

PLANNING STATEMENT

RE: GREENACRES FOWLSWICK LANE, ALLINGTON, CHIPPENHAM SN14 6LT

INTRODUCTION

This statement sets out the justification for a lawful development certificate.

The planning permission was approved on 7th November 1995 (Ref. N.95.1372.F) for the above property. An occupancy condition (No 2) was imposed.

Condition No 2 - The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in Section 366(1) of the Town and Country Planning Act, 1990 or in forestry, including any dependants of such a person residing with him, or a widow or widower of such a person. Reason; The site is within an where residential development for purposes other than the essential requirements of agriculture or forestry, are not normally permitted.

PLANNING ASSESSMENT

Section 171B (3) to the Planning Act explains that in the case of a 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. If no enforcement action can be taken Section 191 confirms that that use is lawful now, and thus going forward.

Under S. 191 of the Act, a person wishing to ascertain whether an existing use of buildings or failure to comply with a condition subject to which planning permission has been granted is lawful may make an application for a certificate of lawfulness of existing use or development to the local planning authority. If the information provided with such an application satisfies the local planning authority of the lawfulness of the same, a certificate should then duly be granted.

Lawfulness will have been established in a number of ways including, as is relevant to this case, if it is demonstrated that the time limit for enforcement has passed. The time limit for development. A Statutory declaration has been submitted as part of the application where the existing tenant has confirmed that she has been in occupation consistently since 1st November 2013. She has not been involved in agricultural or forestry whatsoever.

The applicant can therefore demonstrate the continuous breach for over 10 years. It is important to stress that your Council should not resist the application unless they have contradictory information available, or the available evidence is not sufficiently clear and unambiguous to support the case made.

NPPF paragraph 57 suggests planning conditions should be imposed and maintained only where they are necessary, relevant to planning and to the development. Likewise, they should be enforceable, precise and reasonable in all other respects.

The main issue is therefore whether condition No 2 of the 1995 approved planning permission remains necessary, enforceable and reasonable, having regard to the development plan, the need for rural worker dwellings in the local area and other material considerations.

Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning

permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

At the current time, the relevant statutory development plan documents in respect of this application consist of the Wiltshire Core Strategy (WCS) (adopted January 2015) and the 'saved' policies of the North Wiltshire Local Plan (NWLP) adopted June 2006.

The National Planning Policy Framework (NPPF) provides the Government's planning policies for England and explains how they should be applied. Together with the online Planning Practice Guidance (PPG) these are material planning considerations.

Government Circular 11/95 on the use of conditions in planning permissions provided the following applicable advice.

'Where an agricultural occupancy condition has been imposed it will not be appropriate to remove it on a subsequent application unless it is shown that the existing need for dwellings for agricultural workers in the locality no longer warrants reserving the house for that purpose'.

It is understood that your Council are unable to demonstrate the required five-year housing land supply, resulting in policies most important for the determination of housing developments being out-of-date as set out at paragraph 11 to the NPPF.

Due to the state of agriculture, the local need for accommodation in this area for agricultural purposes is not present any longer either, nor is likely to arise in the foreseeable future.

CONCLUSION

In conclusion therefore I trust you have sufficient information to confirm that the condition has been in continuous breach for over 10 years and a Certificate issued.