

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mrs Louise Sutton	Discharge of Section 106 Agreement stating detached garage shall remain incidental to the main dwelling dated 24.10.1995 and attached to Planning Application: 95/0164 for erection of detached garage.  Farthings, Holy Cross Lane, Belbroughton, Stourbridge, Worcestershire DY9 9SH	01.06.2016	16/0225

**RECOMMENDATION:** The request for the removal of the Section 106 Agreement attached to 95/0164 be refused.

### **Consultations**

**Belbroughton and Fairfield Parish Council** Consulted 09.03.2016  
The Parish Council objects to the application to have the Section 106 agreement discharged.

**Legal Services** Consulted 09.03.2016  
Advises the S106 still serves a planning purpose.

**Highways Department- Worcestershire County Council** Consulted 09.03.2016  
I have no highways objection in principal to the change of use of freestanding garage to separate dwelling; the new proposed access to existing main house has not been considered at this stage.

**One letter objecting to the removal of the section 106 Agreement has been received, the contents of which have been summarised as follows:**

- Application about making profit
- Increased traffic using busy road
- May result in more housing developments on site
- Will set precedent to change the use of other buildings on site

### **Relevant Policies**

#### **Bromsgrove District Local Plan 2004 (BDLP):**

DS2 Green Belt Development Criteria  
DS13 Sustainable Development  
S8 Plot Sub-Division  
S9 New Dwellings in the Green Belt

## **Others:**

NPPF National Planning Policy Framework

### **Relevant Planning History**

B/1995/0164	Extensions / alterations and erection of detached garage/hay store (Amendment to previous permission B92.0133)	Granted	31.10.1995
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### **Assessment**

The proposal is to remove the Section 106 Agreement attached to planning application 95/0164. The Agreement states that the detached garage/hay store shall be used only for purposes incidental to the enjoyment of The Farthings as a dwelling house and it shall not be used as a separate independent unit of residential accommodation.

#### ***Back ground Information***

The garage/hay store was given planning permission by the Council on 31.10.1995. Concern was raised at the time due to the large scale and two storey nature of the building. Therefore it was considered necessary to enter into a Section 106 Agreement to ensure that the use of the garage remained incidental in order to reduce any harm to the Green Belt.

The Section 106 Agreement relates to the use of the building:

*'The owners hereby jointly and severally covenant with the Council that notwithstanding the grant of any planning permission either specifically or by way of a General Permitted Development Order that except with the prior written consent of the Council expressed to be a consent for the purposes of this Agreement the detached garage/hay store shall be used only for purposes incidental to the enjoyment of The Farthings as a dwelling house and it shall not be used as a separate independent unit of residential accommodation'*

#### ***Assessment of Proposal***

The detached garage is located adjacent to the dwelling within a large plot in the Green Belt. The dimensions of the outbuilding are 6 metres by 9 metres and 5.7 metres in height. The outbuilding is of a substantial construction made of red bricks and plan clay roof tiles.

The garage was permitted with first floor accommodation for hay storage, an external staircase and five rooflights. Since the permission, the garage has been used for ancillary purposes as additional living accommodation associated to the dwelling, contrary to the existing Section 106 Agreement.

The reasoning for this Agreement was to protect the Green Belt, by maintaining the site as one planning unit. The purpose of this assessment is to consider whether the Section 106 Agreement still serves a useful planning purpose.

The site is located on a large plot within the Green Belt. Current Green Belt policy restricts development within the Green Belt. Paragraph 89 of the National Planning Policy

Framework (NPPF) states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Policies DS2 and DS13 of the Bromsgrove District Council Local Plan reflect this national policy. Paragraph 87 of the NPPF indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm within the Green Belt.

Paragraph 90 of the NPPF states that certain other forms of development are considered appropriate within the Green Belt. This closed list includes the re-use of buildings provided that the buildings are of permanent and substantial construction. Therefore, the Section 106 Agreement serves some protection over the potential re-use of this building and was considered necessary at the time to grant planning permission.

The proposed garage/hay store is very large in scale and the harm to the Green Belt is established. The potential additional harm caused by sub-dividing the plot to allow the building to be used as a dwelling is considered to exacerbate an already harmful development. This would result in additional domestic paraphernalia inevitable with a new dwelling resulting in a harmful impact to the openness of the Green Belt. Therefore, it is considered the Section 106 Agreement still serves a planning purpose and there would be no reason to remove it.

**RECOMMENDATION:** The request for the removal of the Section 106 Agreement attached to 95/0164 be refused.

### **Reasons for Refusal**

The Section 106 Agreement was agreed in conjunction with planning permission 95/0164 to protect the Green Belt. Although Local and National policy has been updated since 1995, Green Belt policy remains to protect openness from development. Therefore, it is considered the Section 106 Agreement still serves a planning purpose and there would be no reason to remove it. This decision has been made having regard to policies DS2 and DS13 of the Bromsgrove District Council Local Plan and the National Planning Policy Framework.

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