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30 April 2025

Dear Dorothy,

Section 73 Planning Application to remove Condition 10 of planning application reference H/24/98601 for side and rear extensions and raising of roof to provide first floor accommodation along with temporary changes to existing ground levels (Part Retrospective) at Derry Dacy, Peewit Hill, Bursledon, Southampton, SO31 8BL.

Introduction

Planning permission was granted by the Bursledon, Hamble-le-Rice and Hound Local Area Committee for the above development on 10th April 2025, with Condition 10 of the decision notice stating;

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no additional extensions, outbuildings, dormer windows, or alterations to the roof of the dwelling hereby approved shall be carried out without the prior written consent of the Local Planning Authority.

Reason: *To protect the amenities of the locality and to maintain a good quality environment.*

The applicant seeks to remove this condition through this Section 73 application.

Material Considerations

Paragraph 55 of the National Planning Policy Framework (NPPF) states;

“Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.”

Paragraph 57 of the NPPF states;

“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. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.”

The National Planning Practice Guidance (NPPG) provides further guidance, stating at Paragraph 003;

“Paragraph 57 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- 1. necessary;*
- 2. relevant to planning;*
- 3. relevant to the development to be permitted;*
- 4. enforceable;*
- 5. precise; and*
- 6. reasonable in all other respects.*

These are referred to in this guidance as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply. See also guidance on the use of model conditions.”

Also relevant is the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) Schedule 2 Part 1 A, AA, B, C and E.

Planning Assessment

Condition 10 of the planning permission seeks to control permitted development allowed under Classes A, AA, B, C and E of Schedule 2, Part 1 of the GPDO. Taking each in turn;

Classes A, B and C:

Classes A, B and C limit the size and height of the extensions that may be permitted. If those additions were carried out on the permitted dwelling, they would not project excessively from the sides or rear of the property, nor would they be allowed to exceed the height of the roofline. The dwelling, as proposed, is diminutive, especially when compared to other dwellings within the area. In terms of Classes A, B and C, limitations are placed on the size and extent of additions and any works that could be carried out under Class A, B and C of Part 1 of the GPDO would appear subordinate to the original dwelling in any case and would not, therefore, be harmful to the amenities of the locality.

With regards to character and appearance, additions to the dwelling under these classes would be sympathetic to the scale of the original dwelling and therefore would not appear unduly dominant and thus would not be harmful to the character and appearance of the area.

There is no good reason, therefore, for this planning condition. In terms of the six tests for a lawful planning condition, the condition is both unnecessary and unreasonable.

Class AA:

Class AA relates to the enlargement of a dwellinghouse consisting of the construction of additional storeys. Class AA is clear that development is not permitted if the existing dwellinghouse has been enlarged by the addition of one or more storeys above the original dwellinghouse, whether in reliance on the permission granted by Class AA or otherwise.

The recent planning permission granted for Derry Dacy introduces a second storey to the existing dwellinghouse and consequently further development under Class AA is prohibited.

There is no good reason, therefore, for this planning condition. In terms of the six tests for a lawful planning conditions, the condition is both unnecessary and unreasonable.

Class D

Class D relates to the erection of a porch outside any external door of a dwellinghouse and limits the scale and height of such a construction. The plans approved as part of this permission already include a porch for the main entrance and therefore this element of the condition is also unnecessary and unreasonable.

Class E

Class E relates to outbuildings. There is no good reason for removing this permitted development right. The site is large and well screened and, by definition, the permitted development criteria control the height of any outbuilding and its extent to reduce any harmful effect on visual amenity.

Conclusion

For the reason set out above, Condition 10 fails at least 2 of the 6 tests for the lawfulness of a condition.

Accordingly, it is respectfully requested that this Condition 10 is removed from planning permission H/24/98601.

If you require anything further, please do not hesitate to contact me.

Yours sincerely



Louise Cutts BA(Hons) DipTP MRTPI
Director
Wessex Planning Ltd