
Application for Removal of Agricultural Occupancy Condition

Longcroft Farm, Alderley Road, Hillesley, Wotton-under-Edge,
GL12 7RD

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1.0 Introduction

1.1 Scope

1.1.1 This statement has been prepared on behalf of Alderley Farm Ltd (hereafter referred to as 'the Applicant'). It supports an application for the removal of an agricultural occupancy condition following the grant of a Certificate of Existing Lawful Use (S.23/1423/CPE) by Stroud District Council on 5th September 2023.

1.1.2 The property that is the subject of this application is Longcroft Farm, Alderley Road, Hillesley, Wootton-under-Edge, GL12 7RD and is shown on the Location Plan submitted with the application.

1.1.3 This application seeks to remove Condition 2 from planning permission P87/3099 which was approved on 23rd June 1988.

1.1.4 This statement is structured as follows:

- Chapter 2 – Sets out the site context including site location and planning history.
- Chapter 3 – Summaries the planning policy context including material considerations relevant to the application.
- Chapter 4 – Details the planning case in support of the application.
- Chapter 5 – Concludes this statement.

2.0 Site Context

2.1 Site Location & Description

2.1.1 The site is located to the north-west of the settlement of Hillesley. The site is accessed via an existing track off Alderley Road, which runs alongside a walled garden and agricultural field before reaching the dwelling through a gate beside the dwelling.

2.1.2 The site is bordered by existing residential development of the Farmcote cul-de-sac to the east of the site as shown on the aerial photograph in Figure 1 below. The site does not comprise of agricultural outbuildings and has a principally residential character.

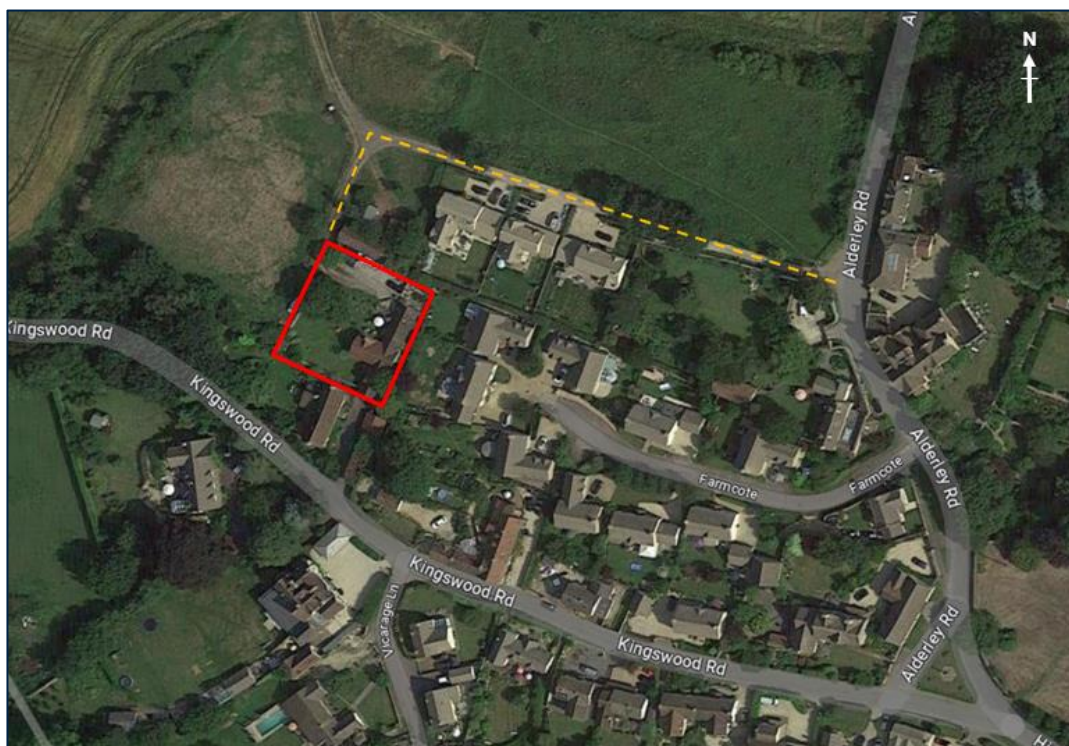


Figure 1: Aerial photograph showing application site (outlined in red) and its immediate context

2.2 Site Description

2.2.1 The dwelling is predominantly single storey (with a small second storey element), with stonework walls and a pitched, tiled roof. The dwelling fronts onto a driveway and garden space as shown below in Figure 2.



Figure 2: Photograph of dwelling at Longcroft Farm

2.3 Planning History

2.3.1 Full planning permission for the ‘*Conversion and extension of barn to provide agricultural workers dwelling*’ was granted on 23rd June 1988 under application number P87/3099. A number of conditions were attached to the permission, including an agricultural occupancy condition as follows:

“(02) The occupation of the dwelling hereby authorised shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in section 290(1) of the Town and Country Planning Act 1971, or in forestry (including any dependants of such a person residing with him or her), or a widow or widower of such person.”

2.3.2 A Certificate of Lawful Existing Use or Development (CLEUD) (S.23/1423/CPE) was granted by Stroud District Council on 5th September 2023, following a continuous breach of the agricultural occupancy condition (Condition 2, as above) by a non-compliant occupant for more than 10 years. The certificate confirms that the occupancy of the property in breach of the condition is lawful and that the Council may take no enforcement action against the breach of condition.

3.0 Planning Policy Context

3.1 Legislative Background

3.1.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 states that all planning applications should be determined in accordance with the 'Development Plan' unless material considerations indicate otherwise.

3.1.2 In this case the approved Certificate of Lawfulness is considered to be a significant material consideration.

3.2 National Planning Policy

3.2.1 Paragraph 56 of the NPPF (2023) states that *"planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects."*

3.3 National Planning Practice Guidance (NPPG)

3.3.1 The National Planning Practice Guidance (NPPG) is an online resource first launched in March 2014, which provides interpretation and additional detail to the policies contained within the National Planning Policy Framework, as well as explanatory guidance on planning processes.

3.3.2 Paragraph 003 of the NPPG on the 'use of planning conditions' states that *"the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:*

1. *Necessary;*
2. *Relevant to planning;*
3. *Relevant to the development to be permitted;*
4. *Enforceable;*
5. *Precise; and*
6. *Reasonable in all other aspects.*

These are referred to in this guidance as the 6 tests, and each of them need to be satisfied for each

condition which an authority intends to apply.” (Reference ID: 21a-003-20190723, Revision Date: 23/07/2019)

3.4 Material Considerations

- 3.4.1 As identified in the planning history above, a CLEUD was issued by the Stroud District Council confirming that the continued occupation of the dwelling in breach of Condition 2 is lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended). The property can therefore be occupied without compliance with the condition and is immune from enforcement action. As the dwelling can be occupied without compliance to Condition 2 of the original planning permission, Condition 2 is no longer necessary or enforceable and therefore fails two of the six tests set out in the NPPG.
- 3.4.2 The Chelsham Heights appeal (APP/M3645/A/12/2168175) provides a precedence as to how a similar application was determined by the Planning Inspectorate. A certificate of lawfulness had been granted and therefore it was considered by the Inspector that the condition was no longer necessary, as it failed to meet at least one of the tests of Circular 11/95: The Use of Conditions in Planning Permissions. It was noted that the condition could become enforceable again if the dwelling was to be occupied by a person who met the requirements of the condition. However, the Inspector concluded that such a prospect did not seem plausible and therefore gave little weight to this argument. Overall, although the proposal conflicted with national and local policy relating to agricultural workers' dwellings, the existence of the CLEUD, as a fallback position, amounted to an overriding material consideration and the appeal was subsequently allowed.

4.0 Planning Case

4.1 Summary

4.1.1 Following the grant of a CLEUD (S.23/1423/CPE) this application seeks to remove the agricultural occupancy condition (Condition 2) from the original planning permission for clarity.

4.1.2 The CLEUD, granted in September 2023, confirms that the property is immune from enforcement action in respect of the breach of this condition. Whilst it is noted that the condition could be enforceable in the future, if a future occupier were to comply with the condition, this is a highly unlikely scenario which was given little weight in the Chelsham Heights appeal (see 3.4.2 above).

4.1.3 In light of the above assessment, the condition now fails to comply with two of the tests set out in Paragraph 56 of the NPPF in that:

- The condition is no longer enforceable following the grant of the Certificate of Lawful Existing Use.
- Given that the condition cannot be enforced, it cannot reasonably be concluded to be necessary.

4.1.4 The CLEUD therefore provides a significant material consideration and should be given significant weight as a material consideration, as was the case in the Chelsham Heights appeal.

4.2 Case Studies

Whitehall Lodge – S.22/2592/VAR

4.2.1 An application to remove an agricultural occupancy condition (Condition E) at Whitehall Lodge was approved by Stroud District Council on 18th January 2023. The Officer's report provided the following commentary:

- *“As a Section 73 application, the principle of development is established, and the Local Planning Authority can only consider the conditions attached to the permission.”*
- *“A Certificate of Lawful Development (Existing Use) was issued under S.22/1486/CPE on*

16.09.22. Information provided as part of that application provided sufficient evidence to demonstrate non-compliance with an agricultural occupancy condition for a period in excess of 10 years. The issuing of the certificate effectively confirms that no enforcement action may be taken relating specifically to the agricultural occupancy condition. This is a material planning consideration that carries substantial weight.”

- *“The material consideration of the certificate of lawfulness, in this instance, outweighs the conflict with policy CP15 for development within the open countryside where there is a general restriction on open market housing. There is no functional need for the condition and the removal of the restrictive condition is acceptable.”*

4.2.2 It is noted that in granting the application, the LPA reviewed the conditions previously attached to the original permission and decided to remove other conditions that were no longer reasonably required.

The Mole Hill – S.22/1880/VAR

4.2.3 Another application to remove an agricultural occupancy condition at The Mole Hill was approved by Stroud District Council on 18th October 2022.

4.2.4 The Officer’s report provided similar commentary in relation to the removal of the condition associated with this property. As was the case above, a Certificate of Lawful Development (Existing Use) was issued under S.21/2425/CPE on 15.11.2021. This demonstrated that the dwelling had been occupied in non-compliance with the agricultural occupancy condition for a period in excess of 10 years. It was noted, as above, that this carries substantial weight in decision making.

4.2.5 Notwithstanding that all applications should be judged on their own merits, these decisions provide useful case precedence given that both decisions were issued within the last 18 months. Additionally, the similarities between the examples and this application, including the breach of an agricultural occupancy condition for more than 10 years and that those granted and this application, all benefit from a CLEUD further highlights their relevance when considering the current application at Longcroft Farm.

5.0 Conclusion

5.1 Summary

5.1.1 Following the grant of a CLEUD (S.23/1423/CPE) by Stroud District Council on 5th September 2023 at Longcroft Farm, this application seeks to remove Condition 2 of the original permission (LPA ref. P87/3099).

5.1.2 This statement demonstrates that the agricultural occupancy condition no longer satisfies the relevant tests for planning conditions outlined in the NPPF and NPPG. This is because the condition is no longer enforceable or necessary following the grant of the Certificate of Lawful Use.

5.1.3 On this basis it is therefore respectfully requested that this planning application is granted.

