



# Planning Statement

Section 73 application to vary condition no.3 of planning permission DC/071837 to reinstate Class E permitted development rights – Distaff Farm, Woodford Road, Poynton, SK12 1DY

for Mr & Mrs Anton Littler

Emery Planning project number: 21-542

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Project : 21-542  
Site address : Distaff Farm, Woodford  
Road, Poynton, SK12  
1DY  
Client : Mr & Mrs Anton Littler  
  
Date : 11 November 2021  
Author : Victoria Wood  
  
Approved by : Caroline Payne

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# Contents:

|                                   |    |
|-----------------------------------|----|
| 1. Introduction                   | 1  |
| 2. Context                        | 2  |
| 3. Legislative and policy context | 4  |
| 4. Planning considerations        | 8  |
| 5. Summary and conclusions        | 11 |
| 6. Appendices                     | 11 |

## 1. Introduction

- 1.1 This Planning Statement has been prepared on behalf of our client Mr and Mrs Littler (the applicant) in support of an application under Section 73 (S73) of the Town and Country Planning Act 1990 to vary condition no.3 of planning permission DC/071837 for the reinstatement of Class E permitted development rights.
- 1.2 Planning permission DC/071837 was granted on the 28 June 2019, and sought permission for a single storey rear extension.
- 1.3 The wording of condition no. 3 and justification provided as provided on the decision notice is as follows:

*“Notwithstanding the provisions of the Schedule 2, Part 1 of the of the Town and Country Planning (General Permitted Development) Order 2015, no development involving enlargements such as side/rear extensions, alterations to roofs, dormer windows or the construction of buildings surrounding the house (the 'curtilage') as permitted by Classes A, B, D and E of Part 1 of the Order shall be carried out.*

- 1.4 The reason for the condition states:

*As the size and scale of the original dwelling, against which the current proposal has been assessed will be increased by the implementation of this permission, and in order that any proposals for future extensions/alterations can be assessed in the interests of safeguarding the openness of the Green Belt, in order to ensure compliance with Saved policies GBA1 'Green Belt Protection', GBA1.2 'Control Of Development In Green Belt' and GBA1.5 'Residential Development In Green Belt' of the Stockport Unitary Development Plan Review.”*

- 1.5 A copy of decision notice DC/071837 and the associated delegated officer report are provided at Appendix **EP1** and **EP2** respectively.
- 1.6 This application seeks to vary condition no.3 by omitting Class E from the classes of development to which the condition applies, enabling the applicant to construct an outbuilding within the curtilage of the dwellinghouse.
- 1.7 With due regard for the National Planning Policy Framework (the Framework), and the National Planning Practice Guidance (PPG), this condition fails the tests of necessity and reasonableness as discussed within this statement

## 2. Context

### Site location and description

- 2.1 The application site is located to the north west of Woodford Road, and is located in an area of countryside designated as Green Belt as shown on the adopted proposals map. Access to the site is taken from Woodford Road to the east via a private drive. The property comprises a large detached dwelling, with a detached garage and the former stable building.
- 2.2 The property forms part of a small group of dwellings that include Field View Barn and Distaff Barn. All three properties are large detached dwellings set within large plots. Located to the north / west of the site is the Manchester Airport Eastern Link Road (A555) as shown in the Google Earth Extract below.



Figure 1. Google Earth Extract

- 2.3 The site is located close to the borough boundary with Cheshire East authority. The properties located to the east of Woodford Road are located within the Cheshire East Borough.

- 2.4 Located to the north of the site is a public right of way (ref: 19HGB) which links the site to Bramhall located to the west of the site. An extract showing the location of the PROW is provided below.



Figure 2. Proposals map extract

## Relevant planning history

- 2.5 A desk-based review of the site's planning history has been undertaken and has identified a number of recent applications in respect of Distaff Farm, which are considered to be of relevance to the current proposals:

- Single storey rear extension (DC/071837) – Approved 18 December 2018. This application resulted in a single storey extension with a 58% increase in volume. It relied on a fall-back position established by permissions DC/071004 and DC/070371 which related to the extension of the property under Class A only. The decision removed permitted development rights for class A, B, C, and E.
- Prior notification for proposed single storey rear extension (DC/071004) – Decision made 29 October 2019 – prior approval not required.
- Proposed single storey extension (DC/070371) – Decision made 24 August 2019 - prior approval not required.

### 3. Legislative and policy context

3.1 Section 73 of the Town and Country Planning Act 1990 applies to the determination of applications to develop land without compliance with conditions previously attached to an extant planning permission. In effect, it makes provision for the variation or removal of conditions (except for the purpose of extending the time limit of a permission).

3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

*“If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”*

3.3 For the purposes of this planning application, the development plan is the Stockport Core Strategy, adopted in March 2011, and saved policies of the Unitary Development Plan (UDP).

3.4 The development plan does not contain any policy or guidance on the removal or variation of existing planning conditions. Guidance on the use of planning conditions is set out in the National Planning Policy Framework, with additional guidance on the removal of conditions contained within the National Planning Practice Guidance as discussed below.

#### National planning policy and guidance

##### National Planning Policy Framework

3.5 The revised National Planning Policy Framework (the Framework) provides guidance in respect of planning conditions under Section 4 which relates to decision-making.

3.6 Paragraph no. 53 relates to the use of Article 4 directions to remove national permitted development rights stating:

- *where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)*
- *in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the*

*use of Article 4 directions to require planning permission for the demolition of local facilities)*

*• in all cases, be based on robust evidence, and apply to the smallest geographical area possible.*

3.7 Paragraph no. 54 continues to state that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

3.8 Paragraph no. 56 states:

*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.*

### **National Planning Practice Guidance**

3.9 The National Planning Practice Guidance (PPG) was adopted in March 2014 and complements the Framework by providing further guidance on the application of national planning policy.

3.10 In relation to conditions which restrict the future use of permitted development rights, the guidance states:

*Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn. Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. The local planning authority also has powers under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to enable them to withdraw permitted development rights across a defined area, where justified.*

Paragraph: 017 Reference ID: 21a-017-20190723

3.11 It also states that clear and precise reasons should be provided by the LPA when imposing conditions:

*Clear and precise reasons must be given by the local planning authority for the imposition of every condition.*

Paragraph 023 Reference ID: 21a-023-20140306



3.12 In addition, the NPPG also sets out the “six tests” which planning conditions need to satisfy (Paragraph: 003 Reference ID: 21a-003-20190723)).

## **Relevant appeal decisions**

### Meadow Way, Wickford

3.13 We refer to an appeal at Meadow Way, Wickford, allowed on 8 February 2013. A copy of the appeal decision is attached at Appendix **EP3**. This related to the removal of a condition concerning the restriction of permitted development rights.

3.14 In allowing the appeal the Inspector stated:

*“8. Whilst it is reasonable to seek to control the spread of development in the Green Belt, there is no general restriction on permitted development rights within such areas, as there is in certain other specified areas such as National Parks. If such a restriction were considered necessary over a defined area it could be introduced by means of an Article 4 Direction. Conditions apply to individual sites and must be justified as required by the Circular”.*

*“10. I acknowledge that LP policy imposes limitations on extensions in the Green Belt. The Council states, and the appellant does not dispute, that the development on site is currently at the limit of such permitted extensions. Any further extensions would thus be controlled by LP policy, and removal of permitted development rights in respect of Classes A and B would not be necessary. No evidence has been submitted to justify the removal of permitted development rights under Classes C and E”.*

3.15 The Inspector concluded at paragraph 12 that:

*“... in the absence of any convincing evidence to the contrary Condition 2 is neither reasonable nor necessary for controlling the construction of extensions and ancillary buildings within this Green Belt area. The appeal succeeds.”*

3.16 This appeal decision is a material consideration for our client's S73 application

Heathfield House, Nether Alderley, Cheshire

- 3.17 We also refer to an appeal decision at Heathfield House, Nether Alderley, which was allowed on 18 July 2017. A copy of the decision is attached at Appendix **EP4**. This was an Emery Planning case.
- 3.18 The appeal related to the removal of 2 conditions that withdrew permitted development rights on an approved application for the conversion of a building into a dwelling. The site is located within the Green Belt. The planning permission was dated 4 October 1995.
- 3.19 In allowing the appeal the Inspector stated:

*“8. I understand the Council’s concern regarding potentially uncontrolled development in the Green Belt. Furthermore, national and local policies seek to protect the openness of the Green Belt, although extensions and alterations to dwellings are not inappropriate development. However, the Town and Country Planning (General Permitted Development) (England) Order 2015 places no restrictions on permitted development rights in Green Belts as it does with other designated areas such as National Parks.*

*9. I find therefore that it has not been demonstrated that the circumstances of the appeal property, its heritage and its Green Belt location are exceptional. Accordingly, both conditions 7 and 8 are neither reasonable nor necessary in the interests of protecting the openness of the Green Belt and as such fail the tests set out in paragraph 206 of the Framework.”*

- 3.20 This appeal decision is a material consideration for our client’s S73 application.

## 4. Planning considerations

- 4.1 This section of the statement sets out the case for the variation of condition no.3 of planning permission DC/071837, namely that the condition does not meet the 'six tests' as set out in paragraph 57 of the Framework and at paragraph reference 21a-0036-20190723 of the PPG. This condition therefore conflicts with Government policy and guidance on the use of planning conditions.
- 4.2 As outlined in Section 1 of this statement, the reason for imposing condition no.3 was to ensure that any proposals for future alterations or extensions to the dwelling at Distaff Farm would be fully assessed by the LPA in the interest of safeguarding the openness of the Green Belt.
- 4.3 Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The PPG is also clear that conditions restricting the future use of permitted development rights are unlikely to pass the tests of reasonableness or necessity (paragraph reference 21a-017-20190723).

### The “six tests”

- 4.4 As referred to above in Section 3, the “six tests” as listed in the PPG require that conditions should only be imposed where they are:
- necessary;
  - relevant to planning;
  - relevant to the development to be permitted;
  - enforceable;
  - precise and;
  - reasonable in all other respects.
- 4.5 The PPG requires each of the abovementioned six tests satisfied for each condition an authority intends to apply.
- 4.6 Condition no.3 of planning permission DC/071837 fails to satisfy all six of these tests as required by the PPG, and in particular the tests of necessity and reasonableness. These are assessed below:

## **Necessity**

- 4.7 The key question in respect of the test of necessity is whether it is appropriate to refuse planning permission without the requirements imposed by the condition.
- 4.8 Condition no. 3 of planning permission DC/071837 removed permitted development rights Classes A-E.
- 4.9 As set out under Section 2 of this statement, the development as permitted under reference DC/071837 relied upon a permitted development fallback. However, the fallback related only to the extension of the property under Class A and did not rely upon Class E permitted development rights to justify the extension of the dwelling. Given that the permitted development fallback on which application proposals DC/071837 relied upon related solely to development under Class A of the GPDO, it is not considered necessary for the LPA to remove permitted development rights under Class E, as this goes beyond the scope of what is necessary in planning policy terms.
- 4.10 The reason provided by the LPA for the imposition of the condition is for the opportunity to assess any future applications for extensions or alterations to the dwelling in the interest of safeguarding the openness of the Green Belt. There are existing outbuildings at Distaff Farm, and given the orientation of the dwelling within the plot there is only limited opportunity for the further construction of outbuildings to the west of the dwelling.
- 4.11 Furthermore, as demonstrated through the relevant appeal decisions referred to within the Section 3 of this statement, there is no restriction on permitted development rights within the Green Belt as there is in certain other specified areas such as National Parks. If such a restriction to permitted development rights were considered necessary in the Green Belt this would be identified within the GPDO. Alternatively, if the LPA did consider such restrictions were necessary, the LPA has the ability to introduce these by means of an Article 4 Direction.
- 4.12 There would have been no justification for refusing planning permission had condition no. 3 not been imposed.
- 4.13 It is acknowledged that it may be necessary to remove permitted development rights in some circumstances to protect and preserve the openness of the Green Belt, for example where a significantly larger replacement dwelling has been approved and permitted development rights

have been used as a fallback justification. However, in this instance only Class A permitted development rights were relied upon as a fallback justification.

- 4.14 In respect of the role the site plays in terms of the openness of the Green Belt, as shown in Figure 1 provided within section 2 of this statement, the site is enclosed by the Manchester Airport Eastern Link Road to the north and west, with a ribbon of existing built development to the south and east on Woodford Road. Given the site context and the level of surrounding development, the site is heavily influenced by urban features and is not considered to be open or rural in character. Therefore, if Class E permitted development rights were to be reinstated, and the applicant were to exercise these rights the harm to the Green Belt in this location would be negligible.

### **Reasonableness**

- 4.15 As set out above, it is considered that condition no. 3 does not pass the test of necessity and there is no justification for the imposition of a condition which removes Class E permitted development rights. The imposition of the condition in its current form placed unjustified and disproportionate burden on the applicant by requiring them to apply for planning permission for development that otherwise would be permitted development.
- 4.16 As set out in the above-mentioned appeal decisions, there is no general restriction on permitted development rights in the Green Belt, unlike in other areas (such as National Parks). The applicant has therefore lost the right to construct outbuildings at their property through permitted development rights – a right which his neighbours and home owners across the country have – with no justification for doing so.
- 4.17 This is unreasonable and fails the “reasonable in all other respects” test at paragraph 56 of the Framework.

## 5. Summary and conclusions

- 5.1 This statement has demonstrated that condition no. 3 of planning permission DC/071837 in its current form fails to satisfy all of the “six tests” as set out in the Framework and the National Planning Practice Guidance.
- 5.2 As such, this condition should be varied to reinstate Class E permitted development rights for the reasons set out above in Section 4 of this statement.
- 5.3 The National Planning Practice Guidance is clear that conditions restricting the future use of permitted development rights would rarely pass the test of necessity and reasonableness. In this particular case it has been demonstrated that no circumstances exist which would justify the retention of condition no. 3 in its current form and the removal of permitted development rights under Class E.
- 5.4 It is therefore requested the planning permission is granted and condition no.3 of planning permission DC/071837 is varied.

## 6. Appendices

- EP1. Decision notice DC/071837
- EP2. Delegated report DC/071837
- EP3. Appeal Decision APP/V1505/A/12/2185169 - Meadow Way, Wickford
- EP4. Appeal decision APP/R0660/W/17/3171265 - Heathfield House, Nether Alderley

EP1

Aboreta Planning  
Belmont Yard,  
Station Road  
Caersws,  
SY17 5EQ  
Powys







**STOCKPORT METROPOLITAN BOROUGH COUNCIL  
DECISION NOTICE**

**Town and Country Planning Act 1990**

**Householder Planning Application Number  
DC/071837**

|   |   |
|---|---|
| <b>Applicant Details:</b><br>Mr & Mrs Littler<br>Distaff Farm<br>Woodford Road<br>Bramhall<br>Stockport<br>SK12 1DY | <b>Agent Details:</b><br>Aboreta Planning<br>Belmont Yard,<br>Station Road<br>Caersws,<br>SY17 5EQ<br>Powys |
| <b>Location</b><br>Distaff Farm<br>Woodford Road<br>Bramhall<br>Stockport<br>SK12 1DY                               | <b>Description Of Development</b><br>Single storey rear extension.  |

**PARTICULARS OF DECISION**

The Stockport Metropolitan Borough Council hereby give notice in pursuance of the Town and Country Planning Act 1990 that **HOUSEHOLDER PLANNING PERMISSION HAS BEEN GRANTED** for the carrying out of the development described above. The development must be begun not later than the expiration of **THREE YEARS** beginning with the date of this permission, as required by section 91 of the Town and Country Planning Act 1990 and amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

The development must be carried out in accordance with the application and plans submitted, and subject to the following terms and conditions:

1 Condition

This permission relates to the following drawings:-

- Site Location Plan, Scale 1:1250
- Existing and Proposed Site Plan, drawing no: SK05 Rev A
- Existing Floor Plans, drawing no: SK01
- Proposed Floor Plans, drawing no: SK03 Rev A
- Existing Elevations, drawing no: SK02
- Proposed Elevations, drawing no: SK04 Rev B
- Supporting Planning Statement, received 21/01/19
- Green Belt Volume Calculations, received 30/01/19

#### Reason

For the avoidance of doubt and to ensure compliance with Policies SIE-1 "Quality Places" and SD-2 "Making Improvements to Existing Dwellings" of the adopted Stockport Core Strategy DPD and saved policy CDH 1.8 "Residential Extensions" of the UDP Review.

#### 2 Condition

The materials of external construction shall be identical in appearance to those used on the existing building, or such alternative materials, samples of which have been submitted to and approved in writing by the local planning authority.

#### Reason

In the interests of visual amenity and to ensure compliance with Policies SIE-1 "Quality Places" of the adopted Stockport Core Strategy DPD and Saved Policy CDH 1.8 "Residential Extensions" of the Stockport Unitary Development Plan Review.

#### 3 Condition

Notwithstanding the provisions of the Schedule 2, Part 1 of the of the Town and Country Planning (General Permitted Development) Order 2015, no development involving enlargements such as side/rear extensions, alterations to roofs, dormer windows or the construction of buildings surrounding the house (the 'curtilage') as permitted by Classes A, B, D and E of Part 1 of the Order shall be carried out.

#### Reason

As the size and scale of the original dwelling, against which the current proposal has been assessed will be increased by the implementation of this permission, and in order that any proposals for future extensions/alterations can be assessed in the interests of safeguarding the openness of the Green Belt, in order to ensure compliance with Saved policies GBA1 'Green Belt Protection', GBA1.2 'Control Of Development In Green Belt' and GBA1.5 'Residential Development In Green Belt' of the Stockport Unitary Development Plan Review.

#### 4 Condition

The extension shall not be occupied until a completed Energy Checklist has been submitted to and approved in writing by the Local Planning Authority.

#### Reason

To ensure compliance with Policy SD-2 'Making Improvements to Existing Dwellings' of the adopted Stockport Core Strategy DPD.

## **Statement under Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015:**

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraphs 38 and 47 of the revised NPPF published by the Ministry of Housing, Communities and Local Government in February 2019.

Signed:

Dated: 28th June 2019



Emma Curle - BSc (Hons) MRTPI  
Chief Planning Officer  
For and on behalf of the Corporate Director of Place Management & Regeneration

### **ADDITIONAL INFORMATION**

- 1 This decision does not imply consent to carry out any work which may encroach over a common boundary. Such work may include excavation, positioning of walls, fences or other construction such as roofs or gutters which overhang the boundary line. The applicant is therefore advised to obtain the consent of any landowner prior to the commencement of such work. The applicant attention is also drawn to the provision of the Party Wall Act 1996, which sets out the rights and responsibilities of adjoining landowners in respect of the construction or alterations of any party walls, excavations and other construction works adjacent to the boundary line. Before proceeding with the development professional advice on the provision of the Act should be sought.
- 2 Should contamination be suspected, found or be caused at any time when carrying out the development that was not previously identified, the local planning authority should be notified immediately and development affected or potentially affected by the contamination should stop and an investigation and or risk assessment and/or remediation carried out to establish the most appropriate course of action. Failure to stop and notify may render the Developer or Owner liable for the costs of any investigation and remedial works under Part IIA of the Environmental Protection Act 1990.

## THE FOLLOWING IS STANDARD INFORMATION ONLY

The drawings determined by this notice may be viewed (usually in electronic form) at Fred Perry House, Edward Street, Stockport, by appointment, and are available online on the Planning & Building pages of the Stockport Council website: [www.stockport.gov.uk/planningdatabase](http://www.stockport.gov.uk/planningdatabase)

It is your responsibility to ensure that the development is constructed in complete accordance with the approved plans and details together with the requirement to ensure that all conditions applied to this consent are complied with. If any of the conditions require further approval and/or the submission of further details before development starts or use begins (known as pre-commencement planning conditions), the requirements of the condition must be satisfied before a start is made. Failure to construct the development in complete accordance with the approved plans and / or failure to comply with the conditions may make either the permission null and void or the development unauthorised.

This decision refers only to the legislation under which the application was made and does not include any decision under any other enactment, by law, order or regulation.

The applicant's attention is drawn to the provision of Section 63 of the Greater Manchester Act 1981 which specifies requirements for fire brigade access when plans for the erection or extension of a building are deposited with a District Council in accordance with the Building Regulations.

Where your proposal involves building work, your attention is specifically drawn to the need to check with the Building Inspector with regard to the possible requirement for Buildings Regulations Consent.

Where applicable, notes on your rights of appeal against the decision are set out on the sheet attached to this decision notice. **The Planning Inspectorate's** details are listed below.

The Planning Inspectorate,  
Customer Support Unit,  
Room 3/15, Eagle Wing,  
Temple Quay House,  
2, The Square,  
Temple Quay,  
Bristol,  
BS1 6PN

Telephone: 0303 444 5000

Fax: 0117 372 8181

Email: [enquiries@planning-inspectorate.gsi.gov.uk](mailto:enquiries@planning-inspectorate.gsi.gov.uk)

Website: [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

## **APPEALS TO THE SECRETARY OF STATE** [OTHER THAN IN RELATION TO ADVERTISEMENTS]

If you are aggrieved by the decision of the local planning authority to refuse permission for the proposed development, or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal; then you can do so online at [www.Planningportal.gov.uk/pcs](http://www.Planningportal.gov.uk/pcs)

Alternatively you can use a form you can get from:

The Planning Inspectorate, Registry/ Scanning, Temple Quay House, 2, The Square, Temple Quay, Bristol, BS1 6PN; Telephone: 0303 444 5000;

Email: [enquiries@planning-inspectorate.gsi.gov.uk](mailto:enquiries@planning-inspectorate.gsi.gov.uk)

Website: [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

For most types of application you have six months to appeal from the date of the attached Decision Notice. However if the decision involved the refusal of planning permission for a householder application then you have 12 weeks to appeal from the date of the Decision Notice. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances that excuse the delay in giving the notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development, or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any Directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a Direction given by him.

### **PURCHASE NOTICES**

If either the local authority or the Secretary of State refuses Permission to develop land, or grants it subject to conditions, the owner may claim he/she can neither put the land to a reasonable beneficial use in its existing state, nor render the land capable of a reasonably beneficial use by the carrying out of any development that has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his/her interest in the land in accordance with the provision of Part VI of the Town and Country Planning Act 1990.

### **COMPENSATION**

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him/her.

These circumstances are set out in section 114 and related provisions of the Town and Country Planning Act 1990.

**Information relating to appeals including forms can be obtained from;**

The Planning Inspectorate,  
Temple Quay House,  
2, The Square,  
Temple Quay,  
Bristol BS1 6PN

Telephone: 0303 444 5000  
Web site: [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)  
email: [enquiries@planning-inspectorate.gsi.gov.uk](mailto:enquiries@planning-inspectorate.gsi.gov.uk)

The Planning Portal website: [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs)

EP2



## ITEM

|                              |  |
|------------------------------|--|
| <b>Application Reference</b> | <b>DC/071837</b>   |
| <b>Location:</b>             | Distaff Farm<br>Woodford Road<br>Bramhall<br>Stockport<br>SK12 1DY |
| <b>PROPOSAL:</b>             | Single storey rear extension.                                      |
| <b>Type Of Application:</b>  | Householder  |
| <b>Registration Date:</b>    | 18.12.2018   |
| <b>Expiry Date:</b>          | 25.04.2019   |
| <b>Case Officer:</b>         | Callum Coyne   |
| <b>Applicant:</b>            | Mr & Mrs Littler   |
| <b>Agent:</b>                | Aboreta Planning   |

### DELEGATION/COMMITTEE STATUS

The application should be referred to the Planning & Highways Regulations Committee as the application relates to a departure from the Statutory Development Plan.

### DESCRIPTION OF DEVELOPMENT

This application seeks permission to erect a single storey rear extension. The proposed sun room would have a maximum rear projection of 6.2 metres and a width of 10.7 metres. The proposed sun room would have a part pitched roof, part a flat roof with two roof lanterns to provide additional sunlight. The proposal would have a ridge height of 3.3 metres and a maximum height of 4 metres, including the roof lanterns.

It is important to note there is recent planning history (listed below) which will need to be taken into consideration as part of this assessment. In summary, two single storey rear extensions have been granted permission under permitted development (PD) legislation (ref: DC/070371 & DC/071004). The PD extensions have a similar rear projection however; they would span approximately half the width of the proposed extension.

### SITE AND SURROUNDINGS

The application site relates to 'Distaff Farm', a two-storey detached property located to the north west of Woodford Road and to the south of the Manchester Airport Eastern Link Road. The property located within a rural area in Woodford on land designated as Green Belt.

The host dwelling has previously been extended in the past with a with a part two storey, part single storey side and rear extension and a single storey rear extension.

To the east of the host dwelling is a stables building. A double bay garage outbuilding is located towards the front of the property (north west). The application

site has an open rural feel and as per the site location plan the applicant owns the land to the north east of the application site, which contributes to the overall rural character of the site and its surroundings.

### **POLICY BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”) requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

#### **The Development Plan includes-**

- Policies set out in the Stockport Unitary Development Plan Review adopted 31<sup>st</sup> May 2006 which have been saved by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004; &
- Policies set out in the Stockport Local Development Framework Core Strategy Development Plan Document adopted 17<sup>th</sup> March 2011.

#### **Saved policies of the SUDP Review**

LCR1.1: LANDSCAPE CHARACTER AREAS

LCR1.1a THE URBAN FRINGE INCLUDING THE RIVER VALLEYS

GBA1.1: EXTENT OF GREEN BELT

GBA1.2: CONTROL OF DEVELOPMENT IN GREEN BELT

GBA1.5: RESIDENTIAL DEVELOPMENT IN GREEN BELT

CDH1.8: RESIDENTIAL EXTENSIONS

#### **LDF Core Strategy/Development Management policies**

SD-2: MAKING IMPROVEMENTS TO EXISTING DWELLINGS

H-1: DESIGN OF RESIDENTIAL DEVELOPMENT

CS8: SAFEGUARDING AND IMPROVING THE ENVIRONMENT

SIE-1: Quality Places

SIE-3: Protecting, Safeguarding and enhancing the Environment

#### **Supplementary Planning Guidance**

Supplementary Planning Guidance does not form part of the Statutory Development Plan; nevertheless, it does provide non-statutory Council approved guidance that is a material consideration when determining planning applications.

'Extensions and Alterations to Dwellings' Supplementary Planning Document (adopted in February 2011) states that the issue of design is a highly important factor when the Council assessed proposals for extensions and alterations to a dwelling. The Council require all development to be designed to a high standard in order that it makes a positive contribution to the provision of an attractive built environment.

Any extension or alteration to a property should:-

- Respect the form, shape, symmetry and proportions of the existing dwelling and compliment the character of the surrounding area (DESIGN)
- Generally appear subordinate in relation to the existing dwelling in terms of massing, scale and overall appearance (SCALE)
- Respect the architectural integrity of the existing dwelling. External materials and finishes should be durable and of good quality. They should be visually

appropriate for their surroundings and sympathetic in terms of colour, texture and detail in relation to the existing dwelling (MATERIALS).

### **National Planning Policy Framework**

A Revised National Planning Policy Framework (NPPF) issued by the Secretary of State for Housing, Communities and Local Government (MHCLG) on 19th February 2019 replaced the previous NPPF (originally issued 2012 & revised 2018). The NPPF has not altered the fundamental legal requirement under Section 38(6) of the Planning and Compulsory Purchase Act 2004 that decisions must be made in accordance with the Development Plan unless material considerations (such as the NPPF) indicate otherwise.

The NPPF representing the governments up-to-date planning policy which should be taken into account in dealing with applications focuses on achieving a lasting housing reform, facilitating the delivery of a greater number of homes, ensuring that we get planning for the right homes built in the right places of the right quality at the same time as protecting our environment. If decision takers choose not to follow the NPPF, then clear and convincing reasons for doing so are needed.

N.B. In respect of decision-taking the revised NPPF constitutes a “material consideration”.

*Para.1 “The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied”.*

*Para.2 “Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise”.*

*Para.7 “The purpose of the planning system is to contribute to the achievement of sustainable development”.*

*Para.8 “Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

- a) an economic objective*
- b) a social objective*
- c) an environmental objective”*

*Para.11 “Plans and decisions should apply a presumption in favour of sustainable development.*

*For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.*

*Para.12 “.....Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed”.*

*Para.38 “Local planning authorities should approach decisions on proposed development in a positive and creative way..... Decision-makers at every level should seek to approve applications for sustainable development where possible”.*

*Para.47 “Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing”.*

*Para.124 “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*

*Para.130 “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development”.*

*Para.133 “The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.*

*Para.143 “Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”.*

*Para.144 “When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. “Very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.*

Para.145 *“A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*

*c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*

*d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces”.*

Para.153 states *“In determining planning applications, local planning authorities should expect new development to:*

*a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*

*b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption”.*

Para.213 *“existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.*

## **Planning Practice Guidance**

The Planning Practice Guidance (NPPG) is a web-based resource which brings together planning guidance on various topics into one place (launched in March 2014) and coincided with the cancelling of the majority of Government Circulars which had previously given guidance on many aspects of planning.

### **RELEVANT PLANNING HISTORY**

Reference: DC/071004; Type: GPDE; Address: Distaff Farm, Woodford Road, Bramhall, Stockport, SK12 1DY, ; Proposal: Proposed single-storey rear extension, (i) The projection of the proposed extension beyond the rear wall of the original house is 7.9 metres, (ii) The maximum height of the proposed extension is 3.5 metres, (iii) The height of the eaves of the proposed extension is 2.5 metres; Decision Date: 29-OCT-18; Decision: GCPD

[Officer note: The above application forms part of the applicants very special circumstances in support of this application in terms of permitted development fall back justification which will be taken into consideration as part of this Green Belt assessment.]

Reference: DC/070371; Type: GPDE; Address: Distaff Farm, Woodford Road, Bramhall, Stockport, SK12 1DY,; Proposal: Proposed single storey rear extension., (i) The projection of the proposed extension beyond the rear wall of the original house is 7.9 metres, (ii) The maximum height of the proposed extension is 3.5 metres, (iii) The height of the eaves of the proposed extension is 2.5 metres, ; Decision Date: 24-AUG-18; Decision: GCPD

[Officer note: The above application forms part of the applicants very special circumstances in support of this application in terms of permitted development fall back justification which will be taken into consideration as part of this Green Belt assessment.]

Reference: J/70477; Type: XHS; Address: Distaff Farm Woodford Road; Proposal: Single and two storey extensions and dormer windows to main dwelling and carport formed to rear of stable block.; Decision Date: 27-AUG-98; Decision: GTD

### **NEIGHBOUR'S VIEWS**

No letters of representation were received during the neighbour consultation period.

### **ANALYSIS**

#### **Green Belt**

Saved UDP Policy GBA1.2 states that there is a presumption against the construction of new buildings within the Green Belt unless it is for certain purposes including limited extension and alterations to existing dwellings where the scale, character and appearance of the property are not significantly changed.

Saved UDP policy GBA1.5 states that proposals relating to existing residential uses may be permitted in certain cases, including alterations and extensions where the scale, character and appearance of the property would not be significantly changed.

The supporting text to these policies advises that the interpretation of significant change will vary according to the character of the property but as a general guideline, extensions that increase the volume of the original dwelling by more than approximately one third are unlikely to be acceptable.

The National Planning Policy Framework was published in 2012 and the updated version issued on the 19th February 2019 replaced the previous NPPF (originally issued 2012 & revised 2018), post-dates the UDP Review and sets out the Government's most up to date policy position in relation to development in the Green Belt.

The NPPF confirms that inappropriate development is harmful to the Green Belt and should not be approved other than in 'very special circumstances' (para 143). A local planning authority should regard the construction of new buildings as 'inappropriate' in the Green Belt; exceptions to this are (amongst other matters) the extension and alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building (para 145c).

A supporting statement has been submitted by the applicant which includes calculations relating to the volume increase proposed by this application. These figures advise that the proposal would result in 58% increase in volume of the original dwelling.

Whilst there is no definition in the NPPF as to what a disproportionate increase might be, the proposed development would clearly exceed the one third increase referenced as appropriate in the supporting text to GBA1.2 and GBA1.5. As such the development is inappropriate in the Green Belt, contrary to GBA1.2, GBA1.5 and para 145c of the NPPF and can only be approved where 'very special circumstances' are demonstrated.

The material test to the acceptability of proposals within the Green Belt is the impact of the siting, size and scale of the proposal on the character and appearance of the existing dwelling and on the overall openness of the Green Belt. The supporting planning statement outlines a number of very special circumstances in support of this application will be taken into consideration as part of this Green Belt assessment. They can be summarised as follows;

- The proposal seeks to erect an extension to a property that has already been the subject of additions to the house. This application accepts that any further addition to the property could be considered disproportionate, therefore contrary to policy and inappropriate development. However, Green Belt policy does allow for further development provided very special circumstances (VSC) can be justified.
- The proposal would represent a 58% increase in volume over the original property, however this application seeks permission to construct a single storey rear elevation extension to the property in place of those recently granted under permitted development legislation (references DC/070371 & DC/071004).
- The property has permitted development rights and it is considered that a large proportion of the proposed alterations would be allowed and comply with permitted development (PD) rights.
- The PD extension are a fall-back position that must be taken into account during the assessment of this proposal. The previous permissions are a material consideration and should be given substantial weight in the determination of this application proposal.
  - The combined floor space of the extensions considered to fall within PD give a total floor are of approximately 85.5 m<sup>2</sup>.
  - The single storey rear extension proposed in this application has a reduced footprint (when compared to that deemed as not requiring planning permission) of approximately 58.5 m<sup>2</sup>.
- These extensions represent a fall-back position that is larger in footprint than those sought by this application as the footprint allowed under the 'non-approval' process is greater than that proposed by this application
- The fall-back position is a matter of case law that cannot be ignored and is a material consideration in the planning process. Accordingly, it is clear that these 'approval not required' extension are in the position of this proposal and therefore this would not result in over-development.

- The scale of the proposal has been carefully considered in terms of size, footprint and design and to ensure it is compatible with the host elevation and overall property. The design with the roof lantern included are to ensure the development will be subservient to the host elevation and as above the property overall.
- In terms of neighbour amenity, the proposal would not have any negative impact upon neighbouring occupiers in terms of loss of privacy to neighbours on either side. The proposal would overlook fields to the rear of the property and therefore would not have any negative impact on surrounding properties.

The above circumstances are noted and it is acknowledged that the property benefits from full permitted development rights for the erection of extensions and/or outbuildings. Therefore, a similar sized extensions could be constructed without any control from the Local Planning Authority, to the rear of the house, both as an extension or detached outbuilding, which could have a similar impact on the openness of the green belt.

The supporting document submitted states that the PD fall-back position is a material consideration within the planning process and provides examples of “good case law” which require Local Planning Authorities to take into account the fall-back position even if it was deemed as unrealistic, which the agent states is not the case in this instance. With regards this point, it is acknowledged that two separate single storey rear extensions could be constructed under permitted development rights where the two side elevations do not abut each other. This may not be ideal in terms of overall design and use of the property however; the proposals are considered as legitimate PD fallback position as part of this assessment, as the extensions would function and serve their purpose providing additional internal accommodation for the current occupiers of the house.

Larger extensions albeit of a concentrated form can sometimes be accommodated whilst avoiding harm to the overall openness of the Green Belt. In this instance the resulting development is of a relatively concentrated form which overall, would be sympathetic to the character of the area.

In respect of the above, it is acknowledged that the proposal would increase significantly beyond the size of the original house constructed; however, it is considered that the proposed single storey rear extension would generally appear subordinate in relation to the existing dwelling and would not have a detrimental impact upon the openness of the Green Belt.

For these reasons, on balance it is considered that 'very special circumstances' can be demonstrated in this specific instance that justify the development and outweigh the harm to the Green Belt.

On the basis of the above assessment, the proposal is considered acceptable in relation to residential development within the Green Belt and therefore accords with the National Planning Policy Framework.

## Design



The proposed single storey rear extension would not be widely visible from the public domain. Notwithstanding this, it is considered that the proposal would generally appear subordinate in relation to the existing dwelling in terms of massing, scale and overall appearance.

The proposed rear extension would generally respect the appearance of both the existing property and would not result in an obtrusive or prominent feature within the wider area. Furthermore, the materials proposed would match that of the main dwelling.

The proposed development is considered acceptable in design terms and accords with saved policy SIE-1 of the adopted Stockport Core Strategy DPD, saved policy CDH1.8 of the Stockport Unitary Development Plan Review, the guidelines set out in the 'Extensions and Alterations to Dwellings' SPD and the National Planning Policy Framework.

### Amenity

With regards overlooking and loss of privacy the Councils 'Extensions and Alterations to Dwellings' SPD will ensure that new extensions do not impose an unacceptable loss of privacy on the occupants of neighbouring dwellings.

Given a separation distance of approximately 25-30 metres from the side elevation of the proposed extension and the side elevation of 'Field View Barn' the neighbouring property located to the south east, it is considered that the proposed side extension and projection to the rear would cause no undue impact on the amenity of surrounding residential properties.

Given the above, the proposal would not have any undue impact upon the amenity of surrounding residential properties and therefore accords with saved policy CDH1.8 of the Stockport Unitary Development Plan Review, policy SIE-1 the adopted Stockport Core Strategy DPD the guidelines set out in the 'Extensions and Alterations to Dwellings' SPD and the National Planning Policy Framework.

### Conclusions

The proposal represents a volume increase of approximately 58% increase to the original dwelling; the proposal is therefore considered a departure from the Council's Development Plan and para 145 of the NPPF. Whilst the proposal constitutes inappropriate development, it is considered that the case for very special circumstances is sufficient to outweigh harm by reason of inappropriateness.

The proposal would not unduly impact upon the residential amenity of the surrounding properties in accordance with UDP policy CDH1.8 and Core Strategy policy SIE-1.

The general design of the proposed development is, on balance, considered acceptable in terms of its relationship to the existing dwelling, the character of the street scene and the visual amenity of the area in accordance with UDP policy CDH1.8 and Core Strategy policy SIE-1.

Other material considerations such as the Extensions and Alterations to Dwellings SPD and the NPPF have also been considered and it is judged the proposal also complies with the content of these documents.

On balance, the proposal amounts to Sustainable Development, consequently it is recommended that permission be granted subject to appropriate planning conditions.

**RECOMMENDATION** GRANT subject to conditions

**BRAMHALL AND CHEADLE HULME SOUTH AREA COMMITTEE 13<sup>TH</sup> JUNE 2019**

The Planning Officer introduced the application. Members considered the report and agreed the recommendation.

**PLANNING AND HIGHWAYS REGULATION COMMITTEE 27<sup>TH</sup> JUNE 2019**

The Senior Planning Manager introduced the application. Members considered the report and agreed the recommendation.

EP3



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# Appeal Decision

Site visit made 29 January 2013

**by M A Champion BSc CEng FICE FIMStructE FCIHT FHKIE**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 8 February 2013**

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**Appeal Ref: APP/V1505/A/12/2185169**  
**Damer, Meadow Way, Wickford, SS12 9HA.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 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.
  - The appeal is made by Mr Alan Boddy against Basildon Borough Council.
  - The application, ref: 12/00502/FULL, is dated 23 May 2012.
  - The application sought planning permission for the retention of a garden shed without complying with a condition attached to planning permission ref: BAS1441/92, dated 25 January 1993.
  - The condition in dispute is No 2 which states that: Notwithstanding the provisions of Article 3 of the Town and Country Planning General Development Order 1988, or any Order revoking and re-enacting that Order, no development within Part One, Classes A, B, C and E of Schedule 2 to the Order shall be carried out within the site of this application except with the express permission granted under Part III of the Town and Country Planning Act 1990 or any re-enactment thereof.
  - The reason given for the condition is: To ensure proper control is maintained over the construction of extensions and ancillary buildings within this Green Belt area.
- 

## Decision

1. The appeal is allowed and planning permission is granted for a garden shed at Damer, Meadow Way, Wickford, SS12 9HA, in accordance with the application ref: 12/00502/FULL, dated 23 May 2012, without compliance with Condition number 2 attached to planning permission ref: BAS1441/92, dated 25 January 1993, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

## Main issue

2. I consider that the main issue in this appeal is whether Condition 2 is reasonable and necessary for controlling the construction of extensions and ancillary buildings within this Green Belt area.

## Reasons

3. The appeal site lies in a plotland area within the Green Belt where Policy BAS GB4 of the Basildon District Local Plan Saved Policies 2007 (LP) deals with
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extensions to dwellings in the Green Belt. Also relevant to this appeal is Circular 11/95 *The Use of Conditions in Planning Permission*.

4. This adopted policy is generally consistent with the aims of the National Planning Policy Framework (NPPF), policies from which have also been considered. The NPPF reinforces the local plan as the main consideration in planning decisions. It requires development not to undermine the quality of life, emphasising the importance of sustainable development, high quality design, attractive places and a good standard of amenity for residents. It expects developments to contribute to the overall quality of the area.
5. The site comprises a detached dwelling and garden in an area of similar properties. A large detached outbuilding was granted retrospective planning permission in 1993, subject to the disputed condition. This outbuilding was subsequently extended without planning permission, but would appear now not to be unlawful by reason of the passage of time. Having regard to its proximity to the main dwelling it is reasonable to consider it as an extension.
6. The proposed development seeks the removal of Condition 2.
7. Circular 11/95 regards conditions removing permitted development rights as exceptional, and which need to be justified by clear evidence of adverse effects on amenity or environment. Although the disputed condition predates the issue of the Circular, no evidence has been presented to suggest that the condition was not validly imposed.
8. While it is reasonable to seek to control the spread of development in the Green Belt, there is no general restriction on permitted development rights within such areas, as there is in certain other specified areas such as National Parks. If such a restriction were considered necessary over a defined area it could be introduced by means of an Article 4 Direction. Conditions apply to individual development sites and must be justified as required by the Circular.
9. The appeal site is in an area of similar properties, and no evidence has been presented to justify the imposition of this condition on the appeal property alone. I have not been made aware of any circumstances that apply to this site that would not apply to surrounding properties within the same area.
10. I acknowledge that LP policy imposes limitations on extensions in the Green Belt. The Council states, and the appellant does not dispute, that the development on site is currently at the limit of such permitted extensions. Any further extensions would thus be controlled by LP policy, and removal of permitted development rights in respect of Classes A and B would not be necessary. No evidence has been submitted to justify the removal of permitted development rights under Classes C and E.
11. Furthermore the site is in a plotlands area. Although the former relevant LP policy has not been saved, the Council is considering the future of the plotlands in its emerging Core Strategy. Until this is adopted one cannot be certain of the new policy, but it is possible that the plotlands could form the basis for additional housing as the NPPF (paragraph 89) supports limited infilling in the Green Belt.

**Conclusion**

12. I conclude, therefore, that in the absence of any convincing evidence to the contrary Condition 2 is neither reasonable nor necessary for controlling the construction of extensions and ancillary buildings within this Green Belt area. The appeal succeeds.

**Conditions**

13. In the light of Circular 11/95 and the NPPF paragraph 206 I do not consider that additional conditions are necessary.

*M A Champion*

INSPECTOR

EP4



## Appeal Decision

Site visit made on 26 June 2017

by **Alexander Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18<sup>th</sup> July 2017

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**Appeal Ref: APP/R0660/W/17/3171265**

**Heathfield House, Bollington Lane, Nether Alderley SK10 4TB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 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.
  - The appeal is made by Mr Andrew Kay against the decision of Cheshire East Council.
  - The application Ref 16/3687M, dated 28 July 2016, was refused by notice dated 26 October 2016.
  - The application sought planning permission for conversion of disused MoD building to dwelling without complying with conditions attached to planning permission Ref 82411P, dated 4 October 1995.
  - The conditions in dispute are Nos 7 and 8 which state that:
  - *7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no development (as defined by section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Class(es) A to F of Part 1 Schedule 2 of the Order shall be carried out.*
  - *8. Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no extension, garage, carport, shed or other structure shall be erected or added to the dwelling(s) identified in the application site.*
  - The reasons given for the conditions are:
    - 7. To ensure continued control over the extent of further building within the site.*
    - 8. To ensure continued control over the extent of further building within the site.*
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### Decision

1. The appeal is allowed and planning permission is granted for the conversion of disused MoD building to dwelling at Heathfield House, Bollington Lane, Nether Alderley SK10 4TB in accordance with the application Ref 16/3687M dated 28 July 2016, without compliance with condition numbers 7 and 8 previously imposed on planning permission Ref 82411P dated 4 October 1995 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

### Application for Costs

2. An application for costs made by Mr Andrew Kay against Cheshire East Council is the subject of a separate Decision.

### Main Issues

3. The conditions in dispute relate to the removal of permitted development rights. The appellant seeks to remove these conditions. Notwithstanding the



reasons given for the conditions set out in the decision notice ref 82411P, the Council state that the reason was in order to protect the openness of the Green Belt due to the siting of the property.

4. Given the above, the main issue in this appeal is whether or not the conditions are necessary in the interests of protecting the openness of the Green Belt.

### **Reasons**

5. The National Planning Practice Guidance (NPPG) states that '*conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances*'.<sup>1</sup>
6. The appeal property is a converted MoD building, which was granted planning permission under ref 82411P in 1995. Since the building was converted, the Council has granted planning permission for a two-storey extension and the change of use of woodland into a garden area to allow the construction of a driveway and a garden store. From the details before me, the building has been significantly altered, with very little reference to the original building remaining. There is no evidence before me that the building is statutorily or locally listed or that any further extensions or outbuildings that could be constructed under permitted development rights would have any significant harm on the heritage of the original building.
7. The Council contend that as the dwelling is set within extensive grounds, approximately 0.5 hectares, there is the potential for a range of extensions and outbuildings to be constructed under permitted development rights that would harm the openness of the Green Belt. However, large dwellings set within extensive grounds are not uncommon with the Green Belt; indeed, many other properties within the vicinity of the site are considered as such. There is no evidence before me that the openness of the Green Belt would be any more sensitive to development carried out on the site under those permitted development rights that the disputed conditions remove than other sites within the Green Belt.
8. I understand the Council's concern regarding potentially uncontrolled development in the Green Belt. Furthermore, national and local policies seek to protect the openness of the Green Belt, although extensions and alterations to dwellings are not inappropriate development. However, the Town and Country Planning (General Permitted Development) (England) Order 2015 places no restrictions on permitted development rights in Green Belts as it does with other designated areas such as National Parks.
9. I find therefore that it has not been demonstrated that the circumstances of the appeal property, its heritage and its Green Belt location are exceptional. Accordingly, both condition 7 and 8 are neither reasonable nor necessary in the interests of protecting the openness of the Green Belt and as such fail the tests set out in paragraph 206 of the Framework.
10. I have had regard to the appeal decisions referred to me by the appellant<sup>2</sup> and note that the Inspectors similarly found that such conditions were neither necessary nor reasonable.

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<sup>1</sup> Paragraph 21a-017-20140306

<sup>2</sup> Appeal refs APP/V1505/A/12/2185169 and APP/R0660/D/16/3163338

### **Other Matters**

11. I have had regard to the list of other developments granted planning permission by Macclesfield Borough Council which had similar conditions attached. However, the details of the Council's consideration of these developments are limited and therefore I cannot be certain that these did not represent exceptional circumstances or that the Council imposed such conditions as a matter of course.

### **Conclusion**

12. For the reasons given above I conclude that the appeal is allowed.

*Alexander Walker*

INSPECTOR