SAMMONS Architectural LIMITED

Chartered Institute of Architectural Technologists

10 Cawdry Buildings
Fountain Street
Leek, Staffordshire, ST13 6JP
Tel / fax 01538 386002
e-mail info@sammonsltd.co.uk

PLANNING STATEMENT

PLANNING PROPOSAL : REMOVAL OF CONDITION 3 ATTACHED TO PLANNING PERMISSION SMD/2014/0100 FOR A REPLACEMENT DWELLING

APPLICATION ADDRESS : PLEASANT VIEW, HULME LANE, WERRINGTON, STAFFORDSHIRE, ST13 5BH

APPELLANT : MR J MCGOWAN

DATE : JULY 2023 JOB No. : 2023-2821

CONTENTS:

1.0 INTRODUCTION

2.0 BACKGROUND

3.0 ASSESSMENT

4.0 CONCLUSION

1.0 INTRODUCTION

Sammons Architectural Ltd have been appointed by Mr McGowan to prepare and submit an application to vary a planning permission approved under application reference SMD/2014/0100 for a replacement dwelling at Pleasant View, Hulme Lane, Werrington. The application requests the removal of condition 3 which provides a blanket removal of permitted development rights for the property. In the interests of completeness condition 3 is replicated in full below:

Condition 3

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><C><D><E><F><G> and <H> and/or Part 2 Class(es) <A><B> and <C>, other than those expressly authorised by this permission, shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Reason:- To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building.

2.0 BACKGROUND

Application SMD/2014/0100 represented a resubmission of application ref. 07/01144/FUL for a replacement dwelling, which was renewed by ref. 10/00972/REM-1. The option to further time extend the application was not available and therefore a full application was submitted. Application SMD/2014/0100 was identical to the previous schemes and as there had not been any key changes in policy (including Green Belt) or site circumstances that would bring about a different recommendation it was granted conditional approval. A copy of the decision notice is attached as Appendix 1 to this statement.

3.0 ASSESSMENT

The applicant is aggrieved by the imposition of condition 3 as it unnecessarily inhibits their enjoyment of the property and requires unnecessary and burdensome planning applications to the Local Planning Authority.

Whilst the applicant accepts that the planning authority may grant planning permission for a development subject to conditions that regulate the development authorised by the planning permission it is considered that a blanket removal of permitted development rights is neither reasonable nor necessary in the interests of safeguarding the character and visual amenities of the area and protecting the amenity space.

Paragraph 54 of the NPPF (2021) states that "planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so". It goes on to

state that "Local planning should consider whether otherwise unacceptable development could be made acceptable through the use of conditions (paragraph 55)" before warning that "planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (paragraph 56). More guidance is given in the Planning Practice Guide (PPG) which states that Section 70(1) of the Town and Country Planning Act 1990 enables the local planning authority to impose “such conditions as they think fit”. However this power must be interpreted in the light of material considerations such as Framework, the PPG and relevant case law.

The PPG sets out the 6 tests for conditions and states that they must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects. The PPG also states 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. Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. As such, it can be interpreted that the government, through the wording of the national policy, deem the removal of PD rights in the majority of cases to not be justified. The intention of the policies is to limit PD right removal solely to cases where there are ‘exceptional circumstances’ providing a ‘clear justification’ for the removal of Permitted Development Rights.

The applicant accepts that there may be circumstances where it may be appropriate to impose a restrictive condition on a planning permission in order to prevent development taking place that would, under normal circumstances be development that it permitted by the GPDO. But these instances are generally limited to situations where there is a specific matter that is in need of protection. Land of a special natural or built character might need protection, for example a conservation area or where development might take place and affect the setting of a listed building would be examples. Or such restrictions might also be needed to safeguard the amenity of a nearby residential property this might be particularly important in high density housing developments. In some cases, it is justified for PD rights to be removed to exercise control over how a property is extended in the future, for instance where a new property is constructed on a small site that only just meets spatial planning policies and any extension of the property would invariably cause harm to neighbouring properties.

However there are no such special circumstances in existence at the appeal site. Whilst the application site falls within the North Staffordshire Green Belt permitted development allowances would not conflict with the five purposes of including land within it which are:-

(a) to check the unrestricted sprawl of large built up areas;

(b) to prevent neighbouring towns merging into one another;

(c) to assist in safeguarding the countryside from encroachment;

(d) to preserve the setting and special character of historic towns; and

(e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The condition effectively seeks a blanket removal on all permitted development rights under classes Part 1 A-H and classes Part 2 A-C inclusive and therefore removes the right to enlarge or extend the dwelling, change the roof, add a porch, erect outbuildings, provide hard surfaces, chimneys, flues or microwave antenna as well as much more minor works such as the erection of gates, walls or other means of enclosure, means of access and exterior painting.

The wording of the condition outlines the Local Authorities reasoning for removing Permitted Development Rights, stating that the council wishes “to retain control over the development and so safeguard the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building.” These rights often result in enlargements, improvements or alterations that have due regard to the character and appearance of an area or to living conditions. However, it is nonetheless possible for homeowners in implementing these rights to affect the character and appearance of an area or the living conditions of residents at the property in a way that the Local Planning Authority would not have found acceptable had a planning application been necessary. It is considered that imposing a condition to protect the living conditions of future residents at this house or the character and visual amenity of the surrounding area , of themselves, do not constitute the clear justification refereed to in the Framework.

No site specific ‘exceptional circumstances’ for the removal of Permitted Development Rights is provided either in the decision notice itself or the accompanying case officer delegated report (copy attached at Appendix 2). The application site does not lie in an area that has a special character nor is it subject to any form of special designation or protection. Whilst it is accepted that the site lies within the North Staffordshire Green Belt it is recognised, that the relevant permitted development rights act of parliament does not differentiate between Greenbelt and non-Greenbelt land, and furthermore that the specific wording of the conditions and limitations to each of the relevant classes within Permitted Development policy do not require a consideration of the impact of development when using the PD rights within the Green Belt. Had the government intended for Permitted Development Rights to be restricted within the Greenbelt then appropriate conditions and limitations could have been written into the policy, as is the case with AONB’s, National Parks and Conservation Areas or added in recent amendments, and merely by being located within the Greenbelt is not sufficient to constitute ‘exceptional circumstances’. As such, the PD rights should be similarly applied to all properties on Greenbelt and non-Greenbelt land unless site specific ‘exceptional circumstances’ are provided.

In conclusion therefore it is the applicants clear belief that “no exceptional circumstances” have been given and condition 3 which removes a broad range of PD rights unconnected with the proposal is unreasonable. Furthermore, to remove permitted development rights to protect the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building, would not meet the high bar of exceptional circumstance set out in the Guidance. The condition is therefore also unnecessary. The blanket removal of the permitted development rights allowed by the GPDO has not been explained. The reason given for the imposition of the condition is general in nature and does not indicate the specific “reason” why it is necessary to restrict the anticipated development. Such a condition might be regarded as being relevant to the development that was approved, but it does not in fact, limit that development, but instead limits development that has not yet been devised or put to the local authority. Furthermore, it is unreasonable in that it restricts the reasonable aspirations of the appellants to the quiet enjoyment of their own property, when there is no evidence that any development they might wish to undertake in the future would be harmful to the appearance of the dwelling which the Local Planning Authority found appropriate to the site and locality and character and appearance of the area nor would it necessarily restrict or reduce openness within the site and reduce private amenity space to an unacceptable level. Consequently it is considered that condition 3 is neither necessary nor reasonable and thus fails to pass the tests in the Framework. Accordingly the Local Planning Authority is therefore respectfully requested to allow this application which seeks to remove condition 3 of the previously granted consent SMD/2014/0100 thereby reinstating classes A to H of Class 1 and A-C of Class 2 of permitted development allowances respectively.