**ANDREW ELLIS**
**Planning Consultants Ltd**
**57 Bollington Road, Bollington, Macclesfield Cheshire SK10 5EJ**

Staffordshire Moorlands District Council
Development Management
Moorlands House
Stockwell Street
Leek
ST13 6HQ

17 April 2019

Dear Sir/Madam

**PLANNING PORTAL REF: PP-07791807.**

**REMOVAL OF AGRICULTURAL OCCUPANCY CONDITION AT THE ORCHARDS, OVERTON ROAD, BIDDULPH, ST8 7ST.**

**APPLICANT: MR & MRS R BROWN.**

**1.** This application is submitted on behalf of Mr & Mrs Brown under s73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.

**2.** The application seeks planning permission for the retention of the dwelling without complying Condition 2 of planning permission SM.1910 (30.12.75) stating that: *"The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed locally in agriculture as defined in s. 290(i) of the TCPA (1971)"* and condition 1 of SM.3460 (25.02.77) stating that: *"The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed locally in agriculture as defined in s.290(i) of the TCPA (1971) or in forestry or a dependent of such a person residing with him (but including a widow of such a person.)*

**3.** The application arises from the fact that the Council has recently granted a Certificate of Lawful Use (SMD/2018/0465) that confirms that the occupancy of the dwelling in breach of the agricultural occupancy conditions referred to above is lawful and immune from enforcement action. The dwelling continues to be occupied by Mr & Mrs Brown who have lived at the property since July 1987.

**4.** Section 73 of the 1990 Act provides that an application may be made for planning permission without complying with conditions applied to a previous permission. It is stated that local authorities may decide whether to grant permission subject to differing conditions, remove the conditions altogether or refuse to alter conditions. Thus, it is possible to apply for conditions to be struck out, or for their modification or relaxation. The section makes it clear that in considering such an application a Local Planning Authority may only consider the question of the conditions and not revisit the principle of the development.

**5.** The National Planning Policy Framework sets out six tests which planning conditions should satisfy. Conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy all the tests set out in paragraph 55 of the Framework. In brief these explain that conditions should be: -

- ✓ necessary
- ✓ relevant to planning
- ✓ relevant to the development permitted
- ✓ enforceable
- ✓ precise and
- ✓ reasonable in all other respects

**6.** The application seeks the removal of the agricultural condition on the basis that the dwelling has not been occupied in connection with any form of agricultural use since 1987. The condition is, therefore, no longer relevant or necessary. The Certificate of Lawful Use confirms that the breach of the condition is immune from enforcement action and is not enforceable. Since the proposed development clearly complies with national guidance it is respectfully requested that the planning authority remove the planning conditions.

Yours sincerely

***Andy Ellis***

Chartered Town Planner
Mobile: 07765 308 547
E-mail: andy.ellis@ae-planning.co.uk