
2016/0215

Applicant: Mr Richard Emmott, C/o Agent M A Clynych

Description: Erection of detached agricultural workers dwelling (Resubmission)

Site Address: Land at Gunthwaite Lane, Gunthwaite, Penistone, Sheffield, S36 7GE

Additional Information relating to Agricultural Occupancy Condition

Members will recall this application went before Members of the Board in March this year. The officer recommendation was to approve subject to a number of conditions including the following condition:

“The dwelling hereby approved, shall be occupied by persons solely or mainly or last so employed locally in agriculture as defined in Section 336(1) of the Town and County Planning Act 1990, or in forestry and the dependants (which shall be taken to include a widow or widower) of such persons.”

Members of the Board voted to grant permission for the scheme subject to the above condition being amended to ensure that the applicant’s existing farmhouse also received the same restriction.

After the Planning Board, the agent of the application informed the Officers that, whilst they had no objections to the occupancy restriction for the proposed dwelling, the addition of the restriction of occupation to the existing farmhouse would place a severe financial burden on the applicant. In support of this they have provided the following documents:

- A letter from William Dawson and Son which states that “The dairy industry has experienced 24 months difficult trading conditions and you have been able to survive and prosper through this period with the support of the bank. Adding an agricultural occupancy condition to your current property would significantly reduce its value for bank security purposes and restrict access to funds the business may require to survive in the future”
- An e-mail from Lloyds Bank stating that “If such a ‘tie’ was placed on your farmhouse and you subsequently approached the bank for financial support to assist with the development/expansion of the farming operation, it might be a requirement that the farm house be given as ‘additional’ security to support the proposition. In this instance the agricultural tie would affect the amount the Bank could advance as the Bank would apply a 70% Lending Value against a property when professionally valued”
- Advice from Anne Williams, Planning Law Barrister which states the following :
“Officers clearly recognised on page 12 of the Report that usually an agricultural occupancy condition is imposed on the ‘original’ building but that in the view of the split ownership and listed status, it appears that the Report properly assessed the prospective condition in accordance with the tests set out in the Planning practice Guidance and concluded it would be unreasonable to impose such a condition on the original building. The view has been more recently supported by the letter from Walter Dawson.
In my view, the Report properly applies those tests. Should the Board decide to impose
such a condition which in the particular circumstances is likely to be considered unreasonable on appeal against an application made under Section 73 of the Act to

remove the condition, the Applicant would have good prospects of making a successful application for a costs award against the Board.”

The agent has also provided information additional information to state that the imposition of the condition would impact the family not connected with the application but who own and live in part of the property due to its ‘split ownership’, and also the ability to upkeep the listed building. These aspects were referred to previously in the original Officer report. In view of the above, the decision has not been released in order to allow Members the opportunity to take on Board the additional information provided.

In the view of Officers, the condition recommended by Members is a lawful condition. The main issue is therefore whether it meets the 6 tests of being necessary; relevant to planning and to the development to be permitted; enforceable; precise and; reasonable in all other respects. In this particular case the area where the above information directly relates to is the test of ‘reasonable in all other respects’. The NPPG guidance states that key question in assessing this is:

“Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness”

The above information has been provided by the applicant in their argument that the condition is unreasonable. However, it should be noted in the planning balance that there is a statutory presumption in favour of the development plan and the relevant development plan policy, saved UDP Policy GS8, states the following:

“Where permission is granted, on the basis of agricultural need, for an additional dwelling on a farm unit, then an occupancy condition will also be imposed on any existing dwellings on the unit which is under the control of the applicant, and is needed at the time of the application to be used in connection with the farm.”

The imposition of the condition would therefore be in line with the relevant policy. The question being asked to Members is whether they believe the additional personal information and circumstances outlined by the agent above outweigh the policy presumption that the condition should be imposed. The options open to Members are therefore the following:

Options

A: To approve the application with the condition imposed on the farmhouse as originally proposed. The reason for this condition can then be clarified to confirm that the circumstances given have been fully considered but do not outweigh the policy presumption.

B: To approve the application without the condition imposed on the farmhouse. The justification for this would be that the additional information provided is considered to amount to unjustifiable and disproportionate burdens on the applicant.

For Members benefit, the report that went previously to Committee is given in full below:

Update

This application was deferred from the November Planning Board in order to allow Members to visit the site. The report has been updated since the November Board to take into account additional information received from the agent.

Introduction

Gunthwaite and Ingbirchworth Parish Council have objected to the application

Site Location and Description

The application site forms part of a large farm holding at Gunthwaite to the northeast of Ingbirchworth and to the northwest of Hoylandswaine. The access is from a right angled bend in the road off Gunthwaite Lane and lies to the east of the railway line.

The existing farm comprises of a number of traditional and more modern farm buildings in a compact area with a rectangular woodland block to the north with is bounded to the east and north by the highway, Gunthwaite Lane.

The site for the proposed agricultural workers dwelling lies in the north-western corner of this woodland block, approximately 70m from the nearest ram building and approximately 150m from the existing farmhouse, in an area which currently has substantial tree cover. A large pond lies to the west of the farm complex.

One of the barns, Gunthwaite Hall barn, is a Grade I listed building, with the farm buildings listed Grade II.

The application states that Mr and Mrs Emmett run the agricultural business as a joint enterprise with their two sons. Mr and Mrs Emmott live in the existing farmhouse, which itself is a listed building. The agent has confirmed that the farmhouse building has a split ownership as another family, unconnected with the farming enterprise, own the other half of the building. With all the land and farm buildings under the applicant's ownership the agricultural enterprise extends to approximately 320 acres. Most of this is owner occupied with 60 acres rented in. The majority of land is down to support the livestock which consists of 160 Jersey dairy cows, 160 followers (young stock in a dairy herd), 60 to 70 beef cattle, 200 wintering lambs, and 20 to 30 in lamb ewes. Approximately 60-70 acres of the land is used to grow crops such as wheat and barley, whilst 30 acres is subject to an English Woodland Grant Scheme.

Since the November Planning Board the applicant has provided additional land registry documents to confirm they are the registered landowner to the site upon which the development is proposed to be placed.

Planning History

2015/0475 – Erection of a new farmhouse - withdrawn

Proposed Development

The application seeks planning permission for the erection of a detached agricultural workers dwelling in the north-eastern corner of the managed woodland area. The dwelling is a single storey property with a floor area of approximately 150 square metres. Access to the site would be gained off an existing access track that links in to Gunthwaite Lane

The applicant has a Forestry Licence which has allowed the clearing of trees to create sufficient space for the dwelling. However, in order to preserve as much of the woodland area as possible the red edge boundary of the application site is tight around the building which allows only a small garden area and the access with space for parking.

The property would be constructed with natural stone walls and stone slates for the roof. Timber would be used for the windows and doors.

As the site is within the Green Belt, and the proposal is for an agricultural workers dwelling, the applicant has provided the following supporting documents:

- Planning Statement
- Heritage Statement
- Details of accounts for 2014 and 2015 for the agricultural enterprise
- An assessment on labour requirements

Policy Context

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The development plan consists of the Core Strategy and saved Unitary Development Plan policies. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

The Council has produced the Publication Consultation Document of the Local Plan. It establishes policies and proposals for the development and use of land up to the year 2033. The document is a material consideration and represents a further stage forward in the progression towards adoption of the Local Plan. As such increasing weight can be given to the policies contained within the document although this is still limited by the need to consider any comments received during the consultation and with the knowledge that the Inspector can require changes to the plan.

UDP Saved Policies

UDP Allocation – Green Belt

GS7 Development within the Green Belt

GS8B states that proposals for agricultural and forestry workers dwellings will be determined in accordance with the following principles:

- a) Agricultural and forestry workers dwellings within rural and green belt areas will only be permitted where essential need, to sustain a demonstrably viable agricultural or forestry enterprise, can be shown.
- b) Permission will not normally be granted for a new agricultural workers dwelling in cases where a farm dwelling has recently been or is separated from the agricultural land.
- c) Where new dwellings are accepted solely on the basis of an agricultural or forestry need, the size of the dwelling should be in proportion with the established functional requirement.
- d) Where new agricultural workers dwellings are permitted in the countryside they shall normally be sited directly adjacent to existing or proposed farm buildings.
- e) Where new dwellings are permitted they should be constructed using materials appropriate to the locality, to safeguard the visual amenities of the countryside.
- f) Where planning permission is granted for an agricultural or forestry workers dwelling, a condition will be imposed restricting the occupancy to a person solely or mainly working, or last working, in the location in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependents
- g) Where permission is granted, on the basis of agricultural need, for an additional dwelling on a farm unit, then an occupancy condition will also be imposed on any existing dwellings

on the unit which is under the control of the applicant, and is needed at the time of the application to be used in connection with the farm.

SD1 Presumption in favour of sustainable development
GD1 General development
D1 Design
T4 New Development and Highway Improvement
Poll1 Pollution Control and Protection
HE1 The Historic Environment

Core Strategy

CSP34 Protection of Green Belt
CSP29 Design
CSP21 Rural Economy
CSP36 Biodiversity and Geodiversity

Publication Version of Local Plan

SD1 Presumption in favour of sustainable development
GD1 General development
D1 Design
T4 New Development and Highway Improvement
Poll1 Pollution Control and Protection
HE1 The Historic Environment

SPDs/SPGs

The following Supplementary Planning Documents are relevant to the proposal:-

‘Designing New Residential Development’ sets out the standards that will apply to the consideration of planning applications for new housing development.

‘Parking’ states that the parking standards for new housing development shall be 1 space for dwellings under 3 bedrooms in size and 2 spaces for 3 bed dwellings and above.

The South Yorkshire Residential Design Guide has been adopted as a best practice guide by the Council and covers issues relating to sustainability, local distinctiveness and quality in design and is underpinned by the principles in the CABI ‘Building for Life’ scheme.

NPPF

The National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

In respect of this application, relevant policies include:

Para 28 – Rural areas

Para 35- Local Planning Authorities should avoid new isolated homes in the countryside unless there are circumstances such as:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside

Para 80,81, and 82 – Green Belts.

Para 58 and 60 – Design Considerations –

Consultations

Highways – No objections subject to conditions

Conservation Officer – Has observed that the general principle and possible harm to the setting of the listed buildings is low.

Drainage – No comments received although no objections were received to the previous application for this site

Pollution Control – No objections

Forestry Officer – Has acknowledged that the applicant has a Forestry Licence to take down the trees and as such has no further comments to make.

Contaminated Land Officer – No objections subject to informative

Historic England – No objections made and recommend that the scheme is determined in accordance with national and local policy guidance

Gunthwaite and Ingbirchworth Parish Council – Objecting on the grounds that a case has not been sufficiently made for the agricultural workers dwelling.

Representations

The application has been advertised by way of a site notice, press notice and by neighbour notification letters. No representations have been received.

Assessment

Principle of Development

The site is within an area designated as Green Belt. The erection of new residential development is usually considered inappropriate within the Green Belt unless very special circumstances exist to justify it. Whilst the NPPF has little to say in respect of agricultural dwellings, paragraph 28 generally supports economic growth in rural area and paragraph 55 states that:

“Local Planning Authorities should avoid new isolated homes in the countryside unless there are circumstances such as:

-The essential need for a rural worker to live permanently at or near their place of work in the countryside”

The NPPF does not offer any detailed guidance on how to interpret these special circumstances or how to evaluate “essential need” so in these circumstances it would be appropriate to utilise the criteria set out in UDP Policy GS8B.

The first part of the criteria under GS8B requires the applicant to show that there is an essential need for the dwelling to sustain a demonstrably viable agricultural enterprise. In this case, as has already been stated, the agriculture enterprise covers a significant area of land (320 acres). It is made up of both livestock and crop farming alongside woodland management. The applicant has submitted an assessment utilising sources such as 'The Agricultural Budgeting and Costing Book' and the Farm Business Survey which was carried out by DEFRA. Using these sources they have calculated the amount of labour hours required to carry out the various duties associated with the agricultural enterprise. Their calculations reveal that the labour requirements are for a permanent workforce of between 3.33 and 5.8 men to be on site. These figures have been compared to another assessment method, utilising the 'John Nix handbook', and, not taking into account the work done in connection with the Woodland management areas or fishing pond, the calculations reveal that the labour requirements are for 3.20 men to be on site. Even if we take the lower of these figures then there is considered to be a justified need for three workers to be on site. A check on properties for sale within the immediate area indicates that there are no available properties at a reasonable price for a farm worker within the immediate locality. These factors therefore provide a level of justification for an additional dwelling at the site.

In terms of whether the agricultural enterprise is viable, the accounts show that profit has been made over the past two years. In addition the agricultural enterprise originally started at the site back in 1936 and the land is registered with the Rural Payments Agency and has an agricultural holding number. As such, and notwithstanding that the NPPF does not state that the enterprise has to be economically viable, the enterprise is considered to be well established.

In terms of the second and third criterion under Policy GS8B, there has been no separation of a farm dwelling from the agricultural land and the applicant has reduced the size of the dwelling from the previous proposal. The footprint of approximately 150 square metres is consistent with the size of other agricultural workers dwellings in the borough and the dwelling being single storey ensures it remains low in scale. The scheme is therefore considered to comply with these criterions.

In terms of the fourth and fifth criterion, the dwelling itself has been sited away from the existing buildings. This would therefore be in conflict with the fourth criterion which expects that the dwellings should be near the farm buildings. However, in this case the buildings within the existing farm complex contain a Grade I and Grade II listed buildings. To place the proposed dwelling closer to these listed buildings would impact detrimentally on the setting of the listed building and would raise objections from the Council's Conservation Officer. In this instance, therefore, it is most appropriate to position the dwelling away from the listed buildings to protect their historical significance. However, the building would still be within reasonable sight and sound of the farm buildings to enable quick access to any emergency situation. The dwelling itself uses natural stone for the walls and has a stone slate roof which is considered in keeping with the rural nature of the surroundings.

In terms of the fourth and fifth criterion it is considered appropriate to restrict the occupancy of the proposed dwelling to an agricultural worker. The existing farmhouse does not have an agricultural occupancy condition on. Given the split ownership and the building being listed it would raise complications in imposing the occupancy condition as well as adding a further restriction to the building. The condition is usually imposed on the original dwelling to avoid it being sold off and an application submitted for another property on the site. However the applicants have lived on site for over 30 years and have a well-established farm that is in profit and their sons are registered in the farm enterprise. It is therefore likely that this will continue and therefore the farmhouse would remain an intrinsic part of the farm enterprise. If the house was ever sold off and a planning application put in then it would be questioned as

to why the farmhouse was sold off and this would significantly impact on any case put forward for the need for a new dwelling.

Given the above, it is considered that the proposal is in substantial compliance with GS8B and meets the test of the NPPF and as such is accepted in principle.

Residential Amenity

The proposed dwelling is remote from the nearest other residential property and so neighbouring amenities would not be detrimentally affected by the proposal. The scheme meets internal space standards for the occupants of the dwelling. There is, however, limited garden area for the property. This is limited to an area to the front of the dwelling and a strip around the house. Whilst not ideal, the area to the front would be private given the lack of other housing around, and would provide some area to sit out in. Furthermore, the restriction of the garden area does enable the limiting of the impact on the green belt and on the woodland area. As such, it is considered sufficient in this instance.

Design / Visual Amenity/Impact on Listed Buildings

The property has been designed as a single storey property to minimise its impact on the locality. It would be surrounded by woodland so would be partially screened from the majority of public views. The materials used are in keeping with the rural surroundings and as such the proposal is not considered to be of significant detriment to visual amenities or the character of the Green Belt.

As stated above the proposal does impact on the setting of Grade I and Grade II listed buildings. This is part of the reason for its position away from these protected buildings. As the dwelling has been sited away from the listed buildings, and has an intervening agricultural building and woodland area, along with the dwelling being single storey, it is considered that the impact on the setting of the historic buildings is minimal. This has been confirmed by the Council's Conservation Officer who has stated the impact would be low.

Highways

The proposal gains access off an existing access track that leads up to Gunthwaite Lane. This has been assessed by the Council's Highways Section who are satisfied that this would be adequate to serve the dwelling. Sufficient parking spaces have been provided and given that the proposal is for a single dwelling it is not considered that it would have a significant impact on the local highway network.

Trees

The applicant has been in contact with the Council's Tree Officer who has acknowledged that they have a Forestry Licence to remove the trees within the area where the dwelling is to be positioned. The area is subject to a Woodland Management Scheme and as such the Licence involves replanting around the site. Given this has been accepted under the Forestry Licence the Council's Tree Officer has no objections to the scheme on as all management of the surrounding trees would be controlled by the Licence.

Conclusion

It is considered that sufficient evidence has been provided to show that there is an essential need for an agricultural workers dwelling at this site to comply with paragraph 55 of the NPPF. This would therefore constitute the special circumstances needed for a dwelling in the Green Belt. In terms of other material considerations it is not considered that the scheme would cause any detriment to highway safety, visual amenities, or residential amenities subject to suitable conditions.

Recommendation

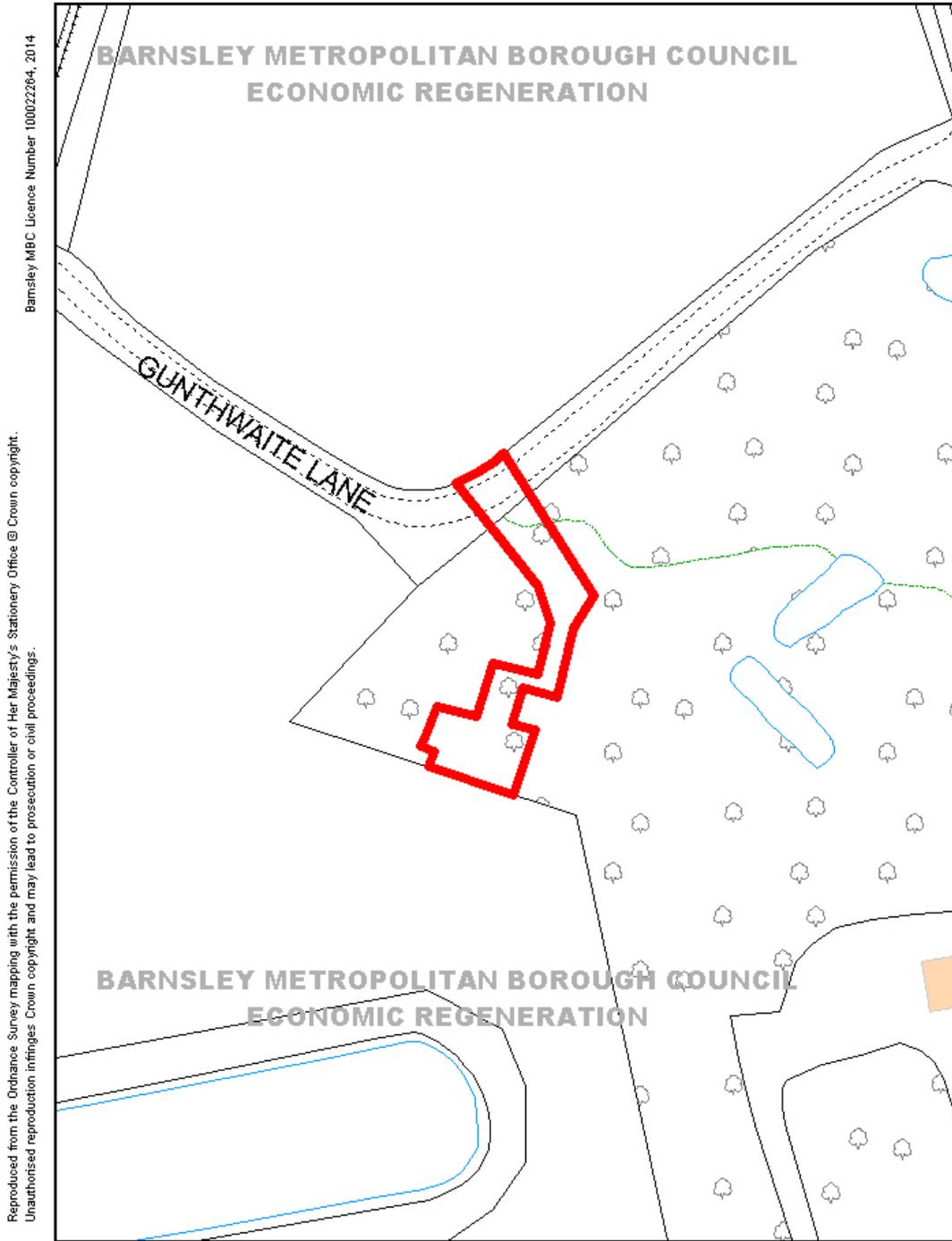
Approve subject to conditions:-

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.
- 2 The development hereby approved shall be carried out strictly in accordance with the plans (Drawing nos A1 and A2) and specifications as approved unless required by any other conditions in this permission.
Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP 29, Design.
- 3 No development shall take place until full details of the proposed external materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: In the interests of the visual amenities of the locality and in accordance with Core Strategy Policy CSP 29, Design.
- 4 No development shall take place until:
 - (a) Full foul and surface water drainage details, including a scheme to reduce maintain greenfield run off rates, and a programme of works for implementation, have been submitted to and approved in writing by the Local Planning Authority;
 - (b) Porosity tests are carried out in accordance with BRE 365, to demonstrate that the subsoil is suitable for soakaways;
 - (c) Calculations based on the results of these porosity tests to prove that adequate land area is available for the construction of the soakaways;Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented. The scheme shall be retained throughout the life of the development.
Reason: To ensure proper drainage of the area in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.

- 5 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position of boundary treatment to be erected. The boundary treatment shall be completed before the dwelling is occupied. Development shall be carried out in accordance with the approved details and shall thereafter be retained.
Reason: In the interests of the visual amenities of the locality and the amenities of occupiers of adjoining property and in accordance with Core Strategy Policy CSP 29, Design.
- 6 The parking/manoeuvring facilities, indicated on the submitted plan, shall be surfaced in a solid bound material (i.e. not loose chippings) and made available for the manoeuvring and parking of motor vehicles prior to the development being brought into use, and shall be retained for that sole purpose at all times.
Reason: To ensure that satisfactory off-street parking/manoeuvring areas are provided, in the interests of highway safety and the free flow of traffic and in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement.
- 7 Development shall not commence until details for a scheme of works for resurfacing of the first 8.0m of the private access abutting the adjacent carriageway on Gunthwaite Lane has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed prior to the development being brought into use and be maintained throughout the duration of the development; in accordance with the approved details.
Reason: To ensure that there is adequate provision for pedestrian and vehicular access to the site in the interests of highway safety in accordance with CSP26.
- 8 The dwelling hereby approved, shall be occupied by persons solely or mainly or last so employed locally in agriculture as defined in Section 336(1) of the Town and County Planning Act 1990, or in forestry and the dependants (which shall be taken to include a widow or widower) of such persons.
Reason: In order to comply with Saved UDP Policy GS8B and Paragraph 55 of the NPPF.
- 9 Construction or remediation work comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 0800 to 1800 Monday to Friday and 0900 to 1400 on Saturdays and at no time on Sundays or Bank Holidays.
Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.

PA reference :-

2016/0215



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