

SUPPORTING STATEMENT

On behalf of Mr and Mrs Adams

SITE

Haredene, Chicksgrove, Tisbury, Salisbury SP3 6NB

PROPOSAL

Section 191 Certificate of Lawfulness of Existing Use or Development



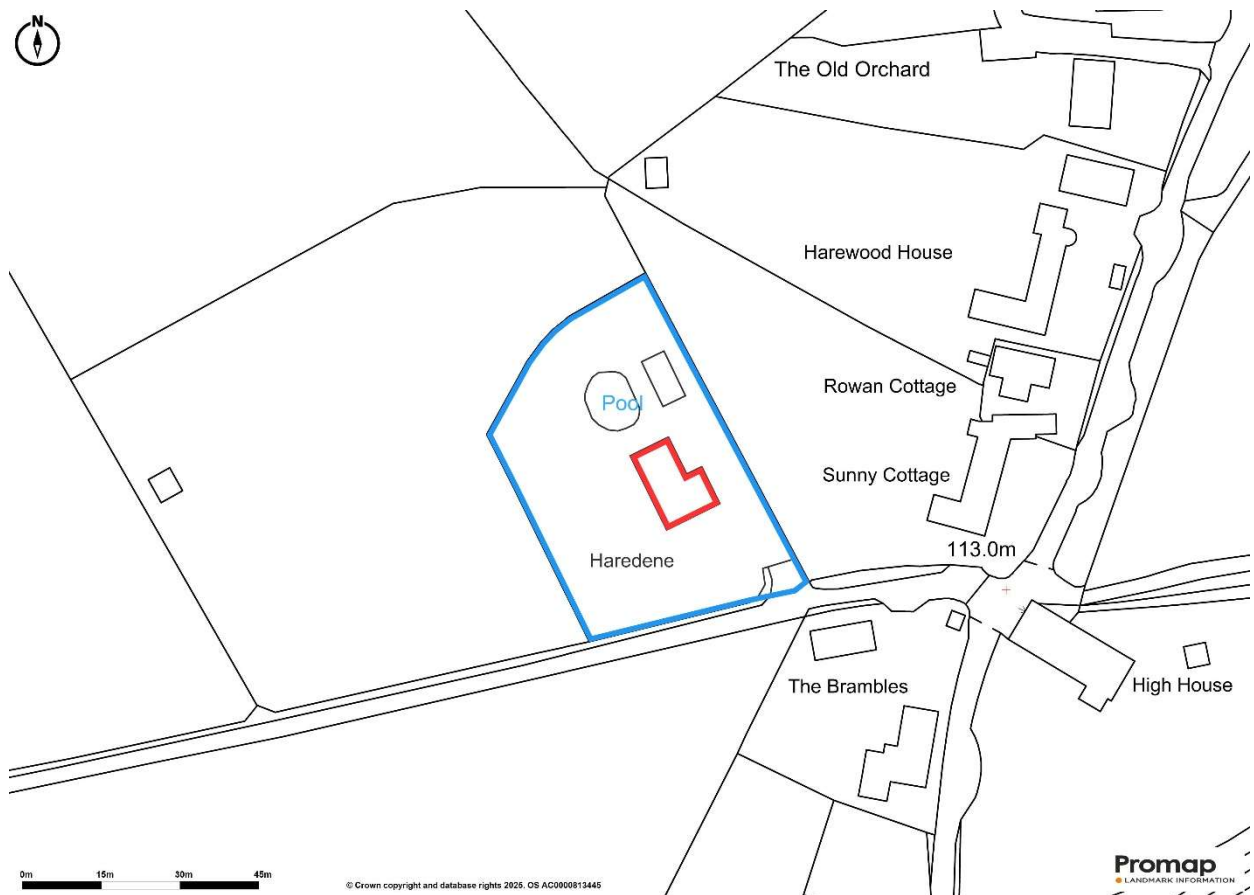
Symonds & Sampson LLP
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Salisbury
Wiltshire
SP1 2PU
Ref: JRE/tjw/14673A

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1. Background and Planning History:

This Statement has been prepared by Symonds & Sampson LLP on behalf of the Applicants, Mr and Mrs Adams ("the Applicants"), the owners of Haredene, Chicks Grove, Tisbury, Wiltshire SP3 6NB ("the dwelling"). The dwelling is identified edged red as per the plan shown below:-



The Applicants submit an Application for a Certificate of Lawful Existing Use or Development (CLEUD) under Section 191 of the Town & Country Planning Act, 1990 (as amended) to Wiltshire Council for the use of the dwelling as an independent dwelling in breach of an Agricultural Occupancy Condition.

The dwelling was constructed pursuant to Planning Permission S/91/0206 for the erection of an agricultural bungalow on 9th August 1991 (**Appendix 1**) subject to the following occupancy condition at Part 7:

"The occupancy of the dwelling should be limited to a person solely or mainly employed or last employed in agriculture in the locality as defined in Section 336(1) of the Town & Country Planning Act, 1990, or in forestry (including the dependants of such person residing with him) or a widow or widower of such a person."

2. Evidence:

The application seeks to establish that the balance of probability is that the application property:

- (i) has been continuously used as a dwelling for a period in excess of ten years prior to the application date, and
- (ii) has been occupied in breach of the relevant occupancy condition for a period in excess of 10 years prior to the application date.

The above does not constitute a contravention of any of the requirements of any enforcement notice, or breach of condition notice in force.

In view of this, the occupancy condition is no longer enforceable and therefore the certificate applied for should be issued by your Authority confirming that it is lawful for persons not in compliance with the restriction to occupy the dwelling.

This CLEUD is supported by the Statutory Declarations of the Applicants alongside additional evidence which supports the applicant's assertion that the dwelling has been occupied as a dwelling in continuous breach of the relevant occupancy restriction for a period of at least ten years prior to the date of the application. The evidence consists of the following:-

- Copy of the Assured Shorthold Tenancy Agreement between Gary John Adams and Robert James Hill dated 29th March 2013.
- Copy of bank statements for the last ten years identifying payments of rent from the tenant.
- Statutory Declaration from Robert Hill, the tenant, confirming he has rented and resided at the property since 29th March 2013 to the present day.
- Confirmation of Mr Hill's employment and his payment of council tax for the duration of his time as tenant of Haredene.
- Statutory Declaration from Gary Adams, joint owner of the property, confirming Robert Hill took occupation of the property on 29th March 2013 and has resided there to the present day.
- Statutory Declaration from Rebecca Adams, joint owner of the property, confirming Robert Hill took occupation of the property on 29th March 2013 and has resided there to the present day.

3. Town & Country Planning Act, 1990 Section 171A:-

Section 171A of the Town and Country Planning Act 1990 defines a "breach of planning control" as either:-

- (a) carrying out development without the required planning permission; or
- (b) **failing to comply with any condition** or limitation subject to which planning permission has been granted.

4. Town & Country Planning Act, 1990 Section 171B – Time Limits:-

Section 171B of the Town and Country Planning Act 1990 sets the time limits for enforcement action.

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of—
 - (a) in the case of a breach of planning control in England, **ten years** beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of—
 - (a) in the case of a breach of planning control in England, **ten years** beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of **ten years** beginning with the date of the breach.

5. Town & Country Planning Act, 1990 Section 191:-

Section 191 of the Town and Country Planning Act 1990 allows any person to apply to a local planning authority for a certificate to formally confirm that an existing use or operation on a piece of land is "lawful".

- (1) It allows any person who wishes to ascertain whether;
 - (a) any existing use of buildings or other land is lawful;
 - (b) any operations which have been carried out in, on or over under land are lawful; or
 - (c) any other matter constituting a failure to comply with any condition or limitations subject to which Planning Permission has been granted is lawful,

he may make an Application for the purpose to the Local Planning Authority specifying the land and describing the use, operations or other matter.

- (2) For the purposes of this Act, uses and operations are lawful at any time if;
 - (a) no enforcement action may be taken in respect of them (whether because they did not involve development or require Planning Permission or because the time for enforcement action has expired or for any other reason), and
 - (b) they do not constitute a contravention of any of the requirements of any Enforcement Notice then in force.
- (3) For the purposes of this Act, any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if —

- (a) the time for taking enforcement action in respect of the failure has then expired; and
- (b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

Section 191(4) states that if on an Application under this section the Local Planning Authority are provided with information satisfying them of the lawfulness at the time of the Application of the use, operations or other matter described in the Application, or that description as modified by the Local Planning Authority, or a description substituted by them, they shall issue a Certificate to that effect.

It is clear from the wording of the condition that occupancy of the property should be limited to a person solely or mainly employed or last employed in agriculture in the locality. The Applicants' evidence is clear in that the tenant of the property that took occupation on 29th March 2013 and has continually rented the property up to the present date is employed as a historical building surveyor and at no point during his occupation of the property has he been employed in agriculture. His continued occupation of the property is in excess of the 10 years required by the legislation.

6. Planning Practice Guidance - Lawful Development Certificates, published 06 March 2014

Government advice in the above mentioned guidance (para 006) makes clear that in determining applications for lawful development certificates, the applicant is responsible for providing sufficient information to support an application and that in the case of applications for existing use, if a local planning authority has no evidence itself, nor from any others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

7. Gabbittas v SSE and Newham LBC [1985]

The 1985 case of FW Gabbittas v Secretary of State for the Environment and Newham LBC established that a planning applicant does not need independent or corroborating evidence to prove a lawful use claim. The court held that an applicant's own evidence is sufficient if it is clear enough to justify granting a certificate on the balance of probabilities, and a Local Authority cannot refuse an application based on the stricter "beyond reasonable doubt" standard if they lack evidence to the contrary.

8. Conclusion:

In conclusion, the Applicants have discharged the onus of proof and met the relevant tests on the balance of probability as required by the Act.

The Gabbittas case demonstrates that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. Nevertheless, such corroboration has been provided by way of the evidence of the applicants and Mr Hill. If the Authority has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, even in cases where the applicant's evidence alone is submitted, provided that it is sufficiently precise and unambiguous to justify the grant of a certificate "*on the balance of probability*".

In view of the evidence as stated above and submitted with this application, it has been clearly demonstrated beyond the balance of probability that the property has been used as a dwelling continuously for a period of at least ten years prior to the date of the application, and that there has been no abandonment of that use.

Therefore, the certificate should be granted in accordance with the relevant planning legislation, in particular the Town & Country Planning Act 1990 Section 191 (amended) which places a duty on local planning authorities when provided with information satisfying them of the lawfulness at the time of the application of the use, to issue the certificate applied for.

It is therefore concluded that the CLUED should be granted by the Local Planning Authority.

Jack Edwards MRICS FAAV
Partner
25th November 2025



APPENDIX 1

Haredene, Chicksgrove, Tisbury, Salisbury SP3 6NB

Planning Permission S/91/0206

SALISBURY DISTRICT

S/91/0206/TP

TOWN & COUNTRY PLANNING ACTS 1990

GRANT OF FULL PLANNING PERMIS. ON

Name and Address of Applicant: MR G MAIDMENT
HILLTOPS
TISBURY

Date Registered: 14.02.91

Location and Description:

ERECTION OF AGRICULTURAL BUNGALOW
COLEMANS FARM, CHICKSGROVE

SALISBURY DISTRICT COUNCIL HEREBY GRANTS FULL PLANNING PERMISSION FOR THE ABOVE DEVELOPMENT

Subject to the following conditions:

- 01 The development for which permission is hereby granted must be commenced not later than the expiration of 5 years beginning with the date of this permission. (CA04)
- 02 The development hereby permitted shall be carried out in accordance with the additional plans received by the Local Planning Authority on 5/4/91. (1627)
- 03 Before development is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed building(s) shall be submitted to and approved in writing by the Local Planning Authority (CC01)
- 04 Notwithstanding the provisions of Schedule 2 (Part 1), Classes A, E and Part 2, Class A to the Town and Country Planning General Development Order 1988 (or any order revoking and re-enacting that Order), there shall be no extensions to the dwelling(s) nor the erection of any structures within the curtilage unless otherwise agreed by the Local Planning Authority upon submission of a planning application in that behalf. (1628)
- 05 Before the building hereby permitted is occupied, the development shall be screened by the planting of a suitable hedge, of a type, height and in positions to be agreed in writing with the Local Planning Authority. The hedge so planted shall be properly maintained and in the event of any failures or loss through damage occurring within two years of the date of planting, these shall be replaced during the next planting

ELLIS FINNISS
27A CASTLE STREET
SALISBURY
WILTS

Continued....

SALISBURY DISTRICT

S/91/0206/TP

season to the reasonable satisfaction of the Local Planning Authority.
(CP08)

- 06 Details of foul drainage shall be submitted to and approved by the Local Planning Authority prior to any construction on the site.
- 07 The occupancy of the dwelling shall be limited to a person solely or mainly employed, or last employed, in agriculture in the locality, as defined in Section 336(1) of the Town and Country Planning Act 1990, or in forestry (including the dependants of such person residing with him) or a widow or widower of such a person. (CJ12)

Reasons for conditions:

- 01 To comply with the provisions of Section 91 of the Town and Country Planning Act 1990. (X002)
- 02 For the avoidance of doubt. (X004)
- 03 To secure a harmonious form of development. (X006)
- 04 To enable the Local Planning Authority to retain planning control over the development in the interests of amenity. (X033)
- 05 In the interests of the amenity and the environment of the development. (X019)
- 06 In order to maintain water quality.
- 07 The site is in an area where permission for development unrelated to the essential needs of agriculture or forestry would not normally be granted. (X037)

Signed

Authorised Officer

Date: 09.08.91

NW.996

S/91/0003 - CHANGE OF USE TO GENERAL STORAGE ONLY : STATION YARD,
DINTON - FOR B. HEDGES -

RESOLVED - that the officers be authorised to take Enforcement Action to ensure the cessation of the unauthorised use of this land, and the removal of the unauthorised materials.

(NOTE: the decision of refusal of the above application is set out in Schedule 'A' attached)

NW.997

S/91/0206 - ERECTION OF AGRICULTURAL BUNGALOW, COLEMANS FARM,
CHICKSGROVE - FOR MR. G. MAIDMENT -

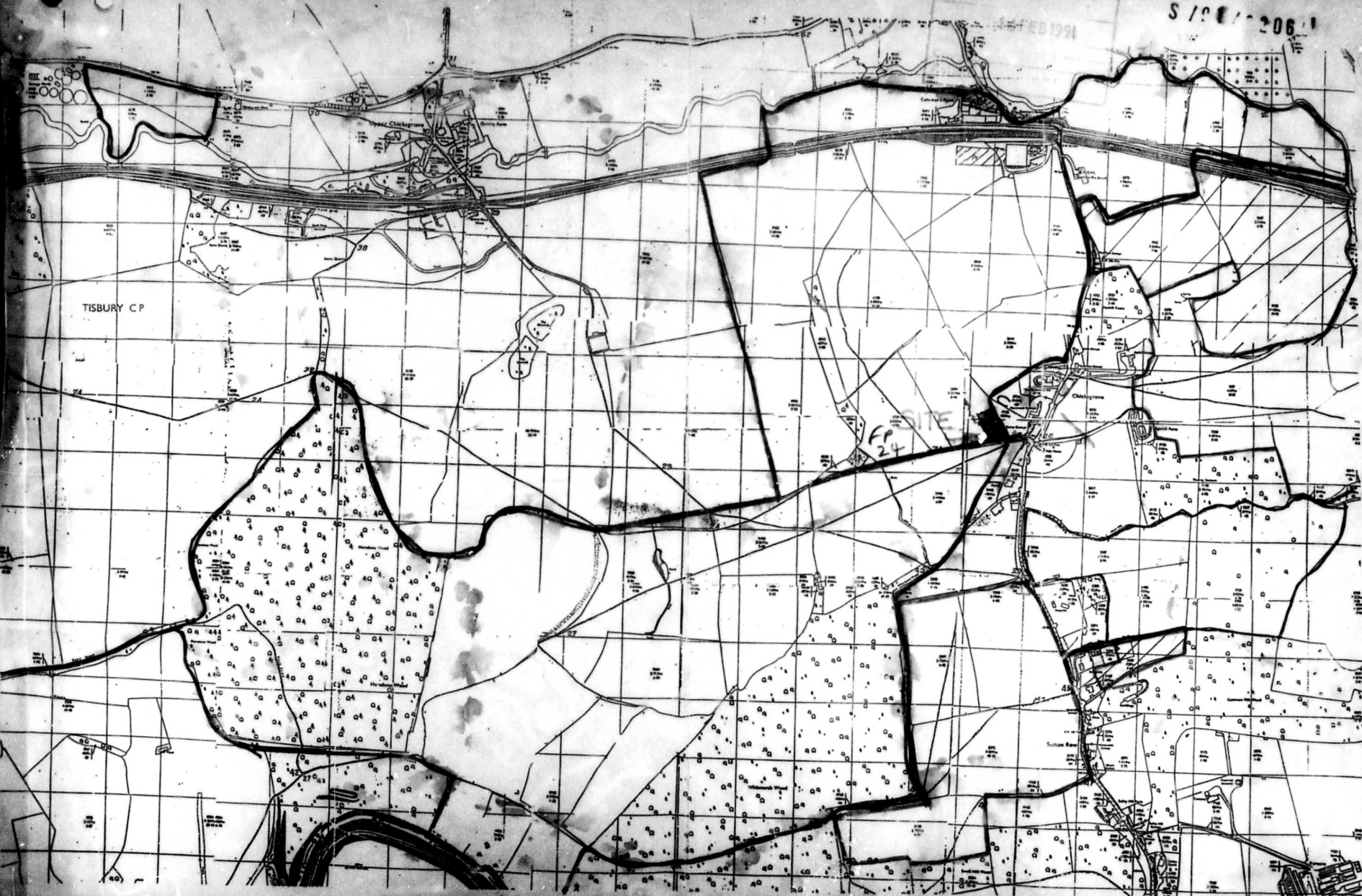
RESOLVED - that upon the applicants entering into an Agreement that upon the completion of a Revocation Order without compensation, regarding planning permission S/90/505/TP, planning permission be granted subject to the following conditions:-

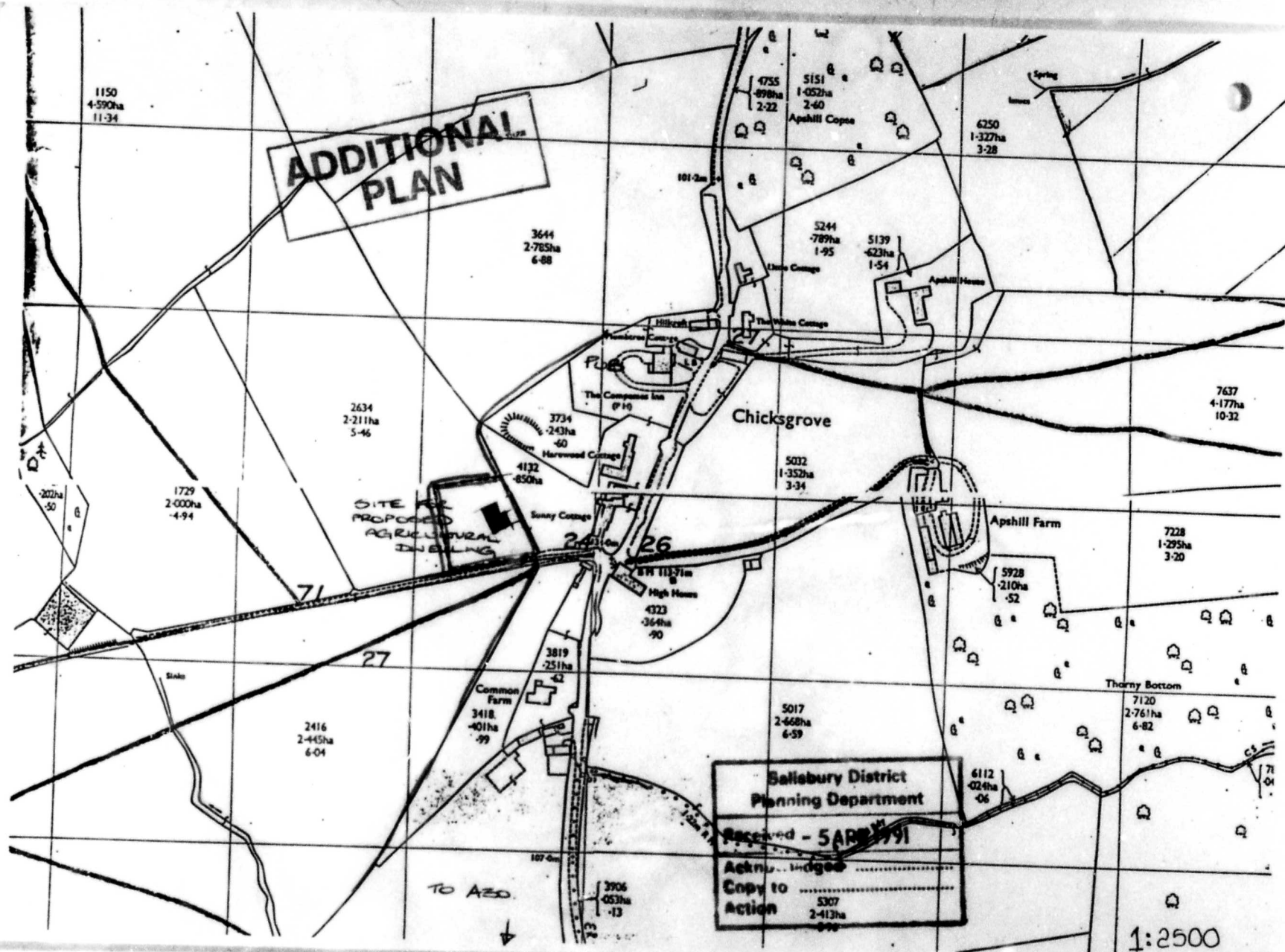
1. The development for which permission is hereby granted must be begun not later than the expiration of 5 years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the additional plans received by the Local Planning Authority on 5/4/91.
3. Before development is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed building(s) shall be submitted to and approved in writing by the Local Planning Authority.
4. Notwithstanding the provisions of Schedule 2 (Part 1), Classes A, E and part 2, Class A to the Town and County Planning General Development Order 1988 (or any order revoking and re-enacting that order), there shall be no extensions to the dwelling(s) nor the erection of any structures within the curtilage unless otherwise agreed by the Local Planning Authority upon submission of a planning application in that behalf.
5. Before the building hereby permitted is occupied, the development shall be screened by the planting of a suitable hedge, of a type, height and in positions to be agreed in writing with the Local Planning Authority. The hedge so planted shall be properly maintained and in the event of any failures or loss through damage occurring within two years of the date of planting, these shall be replaced during the next planting season to the reasonable satisfaction of the Local Planning Authority.
6. Details of foul drainage shall be submitted to and approved by the Local Planning Authority prior to any construction on the site.

7?? cano 1 missing off minutes
- checked with KP - OK
- 4 -
to issue does not with
cano 7 on it

owner
previous approval
rent

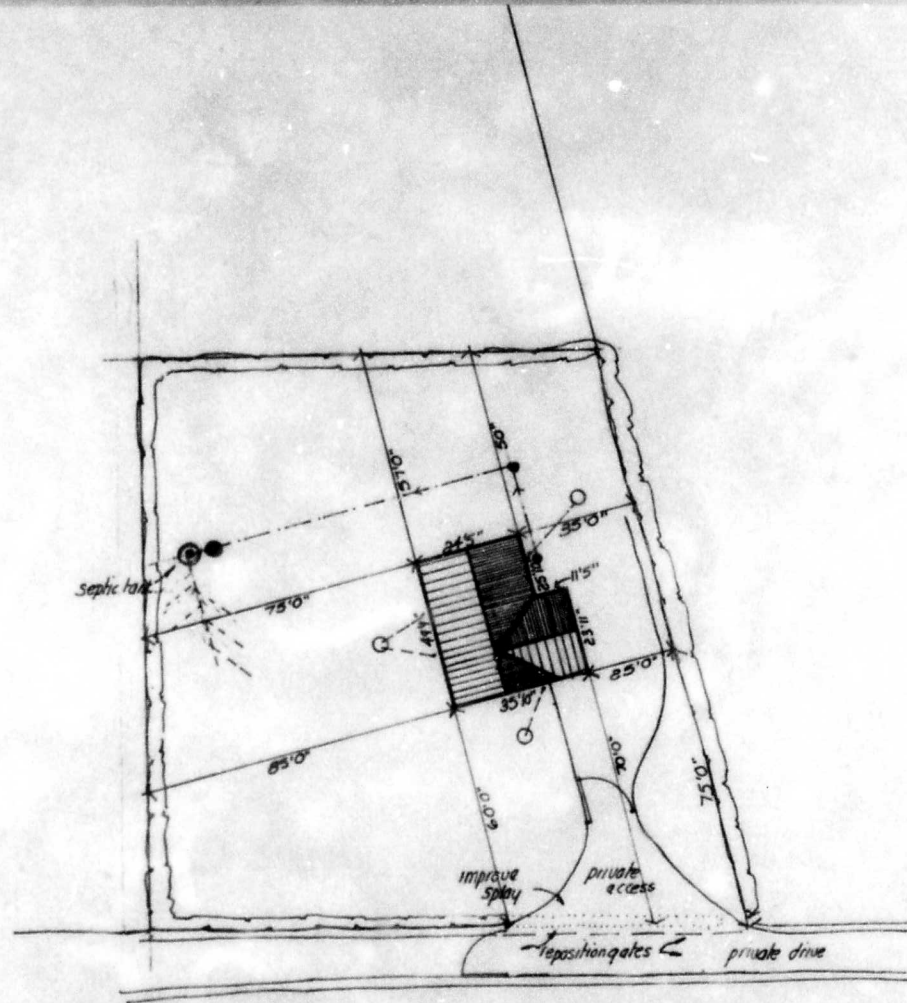
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Salisbury District
Planning Department
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Action

private file



**ADDITIONAL
PLAN**

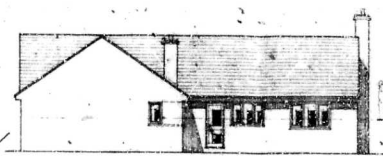
PROPOSED SITE PLAN: 1:500



FRONT ELEVATION



SIDE (Front) Elev.



REAR



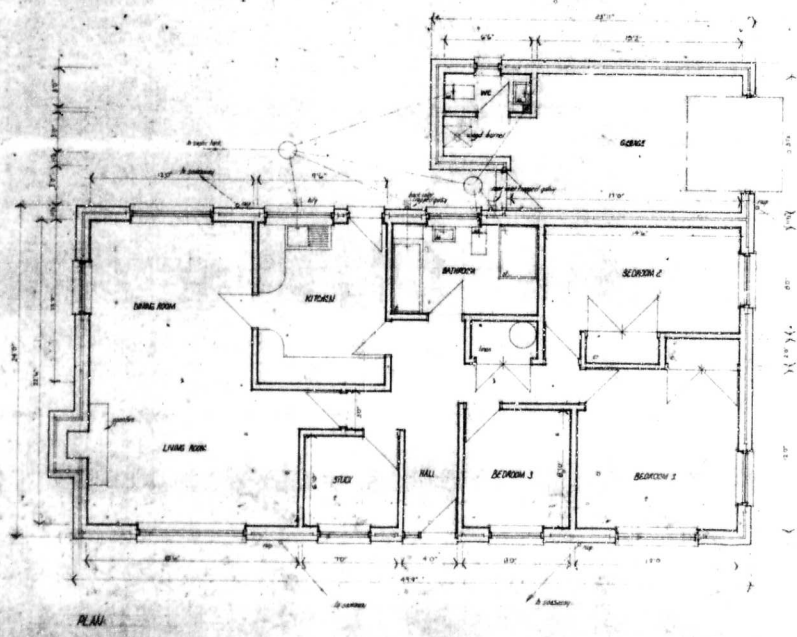
END



ALT. ELEVATION (Rearward) 16' 6 1/2"

CONSTRUCTION NOTES

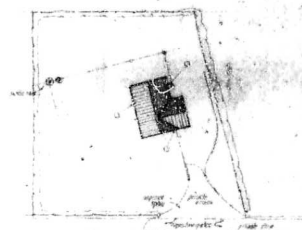
PROPOSED BUNGALOW: Proposed bungalow at Coleman's Farm, Chicks Grove, Tisbury, Wiltshire, is a single-story house of 10' 0" x 30' 0" (approx.) built on a concrete foundation. The house is to be built on a plot of 10' 0" x 30' 0" (approx.) and is to be built on a plot of 10' 0" x 30' 0" (approx.). The house is to be built on a plot of 10' 0" x 30' 0" (approx.) and is to be built on a plot of 10' 0" x 30' 0" (approx.).



PLAN



EXISTING SITE PLAN



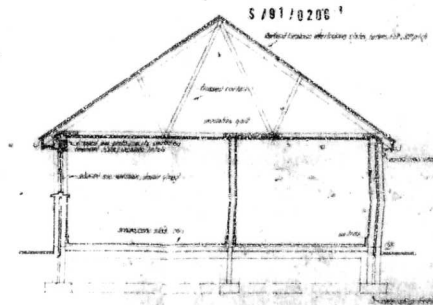
PROPOSED SITE PLAN 1:300

FOUNDATIONS: Foundations to be built on concrete foundation. The foundations are to be built on a concrete foundation. The foundations are to be built on a concrete foundation. The foundations are to be built on a concrete foundation.

HEATING: Heating to be provided by gas. The heating is to be provided by gas. The heating is to be provided by gas. The heating is to be provided by gas.

DRAINAGE: Drainage to be provided by sewer. The drainage is to be provided by sewer. The drainage is to be provided by sewer. The drainage is to be provided by sewer.

VENTILATION: Ventilation to be provided by natural. The ventilation is to be provided by natural. The ventilation is to be provided by natural. The ventilation is to be provided by natural.



PROPOSED BUNGALOW AT COLEMAN'S FARM, CHICKSGROVE, TISBURY

SCALE: 1/8" = 1' 0"	RELIN - FINISHES CONSULTANTS
DRAWING NO. 4571/67	27A CASTLE STREET
DATE: JANUARY 1968	SALISBURY, WILTSHIRE
	TEL. NO. 208747