Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/25/1004
Westlands Farm, Billingshurst Road, Ashington, West Sussex, RH20 3BB

DESCRIPTION:

Lawful Development application for non-compliance with agricultural occupancy condition 3 of application AS/38/74 (Erection of one dwelling).

RELEVANT PLANNING HISTORY:

DC/25/0632	Removal of Condition 3 of previously approved application AS/78/34 (Erection of one dwelling) relating to agricultural occupation.	Application Refused on 11.06.2025
AS/38/74	Erection of one dwelling Comment: Outline - appeal allowed 23/7/74 (From old Planning History)	Application Permitted on 23.07.1974

PLANNING ASSESSMENT

Article (2) of Section 191 of the Town and Country Planning Act 1990 states:

"For the purposes of this Act uses and operations are lawful at any time if –

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force."

Section 191(4) of the Town and Country Planning Act 1990 states that:

"*If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application…they shall issue a certificate to that effect; and in any other case they shall refuse the application*."

F W Gabbitas v SSE and Newham LBC [1985] JPL 630 held that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the Local Planning Authority has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application; provided the Applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the "balance of probability".

The application relates to a Lawful Development Certificate Existing to confirm non-compliance in excess of 10 years, in breach of condition 3 of planning approval reference AS/78/34 (Erection of one dwelling).

Condition 3 of AS/78/34 states:

3 The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly employed, or last employed, locally in agriculture as defined in section 290(1) of the Town and County Planning Act 1971, or in forestry, or a dependant of such person residing with him (but including a widow or widower of such person).

Applicant's Evidence

- Planning statement (including accountancy statement from Morris Palmer Ltd.)
- Accountancy statement from N&M Financial Services
- Sworn Statement from Hendriksen

Council's Evidence

- Application AS/21/70
- Application AS/16/71
- Application AS/27/74
- Application AS/38/74
- Application AS/17/74
- Application AS/32/75
- Application DC/19/2196
- Horsham District Council: Compliance
- Horsham District Council: Council Tax
- Horsham District Council: Elections
- Horsham District Council: Revenues

Planning History

The dwellinghouse was created under AS/38/74 (Erection of one dwelling) and was initially refused by the Council though allowed on appeal by the Planning Inspector. The site itself has a fair amount of planning history attached including recent applications for additional dwellings including DC/19/2196 (Erection of two x 3 bedroom semi-detached dwellings) and DC/25/0747 (Prior Notification for Change of Use of Agricultural Building to 2no. dwellinghouses). Though these two permissions relate to the site, they are not intrinsically related with this application and have no bearing on the outcome. There is a previous application under AS/32/75 (Erection of a three-bedroomed bungalow) that was permitted by the Council, however it is assumed that owing to this current application, AS/38/74 was the permission enacted.

The dwelling house was permitted and subsequently created under the condition that the dwellinghouse was for the purpose of an agricultural dwelling in connection with Westlands Farm. The Council holds some records pertaining to AS/38/74 including the Council's original refusal and the Inspector's overturning of that decision. However, no plans save for location plans are available relating to AS/38/74.

Previously, condition 3 was sought to be removed via the submission of DC/25/0632 (Removal of Condition 3 of previously approved application AS/78/34 (Erection of one dwelling) relating to agricultural occupation). This was refused for reason below:

1. *It has not been demonstrated, to the satisfaction of the Local Planning Authority, that there is no continuing need for an agricultural workers dwelling in this location. It is not considered, therefore, that sufficient justification exists for the creation of an open-market dwelling by means of the removal of condition 3 attached to ref: AS/38/74, and in accordance with the provisions of the National Planning Policy Framework and Policies 20 and 26 of the Horsham District Planning Framework (2015).*

Discussion

The dwellinghouse was permitted subject to a condition limiting the occupation of the dwelling to an agricultural worker.

The planning statement outlines that for a period in excess of 10 years at the point of submission, the dwelling has been occupied by Jennifer Hendriksen in contravention of condition 3. The statement delineates that "[t]he occupier [-] for more than the last 10 years of her occupation and ongoing at Westlands Farm has always been, both in terms of percentage of income and hours spent, solely or mainly employed and derived her income through non farming rental income, pension income and interest received as opposed to farming". The planning statement is accompanied by a statement by Morris Palmer Limited, former accountants for Hendriksen, that outlies that Hendriksen's income was derived via rental income, pension and interest from a period from 2011 to 2020. This would confirm that during this period of 10 years that the occupier was in contravention of condition 3 of AS/38/74 from 2011 to 2020.

Following a request for additional evidence regarding the period from 2020 to present, an additional letter from N&M Financial Services, Hendriksen's current accountancy, details that Hendriksen's income was derived from non-agricultural related purposes stated as 'UK residential lettings; UK pensions; UK interest' from 2020 to present. It is considered that this evidences that from 2020 to present (August 2025), that the occupant was in contravention of condition 3 of AS/38/74.

Additional information was requested regarding whether Hendriksen was ever employed in agriculture prior to occupation of the dwelling. A sworn statement was provided to the Council regarding this which confirmed that Hendriksen was not employed in agriculture prior to occupation of the dwelling. It is therefore considered that the occupant has been in contravention of condition 3 of AS/38/74.

The Council hold no evidence which refutes that the occupation of the dwelling has been occupied by someone in agricultural or forestry industries for the relevant periods.

Summary

It is considered that from the evidence above the occupation of dwelling Westlands Farm has been in contravention of condition 3 of AS/38/74 in a period in excess of 10 years from the point of submission. A Certificate of Lawful Development Existing can therefore be approved on this basis.

Recommendation: Application Permitted

1 It has been demonstrated on the balance of probability that the building and lands outlined in red on the attached plan have been occupied in non-compliance of condition 3 of planning permission reference AS/38/74 for a period in excess of 10 years from the date of the application.

DELEGATED

Case Officer sign/initial JBurrowes Date: 05/01/2026

Authorising Officer sign/initial TDale Date: 08/01/2026


31.1m
Westlands
Farm