

Report to Area Plans Sub-Committee

**Date of meeting: West – 23
November 2011**



**Epping Forest
District Council**

Subject: Application to Discharge a Legal Agreement under Section 106 of the Town and Country Planning Act 1990.

Site: The Barn, Greenacres, Tatsfield Avenue, Nazeing EN9 2HH

Officer contact for further information: Jill Shingler (01992 564106).

Democratic Services Officer: Adrian Hendry (01992 564246)

Recommendation: To agree to the discharge the Section 106 Agreement dated 4th April 2002 which prevents the building known as The Barn at Greenacres Tatsfield Avenue being sold or let or otherwise separated from the adjacent house, Greenacres.

Report:

Planning Permission was granted in 2002 for the change of use of an outbuilding at Greenacres to a granny annexe. (EPF/1795/98) Permission for the use was granted subject to a condition restricting occupancy and also to a legal agreement under section 106 preventing the annexe being sold or otherwise separated from Greenacres. The reason for the condition and the legal agreement was that it was considered inappropriate in Green Belt terms to allow a separate dwelling in the Green Belt.

The Annexe was completed in accordance with the Planning Permission in 2002. It was intended to house the applicant's mother in law, but sadly she died before she could take up residence. The annexe has not been occupied since completion.

The applicant applied last year for change of use of the annexe to a single dwelling house, and to discharge the legal agreement, but this application was refused at committee in accordance with Officers recommendation, on the grounds that the development was inappropriate in the Green Belt.

The applicant appealed this decision and the Inspector upheld the appeal and granted planning permission for use of the building as a separate dwelling subject to conditions, including removal of permitted development rights and retention of the garage. The Inspector considered that the change of use was acceptable in Green Belt terms and that there would be no harm to neighbouring residential amenity or to any other matters, as a result of the development. The Inspector was however unable to consider the removal of the legal agreement as he did not consider that a valid application for such removal had been made.

On the basis that Planning Permission has now been granted for the use of the building as a separate dwelling house, it would be perverse to try and enforce the

associated legal agreement. The legal agreement therefore now serves no useful purpose and on this basis it is therefore recommended, in accordance with government advice, that authorisation be given for the agreement to be discharged.