DELEGATED DECISION REPORT

SMD/2023/0385 **Valid 31/07/2023**	**PLEASANT VIEW HULME LANE WERRINGTON**	**REMOVAL OF CONDITION 3 RELATING TO SMD/2014/0100** **(FULL - MINOR)**

MAIN ISSUES

- To consider the planning history and whether or not it is reasonable to allow all Permitted Development Rights to the replacement dwelling

DESCRIPTION OF SITE
The application site comprises of a large detached two-storey dwelling within designated Green Belt land. Access is taken from Hulme Lane. The dwelling has fields to three sides- rear, western side and front; giving it an open aspect in this Green Belt location.

PROPOSAL
The applicant seeks permission to remove condition 3 under SMD/2014/0100 Replacement dwelling, which removes permitted development rights for extensions, roof additions/ alterations, porches, garages and outbuildings

The condition 3 states:

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.

BACKGROUND
The condition to remove permitted development rights was first imposed under the original permission granted under reference 07/01144/FUL for a replacement dwelling in 2007. A subsequent application under REF 10/00972/REM was granted to extend the time allowed to commence works. The option to extend the time limit was not available and so a full application was later submitted and later granted under REF SMD/2014/0100 which was later granted in 30/06/14.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Staffordshire Moorlands Local Plan (Adopted Sept 2020)

SS2 Settlement Hierarchy
SS10 Other rural areas
DC1 Design Considerations

National Planning Policy Framework
Section 2: Achieving sustainable development
Section 13: Protecting Green belt land

SITE HISTORY

SMD/1983/0273	Replacement dwelling	Refused
SMD/1983/0574	Renovation of existing cottage	Approved
SMD/1983/0648	Proposed vehicular access and bathroom in revised position	Permitted development
07/01144/FUL	Replacement dwelling	Approved
10/00972/REM	Variation of Condition 1 of Planning permission	Refused
SMD/2014/0100	Replacement dwelling	Approved

CONSULTATIONS

Publicity

Site Notice expiry date: 29/08/23
Neighbour consultation period ends: 29/08/23
Press Advert: N/A

Public Comments No neighbour representations

OFFICER COMMENTS
Under paragraph 55 of the Framework, it says planning conditions should be kept to a minimum and only be imposed where, amongst other matters, they are necessary and reasonable. More guidance is given in the Planning Practice Guidance (PPG). PPG paragraph 002 states that Section 70(1) of the Act enables the local planning authority to impose 'such conditions as they think fit'. This power must be interpreted in the light of material factors such as the Framework, the PPG, and relevant case law.

PPG paragraph 004 sets out the 6 tests for conditions. They must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects. PPG paragraph 017 advises 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. Furthermore, the PPG is clear that the 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.

The assessment should also consider the reason to why the condition was imposed which was dictated by policies that as a whole have not changed from when it was resubmitted in 2014.

Section 13 of the NPPF paragraph 149, it states that all buildings are considered inappropriate within the Green Belt unless it falls within certain appropriate exceptions

including d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

Policy SS2 of the Local Plan states that the location and scale of development must comply with the settlement hierarchy to ensure that the most sustainable locations are considered ahead of those further down the hierarchy and states that new development in Green Belt locations as noted under 'Other Rural Areas' will be resisted, unless if permitted by national policy on Green Belts.

Policy SS10 Other rural Areas Strategy further adds to the criteria on what is allowed within these areas by means of its essential need to be located in the countryside, support for rural diversification and sustainability of the rural areas or which promotes sustainable tourism or enhances the countryside.

The starting point of this assessment is to consider the planning history. The current two storey dwelling replaced a significantly smaller single storey bungalow that had previously been extended. The original application did not provide plans of the bungalow that was later replaced; however, case officer's report under application 2010 (10/00972/REM) described the original property as a 'prefabricated single storey bungalow. A number of flat roof additions were added to the side and rear in the early 1980s…' 'The original bungalow had a small rectangular plan form which contained a floor area of approx. 37 sq.metres. Whilst a side/rear extension, which provided a bedroom extension, kitchen, utility, bathroom and porch, was approved in 1984 and had subsequently been implemented the size of the existing dwelling house, which occupies a floor area of 59 sq.m, is still relatively modest.'

The case officer then considers the merits of the proposal. This is as follows:

'The footprint of the proposed replacement dwelling would at 52.7sq.m, be smaller than that existing. However, the first floor accommodation would inevitably result in a significant increase in overall floor area (184% of the original and 78% of the existing). Whilst the proposed dwelling would represent a significant increase in both the floor area and overall bulk and mass over and above the existing dwelling, the design is of a more traditional form and uses appropriate materials that would improve the visual amenity of the Green Belt and improve the character and appearance of open countryside within which it is located. The improvements in design therefore have to be balanced against the additional impact the size and form of the proposed dwelling would have upon the openness of the Green Belt. It is clear that the existing dwelling is an unattractive feature of the landscape that, by way of its design and materials, detract from the quality of the landscape significantly. It is also clear that the existing dwelling is not of a form or design that has any vernacular merit or complies with design guidance set out in local plan policies or supplementary planning guidance. In this instance, it is considered that any additional harm which would be caused to the openness of the Green Belt would be outweighed by the improvement to the design and materials of the replacement dwelling which occupies a prominent roadside location.'

Therefore, the proposed replacement dwelling represented a volume increase of 78% over and above the one it replaced, which was considered to be materially larger. This point can again be visually highlighted by the street view taken in 2009 against the 2022 street view as shown below:



In light of the above, permission was granted because the design of the replacement dwelling outweighed the harm to the openness of the Green Belt and was approved under an very exceptional circumstances. While it did not explicitly state why PDRs were to be removed, it follows that by doing so would restrict further additions to the curtilage of the site that had already exceeded the additions over and above the size of the original building and its extensions which would contrive with Green Belt Policy under Paragraph 149 d).

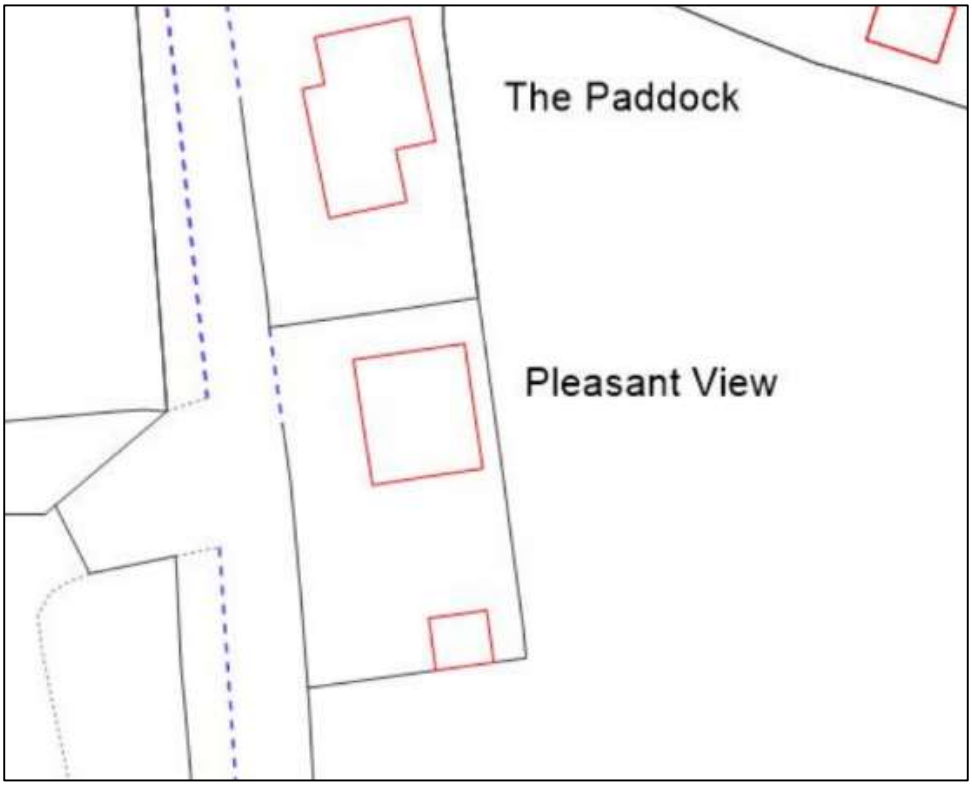
When considering whether to remove permitted development alone on its own merits, consideration must be given to the fact that this is development for which the principle has already been granted by secondary legislation, and there are no restrictions within the GPDO for domestic extensions or development within the curtilage of a dwelling located within a Green Belt, whereas such restrictions do exist (for example) on dwellings within National Parks and conservation areas.

However, it would be somewhat perverse to grant planning permission for a replacement dwelling which was materially larger than the one it replaced on the basis that, on balance, design improvements outweighed the level of harm to the Green Belt which had been identified but then to potentially permit, by way of PD Rights even greater harm to occur as a result of extensions. In other words, whilst the level of harm arising from the materially larger dwelling as proposed in the original application was outweighed by design benefits, it is considered that the greater level of harm which would occur from the materially larger replacement dwelling plus PD allowance would tip the balance of considerations against the proposal. On this basis the condition is deemed to be necessary.

Furthermore, given that the design improvements were considered to be very special circumstances which were sufficient to outweigh Green Belt policy, it is entirely reasonable for the LPA to wish to exercise control over the appearance of the dwelling in the future and to ensure that those benefits are not lost as a result of extensions of inappropriate design, siting or scale carried out under PD Rights.

I accept that potentially, the occupier could implement their rights in such a way that would be acceptable in character and design. However, the location and position of the dwelling should be weighed into the balance of whether it could be harmful to the surrounding area.

The property sits to the far north/ east of its curtilage fronting the highway as shown in the plan below.



To put this into visual context, the applicant's property taken via Google streetview, Sep 2022 is shown below. Any potential works would likely be noticeable to the front if not to the side of the property and visible from the roadside: There is scope for ancillary buildings in the small side garden (as already built without consent via a shed), garden fencing (erected without consent) and extensions to either side of this double ended property that is 8.5m in width by 6.5 in length (as per case officer's report). To emphasise this further, the potential side extensions could generate a footprint of 52.7sq.m (4.25m,half the width of the dwelling, by 6.2m= 26.35 x 2 side extensions= 52.7sq.m) accentuating the width of the dwelling greatly. Whilst arguably an extreme example, this approach could foresee the doubling of its existing footprint from a prominent roadside location which in turn diminishes the quality of the surrounding area and undermines the openness of the Green Belt, as well as the design quality of the well-proportioned dwelling which was approved in 2014. As such, it is likely that



the potential works that could be done under PD Rights would have a substantial degree of harm to the host dwelling as well as the character and visual amenity of the area.

It is worth nothing that the adjacent neighbour to the west of the site, known as the Paddock is a modern two storey dwelling which occupied the site of two former bungalows and there is another replacement dwelling 2km north east of the site. All of which has had its permitted development rights removed for similar exceptional circumstances or for the reasons set out above.

Therefore, the Council is satisfied that the condition would meet the 6 tests as it was necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects. The removal of its permitted development rights was triggered under exceptional circumstances when the volume allowance of the original bungalow, previous extensions and further additions was accounted for in the two storey dwelling and the design of the dwelling was held to be very special circumstances.

The agent states that a blanket removal of all 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. The Council is of the opinion that other forms of permitted development such as outbuildings could be equally harmful as extensions when considered cumulatively with the previously approved dwelling and could also diminish the design benefits which have been achieved. It is noted that the occupier has already constructed development beyond what was originally approved via a shed in the garden, fencing and excessive hardstanding without consent.

In view of the above, to allow permitted development rights on the property would undermine the assessment made by the case officer against local and national planning policy.

CONCLUSION

Reinstating Permitted Development Rights under Schedule 2, Part 1 and Part 2, of the Town and County Planning General Permitted Development Order would enable the homeowner to potentially implement extensions and / or alterations, and outbuildings within the garden areas out of the control of the Local Planning Authority. The property to which this decision relates is already materially larger than the dwelling it replaced but was allowed as the design benefits were considered to be very special circumstances to outweigh the harm to the Green Belt arising from the larger dwelling. The cumulative impact of the larger dwelling plus permitted development rights allowance, however, would not, on balance, outweigh the harm to the Green Belt. Furthermore, the design benefits which were given significant weight as very special circumstances could be lost through inappropriately designed, sited or proportioned extensions carried out under Permitted Development Rights. Therefore Condition 3 under SMD/2014/0100 to restrict future use of permitted development rights is necessary and reasonable to having regard to local and national policy concerning development in the Green Belt. Exceptional circumstances as required by the PPG 017 was triggered to justify the removal of permitted development rights. Any extensions and alterations would in this instance, constitute as inappropriate development within the Green Belt. This would by definition, cause harm to its visual amenity and openness.

As such, the Council wishes to retain the removal of permitted development rights to ensure that any proposed works do not detract from the openness and character of the surrounding area, which would be contrary to Policy SS2 and the National Planning Policy Framework.

OFFICER RECOMMENDATION : **Refuse**

Case Officer: Lisa Li
Recommendation Date: 21/09/23

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council