rendered moot
- The applicant has entered into an agreement with Anthony Construction Ltd, the current owners of the ex-quarry to purchase a sizeable piece of the restored land adjoining the house and gardens, thus ensuring that control of the use of land in the immediate proximity of the dwelling come under the control of the homeowner
- The land fill of the former quarry passed into the hands of the current owners in 2002. For the past 8 years Anthony Construction has operated the ex-quarry as a land-fill site under licence from Cheshire County Council. The land-fill was inert (non-vegetable) matter and this was strictly monitored and controlled by the Council. The land-fill operations and the restoration of the land has now been completed in all areas close to the house.

10. OFFICER APPRAISAL

Principal of Development

Planning permission was granted for a replacement dwelling on this site under planning application P96/0228. Due to the dwellings proximity to Hough Mill Quarry a condition was attached which restricted the occupancy of the dwelling and it is this condition which it is requested to be removed.

The use of the condition to restrict the occupancy of the replacement dwelling was similar to a restrictive condition which was attached to the quarry itself under application 7/P92/0153. This condition attached to the quarry was then varied under application 7/P96/0471 which gave it the exact same wording as the condition attached to the replacement dwelling (it should also be noted that a separate planning application will be required to remove the condition attached to planning application 7/P96/0471).

The site is located within the open countryside and the reason for this condition relates to amenity reasons only. As a result it is necessary to consider the application in relation to policy BE.1 (Amenity).

Amenity

The Shielings is in close proximity to Hough Mill Quarry and there is a current planning application (10/1149W) to extend the restoration period of the quarry for a further 5 years.

The part of the quarry which is located directly to the east of the Shielings is at an advanced stage in the restoration process. At the time of the officer's site visit there were mounds of top soil waiting to be spread on the land before the landscape planting begins, it is understood that the spreading of the top soil is imminent. The only backfilling that is required is over 400 metres away at a lower level with significant screening between this area and the dwelling. It is therefore considered that due to the advanced stage of the restoration works adjacent to the property that these works would not have such a significant impact upon the residential amenities of any future occupiers of the property which would warrant the refusal of this planning application. This view is also supported by Environmental Health Department who have raised no objection to the removal of this condition.

Other Issues

Concern has been raised over the precedent issues in allowing this application. It is not considered that this application is comparable to the removal of an agricultural occupancy condition as the reasons for attaching the occupancy conditions are different. It should also be noted that the removal of an agricultural condition is subject to Policy RES.6 (Agricultural and Forestry Occupancy Conditions) and each application is to be determined on its own merits.

10. CONCLUSIONS

The application property is located adjacent to Hough Mill Quarry and the restoration works at the quarry are at an advanced stage. It is not considered that the removal of this condition would have a detrimental impact upon the amenities of the future occupiers of the Shielings and as a result the application is recommended for approval.

12. RECOMMENDATIONS

APPROVE

Location plan

