DELEGATED DECISION REPORT

SMD/2018/0749 **Valid 27/11/2018**	**FAIR VIEW CAVERSWALL COMMON LANE CAVERSWALL**	**VARIATION OF CONDITION 7 IN RELATION TO SMD/2018/0599** **(FULL - MINOR)**

MAIN ISSUES

- Green Belt

DESCRIPTION OF SITE
The application site is located within the Green Belt and within Caverswall Parish. It is accessed via a private driveway off Caverswall Common, to the north, beyond which is Gravel Bank Nursery. To the north east the application site is bound by a detached dwelling known as Brentwood, accessed off Caverswall Common. Directly to the south and east is open countryside with Woodside Holdings having a dwelling and some industrial buildings to the south west. Directly to the west is further open countryside with an access to Gravel Pit Farm also being taken off the same shared private driveway.

PROPOSAL
The application seeks to vary condition 7 of planning permission SMD/2018/0599. Planning application SMD/2018/0599 sought consent for the demolition of the existing dwelling on the site and the erection of a replacement dwelling,

Condition 7 sought to control future permitted development rights at the property:

> *7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Class(es) A, B, D and E other than those expressly authorised by this permission, shall be carried out at the property without express planning permission first being obtained from the Local Planning Authority.*
>
> *Reason:- To enable the Local Planning Authority to control development within the Green Belt in order to protect its openness in future*

The applicant now wishes to vary the condition to exclude reference to Class E permitted development rights, which restricts the erection of outbuildings.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES
Core Strategy Development Plan Document (Adopted 2014)
S01 Spatial Objectives
SS1 Development Principles
SS1a Presumption in Favour of Sustainable Development

DC1 Design Considerations
T1 Development and Sustainable Transport

National Planning Policy Framework
Paragraph(s) 1-14
Section(s) 12

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS
SMD/2018/0599 Erection of replacement dwelling APPROVED 21/11/2018

CONSULTATIONS
Publicity
Site Notice expiry date: 07/01/2019
Neighbour consultation period ends: 21/12/2018
Press Advert: N/A

Public Comments
N/A

Town / Parish Comments
N/A

Staffordshire County Council Highways
N/A

OFFICER COMMENTS

Main Issues

The main issues in the consideration of this application are whether the condition in question, removing Permitted Development Rights in respect of outbuildings meets the tests for a planning condition as set out in the Planning Practice Guidance. These are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects."

Assessment

The applicant has put forward a case that the condition applied to the permission fails the tests set out in paragraph 56 of the NPPF because it is not necessary to make the development acceptable in planning terms. They also argue the removal of PD rights for Class E development is not relevant to the development permitted and fails the tests of reasonableness. Similarly, they argue that it is not in accordance with the test in paragraph 017 of the Planning Practice Guidance.

The applicant has not challenged the condition on the grounds of it not being precise, enforceable necessary or relevant to planning. Therefore this report will concentrate on relevance to the development, reasonableness and necessity.

Planning permission was sought under application SMD/2018/0599 for a replacement dwelling. The site is located within the Green Belt where under NPPF policy there is a presumption against inappropriate development. The NPPF goes on to explain that the erection of new buildings in the Green Belt is inappropriate development unless it falls into one of a number of categories of exception including the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

Having assessed the proposed replacement dwelling it was concluded that it would be materially larger than the one which it was intended to replace and was therefore inappropriate development. The NPPF states that under these circumstances permission should be refused unless there are Very Special Circumstances to indicate otherwise. In this case the Applicant advanced a “fallback” position which demonstrated that a much larger dwelling could be achieved by extending the existing dwelling under Permitted Development Rights. This would have been much more harmful to the Green Belt than the application proposal and this was therefore considered to represent Very Special Circumstances and permission was granted. However, it was considered to be necessary to remove permitted development rights to prevent the new property from being extended still further. The Applicant does not dispute the imposition of this part of the condition.

The condition also removed permitted development rights for outbuildings within the curtilage which the applicant considers fail the tests within the Circular. The reason for applying the condition was to control any future development so that it does not affect the openness of the Green Belt. Class E of the General Permitted Development Order (2015) allows outbuildings to be constructed without the need for a planning application as long as they do not exceed 50% of the curtilage. The curtilage for this application covers a generous amount of land. Therefore, there is considerable potential for a significant impact on the openness of the Green Belt to occur if such rights were exercised. The NPPF makes clear that the most important feature of Green Belts is there openness.

Having granted planning permission for a replacement dwelling which was by definition “inappropriate development” on the basis of avoiding a more harmful extension being carried out under permitted development rights, it would be somewhat perverse if the Local Planning Authority were to indirectly allow an equally, or possibly more harmful, development within the Green Belt to take place within the curtilage, which could be detached from the dwelling itself by no more than a few centimetres.

Whilst it is acknowledged that it is not stated in the report, the planning benefit in the ability to remove permitted development rights for outbuildings under Class E formed part of the planning balance in concluding that Very Special Circumstances existed in this case. Therefore, for the reasons set out above, it is considered that the condition is necessary and relevant to the development which has been permitted.

Under these circumstances it is not considered to be unreasonable and does not prevent altogether modest and appropriate outbuildings within the curtilage, it merely brings them within the control of the Local Planning Authority, so that their impact on the openness of the Green Belt can be properly assessed on a case-by-case basis. It does not place any greater or more unreasonable burden on the applicant than that which is placed on thousands of home occupiers across the country who must apply for planning permission for alterations, extensions and outbuildings because permitted development rights have been removed for various reasons.

The Applicant has drawn attention to an Appeal case from near to Nantwich in Cheshire. That application related to the redevelopment of a Brownfield site to provide 3 dwellings. This would be considered under a separate part of the NPPF, that relating to limited infilling or the partial or complete redevelopment of previously developed land, in contrast to this application which was for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. I do not have the full details of that case before me but consider that it is materially different to the matter under consideration here.

It is considered that the condition meets all of the tests set out in the PPG and removing the condition would result in harm to the openness of the Green Belt, which conflicts with national and local planning policy.. As a result, it is recommended that the application is refused.

OFFICER RECOMMENDATION : Refuse

Case Officer: Laura Barnes
Recommendation Date: 8th January 2019

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council