



PLANNING STATEMENT

REMOVAL OF CONDITION

AT

**THE GRANGE
HAYCROFT LANE
FLEET
SPALDING
LINCS
PE12 8LB**

FOR

MR AND MRS KING

Job No. SE-1917

March 2023

1. Introduction

This application is submitted under Section 73 of the Town and Country Planning Act. It seeks to remove condition 03 of planning appeal reference T/APP/A/97/66319/P4, allowed on 24 March 1988.

1.1. Background and Location

The site comprises a large, detached house known as The Grange and its associated outbuildings. The site is located on a parcel of land between Fleet Road (B1515) to the north, and Haycroft Lane to the south. Access is via Haycroft Lane.

The planning history is as follows:

H05-0104-23 – Occupation of dwelling by persons not employed in agriculture – Condition 03 of H05-0304-86 (allowed on appeal) – Lawful 21.03.2023;

T/APP/A/87/66319/P4 – Planning appeal in relation to H5/0304/86 for outline planning permission (all details to be reserved for subsequent approval) for the erection of an agricultural dwelling, calf breeding unit, implement store, garage and access at the junction of Main Road and Haycroft Lane, Fleet, Holbeach, Lincs – Appeal allowed 24.03.1988.

2. Statement

2.1. Background

The existing dwelling known as The Grange and its associated outbuildings were built and occupied by Mr and Mrs David and Jane King. The buildings were constructed under outline planning permission (and subsequent reserved matters) which was granted at appeal, reference T/APP/A/97/66319/P4.

The appeal decision included condition 3 which states:

'The occupation of the dwelling shall be limited to a person solely or mainly employed, in the locality in agriculture as defined in section 290(1) of the Town and Country Planning Act 1971, or a dependant of such a person residing with him or her, or a widow or widower of such a person.'

Mr and Mrs King have resided at The Grange since it was constructed, and they continue to live there now. In March 2001, Mr and Mrs King set up a company known as Grange Homes (Holbeach) Limited. The nature of the business involves construction and the letting and leasing of properties. Since its incorporation in March 2001, Grange Homes (Holbeach) Limited has been Mr and Mrs King's source of income.

Neither Mr nor Mrs King have been employed in agriculture since March 2001 and both continue to occupy The Grange. There are no other occupants of the property. As a result, there has been a continuous breach of condition 03 of planning permission T/APP/A/97/66319/P4 for in excess of 10 years. A certificate of lawfulness confirming this breach, and that the property was now immune from planning enforcement action was confirmed by the Local Planning Authority under reference H05-0104-23 dated 21 March 2023.

2.2. Assessment

'The issuing of the Certificate of Lawfulness under H05-0104-23 has demonstrated that the property has been lived in continuously for in excess of 10 years without complying the occupational condition 03 of H05-0304-86 (appeal reference T/APP/A/97/66319/P4) and is therefore immune from enforcement action.

Paragraph 55 of the National Planning Policy Framework states that planning conditions should be kept to a minimum. Paragraph 003 Reference ID: 21a-003-20190723 of the Planning Practice Guidance states that planning conditions must only be 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.

Paragraph: 005 Reference ID: 21a-005-20190723 of the Planning Practice Guidance states that '*any condition that fails to meet any of the 6 tests should not be used*'. Given that condition 03 of H05-0304-86 (appeal reference T/APP/A/97/66319/P4) cannot be enforced against by reasons of the granting of H05-0104-23, condition 03 of H05-0304-86 (appeal reference T/APP/A/97/66319/P4) fails to meet the 4th test of planning conditions under the National Planning Policy Framework. Therefore, in accordance with the Planning Practice Guidance, it should not be used.

3. Summary and Conclusion

The dwelling at The Grange, Haycroft Lane, Fleet was approved under planning permission H05-0304-86 (allowed under appeal reference T/APP/A/97/66319/P4) which included condition 03 which limited the occupation of the dwelling to a person(s) employed in agriculture.

Mr and Mrs King have resided at The Grange since it was constructed, and they continue to live there now. In March 2001, Mr and Mrs King set up a company known as Grange Homes (Holbeach) Limited. The nature of the business involves construction and the letting and leasing of properties. Since its incorporation in March 2001, Grange Homes (Holbeach) Limited has been Mr and Mrs King's source of income. A Certificate of Lawfulness has been granted under H05-0104-23 confirming that there has been a continuous breach of the restrictive occupancy condition. This confirms that the condition in question is unenforceable.

The National Planning Policy Framework and the associated Planning Practice Guidance state that where conditions are unenforceable they should not be used. As such given that condition 03 of H05-0104-23 is no longer enforceable and therefore not National Planning Policy Framework compliant, the condition should be removed.