

## **SECTION 106 AGREEMENT – BARN AT ORCHARD BROW, HAILE**

**Lead Officer: Tony Pomfret – Development Control Manager**

To consider a request to remove a local occupancy clause from a barn conversion at Haile.

**Recommendation:** That the request is approved and the local occupancy clause is removed from the barn conversion.

**Resource Implications:** Nil

### **1.0 BACKGROUND INFORMATION**

- 1.1 Planning permission was granted for the conversion of Orchard Brow Barn to form a dwelling in 2006 under reference 4/06/2136/0. This permission was subject to a Section 106 Agreement which restricted the occupancy of the adjoining dwelling, Orchard Brow Cottage, to holiday accommodation only. A revised application for various alterations to the approved scheme was subsequently approved in 2010 under reference 4/10/2010/0.
- 1.2 A further planning permission was granted in 2010 under reference 4/10/2342/0B1 which amended the timescale set out in a condition to allow an extended period in which to complete the approved conversion works. Members also agreed to a request to change the occupancy restriction from holiday accommodation to local occupancy at that time. A Section 106 Agreement was issued on 21 October 2010 to ensure that the occupancy of the adjoining cottage was limited to local people in perpetuity
- 1.3 A subsequent request to amend the requirements of the Section 106 Agreement so that the local occupancy applies to the barn conversion rather than Orchard Brow Cottage was approved in ?
- 1.4 A planning application which seeks to extend the timescale for the completion of the works to the barn is included as a separate item on the agenda under reference 4/12/2154/0F1.

- 1.5 The applicant has now submitted a written request to remove the local occupancy restriction from the barn. The applicant has submitted a written statement in support of this request in which she outlines that she gained sole ownership of the barn following the breakdown of her relationship 4 years ago. Although she has tried to complete the conversion works to the barn herself this has not been possible due to her financial constraints. Works ceased approximately 3 years ago and the barn has remained unaltered ever since. She has marketed the barn for sale privately for 2 years and more recently with Your Move for the last 12 months. This has resulted in more than 30 viewings. Two prospective purchasers have previously made efforts to buy the barn but have had to pull out of any purchase on the advice of their solicitor due to the restrictive nature of the local occupancy clause. Given the current financial climate and the local occupancy restriction she has expressed her concern about the prospect of being able to sell the property with this clause in place.
- 1.6 The barn is currently unfinished and has remained as such for the past three years. Its condition is beginning to deteriorate and is having an adverse impact on the amenity of this part of the village. Its completion would be beneficial and would provide an additional residential property within the village. Policy HSG 17 of the adopted Copeland Local Plan permits the conversion of barns subject to a number of criteria. Under the terms of this policy the unrestricted occupancy of the building would be the norm when the barn is not suitable for employment or community uses. The original occupancy condition was only imposed as the applicant was not prepared to undertake the necessary marketing to verify that the building could not be used for any other viable uses. Notwithstanding this it is unlikely that any alternative use other than residential would have been appropriate in this location given the proximity of the barn to the two adjoining residential properties. .
- 1.8 It is also relevant to consider Government Planning Policy as set out in the recently issued National Planning Policy Framework. This gives a presumption in favour of sustainable development. It advocates the location of housing in rural communities and acknowledges the role that this can play in supporting and helping to retain village services and facilities. Paragraph 51 also encourages the Local Planning Authority to bring empty buildings into residential use, especially where it would lead to an enhancement to the immediate setting.
- 1.9 On the basis of the justification submitted by the owner of the building and in the context of the current planning policy framework Members are advised that the

benefits of securing the completion and occupation of the barn are significant factors which favour the removal of the local occupancy clause in this case.

**Contact Officer: Nick Hayhurst – Senior Planning Officer**

**Background Papers: Planning application file ref 4/12/2154/0F1**