



ANDREWBEARD
PLANNING

PLANNING STATEMENT



**Abbotts Way, Almondsbury.
BS32 4JB.**



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On behalf of:
Mr. Neal Davies.

December 2023

PLANNING STATEMENT

Abbotts Way, Almondsbury. BS32 4JB.

Deletion of condition 3 of P23/01879/F replacement dwelling.

Mr. Neal Davies.

DATE ISSUED: 03/12/2023

JOB NUMBER: ABP/0210

**PREPARED and
APPROVED BY:**

Andrew Beard MRTPI **Consultant**

**Andrew Beard Planning
(ABP)**

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1. INTRODUCTION

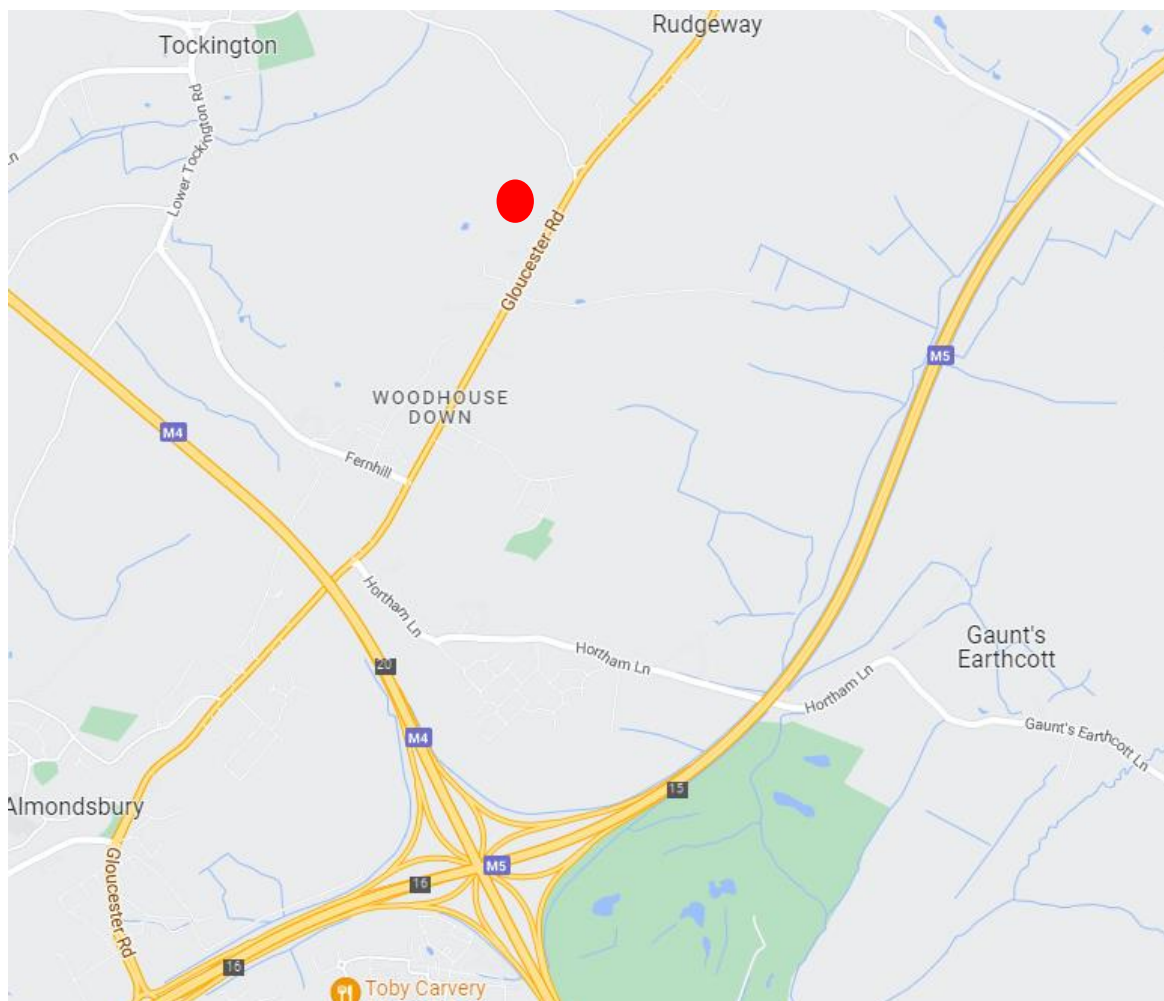
- 1.1. This Planning Statement has been prepared to support an application for deletion of condition 3 of approval P23/01879/F for *“Demolition of existing dwelling and incidental outbuilding. Erection of 1no. detached dwelling with associated works. Resubmission of P22/05016/F.”* at Abbotts Way Gloucester Road dated 27th October 2023.
- 1.2. Application P23/01879/F was approved with condition 3 removing permitted development rights.
- 1.3. This is considered unreasonable as the replacement dwelling as approved will be an original dwelling and then as with any other dwelling within the green belt should have its PD rights retained for reasonable future alterations. When the dwelling is built it will be an original new dwelling and thus policy PSP7 would allow 30%-50% enlargement well beyond PD limits.
- 1.4. The summary justification case for the condition deletion is –
 - The new dwelling when built should have its normal PD rights as any other dwelling within the green belt.
 - The previous appeal Inspector identified that PD should not be removed without special justification.
 - No special justification was contained within the officer delegated report for approval.
 - The site and dwelling are wholly unseen from the A38, no PD works would be publicly visible.
 - A recent application for a new house opposite on the A38 has not had PD removed.
- 1.5. The application is submitted via Planning Portal ref – PP-12648837.
- 1.6. The application fee is £298.

1.7. The application comprises –

- Application forms
- Certificates and declarations
- Planning Statement (ABP December 2022)

2. SITE LOCATION & DESCRIPTION

2.1 The site is known as Abbotts Way which is a residential property accessed off a driveway from the A38.





2.2 The site comprises a large-detached dwelling.



3. SITE HISTORY

- 3.1 The key history is an approval for a replacement dwelling granted in October 2023. Reference P23/01879/F.
- 3.2 This will construct a new original dwelling within the green belt.
- 3.3 Permitted Development rights for the new dwelling were removed by condition 3.

- 3. Notwithstanding the provisions of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development as specified in Part 1 (Classes A, AA, B, C, D, E, F, G and H), or any minor operations as specified in Part 2 (Class A), other than such development or operations indicated on the plans hereby approved, shall be carried out without the prior written consent of the Local Planning Authority.

Reason

To ensure a satisfactory standard of external appearance and to protect character and openness of the Green Belt, in accordance with Policy CS1, CS9 and CS34 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013; Policy PSP1, PSP2, PSP3 and PSP38 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan Development Plan Document (Adopted) November 2017; and the provisions of the National Planning Policy Framework.



4. KEY ISSUES

Is Condition 3 reasonable?

- 4.1 A replacement dwelling in the Green Belt is acceptable within NPPF paragraph 149 (d) and at this site is in the same use and not materially larger than the one it replaces.
- 4.2 The removal of normal permitted development rights for the new dwelling house is fundamentally unreasonable as it should be afforded the same lawful provisions as any other house within the green belt.
- 4.3 The NPPF chapter on protecting the green belt makes no mention of the need to remove permitted development rights. If it was a requirement then it would be highlighted.
- 4.4 Similarly, on the previous appeal refusal the Inspector specifically commented on this matter APP/P0119/W/22/3311192 –
31. Furthermore, the new dwelling would benefit from permitted development rights and could therefore be extended itself. Whilst permitted development rights could be removed, the **Planning Practice Guidance (the PPG) makes it clear that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances.** Whilst the Green Belt location and the potential effect on the openness of the Green Belt could constitute a reason, it would not, in any case, outweigh the harm identified.
- 4.5 The clear position of the NPPF and the previous Inspector is that the replacement dwelling should not have PD removed.
- 4.6 There is no special case for the condition as the house is not visible from the A38 and normal alterations would not be contrary to policy for the new house.
- 4.7 In the officer delegated report is no special case set out. Paragraph 5.18 does not include any justification, just that PD will be removed to protect the character and openness of the green belt. This is ultra vires – it is not included in NPPF to protect the green belt, and policies set out increases allowable for dwellings in the green belt. The application was solely to determine the replacement dwelling in line with NPPF 149(d) where PD plays no role as previously set out by the officer in previous refusals.



“5.18 In order to protect the character and openness of Green Belt from future uncontrolled development, a condition should be included with any consent removing household Permitted Development Rights.”

- 4.8 As the previous Inspector stated this does not pass the test of necessity as extensions and alterations are allowable by NPPF and policy PSP7 in the green belt.
- 4.9 No special case has been set out why this house should be restricted.
- 4.10 This is highlighted by a very recent new house granted in the green belt directly opposite this site, dealt with by South Gloucestershire and this new house in the green belt has not had PD rights removed –

P23/01218/F – Park Farm, Gloucester Road, Almondsbury

Demolition of existing buildings. **Erection of 1 no. detached dwelling (Class C3)** with associated works and erection 1 no. Gospel Hall (Class F1) with access, parking, landscaping, and associated works. Erection of erection of 1no. porch, two storey rear, single storey front extensions to existing dwelling to form additional living accommodation.

NO PD REMOVAL BY CONDITION.

- 4.11 This shows a complete inconsistency of approach, with this approval a month later not removing PD rights, and thus shows that condition 3 at this site is wholly unreasonable.
- 4.12 I have also dealt with a site in another LPA Newcastle Under Lyne where again an approval for a replacement house was granted without PD removed by condition.
- 4.13 These two notices of decision have been submitted as example documents and details set out in Appendix A.
- 4.14 The NPPF, Inspector, and other permissions clearly show this condition to be unreasonable, not necessary, and disproportionate.



5. CONCLUSIONS

5.1 This report has shown that condition 3 has been unreasonably attached to the approval for the replacement dwelling.

5.2 The condition should be deleted. The justification for deletion is –

- The new dwelling when built should have its normal PD rights as any other dwelling within the green belt.
- The NPPF 149 does not include the requirement for removal of PD rights.
- The condition fails the test of necessity.
- The previous appeal Inspector identified that PD should not be removed without special justification.
- No special justification was contained within the officer delegated report for approval to remove PD at this site.
- The site and dwelling are wholly unseen from the A38, no PD works would be publicly visible. Also an example in Newcastle under Lyne
- A recent application for a new house opposite on the A38 has not had PD removed, showing inconsistency of approach and lack of reasonable justification.

5.3 The permission should be re-issued with condition 3 deleted.



APPENDIX A EXAMPLES**South Gloucestershire****APPROVED NEW HOUSE IN GREEN BELT NO PD REMOVED**

Andrew Beard Planning
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83 Main Road
Portskewett
Caldicot
NP26 5UG

APP REF: P23/01218/F
DATE VALID: 11th April 2023
DECISION DATE: 24th November 2023
PARISH: Olveston Parish Council

**NOTICE OF DECISION
TOWN AND COUNTRY PLANNING ACT 1990**

South Gloucestershire Council in pursuance of powers under the above mentioned Act hereby PERMIT:

APPLICATION NO: P23/01218/F

DESCRIPTION OF DEVELOPMENT: Demolition of existing buildings. Erection of 1 no. detached dwelling (Class C3) with associated works and erection 1 no. Gospel Hall (Class F1) with access, parking, landscaping and associated works. Erection of erection of 1no. porch, two storey rear, single storey front extensions to existing dwelling to form additional living accommodation.

APPLICANT: Mr & Mrs Glen Smith

LOCATION: Park Farm Gloucester Road Almondsbury South
Gloucestershire BS32 4HY

In accordance with the application and accompanying plans, subject to the conditions specified below:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Strategic Planning, South Gloucestershire Council, Department For Place, PO Box 1954, Bristol, BS37 0DD
Telephone: 01454 868004 Email: planningapplications@southglos.gov.uk

Newcastle under Lyne

Approved 13th June 2022

Application for replacement house 20% larger approved.

NO PD REMOVED BY CONDITION

TOWN AND COUNTRY PLANNING ACT 1990

PERMISSION FOR DEVELOPMENT

Application number: 22/00289/FUL



Mr Andrew Beard
Spindrift
83 Main Road
Portskewett
Caldicot
NP26 5UG
United Kingdom

Applicant: Mr and Mrs S and R Hutchins

Description of development

Replacement dwelling (Use Class C3)

Location of development

Cranberry Cottage Post Office Lane Balterley

The Council of the Borough of Newcastle-under-Lyme in pursuance of powers under the above-mentioned Act hereby **PERMIT** the above development, in accordance with the submitted plans and other documents, subject to compliance with the conditions specified below. Failure to carry out the development in accordance with the permission/consent or to comply with any condition may make the permission/consent invalid and may lead to enforcement or other legal action

This decision does not convey any approval or consent which may be required under any enactment, by-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.