

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr Richard Fairbairn	Variation to Section 106 Agreement attached to application 13/0054 for the erection of an agricultural dwelling Hill Farm, Hockley Brook Lane, Belbroughton, Stourbridge, Worcestershire DY9 0AA	06.02.2021	20/01446/FUL

RECOMMENDATION: That the proposed Variation to the Section 106 Agreement be **Granted**.

Consultations

Kernon Countryside Consultants

No objection to the proposed variation of the Section 106 Agreement. It would not be considered to impact on the long term need for the agricultural dwelling permitted in 2015 under 13/0054.

Belbroughton And Fairfield Parish Council

The Parish Council objects to any variation to the Section 106 Agreement and feels it is inappropriate to reallocate acreage and it should be retained on the existing footprint.

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles
BDP4 Green Belt

Others

NPPF National Planning Policy Framework (2019)
SPG6 Agricultural Dwellings & Occupancy Conditions

Relevant Planning History

13/0054	Erection of an agricultural dwelling at Hill Farm, Belbroughton.	Approved subject to s106 Agreement	27.03.2015
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Site Description

The site comprises two large parcels of agricultural land within the ownership of the applicant (edged red on the submitted plans entitled Land currently bound under s106 Agreement) One of the parcels of land surrounds Hill Farm and the other area is located to the south east of Hill Farm around New House Farm. A new agricultural dwelling has

been constructed at Hill Farm (approved under application 13/0054). Hill Farmhouse (Grade 2 Listed) is located immediately to the north of the approved dwelling and is currently in a poor state of repair.

Proposal Description

The reason for the application for a variation of the original Section 106 Agreement attached to the approval of the agricultural dwelling (Ref: 13/0054) is that the applicant wishes to sell part of the land or registered estate that is currently included in the s106 Agreement. The land proposed to be released from the S106 Agreement extends to 67.2 acres (27ha) and is edged in red on the plan entitled Figure 2 - Land at New House Farm. The variation proposes the removal of the above land from the S106 and the inclusion of the recently acquired Hill Farmhouse and the adjacent 2.2 acres into the Agreement. This land is edged in red on the plan entitled Figure 3 - Hill Farmhouse and 2.2 acres.

Assessment of Proposal

Planning permission was granted for the construction of an agricultural dwelling at Hill Farm, Belbroughton under application 13/0054 on 27th March 2015 subject to a Agreement under Section 106 of the Town and Country Planning Act 1990 which effectively tied the occupation of the agricultural dwelling and the land in the ownership of the applicant within a single planning unit. The Third Schedule of the S106 Agreement states that the owner covenants that:

1. The occupation of the proposed dwelling shall be limited to persons solely or mainly working in the locality in agriculture as defined in Section 336 of the Act or in forestry or to any resident dependents of any such persons.
2. The whole of the land and proposed dwelling shall remain in common ownership and as a single unit for planning purposes

The extent of the land bound by the Agreement is defined on the plans as stated above. (comprising a total of 47ha or 117 acres). Members should note that the only matter being considered in this application is whether the proposed variation of the S106 Agreement linked to the approval of the agricultural dwelling would be appropriate. There are no other planning matters which form part of the determination process.

The sale of 54.16 acres (21.92ha) of the Land at New House Farm (Fig. 2) has been agreed subject to the variation of the S106 Agreement and the granting of the purchaser a 10 year Farm Business Tenancy (FBT) which will be registered with the Land Registry against the title. The applicant has provided the Memorandum of Sale to confirm the terms and obligations of the sale and a copy of the draft Farm Business Tenancy Agreement. The FBT will continue on an annually reviewed basis following the expiry of the 10 year period. Therefore, the applicant will effectively continue to farm the land following the completion of the sale.

The proposed variation of the S106 needs to be considered in the context of the policy purposes of the requirement in the approval of the original application (13/0054) for the construction of an agricultural dwelling. It was considered that there was an essential need for the applicant to live on site; the enterprise was financially sustainable; and the existing farmhouse (Hill Farm) was not available for occupation by the applicant and even if it were to become available would be unsuitable. The S106 Agreement was attached to ensure that portions of the land holding were not sold to ensure the holding remained of a

size for a long term viable agricultural business so that the requirement for a dwelling was justified.

The Grade 2 listed Hill Farmhouse was in separate ownership at the time of the 13/0054 application and when it was sold in 2019, it was acquired by the applicant due the potential impact separate ownership would have on the operation of the farm business. The applicant has put forward three arguments in terms of justification for the request to vary the existing S106 Agreement. These are:

- To reduce the significant borrowing costs that the business is subject to which is stifling the growth and development of the agricultural business and diversification ventures
- The sale of the land offers the applicant the opportunity to rent largely the same area of land back under a secure Farm Business Tenancy (which forms part of the Memorandum of sale) for a minimum term of 10 years and hence the farmed area will largely remain the same improving the adaptability of the business.
- The sale of the land will also provide capital for the applicant to renovate the listed Hill Farmhouse and generate income through diversification into the holiday let market

The application relates to the variation of a Legal Agreement and policies of relevance include BDP4 of the Bromsgrove District Plan (BDP) and the advice of Supplementary Planning Guidance Note 6 (Agricultural Dwellings and Occupancy Conditions) and the NPPF are relevant.

Members should note the advice received from the Councils Agricultural Consultant. The matters to consider are: (i) size of remaining holding; (ii) current financial position of the farm; (iii) financial implications of proposals.

The advice makes the following observations in relation to these points:

(i) Size of remaining holding

27 ha of land at New House Farm is proposed to be excluded from the s106 agreement. However, the applicant will continue to farm 22ha of this land under the auspices of a 10 year Farm Business Tenancy (which is included in the Memorandum of Sale). Therefore, the reduction in the area farmed would be approx 4ha, given that the Applicant is adding 2.1 acres (1ha) of newly-acquired agricultural land into the agreement. It is concluded that the reduction in the farmed area would not significantly reduce farming capacity.

(ii) Financial position

The applicant has provided detailed accounts for 2017 -2019 which show that the enterprise was not trading profitably by 2019. The main impact on the profitability of the holding are interest costs. There have also been substantial annual increases in the cost of feed, seed and fertiliser.

The application is accompanied by a Functional and Financial Tests statement. It is evident the profit and loss accounts submitted demonstrate that the current interest/mortgage charges are overbearing and hindering the ability of the business to

grow successfully. The sale of the land would release capital to reduce debts and mortgage interest and renovate the farmhouse which is currently in a poor state of repair. The applicant is intending to renovate the farmhouse and convert it to a holiday let to supplement the income position of the farm. It should be noted that such a proposal would require planning permission and listed building consent which are not being considered in this proposal.

The agricultural consultant confirms that the proposal to remove 27ha from the s106 Agreement, sell the land, invest the capital reducing debt, restoring the farmhouse recently acquired, and with a 10 year Farm Business Tenancy on most of the land sold, will be beneficial to the overall profitability of the enterprise. The remaining farm, even without the proposed FBT, would be large enough to enable an occupant to comply with the agricultural occupancy condition attached to application 13/0054.

In the circumstances proposed, with the newly acquired farmhouse to be included within the s106 such that rental income from the dwelling will feed into the farm accounts, the farm's overall financial performance should improve. There are no agricultural concerns that the proposed amendment to the s106 would threaten the long term need for the agricultural dwelling permitted in 2015 under 13/0054.

In conclusion, the proposed variation to the S106 Agreement attached to 13/0054 to enable land to be sold would not conflict with the requirement for the agricultural dwelling permitted on the holding and would accord with policies BDP4 of the Bromsgrove District Plan and with the advice of Supplementary Planning Guidance Note 6 (Agricultural Dwellings and Occupancy Conditions) and the NPPF.

There have been no objections received from Third Parties in relation to the proposal. The comments received from Belbroughton and Fairfield Parish Council have been considered. However, the proposed variation to the S106 Agreement is considered to be acceptable for the reasons set out above. No other planning issues arise.

RECOMMENDATION: That the proposed Variation to the Section 106 Agreement be **Granted**.

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