

## Planning Committee – 10<sup>th</sup> April 2017



# APPLICATION TO MODIFY S106 PLANNING OBLIGATION RELATING TO CHURCH LANE FARM, WIGGLESWORTH, SKIPTON, BD23 4RJ

Report of the Strategic Manager of Planning and Regeneration

Ward affected: Settle and Ribble Banks

1. **Purpose of Report** – To seek a resolution on whether to agree to amend a S106 Planning Obligation that imposes a restriction on the agricultural occupancy of Church Lane Farm house.
  
2. **Recommendations** – Members are recommended;
  - 2.1 **To give delegated authority to officers to modify the S106 Planning Obligation relating to Church Lane Farm, Wigglesworth in order to:**
    - **Remove the requirement for the agricultural workers dwelling to be tied to 66 acres of land at Wigglesworth and agricultural buildings.**
  
3. **Details of the application**
  - 3.1 Outline planning permission was granted, on 16<sup>th</sup> August 2001, under application 72/2000/278 (alternate reference 5/72/112) for the construction of agricultural buildings and dwelling at Church Lane, Wigglesworth. The grant of planning permission followed a Section 106 agreement being entered into between the applicant (Mr David Beresford), his Mortgagee (Barclays Bank Plc) and Craven District Council. The Section 106 agreement required that;
 

*“the Dwelling shall not be occupied other than by a person who is solely or mainly employed in agriculture on an agricultural holding which:-*

    - (a) Comprises or includes not less than 66 acres of land situated within the parish of Wigglesworth and*
    - (b) Includes the Buildings and the Land*

*and by any members of such person’s household residing with him or her”*  
(Clause 2 (a) and (b))

- 3.2 An application has been made to the Council to amend the wording of the S106 planning obligation (as set out in full in Appendix A). The obligation would continue to restrict the occupation of the dwelling to a person employed in agriculture, but would remove the tying of the dwelling to “66 acres of land situated within the parish of Wigglesworth” and to the “buildings and land.” Section 106A of the Town & Country Planning Act 1990 (as amended) allows for such an application to be made once 5 years have passed since the obligation was entered into. Should the application be refused the applicants have a right of appeal to the Secretary of State.
- 3.3 Following the grant of outline planning permission on 16<sup>th</sup> August 2001 a reserved matters application for the agricultural buildings and dwelling was approved on 30<sup>th</sup> November 2001 (application reference 72/2001/1515).

#### **4. Representations**

- 4.1 The proposal to modify the Section 106 Agreement was publicised by a site notice, and a press notice in the Craven Herald. Ribbles Banks Parish Meeting has also been consulted. The consultation period expired on 23<sup>rd</sup> March 2017 and no consultation responses had been received by that date. Any consultation responses received will be provided in an update at Planning Committee.

#### **5. Relevant Planning Policy**

- 5.1 The National Planning Policy Framework (NPPF)
- 5.2 Saved Policies ENV1 and ENV2 of the Craven District (Outside the Yorkshire Dales National Park) Local Plan.

#### **6. Assessment of application and other background information**

- 6.1 On 24<sup>th</sup> May 1999 outline planning application 72/2000/278 (old reference 5/72/112) was taken to Planning Committee with a recommendation of approval subject to the signing of a S106 Agreement. The officer’s report sets out that the relevant planning policies at that time were *Planning Policy Guidance 7 (PPG7)*, policies within the *North Yorkshire County Structure Plan* and policies within the *Craven District Local Plan Deposit Draft*. The officer’s report set out the reason for recommending the entering into of a S106 Agreement as follows;
- 6.2 *“PPG7 and the draft local plan refer to the scope, in appropriate circumstances, for using planning obligations to tie new agricultural dwellings to adjacent agricultural buildings or to the agricultural land. This would prevent them being sold separately without further application to the local planning authority and thereby avoid a possible proliferation of new agricultural dwellings in the countryside. In the circumstances of this case it would be appropriate to tie together the proposed dwelling and buildings and a minimum acreage, to ensure that the development continues to serve the needs of agriculture in the locality.”*
- 6.3 Planning Committee Members agreed with the officer’s recommendation that planning permission should be granted subject to the signing of a S106 agreement.

The S106 agreement was signed on 22<sup>nd</sup> February 2001 and planning permission was granted on 16<sup>th</sup> August 2001.

- 6.4 In the supporting statement submitted with the current application to modify the S106 agreement, it is stated that *“the proposed re-wording is consistent with the current restrictions placed on new agricultural workers dwellings. We are therefore requesting that this obligation be altered”*.
- 6.2 The planning policies against which the outline planning application was assessed, and the recommendation for the wording and signing of a S106 agreement tying the agricultural occupancy to the land, buildings and dwelling was made, are no longer in use. *PPG7* and the *North Yorkshire County Structure Plan* have been deleted, and the *Craven District Local Plan Deposit Draft* was replaced with the current *Craven District (Outside the Yorkshire Dales National Park) Local Plan*.
- 6.3 Current planning policy relating to agricultural workers dwellings is contained with the NPPF, and Saved Local Plan Policy ENV1;
- Paragraph 55 of the NPPF states that; *“Local Planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*
    - *The essential need for a rural worker to live permanently at or near their place of work in the countryside; or...”*
  - Saved Local Plan Policy ENV1 will only permit small scale development in the open countryside where it:
    1. *Clearly benefits the rural economy;*
    2. *Helps to maintain or enhance landscape character;*
    3. *Is essential for the efficient operation of agriculture or forestry; or*
    4. *Is essential to the needs of the rural community.*
- 6.4 The current policies on new homes for rural workers in the open countryside therefore recognise the need for rural workers to live at, or near, their place of work; however they do not specify that dwellings should be tied to land or buildings. However, if planning permission is granted for a new dwelling in the open countryside on the grounds of its need for an agricultural worker, there is a need to restrict the occupation to agricultural workers in order to ensure a supply of housing for this purpose and to comply with the current planning policies. In more recent years Craven District Council has therefore moved away from requiring Section 106 agreements to be signed, instead using the standard agricultural occupancy condition, contained within paragraph 45 of Appendix A of *Circular 11/95: Use of conditions in planning permission* which reads as follows;
- “The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.”*
- 6.5 The *Community Infrastructure Levy Regulations 2010* sets out, at paragraph 122, that;

*“A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is;*

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development.*

6.6 When the outline planning application was under consideration by the Local Planning Authority, the planning policies in use at that time were such that it was reasonable and necessary for a Section 106 agreement to be entered into to tie the occupation of the dwellinghouse, and the land and buildings, to an agricultural worker. Based on current planning policies and practices it would no longer be reasonable or necessary to impose this level of restrictions on a new agricultural workers dwelling.

## 7. Conclusions

7.1 Based on the assessment set out in section 6 of this report, it is considered appropriate to recommend the rewording of the Section 106 agreement to restrict the occupation of the dwelling to an agricultural or forestry worker, and to remove the tie to the land and buildings. It is considered necessary to retain the Section 106 agreement rather than remove it, as to remove it would remove the requirement for an agricultural worker to occupy the property, and there is no evidence to suggest that there is not a need for an agricultural workers dwelling in this location.

7.2 As such Members are recommended to agree to amend the S106 Planning Obligation by modifying the wording at Clause 2 (a) and (b) as set out at Appendix A of this report.

## 8. Implications

8.1 **Financial and Value for Money (vfm) Implications** – Should the application be refused an appeal against the decision may be made. Financial costs would be incurred to try to substantiate and defend the Council’s case.

8.2 **Legal Implications** – None other than those indicated elsewhere in the report.

8.3 **Contribution to Council Priorities** – Contributing to the long-term stability of the Craven Economy with regards to homes meeting the needs of our current and future communities.

8.4 **Risk Management** – N/A

8.5 **Equality Impact Assessment** – The Council’s Equality Impact Assessment Procedure **has not been** followed. Therefore neither an Initial Screening or an Equality Impact Assessment has been undertaken on the proposed policy, strategy, procedure or function to identify whether it has/does not have the potential to cause negative impact or discriminate against different groups in the community based on

•age • disability •gender • race/ethnicity • religion or religious belief (faith) •sexual orientation, or • rural isolation.

9. **Consultations with Others** – N/A

10. **Access to Information : Background Documents** – Planning application files ref. 72/2000/278 (5/72/112) and 72/2001/1515.

11. **Author of the Report** – Gemma Kennedy, Planning Officer; telephone 01756 706372, e-mail: gkennedy@cravenc.gov.uk

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

11. **Appendices**

Appendix A – Clause 2 of the S.106 Planning Agreement relating to planning application 72/2000/278 / 5/72/112.

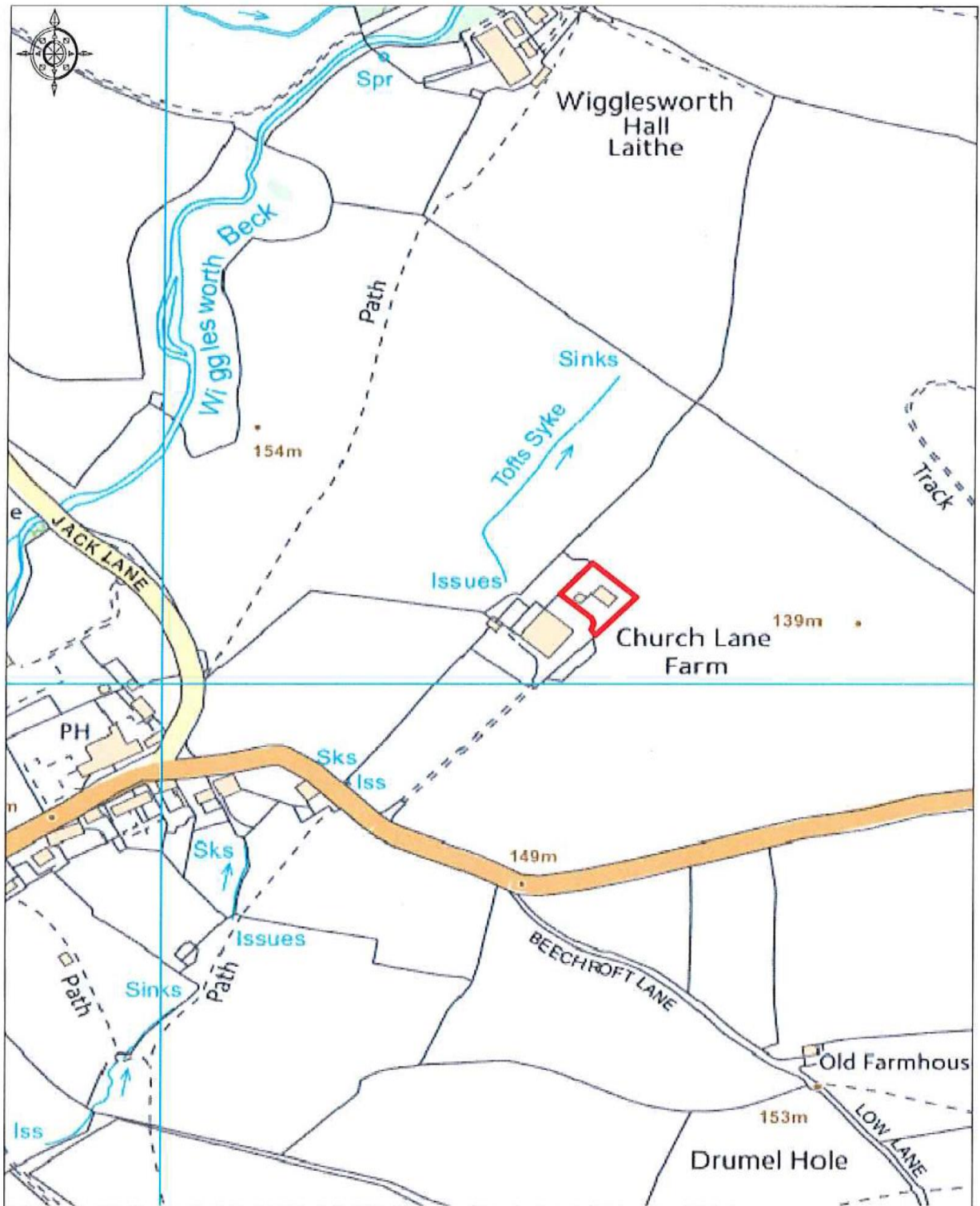
Appendix B - Site location plan showing the property and land to which the amended S. 106 Planning Agreement would relate.

**Appendix A****CLAUSE 2 OF THE S.106 PLANNING OBLIGATION AS PROPOSED TO BE MODIFIED**

2. THE Owner hereby COVENANTS with the Council that the Dwelling shall not be occupied otherwise than by a person who is solely or mainly working, or last working, in the locality of agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.

**Appendix B**

**SITE LOCATION PLAN – CHURCH LANE FARM, WIGGLESWORTH, BD23 4RJ**



Ordnance Survey © Crown Copyright 2017. All rights reserved.  
Licence number 100022432. Plotted Scale - 1:5000

This map was created by  
Lister Haigh (Knaresborough) Ltd.

