

DELEGATED DECISION REPORT

SMD/2024/0365
Valid 05/08/2024

THE GRANGE OAKAMoor
ROAD
HIGHSHUTT

APPLICATION FOR REMOVAL
OF CONDITION 5
IN RELATION TO
APPLICATION SMD/2024/0127

(FULL - MINOR)

MAIN ISSUES

Impact on the character and appearance of the area, highway safety and the residential amenity of the area.

Whether the terms of condition 5 provide useful purpose and meet the tests set out in the NPPF.

DESCRIPTION OF SITE

The application site lies within the rural area and comprises a detached two storey dwellinghouse known as The Grange. The property is Grade II Listed and is located on the southern side of the Oakamoor Road, approximately 1.2km from Cheadle.

The building is constructed from red/orange facing brickwork and has a steeply pitched Staffordshire Blue tiled roof atop. Its principal elevation faces to the south, looking out over an extensive area of established hardstanding. A large area of residential amenity space extends to the east of the site. Vehicular access to the site is taken direct off the Oakamoor Road to the immediate east of the dwellinghouse, with parking for 6+ vehicles available.

The existing dwelling has previously been used as a care home, having been approved for such purposes under application SMD/2008/1202. It was subsequently granted consent to revert back to a dwellinghouse under application SMD/2010/0063. Its current use remains that of a dwellinghouse.

To the immediate west of the site lies an 'L' shaped former agricultural building that has been converted into a dwellinghouse under application SMD/1980/0358 (The Barn). That dwelling is served by a winding vehicular access track that runs to the south of the application site, before turning northwards to run alongside the eastern site boundary.

A further dwellinghouse lies 83m to the southwest (Lower Grange Farm), with another dwelling located 88 metres to the east further along Oakamoor Road (High View House). The carriageway of the Oakamoor Road encloses the northern site boundary with open fields extending beyond that. The site frontage is enclosed by a mixture of high boundary walls and mature hedgerows which give the site a good degree of natural enclosure.

PROPOSAL

This is a Section 73 application seeking the removal of Condition 5 of SMD/2024/0127.

The original permission SMD/2024/0127 was granted for the change of use of an existing detached dwellinghouse at The Grange, Oakamoor Road, Cheadle to a care home for children (Use Class C2). It was subject to, inter alia, Condition 5 that reads as follows:

“Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Class(es) A, AA, B, C, D and E or Part 20 shall be carried out without express planning permission first being obtained from the Local Planning Authority”.

For the stated reason of:

“For the avoidance of doubt and to ensure that the capacity and function of the property is not enlarged without planning permission”.

The applicant submits that Condition 5 of SMD/2024/0127 should be removed as it is considered to fail the tests of necessity and reasonableness, as set out in paragraph 56 of the NPPF.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan Development Plan Document (Adopted 2020)

S01 Spatial Objectives

SS1 Development Principles

SS10 Other Rural Area

DC1 Design Considerations

SD4 Pollution

T1 Development and Sustainable Transport

National Planning Policy Framework

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

08/01597/FUL Change of use from dwelling to nursing care home. APPROVED.

10/00204/FUL Change of use from C2 Care Home to C3 Dwelling. APPROVED.

CONSULTATIONS

Publicity

Site Notice expiry date: 24th Sep 2024

Neighbour consultation period ends: 24th Sep 2024

Press Advert: Leek Post and Times 21st Aug – 11th September

Public Comments

None

Town / Parish Comments

Cheadle Town Council: Awaited

OFFICER COMMENTS

The National Planning Policy Framework seeks to secure the delivery of sustainable development, and sets out guidance, *inter-alia*, in respect of the imposition of planning conditions.

Paragraph 56 of the NPPF is of particular relevance, and states 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”

The Planning Practice Guidance also provides guidance on the imposition of planning conditions including circumstances where conditions should not be imposed.

The applicant submits that the Local Planning Authority were able to conclude that the proposed development complied with the policies of the Local Plan and that these conclusions were not dependent on permitted development rights being removed by condition. The applicant submits that this condition is therefore unnecessary, is unrelated to the development that was permitted, and is unreasonable. It is said that consequently the condition fails the tests for conditions as set out within paragraph 56 of the NPPF.

The condition removes Permitted Development Rights pursuant to Schedule 2, Part 1, Classes A, AA, B, C, D and E and Part 20 of the Town and Country Planning (General Permitted Development) (England) Order 2015. Those classes of permitted development relate specifically to ‘Development within the curtilage of a dwellinghouse’.

The reason stated for the condition is as follows:

“For the avoidance of doubt and to ensure that the capacity and function of the property is not enlarged without planning permission”.

The rationale was to avoid any doubt and to prevent any creeping expansion of the facilities capacity without control. However, as the applicant points out, there are, in spite of the condition, already three clear reasons as to why the property could not, in any event, be extended or altered without further permission or consent from the local planning authority.

Firstly, other conditions of the planning permission restrict the use to a floor layout and arrangement that is specified and detailed in approved plans. If the use was to continue with a changed or increased layout there would be a breach of that condition and permission would be required.

Secondly, as a Care Home used under Class C2 of the Use Classes Order the property would no longer be a 'Dwellinghouse' for the purposes of Class A of the GPDO 2015.

Thirdly, The building is a listed building and any extension or alteration of the building would require listed building consent, regardless of any provision otherwise made under the GPDO.

It is therefore conceded that if the applicant wants to increase the size of the property and / or wants to increase its capacity, then this would require planning permission (as well as Listed Building Consent).

The condition is therefore deemed to be unnecessary to make the development acceptable in planning terms and does not serve useful purpose. There is consequently a compelling case for planning permission to be granted with the omission of Condition 5 that was attached to SMD/2024/0127.

CONCLUSION / PLANNING BALANCE

Paragraph 56 of the National Planning Policy Framework is clear that conditions must only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Condition 5 of SMD/2024/0127 is unnecessary to make the development acceptable in planning terms. The condition is also unrelated to the development that was permitted since the permitted development rights withdrawn by the condition do not relate to buildings within Use Class C2. The condition consequently does not serve useful purpose, and fails the tests for conditions as set out within paragraph 56 of the National Planning Policy Framework.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst

Recommendation Date: 25/09/2024

X 

Signed by: Jane Curley

On behalf of Staffordshire Moorlands District Council