Rob Duncan
Planning
Consultancy

PLANNING STATEMENT

STANHOPEA
MILL LANE, WETLEY ROCKS

OCTOBER 2020

Site Address:
Stanhopea, Mill Lane, Wetley Rocks, Staffordshire, ST9 0BN

Appellant:
Mr. & Mrs. Hartley

Proposal:
Removal of Condition 5 of application SMD/2011/0088
(Old Reference 11/00119/OUT)

Planning Statement:
Date Issued: 13th October 2020
Job Reference: RDP/2020/151

Report Prepared By:
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1 Introduction

1.1 Rob Duncan Planning Consultancy Ltd. has been instructed by Mr. & Mrs. Hartley to submit an application under s73 of the Town and Country Planning Act 1990 (As Amended) to seek the removal of Condition 5 of application SMD/2011/0088 (old reference 11/00199/OUT) which related to the erection of a detached dwelling on land at Foxdale, Mill Lane, Wetley Rocks. The resultant dwelling has since been constructed and is named Stanhopea, after the nationally significant orchid collection held on the site.

1.2 The original outline application had been recommended for refusal by the planning officers on the grounds that the construction of the new dwelling amounted to an inappropriate form of development within the Green Belt. The application was nevertheless approved by the Planning Applications Committee, contrary to officer recommendation, who concluded that very special circumstances existed to justify approval of the development. In granting consent the Local Authority imposed the following condition on the approval notice:

> *"Occupancy of the dwelling hereby approved is restricted solely to Mr. R. Hartley and any associated dependant relatives"*

1.3 The stated reason for imposing the condition was:

> *"For the avoidance of doubt and due to the 'very special circumstances' that surround this application"*

1.4 This application seeks consent to remove this condition as it is considered to be contrary to the tests for conditions as set out within the National Planning Policy Framework and National Planning Practice Guidance.

2 Site & Surroundings

2.1 The application site comprises a detached single storey dwelling located on the southwestern side of Mill Lane, Wetley Rocks. The dwelling sits within a large curtilage that extends to approximately 0.46 hectares. Within the site, to the southwest of the dwellinghouse, lie a cluster of glasshouses wherein there is housed the national collection of Stanhopea Orchids (after which the existing property is named). Residential development is located to the southwest of the site, and to its southeast, with further residential development located on the opposite side of Mill lane to the northwest. Vehicular access to the site is taken via a shared access that runs along the northwestern boundary of the site which is shared with the nearby property of Foxdale. The site as a whole lies within the North Staffordshire Green Belt.

3 Planning Policy

3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application. The Development Plan for this area comprises the Staffordshire Moorlands Local Plan (2020) of which the following policies are of relevance:

3.2 Policy SS10 of the Local Plan relates to the 'Other Rural Areas Strategy' and states that strict control will continue to be exercised over development in the Green Belt, allowing only for exceptions as defined by Government policy.

4 Material Considerations

National Planning Policy Framework

4.1 The National Planning Policy Framework (NPPF) and the accompanying Planning Practice Guidance (PPG) seek to secure the delivery of sustainable development and sets out policies, *inter-alia*, in respect of safeguarding the Green Belt, and in respect of the imposition of planning conditions. The content of the NPPF and PPG has been taken into consideration in the preparation of this application and is referenced within the Planning Assessment section.

5 Planning Assessment

5.1 The application seeks consent to remove condition 5 of application SMD/2011/0088 which constitutes a personal planning condition that restricts the occupancy of the approved dwelling solely to Mr. R. Hartley and any associated dependants.

5.2 Paragraph 54 of the National Planning Policy Framework (NPPF) states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. The NPPF goes on to state in paragraph 55 that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;

- precise; and
- reasonable in all other respects.

5.3 The originally submitted application had proposed the construction of a dwelling on a parcel of land within the Green Belt, a proposal which did not fall into any of the categories of appropriate development listed within the then national guidance: PPG2 – Green Belts. It was therefore deemed to constitute inappropriate development as was recommended for refusal by the planning officers.

5.4 The applicants had argued that very special circumstances existed to justify approval of the development on the basis that the they were the owner and custodians of an internationally recognised, and nationally significant collection of Stanhopea Orchids that are kept within the existing greenhouses on the site, and that there was a need for them to be able to downsize from their existing dwelling (Foxdale) in order to continue management of the collection. The Local Authority did not dispute the importance of the Orchid collection, but in recommending refusal of the application concluded that:

> *"Whilst it is recognised that the applicant's extensive orchid collection is world renowned, Officers do not consider that these personal circumstances amount to justification or need for a new dwelling on this site".*

5.5 The Planning Officer's held the view that even if the argument that an essential need to live on the site to maintain the Orchid collection was accepted, there was already a dwelling on site to meet that need (Foxdale – then owned by the applicants). The application was subsequently presented before the Planning Applications Committee where the Members resolved to grant planning permission, contrary to officer recommendation.

5.6 The minutes of the Committee Meeting confirm that the Members of the Planning Applications Committee were of the view that the need to ensure continued maintenance of the national collection of Orchids by the applicant amounted to very special circumstances. In reaching this resolution the Members authorised the Officers to impose any conditions deemed necessary, including a requirement that the bungalow be sited to the rear of the site, and that a shared drive be included. The approved minutes of the Planning Committee meeting however make no reference to any requirement that the consent should be granted as a personal permission.

5.7 The provisions of Condition 5 tie the occupancy of the dwelling solely to the applicant and his dependant relatives. Whilst the applicant continues to reside at the property and continues to maintain the nationally significant orchid collection, there will come a time when this is no longer possible. The provisions of Condition 5 preclude the sale of the property to a third party who could then take on the ownership and maintenance of the orchid collection. In consideration of this matter I draw attention to the fact that Condition 6 of the same consent also serves to restrict the occupancy of the dwelling, as per the following wording:

> *"Occupancy of the dwelling hereby approved is restricted to an individual(s) who are involved in the maintenance / of the orchid / plant collection that is housed in the adjacent greenhouses"*

5.8 The National Planning Practice Guidance confirms in respect of personal permissions that:

> *"Planning permission usually runs with the land and it is **rarely appropriate** to provide otherwise. There may be **exceptional occasions** where development that would not normally be*

> *permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need" (my emphasis)*

5.9 The provisions of Condition 6 serve to ensure that any subsequent occupier of the dwelling will be involved in the maintenance / upkeep of the orchid collection and in doing so will ensure that the very special circumstances that were used to justify the proposal in the first place will continue to be relevant. There are no ***exceptional*** reasons for also requiring that the dwelling be occupied solely by the applicants as a personal permission. Such personal requirements are unnecessary and unreasonable, given the provisions of Condition 6.

5.10 Whilst the applicants remain the owners and curators of the orchid collection, there will come a time when this is not possible, at which point there will be a dwellinghouse on the site that is incapable of being occupied by anyone else because of the wording of Condition 5. There is no condition imposed on the decision notice which would require the dwelling to be demolished in the event of it no longer being occupied by the applicant or any of his dependant relatives, and consequently any attempt to occupy that dwelling by another person would be in breach of the planning condition. The provisions of Condition 5 therefore conclusively fail the tests of reasonableness and necessity as set out in paragraph 55 of the National Planning Policy Framework, and permission should be granted to remove the condition forthwith.

6 Conclusion

6.1 For the reasons set out above it is submitted that the provisions of condition 5 of SMD/2011/0088 are unnecessary and unreasonable in the context of paragraph 55 of the NPPF and the provisions of the Planning Practice Guidance, and that consequently the removal of Condition 5 is justified in planning terms. The Local Authority is therefore requested to grant permission to remove this condition.