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Planning Statement

Prepared for:
Ms Emma Thorpe of Dunton Lodge, Hall Bank, Tydd St Giles,
Wisbech, PE13 5NG

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Prepared by:
Louise Gregory
Rural Planning



Acorus Rural Property Services Ltd (trading as Acorus)
Registered office: Agriculture House, Stoneleigh Park, Kenilworth CV8 2TZ
Registered in England No. 04514547



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1. INTRODUCTION

This application has been submitted on behalf Ms Emma Thorpe of Dunton Lodge, Hall Bank, Tydd St Giles, Wisbech, PE13 7NG to outline the facts considered relevant to the proposed removal - Condition 3 of EE166/73 and Condition 2 of EE423/73 related to Dunton Lodge, Tydd St Giles.

An application for a Certificate of Lawful Existing Use and Development (CLEUD) was submitted and approved in February 2026 relating to non compliance with the agricultural occupancy condition on planning permissions EE166/73 and EE423/73. The use was considered lawful on the 2 December 2025 in a notice dated 17 February 2026 reference H21-1177-25. (See **Appendix 1.**)

2. POLICY BACKGROUND

This report has been written with regard to National Planning Policies.

National Planning Policy

National Planning Policy Framework (NPPF) 2024

Paragraph 84 of the NPPF states:-

'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstance apply:

- a) *there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) *the development would involve the subdivision of an existing residential dwelling; or*
- e) *the design is of exceptional quality, in that it:*

- *is truly outstanding or innovative, reflecting the highest standard in architecture, and would help to raise standards of design more generally in rural areas; and*
- *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.'*

Use of Conditions in Planning Permission

The National Planning Policy Framework (NPPF) set out when and how planning conditions should be used;

Paragraph 56

"Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

Paragraph 57

"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commencements should be avoided, unless there is a clear justification."

Planning Practice Guidance

The Planning Practice Guidance explains how conditions attached to a planning permission should be used and discharged effectively. Paragraph 003 states:-

"Paragraph 55 (now Paragraph 57) of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following test:-

1. *necessary;*
2. *relevant to planning;*
3. *relevant to the development to be permitted;*

4. *enforceable;*
5. *precise; and*
6. *reasonable in all other respects*

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.

3. THE CASE

The consequence of the CLEUD is that the condition has no effect on the occupation of the dwelling as it can be occupied by anyone not just those employed in agriculture or forestry.

The condition is also of course now unenforceable. There is therefore no ability to enforce compliance.

There is no longer a need for the agricultural occupancy condition as the dwelling can be lawfully occupied by somebody who is not employed in agriculture, due to the benefit of the Certificate of Lawfulness. The agricultural occupancy condition is effectively redundant.

This is backed up in appeal APP/E2001/W/17/3170529, dated 4 July 2017 concerning an application for the removal of an agricultural occupancy condition where there was also a Certificate of Lawfulness – see Appendix 2. The Planning Inspector treated the fact that the dwelling could be occupied in breach of the condition as a fallback position and concluded (at paragraph 10) that *"the Certificate of Lawfulness that has been granted means that the dwelling can be lawfully occupied without compliance with the occupancy restriction. Therefore, the disputed condition serves no purpose"*. She went on to say (at paragraph 11) that *"it would be unreasonable to retain its imposition"*. The condition was therefore removed.

The question of whether there is a need for an agricultural occupancy condition is usually determined by way of a marketing exercise. However, it would be unreasonable and inappropriate to undertake such a marketing exercise to establish need in this case, given that the property benefits from the Certificate of Lawfulness. Even if the existence of the Certificate of Lawfulness were not to be expressly mentioned during the marketing exercise (which gives rise to problems with valuation and issues of misrepresentation), it is a public document and is available to those interested in the property. Therefore, any marketing exercise would not establish whether there is a continuing need for an agricultural dwelling in this location. Instead,

it would establish whether there is demand for a dwelling with the benefit of the Certificate of Lawfulness. In essence, any marketing exercise would simply test the market for a normal dwelling and would, therefore, be entirely meaningless.

4. CONCLUSION

The dwelling is subject to a CLEUD which confirms non compliance is lawful, so the condition is unenforceable and therefore fails a key test of what is reasonable and necessary and therefore should be removed.



acorus planning & design

The Old Market Office
10 Risbygate Street
Bury St Edmunds
Suffolk
IP33 3AA

01284 753271
ask@acorus.co.uk
acorus.co.uk

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