

Report to Area Plans Sub-Committee West



Date of meeting: West 31 August 2011

**Epping Forest
District Council**

Subject: Picks Cottage, Sewardstone Road, London E4 7RA – Removal of S52 Agreement entered into in March 1983 in association with EPF/1117/82 (Erection of Agricultural workers dwelling).

**Officer contact for further information: Jenny Cordell (01992 – 564294).
Democratic Services Officer: Adrian Hendry**

Recommendation:

To remove the S52 Agreement which imposes the following restrictions:

Clause 3 (a) That the occupation of the dwelling comprising the development shall be limited to a person employed, or last employed locally in agriculture as defined in Section 290(1) of the 1971 Act or a dependant of such a person residing with him but including the widow or widower of such person.

Clause 3 (b) That the application site will not be sold or otherwise alienated except as a whole and that no part or parts of the application site will be sold or otherwise alienated except as a whole together with the entire area of the application site.

Clause 3(a) is enforced separately by condition and Clause 3(b) is now considered unnecessary.

Report Detail:

The rebuilding of the agricultural workers cottage was permitted under EPF/1117/82 subject to conditions as follows:

- 1- Development within 5 years
- 2- Agricultural tie
- 3- External materials be agreed
- 4- Landscaping scheme
- 5- Retention of existing landscaping
- 6- Provision of parking and driveway prior to occupation
- 7- Complete demolition and removal of original dwelling prior to occupation of new dwelling
- 8- Provision of surfaced turning area
- 9- Maximum gradient of access not to exceed 10%

The associated S52 legal agreement (now known as S106) imposed two legal ties as follows:

- 1- Agricultural tie
- 2- The tie restricting part sale/lease of the site or subdivision

Since the approval in 1982 and associated legal agreement in 1983 the applicant has operated the site which has diversified with the incorporation of a number of fishing lakes and facilities and the reuse of existing buildings for alternate business uses.

The buildings allowed to diversify under EPF/2213/02 were released from the 2nd restriction on the S52 agreement in a variation entered into in 2004. The applicant now seeks permission to remove the fishing lakes from the tie to enable the applicants to lease the lakes to a third party for operation. The removal of the lakes from the legal agreement would result in a few piecemeal, fractured parcels of land adjacent the highway and at the furthestmost points of the holding remaining tied to the sale and lease of the agricultural dwelling. Officers consider that if Members consider it acceptable to remove the lakes from the tie, that the remaining parcels of land would be difficult to justify to retain in the agreement and difficult to successfully enforce. For this reason Officers suggest that the tie requiring the singular ownership and operation of the land be lifted in its entirety. Should Members be minded to agree this removal then the agreement may be waived in its entirety as the agricultural occupancy requirement is secured by condition and the agreement would no longer form a useful function.

Were the lakes to operate independently from the agricultural workers dwelling known as Picks Cottage no greater loss of amenities would arise to occupants of the dwelling than presently exists.

Were any future need to arise relating to the independent operation of the land which would need an agricultural dwelling then this would require a fresh application for consideration. Any such future application would need to demonstrate the need for the dwelling and that it cannot be met by existing agricultural dwellings in the locality, therefore this possibility alone is not considered sufficient to justify the retention of the legal agreement. Furthermore the agricultural tie will remain enforced on the existing dwelling (Picks Cottage) by the condition applied under EPF/1117/82.

Conclusion

The removal of the S52 agreement would allow the effective retention of use of the land presently associated with Picks Cottage. The applicant is able to comply with the agricultural tie and occupy the dwelling into retirement however were this situation to arise without the lifting of the legal restrictions then the wider holding would likely fall into disrepair as it would not legally be able to operate independent of the dwelling. The removal of the S52 agreement would not remove the agricultural tie on the dwelling but would allow the continued use of the agricultural land (albeit now diversified). This does not appear unreasonable and accordingly Officers recommend the former legal agreement be removed.