



**Epping Forest
District Council**

Report to Area Plans Sub-Committee West

Date of meeting: 22 September 2010

Subject: Variation of an existing Section 106 Agreement - Converted Barn at Shingle Hall, Epping Upland, Essex.

Officer contact for further information: Nigel Richardson - Ext 4110

Recommendation(s):

- 1. To agree to modify the obligations in the Section 106 Agreement attached to planning permission EPF/0946/91,**
- 2. Delete that part of the obligation in the Agreement which currently requires that:**
 - the development will be used solely in connection with and as ancillary to the use of the application site as a single dwelling,**
 - the development shall not be sold except as a whole together with the entirety of the application site,**
- 3. Replace with the following two covenants that:**
 - only someone employed in the adjacent equine enterprise and/or their dependants will be permitted to occupy the converted barn, and**
 - the converted barn shall not be sold or otherwise alienated except as a whole together with the adjoining stable buildings and yard.**

Background

(Head of Planning and Economic Development). The owner of Shingle Hall requests that the Council modifies an existing Section 106 Agreement signed in 1992 as part of a planning permission for the residential conversion of a barn adjacent Shingle Hall. Under the obligation, the applicant covenanted with the planning authority that the barn conversion would be used solely in connection with and as ancillary to the existing main house on the site and, secondly, it shall not be sold except as a whole together with the entirety of the application site.

A planning obligation can be modified by agreement with the authority and the proposal to modify the obligation is as follows:

- removing the existing landowner covenants and
- adding a new covenant or covenants to tie the occupancy of the converted barn to the adjoining stables on the site and to prevent the converted barn being sold off separately from the stables or vice-versa.

Report Detail

This is a remote site in the countryside within the Metropolitan Green Belt, away from any other residential properties. The application site consists of a house, converted barn and curtilage buildings, including stables, yard as well as horse grazing land. At the time the planning application was granted in 1992, part of the justification put forward for the barn conversion was that the wife of the applicant, Mr Turner, had multiple sclerosis. She is still coping with this with the support and care of her husband and her daughter. It is her daughter and two granddaughters who live in the converted barn pursuant to the 1992 planning permission. However, Mr Turner has now fallen ill and is struggling to support either his wife or himself. When Mr and Mrs Turner pass away, their daughter will inherit Shingle Hall, but paying the resulting inheritance tax bill would require her to either sell the main house or the converted barn or both. She has though lived in the converted barn for 18 years and raised her daughters here as well as establish a horse stud at the site. The converted barn is closely linked to the stud, connected to the eastern end of the barn, with the stable yard to the rear. She therefore does not wish to leave the site, particularly being very closely associated with the horse business adjacent to her home, so the option of selling the whole site is remote. The other two options are expressively excluded by the planning obligation.

The original proposal to convert the barn to residential accommodation was regarded then by the Council as contrary to Green Belt policy, because it would create a new dwelling in the Green Belt, despite it being a conversion. The obligation therefore was considered necessary to protect the Green Belt by ensuring that an additional dwelling was not formed, but that it remained ancillary to the main Shingle Hall dwelling.

The Turner family have adhered to the legal obligation, which has been over a period lasting 18 years. Officer's opinion when first approached to remove it was that the obligation still served a useful purpose in protecting the Green Belt from harm. However, since the obligation was first agreed and entered into, the equine business has begun and developed. Horse keeping is an appropriate Green Belt use that helps to maintain its openness and helps fulfil many of the objectives for the use of land in the Green Belt. To operate the equestrian business effectively, the daughter of Mr and Mrs Turner needs to be on hand to oversee and manage the business, assist with foaling and their care, prevent harm to the business and horses, etc. She has been able to fulfil these rolls over the last 18 years, along with her own daughters, by living in the converted barn.

Proposal:

To allow the daughter and her family to continue to live at the property when her parents pass away, but be tied to an appropriate Green Belt use of the site, the

following modified obligations to the existing section 106 agreement are proposed:

- only someone employed in the adjacent equine enterprise and/or their dependants will be permitted to occupy the converted barn, and
- the converted barn shall not be sold or otherwise alienated except as a whole together with the adjoining stable buildings and yard.

Paragraph 15 of Government guidance as contained in PPS7 does allow scope for the provision of dwellings in association with rural based enterprises, such as equine related businesses, though the Local Plan is not specific in this case. Local Plan policy GB2A sets out that development is inappropriate in the Green Belt unless it is for the purposes of agriculture, forestry or horticulture and for the purposes of outdoor recreation, which horse keeping would be relevant to. It would preserve the openness of the Green Belt, given the current residential use will not change.

Consultation:

Epping Upland Parish Council has raised no objections.

Conclusion:

Given the time period and the establishment of an equine business, Officers do consider that the protection of the Green Belt will be maintained should the Section 106 agreement be varied as suggested. The permitted use of the converted barn for residential accommodation would not become an unrestricted dwelling house use, which is what the Council sought to avoid when imposing the original planning obligation. Instead its occupancy would be solely in connection with an appropriate adjoining Green Belt activity and could not be sold off in the future, independent of stable buildings and yard, thereby creating pressure for further residential accommodation. As part of the revised legal agreement, the stable buildings and yard will need to be defined on a plan. The revised obligation also safeguards against a future potential for a separate new built dwelling to supervise the horses, although this would of course need to be the subject of a planning application. It is therefore considered that variation of the legal agreement is acceptable.