DELEGATED DECISION REPORT

SMD/2020/0576 **Valid 14/10/2020**	**STANHOPEA, MILL LANE, WETLEY ROCKS, STAFFORDSHIRE, ST9 0BN**	**APPLICATION FOR REMOVAL OF CONDITION 5 OF SMD/2011/0088 RELATING TO OCCUPANCY RESTRICTION** **(FULL - MINOR)**

MAIN ISSUES

Whether it is acceptable to vary/remove the attached condition.

DESCRIPTION OF SITE

The application site comprises a detached bungalow that was approved by Members of the Planning Committee in 2011, overturning the Officer's recommendation. The dwellinghouse comprised inappropriate development in the Green Belt however the Planning Committee considered that very special circumstances existed due to the need to tend to the owner's national collection of orchids that are housed in greenhouses on the land.

The application site is located in the North Staffordshire Green Belt.

PROPOSAL

Full planning permission is sought for the removal of Condition 5 attached to planning approval SMD/2011/0088 that restricted the occupation of the property.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Staffordshire Moorlands Local Plan (Adopted Sept 2020)

SS1 Development Principles
1a Presumption in Favour of Sustainable Development
SS2 Settlement Hierarchy
SS10 Other Rural Areas Strategy

National Planning Policy Framework

Paragraph(s) 1 - 14
Section(s) 4, 13

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2006/0270	Erection of a dwelling (outline) Refused 13/03/2006
SMD/2007/1345	Proposed bungalow (outline) Withdrawn 30/10/2007
SMD/2011/0088	Outline application for a detached dwelling Approved 19/04/2011
SMD/2011/0788	Erection of detached dwelling (reserved matters following outline application 11/00119/OUT) Approved 16/12/2011
SMD/2012/0015	Construction of vehicular access to serve dwelling approved under outline permission 11/00119/OUT Refused 15/03/2012 Appeal Dismissed

CONSULTATIONS

Publicity

Site Notice expiry date: 14/12/2020
Neighbour consultation period ends: 05/11/2020
Press Advert: N/A

Public Comments: Two comments have been received, both of which state they do not object to the application.

Town / Parish Comments: Cheddleton Parish Council do not object to this application.

SCC Highways: No objection on highways grounds.

OFFICER COMMENTS

Application SMD/2011/0088 was approved subject to 6no. conditions. Condition 5 stated:

> *Occupancy of the dwelling hereby approved is restricted solely to Mr R Hartley and any associated dependent relatives.*
> *Reason:- For the avoidance of doubt and due to the very special circumstances that surround this application.*

Whilst Condition 6 stated:

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.
Reason:- For the avoidance of doubt and due to the very special circumstances that surround this application.

The Planning Statement accompanying the planning application states that they are seeking removal of Condition 5 as they consider that it does not meet the five tests for conditions as set out in paragraph 55 of the NPPF (2019) and the NPPG. Whilst the applicant of the 2011 outline permission for the dwellinghouse continues to reside at the property and continues to maintain the nationally significant orchid collection, the Planning Statement outlines that there will be a time when that is no longer possible. Condition 5 precludes the sale of the property to a third party who could take on ownership and maintenance of the orchid collection and the occupation of the property is already controlled by Condition 6 (outlined above).

Condition 6 is, by all intent and purpose, a personal permission. The Planning Statement outlines that the NPPG states that personal permissions are rarely appropriate and should only be used in exceptional occasions.

The Planning Statement outlines that Condition 6 ensures 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 circumstances 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.

The Planning Officer agrees with this assessment. Condition 6 provides the necessary occupancy control for the dwellinghouse and there is no requirement for the occupation of the property to also be controlled by Condition 5, which could render the property uninhabitable if it is not occupied by the applicant or any of his dependents.

CONCLUSION / PLANNING BALANCE

For the reasons outlined above, it is considered that Condition 5 of application SMD/2011/0088 should be deleted.

The dwellinghouse has been constructed and is occupied therefore it is not necessary to re-attach Conditions 1, 2, 3 or 4.

OFFICER RECOMMENDATION: APPROVE subject to Conditions

Case Officer: Ailsa Berry
Recommendation Date: 29/01/2021

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council