

# FAREHAM

## BOROUGH COUNCIL

### Report to Planning Committee

**Date**                    **18 July 2018**

**Report of:**            **Director of Planning and Regulation**

**Subject:**              **REQUEST TO REMOVE S52 AGREEMENT AGRICULTURAL TIE,  
GREENWOOD, MEON ROAD**

#### **SUMMARY**

The bungalow known as Greenwood, Meon Road is subject to a Section 52 Agreement dated 9<sup>th</sup> March 1973 which seeks to ensure that the occupant of the dwelling is a person employed in agriculture.

The Council has received a formal request asking for the obligation to be removed.

Officers are of the view that the purpose for retaining the tie imposed in 1973 has ceased to be justifiable and the tie can be removed without their being any material harmful planning implications.

#### **RECOMMENDATION**

That members resolve to discharge the S52 Agreement dated 9<sup>th</sup> March 1973 to remove the agricultural tie.

## **INTRODUCTION**

1. The residential dwelling 'Greenwood' is a detached bungalow sited within a countryside location to the east side of Meon Road opposite Thatchers Coppice.
2. The property constitutes a 3-bed chalet bungalow which sits within a residential curtilage. A paddock extends to the south of the dwelling which is used for grazing. The total site area is 1.8 acres with the residential curtilage comprising approximately one fifth of the total acreage.
3. The bungalow is subject to a Section 52 Agreement dated 9<sup>th</sup> March 1973 which seeks to ensure that the occupant of the dwelling is a person employed in agriculture. An agreement made under section 52 of the Town and Country Planning Act 1971 was the way in which planning obligations relating to specific pieces of land were secured before the repeal and replacement of section 52 by section 106 of the Town and Country Planning Act 1990. A formal request has been received by the Council to request that the obligation imposed by the S52 Agreement is removed.

## **THE PURPOSE OF IMPOSING AND RETAINING THE AGRICULTURAL TIE**

4. The bungalow was constructed in 1952 but the tie was added many years later in 1973 when planning permission (FMU.4679/2) was granted to the owner/occupant of 'Greenwood' (Kenneth Gale) for construction of an additional dwelling 'Sundown' a short distance to the south. The justification for the erection of 'Sundown' related to agricultural activities on the surrounding 13 acres of land known as 'Brownhills', which Mr Gale farmed, and the need for a residential presence on this land. The planning permission for 'Sundown' included an agricultural occupancy condition. The reason for imposing a tie on 'Greenwood' is unclear but it is presumed this was to safeguard the occupancy of the dwelling for agricultural workers employed within the local area given that this had been the circumstances for Mr Gale previously.
5. Greenwood was sold to a local fruit farmer (Steve Harris) following the construction of 'Sundown' and was left with a plot of just under 2 acres. The property was purchased as an investment and was tenanted but it is understood that whilst employed within agriculture these tenants were not employed within the immediate local area and worked for Tom Parker, who farmed land to the north of Fareham. Whilst there was compliance with the requirements of the S52 agreement this does not demonstrate an essential need for 'Greenwood' to be occupied as an agricultural worker's dwelling.
6. The current occupant of 'Greenwood' (Mrs Chris Braid) is the daughter of Steve Harris. She and her husband purchased the property from her father in 1990. At that time Mrs Braid was employed by the family fruit farm and had previously commuted to work from Hill Head. Residing at 'Greenwood' was therefore convenient and also in compliance with the obligations of the S52 agreement. Mrs Braid's husband, now deceased, was not employed within agriculture.
7. In 1998 Kenneth Gale sought a certificate of lawful use (P/98/0948/LU) for the occupation of 'Sundown' by someone not employed in agriculture, on the grounds that this land had not been used for any agricultural business purposes since 1984. The certificate was granted. Hence it is now 30 years since the property which gave rise to the restriction under S52 being placed on 'Greenwood' ceased to have any connection with agriculture.

8. It is not considered that the retention of the agricultural worker's tie on 'Greenwood' would be justified. The plot extends to only 1.8 acres of land including the dwelling and residential curtilage which is not considered to be a financially viable holding for agricultural purposes. Since the tie was imposed the property has not been occupied by anyone who has an essential need to reside in this location. Furthermore the size and value of the property indicate that it may not be an affordable dwelling to most agricultural employees.
9. The property has been marketed for sale during the period October 2017-April 2018 by Taylor Hill & Bond. The property was valued at £500,000-£550,000 with the tie but would be expected to be marketed at around £700,000 without the tie. In total eighteen enquiries were received, most from people with no past or current connection with agriculture. Only two people indicated a possible connection with agriculture; one was interested in selling Christmas trees from the site and the other was understood to have been retired from employment with DEFRA. The former would be unlikely to be a viable use of the site and the latter is considered to have a tenuous link to agriculture.

### **CONCLUSION**

10. Officers are of the view that the purpose for retaining the tie imposed in 1973 has ceased to be justifiable. It is not considered that there is an essential need for an agricultural worker's dwelling in this location. The land adjacent to 'Greenwood' does not represent a viable agricultural small holding. The tie was not imposed on 'Greenwood' when it was originally constructed and this only came about following the grant of planning permission for the construction of an additional dwelling on nearby land 'Sundown'. The use of agricultural land in association with the occupation of 'Sundown' ceased 30 years ago and the occupation of 'Sundown' is no longer restricted. Whilst there is other farmland within the local area it is considered that 'Greenwood' would not be affordable to a typical farm worker and the marketing campaign has demonstrated a lack of demand for an agricultural worker's dwelling in the area of this nature.

### **RECOMMENDATION**

11. That members resolve to discharge the S52 Agreement dated 9<sup>th</sup> March 1973 to remove the agricultural tie.

**Background Papers:** FMU.4679/2

### **Enquiries:**

For further information on this report please contact Susannah Emery – direct dial 01329 824526