

# PLANNING STATEMENT

## LAWFUL DEVELOPMENT CERTIFICATE – PROPOSED

### AGRICULTURAL STORAGE BUILDING

#### FARM GATE FRESH POULTRY

#### FIVE WAYS ROAD

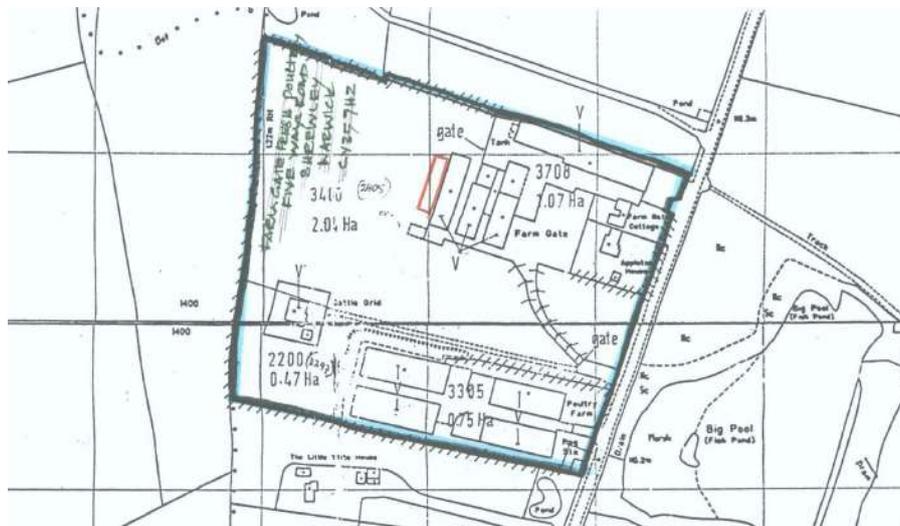
#### SHREWLEY

### Introduction

This application has been submitted on behalf of Shafa Farm Ltd, and seeks a certificate of lawfulness to confirm that a 2009 permission for the erection of an agricultural building was successfully implemented, and remains extant in perpetuity. This application seeks the issuing of a lawful development certificate on the basis that the works undertaken by the applicant amounted to a material start in accordance with Section 56 of the Town and Country Planning Act (1990).

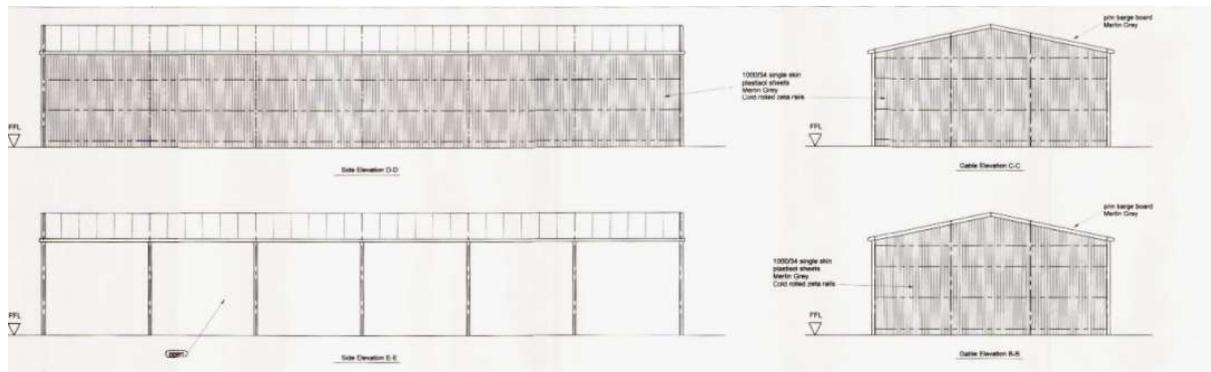
### Site Context and Background

By way of background, planning permission (W/08/1400) was granted in January 2009 for the erection of a single storey agricultural storage building. The building was situated to the west of the existing complex of buildings which currently serve as a poultry processing plant (totalling circa 40,000 sq. ft of floorspace), referred to as Farm Gate Fresh Poultry. The processing / office buildings and wider yard extend to approximately 1.45ha in area and fall within the West Midlands Green Belt. The below location plan submitted at the time demonstrates the position of the subject building in relation to the wider complex.



*Red Line Plan – Permission Ref: W/08/1400*

This application relates to planning permission ref: W/08/1400, which was submitted by the applicant's father in late 2008, and sought permission for the erection of an agricultural storage building to provide secure covered storage for hay / straw, and various agricultural implements. The permission was granted on the 7 January 2009 – no pre-commencement conditions were imposed on the approval.



**Approved Elevation Plan - Permission Ref: W/08/1400**

Following the granting of permission, the applicant's father instructed a local building contractor to commence works on the building in March 2009. The contractor undertook various excavation work, and laid five concrete pads (1.0m from 1.0m) to serve as footings for the steel frame.

Before work could progress much further, construction was subsequently halted following a review of the business, resulting in a change of immediate priorities for the company. As a result, work was never completed on the building, albeit the footings referred to above remain in situ.

### Purpose of Application

A lawful development certificate is now sought to confirm that the works undertaken as described above and as evident on site would amount to a material operation, and that as a consequence, permission ref: W/08/1400 has been implemented and is extant in perpetuity as a result.

### Legal Background

Section 56 of the Town and Country Planning Act (1990) is as follows:

*(1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—*

- (a) if the development consists of the carrying out of operations, at the time when those operations are begun;*
- (b) if the development consists of a change in use, at the time when the new use is instituted;*
- (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).*

*(2) For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.*

*(3)The provisions referred to in subsection (2) are sections 61L(5) and (7), 85(2), 86(6), 87(4), 89 91, 92, 94 and 108(3E)(c)(i).*

*(4)In subsection (2) “material operation” means—*

*(a)any work of construction in the course of the erection of a building;*

*(aa)any work of demolition of a building;*

*(b)the digging of a trench which is to contain the foundations, or part of the foundations, of a building;*

*(c)the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);*

*(d)any operation in the course of laying out or constructing a road or part of a road;*

*(e)any change in the use of any land which constitutes material development.*

*(5)In subsection (4)(e) “material development” means any development other than—*

*(a)development for which planning permission is granted by a general development order or a local development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;*

*(b)development of a class specified in paragraph 1 or 2 of Schedule 3; and*

*(c)development of any class prescribed for the purposes of this subsection.*

## **Justification**

To summarise the above, in order to lawfully ‘commence’ development it is necessary to satisfy the legal requirements in section 56(4) of the Town and Country Planning Act 1990. Paragraph 2 states that “development is taken to be begun on the earliest date on which a material operation is carried out”. Paragraph 4 confirms that a material operation can include any works of construction, demolition, or excavation work to enable the laying of foundations.

Evidently, before issuing a lawful development certificate, officers must be satisfied that the works undertaken would constitute a material operation as defined in paragraph 2, and that the works in question were undertaken before the permission expired.

In relation to the first point, the works undertaken by the contractors would quite clearly amount to a material operation, having regard to the provisions of Section 56. A significant amount of excavation work was undertaken, culminating in the laying of five concrete pads, onto which the contractors would have bolted the steel frame of the barn. The concrete pads (and indeed the large bolts) remain in situ and are clearly perceptible on site, as demonstrated on the submitted photos (extracts below), and as indicated on the submitted topographical survey of the site.



**PHOTOGRAPHS OF CONCRETE PADS**

The works would clearly constitute a material operation as defined in Section 56, which stipulates that the *digging of a trench which is to contain the foundations, or part of the foundations* would be sufficient to instigate a material start. The evidence submitted unequivocally demonstrates that the necessary work was undertaken by the applicant’s father, and we would invite officers to visit the site themselves to confirm as much.

Officers can be further satisfied that the work described was undertaken shortly after the granting of permission in January 2009, and certainly within the lifetime of permission.

In this respect, this application is accompanied by a signed statutory declaration, provided by the applicant Mr Samir Audhali. Mr Audhali has been employed as factory manager at Farm Gate Poultry Ltd for almost twenty years, and currently resides nearby in an adjacent property. Throughout this period Mr Audhali has worked from the site, and therefore benefits from a clear knowledge and understanding of the history of the factory and wider complex.

The signed declaration confirms the version of events as stated in this cover letter. It confirms that the works were undertaken in March 2009 two months on from the granting of permission. This submission is also accompanied by a signed letter by the building contractor (Mr Steve Edwards), dated 19 September 2021, which confirms that they undertook the works in March 2009. This evidence serves to confirm that the permission was implemented during the lifespan of the approval.

In light of the substantive and unequivocal evidence submitted, it is evident that permission ref: W/08/1400 was indeed implemented, and the permission remains live in perpetuity. On this basis, the proposed erection of the agricultural building is lawful, and the building can be implemented in full in accordance with the 2009 permission.



## **Conclusions**

This supporting statement accompanies an application which seeks the granting of a lawful development certificate to confirm that the erection of an agricultural building can be undertaken lawfully in accordance with planning permission ref: W/08/1400. The evidence submitted is clear and concise, and demonstrates beyond all reasonable doubt that the permission was successfully implemented through the undertaking of a material operation, in this instance, excavation work facilitating the laying of five concrete pads to serve as footings for the building.

In light of the categorical evidence, the lawfulness of the proposed building has been demonstrated, and we would respectfully request that such is endorsed by the LPA at the earliest possible opportunity through the issuing of the relevant certificate.