

# PLANNING APPEAL STATEMENT

**LPA REF : SMD/2022/0429**

**APPELLANT : MR & MRS P LEDGER**

**ADDRESS : WILLOWBROOK, MICKLEA LANE,  
LONGSDON, STAFFORDSHIRE, ST9 9QA**

**PROPOSAL : EXTENSION / ALTERATIONS OF  
BALCONY / TERRACE AND REPLACEMENT  
WINDOWS**

**DATE : DECEMBER 2022**

**JOB No. : 2022-2701**

## **1.0 INTRODUCTION**

1.1 This statement sets out the appellants' case in respect of an appeal under S78 of the Town & Country Planning Act 1990 (as amended) against the refusal by Staffordshire Moorlands District Council to grant planning permission for the extension / alterations of a balcony / terrace and replacement windows at Willowbrook, Micklea Lane, Longsdon on behalf of Mr & Mrs P Ledger.

1.2 The appeal application, which comprised of the application form, drawing numbers 2022-2701-01, 2022-2702-02, 2022-2701-03B, 2022-2701-04B and 2022-2701-05 was submitted to Staffordshire Moorlands District Council on the 1<sup>st</sup> August 2022 and validated the same day under application number SMD/2022/0429. The appeal application was refused by Staffordshire Moorlands District Council on the 26<sup>th</sup> September 2022 for the following reason:-

*“The proposed development, when taken cumulatively with the previous extensions to the property would result in a disproportionate addition over and above the size of the original building. Therefore, the proposal would be inappropriate development in the Green Belt and would be harmful to its openness. No very special circumstances have been identified to outweigh that harm and the proposal would therefore not comply with Policy SS10 of the Staffordshire Moorlands Local Plan (2020) or Section 13 of the National Planning Policy Framework (2019).”*

1.3 The sole reason for refusal therefore relates to the impact the appeal scheme would have upon the appeal building and the Green Belt when viewed cumulatively with other previous additions to the property. However it is considered that the Local Authority have incorrectly assessed the application on the basis that the appeal building which currently occupies the site is a replacement dwelling which has not been extended since it was constructed. The council have admitted during an exchange of emails that the planning case file for the replacement dwelling is missing and was not available to the planning officer during the assessment of the application. The appeal scheme would be the first alteration / extension to the appeal building since its construction and therefore the modest extensions proposed as part of the appeal application cannot be considered disproportionate or harmful to the openness of the green belt. The case for the appellant in respect of the above grounds for appeal are set out in detail in section 5 of this statement.

## **2.0 APPEAL SITE & SURROUNDING AREA**

2.1 The appeal building comprises of a hipped roof split level dwelling which has been constructed from a mix of stone and red facing brickwork under a plain tile roof. It sits

centrally within a large yet irregular shaped plot which lies on the south western side of Micklea Lane, close to its junction with Sutherland Road. The appeal building sits within a cluster of dwellings which vary in terms of their size and style with more modest semi-detached dwellings to the north west, larger detached dwellings to the north east and a large detached white rendered two storey dwelling immediately abutting it to the south west. The appeal site falls away steeply in a north to south direction to the Caldon Canal which lies to the rear. For the purposes of the adopted Development Plan the appeal site lies within the North Staffordshire green belt where more restrictive development plan policies apply.

### **3.0 PLANNING PROPSAL & HISTORY**

3.1 The appeal scheme proposes alterations and extensions to the existing dwelling. These would comprise of a small enlargement of the existing glazed link between the main dwelling and the annex/garage building and the removal of the existing lean to roof and its replacement with a bespoke flat roof structure. In addition the existing rear terraced / balcony area would be slightly extended and altered with facing brickwork and the provision of a new glass balustrade. Finally the application proposes to replace the existing oak effect uPVC windows and doors with flush fitting uPVC casement windows and aluminium bi-fold doors all finished in black.

3.2 The following planning applications are all shown on the Council's website:

SMD/1985/0427 – First floor extension to form bedroom, sitting room, shower and stairs. Approved.

SMD/2003/0239 – Two storey dwelling with granny annex above garage. Withdrawn.

SMD/2003/0289 – Two storey dwelling including granny annex above garage. Approved.

SMD/2005/0577 – Porch link. Refused.

### **4.0 POLICIES & GUIDANCE**

4.1 Section 38(6) of the Planning and Compulsory 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 of the Staffordshire Moorlands Local Plan (adopted September

2020). The following policies of the Local Plan area considered relevant to the application proposal:-

4.2 Policy SS1 Development Principles and Development SS1a Presumption in Favour of Sustainable Development. In accordance with policies SS1 and SS1a the Council will expect all new development to make a positive contribution towards the sustainability of communities and to protecting, and where possible, enhancing the environment. When considering development proposal, the Council, will take a positive approach that reflects the previous in favour of sustainable development contained in the NPPF.

4.3 Policy SS2 Settlement Hierarchy. This provides a more limited focus on future growth is to be directed to smaller villages, including Longsdon, only allowing for development of an appropriate nature. When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF).

4.4 Policy SS10 Other Rural Areas Strategy states that these rural areas will provide only for development that has an essential need to be located in the countryside, supports the rural diversification and sustainability of the rural areas, promotes sustainable tourism or enhances the countryside. Part (3) of policy SS10 seeks to protect the quality and character of the area and requires all development proposals to respect and respond sensitively to the distinctive qualities of the surrounding landscape. Part (6) of Policy SS10 states that the Council will “maintain the Green Belt within Staffordshire Moorlands. Strict control will continue to be exercised over inappropriate development within the Green Belt allowing only for exceptions as defined by Government policy.”

4.5 Policy DC1 of the Local Plan states that all new development shall be well designed and reinforce local distinctiveness by positively contributing to and complementing the special character and heritage of the area in line with the Council's Design Guide SPD. In particular, new development should, amongst other things, be of a high quality and add value to the local area incorporating creativity, detailing and materials appropriate to the character of the area, be designed to respect the site and its surroundings and promote a positive sense of place and identity through its scale, height, density, layout, siting, landscaping, character and appearance.

4.6 Policy T1 of the Core Strategy states that the Council will promote and support development which reduces reliance on the private car for travel journeys, reduces the need to travel generally and helps deliver the priorities of the Staffordshire Local Transport Plans, where this is consistent with other policies.

4.7 In addition to the above Staffordshire Moorlands District Council have also adopted the Staffordshire Moorlands Design Guide SPD (Feb 2018). The SPD sets out the importance of good design and high quality development and identifying that requirements of the design guide area material consideration in all relevant planning considerations.

#### **National Planning Policy and Guidance.**

4.8 The NPPF sets out the Government's economic, environmental and social planning policies for England. Taken together, these policies articulate the Government's vision for sustainable development which should be interpreted and applied in determining planning applications/appeals. The NPPF seeks to secure the delivery of sustainable development and set outs guidance, inter-alia, in respect of safeguarding the Green Belt and securing high quality design. The content of the NPPF has been taken into consideration during the preparation of the appeal application and this statement and in the interests of brevity is discussed in more detail, where relevant, below.

#### **5.0 CASE FOR THE APPELLANT**

5.1 The main issues cited in the delegated case officer report relate to whether the proposal comprises appropriate development in the green belt, design, amenity and highway safety. The first point to note is that the officer report incorrectly refers throughout to a previous version of the NPPF (2019) and that at the time of considering the appeal scheme the most recent amendment (July 2021) would have been in force. Notwithstanding this it is noted and accepted by the appellant that the main thrust of the guidance in relation to extensions within the green belt have not been altered or amended by the latest (2021) revision.

5.2 As identified above the appeal site is located within the North Staffordshire Green Belt where more restrictive development plan policies apply. 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. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt is inappropriate. A number of exceptions to this are identified including proposals comprising 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; and the limited infilling of previously developed land provided that it would not have a greater impact on the openness of the Green Belt than the existing development.

5.3 Neither the Local Plan nor the NPPF provide a definition of what is regarded as being "disproportionate" for the purposes of Green Belt policy. The case officer report states that previous Green Belt policy guidance considered a development resulting in a 30% increase

in the size of the original building as being acceptable and has therefore been adopted for the purposes of considering the appeal scheme.

5.4 This argument is considered to be fundamentally flawed. Firstly and most crucially the 30% guideline figure is not contained within any of the council's current adopted development plan policies. Reliance on it is therefore both inappropriate and incorrect. Secondly the previous Green Belt policy which was contained within the former Core Strategy also did not contain such a guideline figure. Indeed the only reference to a 30% guideline figure for extensions needs to be traced back to policy N2 of the Council's 1998 Local Plan (Copy attached at Appendix 1). Even then the Inspector should be aware that that whilst reference is made to the fact that normally a 30% extension would be considered acceptable in the Green Belt this was only included within the preamble to the policy and not within the policy itself. Accordingly many appeals submitted during the time when this policy was adopted were dismissed on the basis that as the 30% guideline was not directly contained within the policy itself only limited weight could be afforded to it. Given that that policy has now been superseded several times and that the current adopted development policies contain no such guidance it is contended by the appellant that no weight should be attached to this 30% guideline figure. In the absence of such a guideline an assessment of whether the proposed extension would be 'disproportionate' in the context of paragraph 149 is therefore a matter of planning judgement.

5.5 The case officer delegated report goes on to state that "The proposed extension would equate to an increase in volume of approximately 80%. The property has been previously extended a number of times, meaning that it has already significantly exceeded a 30% increase over the size of the original building. Whilst it is acknowledged that 30% increase is not planning policy, it does represent a useful "rule of thumb". Notwithstanding this with the existing building already being extended by 80%, there can be no doubt that any further extensions will result in a disproportionate addition over and above the size of the original building."

5.6 There are a number of serious errors within the case officer's assessment above. The first is that the appeal building has not been extended. The appeal building, which sits on the appeal site was permitted as a replacement dwelling in 2003 under application SMD/2003/0289. Whilst attempts have been made to view this planning file at the council's offices the Council have confirmed via email that this planning file is lost and that the case officer did not have reference to it during the consideration of the appeal application (Appendix 2). The appellant has however managed to produce a copy of the approved plan and a copy of this is attached at Appendix 3. It is clear that the appeal building approved in 2003 and that which currently occupies the appeal site are the same and therefore the appeal building has, contrary to the case officer's report, not been extended.

5.7 The starting point therefore is to assess the proposal against the original building. The term 'original building' is defined in the Glossary to the Framework as 'a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally'. In cases where a dwelling has been replaced since 1948 the replacement dwelling would be classed as the baseline against which subsequent extensions and alterations should be measured on the basis that any replacement would have satisfied applicable Green Belt policy at the time. This approach is consistent with Appeal Ref: APP/Y3615/A/08/2070892 Home Farm Cottage, Rokers Lane, Shackleford, Surrey GU8 6AF (copy attached at Appendix 4) and the following three High Court judgements: Brentwood Borough Council v The Secretary of State for the Environment, Transport and the Regions and Mr I Churley (September 1999, CO1220/99), and Ascot Wood Limited-v-Secretary of State for the Environment and Others (2000, PLCR3), and Sevenoaks District Council-v-Secretary of State for the Environment and J Clarke (QB 1997 CO/1027/97).

5.8 Therefore the "original building" is that as permitted on the appeal site by the 2003 permission and that which currently exists on site presently. The appeal building therefore has a floor area of 1500 sq metres and a volume of 342 cu metres. The appeal scheme which would be the first extension to the "original building" would have a floor area of 67 sq metres and a volume of 23 cu metres thereby resulting in an overall increase of 0.04 % in floor area and 0.07 % in volume. These figures fall way below the 30% guideline figure quoted by the council and cannot therefore be considered to be disproportionate especially having regard to the fact that the replacement dwelling did not have permitted development rights removed, as confirmed by the Council via an email dated 29<sup>th</sup> November 2022 (Appendix 5) and therefore could be extended far in excess of that proposed as part of the appeal scheme.

5.5 Notwithstanding the above it is suggested as indicated by the way in which the Green Belt policy is drafted that it is the relationship any extension has with the parent building which is key. This is reinforced by the NPPF which refers to size which as well as volume, involves looking at increases in floor space, external dimensions and requires consideration of the impact the appeal proposal in terms of the scale, bulk, massing and built form that would result from the changes sought.

5.6 In terms of the extension to the glazed link between the main building and the attached annexe / garage building the proposal would project a further 2.6m than the existing. In addition the extension would be recessed approximately 300mm behind the wall side wall of the adjoining annex / garage building. The proposed extension would therefore comprise of an infill extension between these two buildings and by virtue of its modest size, scale, form, design and siting would not result in any harm to the openness. Furthermore, it could also be argued that the removal of the existing lean to pitched roof and the provision of a bespoke lower flat roof would actually improve the openness of the green belt.

5.7 The alterations to the existing decking are also minimal and would be carried out largely upon the footprint of the existing terraced / decked area. Whilst there would be a small infill extension between the existing balcony on the rear of the appeal building (serving the kitchen / lounge) to connect to the extended / altered decked area off the rear patio area again this would be equate to just 2.9 sq metres. In addition it would also be modest in terms of its height and seen against the backdrop of the main house and within the parameters / footprint of the existing built development. It again would not result in any harm to openness. Whilst the extended terrace/ decked area would extend marginally to the side and the rear again these projections (1m to the south and 1.9m to the west) are so inconsequential that they along with their single storey nature, modest height, and use of matching facing materials will ensure that any loss to the openness of the green belt is negligible at best.

5.8 The Case Officer delegated report clearly states that “the proposed extensions and alterations would not impact the character” of the dwellinghouse and that the “proposed extension to the link between the main dwelling and the garage would clearly have a subordinate relationship with the parent dwelling, not being of a dominant size and massing. It would be set down from the maximum ridge height of the existing dwelling house and would match the eaves height. Therefore this proposed extension in isolation would not compete with the proportions of the existing dwellinghouse.” It goes on to state that “Similarly, the extended balcony and terrace area would not be out of character with the host dwelling. I note that there is already a small terrace area to the rear of the dwelling, therefore the increase in its size would not detract from the character of the host dwelling. The dimensions of the existing decking are approximately 4.46 metres in width and 4.40 metres in depth and the dimensions of the proposed terrace area would be approximately 6.55 metres in width and 5.50 metres in depth. Thus, the increased area of the terrace and balcony area would not be considered dominant in its size and massing in comparison to the host dwelling as currently existing. Materials used in the construction of the proposed extensions and alterations would match those used in the construction of the existing dwelling, as well as from surrounding dwellings in the +area. A prominent feature of the street scene is the brick used in the construction of the dwellinghouses. Facing brickwork, single ply rubber membrane, black UPVC, black aluminium and glass would be used in the construction of the proposed extensions and alterations. Although the window frames would be changed from brown to black, this would not be considered as a detrimental loss of the character of the dwellinghouse. Therefore, the materials are considered appropriate in relation to the existing dwellinghouse, as well as the surrounding street scene. Thus, the proposed materials would match the existing materials and harmonise with the surrounding street scene, not detracting from the character of the original estate. The proposal, by virtue of its size, scale and siting maintains the character of

the existing dwelling and area. The proposal would therefore accord with the provisions of local plan policy DC1 and section 12 of the NPPF in this regard.”

In conclusion therefore and for the reasons set out above it is considered that the appeal scheme would result in a modest development which would not significantly alter the overall scale, shape or form of the original building and would not, in visual terms, result in a disproportionate addition over and above the size of the original building. Accordingly, the appeal proposal would not be inappropriate development in the Green Belt and would accord with policy SS10 of the Local Plan and the provisions of the National Planning Policy Framework. In the absence of any other technical objections the Inspector is respectfully requested to allow the appeal.