

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL  
PLANNING APPLICATIONS COMMITTEE**

**14<sup>th</sup> September 2023**

<b>Application No:</b>	SMD/2015/0753	
<b>Location</b>	Sutton Cottage, Brook Lane, Endon	
<b>Proposal</b>	Request to vary section 106 agreement	
<b>Applicant</b>	Mr and Mrs Pennington	
<b>Agent</b>	N/A	
<b>Parish / ward</b>	Endon and Stanley / Brown Edge and Endon	<b>Date registered</b> N/A
<b>If you have a question about this report please contact:</b> Arne Swithenbank tel: 01538 395578 or e-mail <a href="mailto:arne.swithenbank@staffs Moorlands.gov.uk">arne.swithenbank@staffs Moorlands.gov.uk</a>		

## **REFERRAL**

There is no delegated authority by which to determine this request and it is therefore referred to committee for decision.

### **1. SUMMARY OF RECOMMENDATION**

**Agree to discontinue / rescind the s.106 agreement**

### **2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

- 2.1 Under application SMD/2015/0753 planning consent was granted for alterations and refurbishment of a Listed agricultural barn to form a residential dwelling, and for the refurbishment of a stable, also Listed.
- 2.2 The barn and stable, along with Sutton Cottage, form a group around a farmyard. Each is separately Grade II Listed. Sutton Cottage was within the application red edge but not itself subject to any proposed changes. The buildings as a group are considered significant as a surviving, unaltered and complete 17th Century farm complex with a loose courtyard plan. Establishing a suitable long-term future use for the barn and stable was considered crucial to achieving their repair and preservation.
- 2.3 In supporting the application at the time the Council sought to avoid the potential for the open yard arrangement to become divided or separately enclosed. The approach taken at the time was for the applicant to enter into a Section 106 agreement undertaking that the farm complex as a whole would be kept in a single ownership and that the three buildings would not be leased or sold off separately, either singly or as a combination of two or more buildings to different owners.

- 2.4 The underlying intention was to maintain the historic significance of the open yard cluster arrangement of the buildings. That said, it must be noted that in fact Sutton Cottage stood (and remains) behind an enclosing garden boundary wall.
- 2.5 The location is within the North Staffordshire Green Belt and within the Endon Conservation Area. It is also within the development boundary of the Endon larger villages area strategy.

### **3. DESCRIPTION OF THE PROPOSAL**

- 3.1 The applicant (who was the applicant and beneficiary of the 2015 consent) is now seeking to make new mortgage arrangements but reports finding the s.106 agreement a barrier to doing so. It is for this reason that they are applying for it to be removed / rescinded. The applicant points out that (as noted above) the cottage already has a boundary. They suggest that there are other controls that will achieve the same ends given the Listed status of each building and in particular given that permitted development rights for Minor Operations involving gates, fences and walls are not permitted if "it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a Listed Building".

### **4. RELEVANT PLANNING HISTORY**

- 4.1 SMD/2015/0753 – Alterations and refurbishment of listed agricultural building to a residential dwelling and refurbishment of ancillary barn – approved
- 4.2 SMD/2015/0754 – Listed Building Consent for alterations and refurbishment of listed agricultural building to a residential dwelling and refurbishment of ancillary barn – approved

### **5. PLANNING POLICIES RELEVANT TO THE DECISION**

- 5.1 **Local Plan (adopted 9<sup>th</sup> September 2020)**
- SS1 Development Principles
  - SS2 Settlement Hierarchy
  - SS8 Larger Villages Area Strategy
  - H1 New Housing Development
  - DC1 Design Considerations
  - DC2 The historic Environment
  - DC3 Landscape and Settlement Setting
  - T1 Development and Sustainable Transport

**National Planning Policy Framework February 2019**

Paragraph(s) 1 – 14;

Section(s) 4 – Decision making; 8 Promoting healthy and safe communities; 11 – Making effective use of land; 12 – Achieving well designed places; 13 – Protecting Green Belt 15 – Conserving and enhancing the natural environment; 16 – Conserving and enhancing the historic environment.

**Adopted Supplementary Planning Documents/Guidance (SPD/G):**

- Space About Dwellings SPG
- Design Principles SPG
- Design Guide SPD adopted 21st February 2018

**Local Plan Supporting Evidence Documents:**

- Landscape and Settlement Character Assessment (2008)

## **6. CONSULTATIONS CARRIED OUT**

- 6.1 No statutory consultations are required or applicable and no consultations have been carried out – N/A

## **7. POLICY AND MATERIAL CONSIDERATIONS / PLANNING BALANCE**

### **Principle of Development and Main Issues**

- 7.1 In its general approach, in accordance with policy SS1, the Council expects the development and use of land to contribute positively to the social, economic and environmental improvement of the Staffordshire Moorlands. When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. This means that planning applications that accord with the policies in the Local Plan shall be approved without delay, unless material considerations indicate otherwise.
- 7.2 The main issues to consider with this application are whether the s.106 agreement is necessary and whether the '*historic significance*' of the buildings either as a group or individually can be just as effectively maintained without the s.106 agreement.
- 7.3 Policy SS8 for the larger villages in the rural areas is that:  
*"These settlements shall retain and enhance their role as rural service centres, providing for the bulk of the housing requirement of the rural areas and also for employment needs of a scale and type appropriate to each settlement having regard to infrastructure capacity and character."*

SS8 makes reference specifically to: "Ensure that new development reflects and enhances each village's special character and heritage by: [under SS8(4)] *Protecting and enhancing the setting and historic character of the village, including heritage assets.*

- 7.4 In this case a series of designated heritage assets are involved. These are the three Listed Buildings mentioned at 2.2 (above) and the Endon Conservation Area. Historically Sutton Cottage, the barn and the stable were associated with Sutton House.

### **Historic Significance**

- 7.5 The Endon Conservation Area Character Appraisal (adopted 2008) discusses the buildings of Sutton House Farm. At paragraph 5.4 the Appraisal records that:

*The Sutton's farm buildings (fig. 5.6) lie below the house, where they form three sides of a small farmyard. The main barn is a sturdy stone structure with a catslide roof: a multi-purpose building, designed for livestock with the storage of hay and straw. To the north is a small stable and cart shed, and to the south the 'cottage', formerly the coachman's house.*

- 7.6 There should be no doubting the significance of the assemblage of buildings at Sutton House / Sutton Cottage, Sutton Barn and Sutton Stable. The importance of keeping the yard area open without subdivision is also of identifiable significance. Whether it is necessary to insist on the three buildings of Sutton Cottage, Sutton Barn and Sutton Stable being kept in a single ownership is less apparent.
- 7.7 Sutton Cottage is to a degree already separated by its garden boundary wall. The barn and stable stand opening into the undivided yard. If the yard is accepted as being part of the curtilage to one or other of the Listed Buildings, and this seems an inevitable conclusion in this case, the permitted development provisions relating to gates, fences and walls are not available meaning that planning permission and Listed Building Consent would be needed in order to alter any existing boundaries or to erect any new. This seems a sufficient level of control and it is not dependent upon the s.106. There is arguably a more esoteric aspect of the historic significance that is held on to by maintaining single ownership of the whole, perhaps reflected outwardly in the character and nature of the use but the more essential and obvious character would be retained by keeping the physical openness apparent and visible. The original consents granted a new additional dwelling to be formed in the barn and it is inevitable that this will be occupied separately from Sutton Cottage whether or not the two are kept in the same or separate ownership.

## **8. CONCLUSION AND PLANNING BALANCE**

- 8.1 Therefore it is considered that the retention of the S106 obligations are not reasonable or necessary to maintain the historic integrity of the building and their setting. Suitable provisions are made in the Town and County Planning (General Permitted Development) Order 2015, which prevent the erection of any means of enclosure (gates, walls, fences) within the curtilage of a listed building.

## **9. RECOMMENDATION**

9.1 To remove the obligations set out in the s106 agreement.

### **Informative**

- 1. This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. In accordance with Paragraph 38 of the NPPF the Case Officer has sought solutions where possible to secure a development that improves the economic, social and environmental conditions of the area.**

**B In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's decision**

## **10. APPENDICES TO THE REPORT**

**10.1 The links below to the Council's website are where the detail of the original applications can be viewed.**

**<http://publicaccess.staffsmoorlands.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=92654>**

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# Location plan

