



## Report of the Chief Planning Officer

### NORTH & EAST PLANS PANEL

Date: 10<sup>th</sup> March 2016

Subject: 15/07176/FU – Removal of Condition 3 of planning approval (07/06083/FU) at Parkhill Farm, Walton Road, Wetherby, Leeds.

#### APPLICANT

Parker Estates

#### DATE VALID

4 December 2015

#### TARGET DATE

29 January 2016

#### Electoral Wards Affected:

Wetherby

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION: GRANT PERMISSION subject to the specified conditions:**

## 1.0 INTRODUCTION

- 1.1 The applicant seeks permission to remove Condition 3 of a 2007 permission to construct an agricultural building (07/06083/FU). Condition 3 effectively ties the building to its associated land so that it can not be separated.
- 1.2 The application is brought to Panel at the request of Cllr John Procter who is concerned with regard to a large number of agricultural buildings that have been converted to commercial developments in the area, leading to more agricultural buildings being erected to meet the needs of the remaining agricultural land. Cllr Procter is concerned that the removal of the condition will lead to this agricultural building also being converted to commercial development, and then a future application will be submitted by whoever is farming the associated land for a new agricultural building to meet the agricultural needs of the farm land, which would be difficult to resist.

## **2.0 PROPOSAL:**

- 2.1 The applicant seeks permission to remove Condition 3 of a 2007 permission to construct an agricultural building (07/06083/FU). Condition 3 stated that;

*The agricultural building hereby approved shall be used for agricultural use ancillary to the agricultural holding marked by the blue line on the approved Ordinance Survey map dated 27th September 2007 in perpetuity and shall not be severed from the land.*

*To ensure the building remains in agricultural use.*

- 2.2 The condition ties the use of the agricultural building to the land that immediately surrounds the building. The applicant's supporting evidence suggests that the farm holding to which the barn was linked to, has now been sold to a third party with the applicant retaining control of the barn and access road. Due to the sale of the associated land, the link between farmland and the agricultural building has already been severed. The supporting document concludes that the sale of the land has left the applicant in a position of where the building cannot be put into any practical use and is in breach of planning permission.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The site is located on a small parcel of land which lies to the east of Wetherby, just to the south of Walton Road. The site is part of the former Park Hill Farm land and historically has had an agricultural use. An access road runs along the north of the land which essentially forms a second access point to the collection of businesses at Park Hill. Marsland Timber lies to the south of the site and Rose Dene Farm to the north, just to the other side of Walton Road. Agricultural land which was previously owned by the applicant lies to the east.
- 3.2 There is a very slight gradient within the area with the land falling away to the south. The area lies within the Vale of York and is characterised by open farmland within a gently rolling landscape. It lies outside the Leeds Green Belt and within Rural Land.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 The red line plan which has been submitted with the application outlines an L-shaped piece of land which encompasses an access track and an area of hardstanding which contains the subject agricultural store. The Marsland Timber site lies to the south of the site which is owned by the applicant.
- 4.2 The land itself was once part of Park Hill Farm which has now been divided into several planning units and the buildings and associated parcels of land sold on. Former agricultural outbuildings have been converted into other uses and the two dwellings released from their agricultural occupancy conditions.
- 4.3 Following the disposal of the Park Hill Farm land and buildings the applicant has been granted consent for two further agricultural stores. One is currently present on the parcel of land linked to this application (ref: 07/06083/FU). The other is situated to

the south-west of the site between the old Park Hill Farm house and Park Hill Farm Cottage (ref: 10/03218/DAG). The store which is on the application land was granted consent in 2007. At the time of its approval the building was shown to be linked to the agricultural land to the east of the site which the applicant then owned. A condition was imposed which tied the use of the building to that land. This land has been sold by the applicant. The building remains within the applicant's ownership. The store to the land to the south-west was granted consent in 2010. No conditions were imposed which linked the building to a parcel of land. It is understood that the land and building have subsequently been sold.

- 4.4 An agricultural determination was submitted at the same time as the current application and was refused as the authority did not consider that it was reasonably related to an agricultural holding.
- 4.5 In 2013 an application (13/04063/DAG- Refused) was made on the application site for a detached store. This was refused on the grounds that the building was to be used for a holding located 1.3km to the north of the site and therefore was found to be in practical. A full application was subsequently submitted for the same development but was refused on similar grounds (13/04062/FU- Refused)
- 4.6 The applicant has approval for the construction of two agricultural storage buildings on Sand Beck Lane Wetherby (14/03111/FU and 14/03111/FU). Both of these applications were brought to Plans Panel and on 23<sup>rd</sup> October 2014 were refused by Panel Members on the basis that the proposed buildings would be out of keeping with the undeveloped character of the locality, and would thereby be harmful to visual amenity. The Refusals was subsequently appealed and the Inspector granted planning permission concluding that the proposal would not harm the character and the appearance of the area.

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 None

## **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 The application has been advertised by site notice which was posted 4<sup>th</sup> December 2015.
- 6.2 Wetherby Town Council objects to the scheme on the basis that this building may eventually be converted into a dwelling should the condition be removed.
- 6.3 1 letter of support received from the owner of the property and land adjacent to the application site. It is commented that the agricultural barn will provide for the storage of a variety of agricultural equipment that is required to maintain the applicants existing land holding. It is well designed and is sympathetic with the surrounding area.

## **7.0 CONSULTATIONS RESPONSES:**

### Statutory

- 7.1 None

## Non-Statutory

7.2 None

### **8.0 PLANNING POLICIES:**

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013), together with relevant SPGs and SPDs.

#### Local Planning Policy

8.2 The Core Strategy is the development plan for the whole of the Leeds district. The following core strategy policies are relevant:

SP1 Seeks to concentrate the majority of new development within the main urban areas and ensure that development is appropriate to its context.  
SP8 Supporting the growth and diversification of the rural economy, consistent with the Settlement Hierarchy...Support the retention and provision of new business start-up units including small workshops, where appropriate

8.3 The following saved UDP policies are also relevant:

GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.  
RL1: States that The Area of open countryside to the north of the River Wharfe is designated as Rural Land and is safeguarded in accordance with UDP Strategic Principle SP2 and other national and local planning policy guidance.

#### National Planning Policy

8.4 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

8.5 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given to them.

### **9.0 MAIN ISSUES**

- 9.1 1) Principle of Development/ Impact of removal of the condition  
2) Public representations

## 10.0 APPRAISAL

### Principle of Development/ Impact of removal of the condition

- 10.1 As has already been mentioned, the site is located to the east of Wetherby, outside the Leeds Green Belt and within Rural Land. There is a complicated planning history surrounding the previous Park Hill Farm and the subsequent disposal of its associated land and buildings in a piecemeal manner where agricultural buildings have been sold by the applicant without the associated farmland. This has led to a situation where the former farmyard is now an office park and further agricultural buildings have been granted and have been constructed to meet the needs of the agricultural land that still remains including the subject building which was approved in 2007.
- 10.2 The reason given for imposing Condition 3 was to ensure the building remains in agricultural use. Therefore, the assessment of this application can only justifiably focus on whether the removal of the condition would lead to the nature of the building changing. It is considered that the proposed removal of Condition 3, would not allow the applicant to use the building for any other purposes other than for agriculture. Therefore, it is considered that the proposed removal of the condition should be allowed. It is added that a separate planning application will be required should the applicant intend to change the use of the building, which will be judged on its own merits. Alternatively, the applicant could seek to change the use of the building under permitted development rights which is available under Class Q of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015. However, a Prior Approval application will still be required to be submitted to the Local Planning Authority, which would be judged on its individual merits.
- 10.3 There is also a question mark over whether Condition 3 meets the established tests for imposing planning conditions that are set out in Paragraph 206 of the NPPF and that are more specifically elaborated within the Planning Practice Guidance. The NPPF states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted the condition also needs to be enforceable, precise and reasonable in all other respects.
- 10.4 In a recent Appeal Decision, where the Inspector allowed the erection of a grain store (Ref 14/03111/FU, dated 19 May 2014), the Local Planning Authority asked for a similar condition to be imposed which attempted to tie the building to its associated land. However, the Inspector concluded that such a condition would fail to meet the tests established within the NPPF. The Inspector with regards to the condition stated that;

*The Council have suggested a condition restricting the use of the buildings solely in connection with the use of and in association with the farming of the adjacent agricultural land within the appellants' agricultural holding. Paragraph 206 of the Framework advises that planning conditions should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable. The appellants consider any alternative use of this building would be controlled by the local planning authority and consider a condition of this nature is unduly restrictive and fails to recognise the flexible agricultural use of such buildings. I note the Council's*

*concerns regarding the possibility of future severance of the buildings from the holding. However, I see no justification for the disputed condition in terms of development plan policies. Having regard to my conclusions above, I am satisfied that the proposed buildings meet an agricultural need and no further control beyond that is necessary. Thus, I consider that this condition is not reasonable or necessary taking into account the advice in the Framework.'*

- 10.5 The Inspector's appeal decision adds further weight in favour of removing the condition.

Public Representation

- 10.6 The comments made by the Parish Council that the proposed removal of the condition would lead to the building being changed in use, is noted. This issue has been discussed in the report, and it has been concluded that the removal of the condition will not allow it to be used for any other purposes other than for agriculture without the submission of a further application.

## **11.0 CONCLUSION**

- 11.1 It is considered that the proposed removal of Condition 3, is acceptable and will not allow the building to be used for any other purposes other than agriculture. Therefore, it is considered that the proposal should be approved.

### **Background Papers:**

Application files: 15/07176/FU

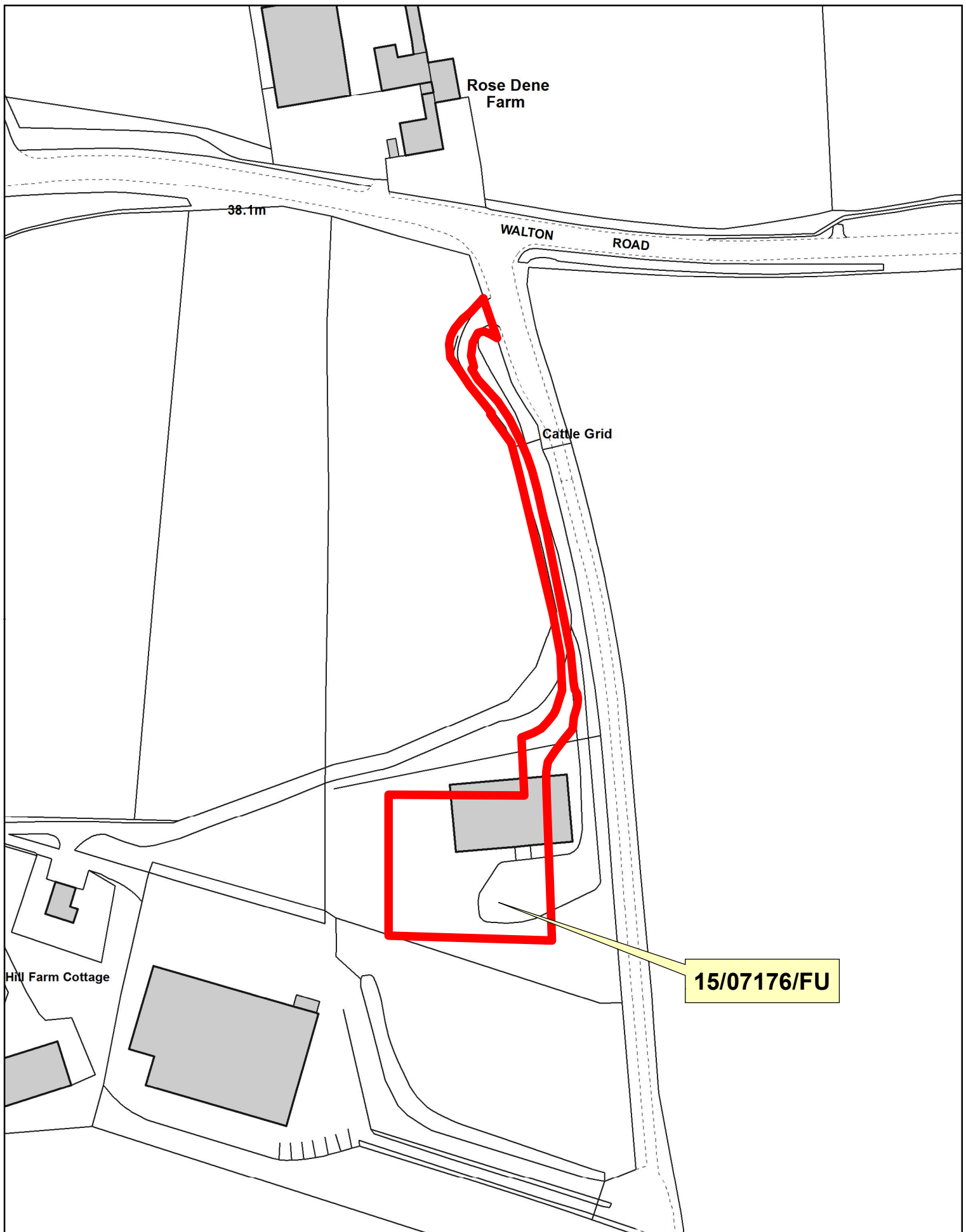
Certificate of ownership: Certificate A signed by the agent on behalf of Parker Estates14



# CARTER JONAS

## PARK HILL FARM - PROPOSED SITE LAYOUT

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# NORTH AND EAST PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500

