



Appeal Statement

Derry Dacy, Peewit Hill, Bursledon, Southampton, SO31 8BL

21 July 2025

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1 QUALIFICATIONS AND EXPERIENCE

QUALIFICATIONS AND EXPERIENCE

- 1.1 I hold a 2:1 Planning Studies Bachelor of Arts Honours degree and a Diploma in Urban Planning from Oxford Brookes University. I am a member of the Royal Town Planning Institute.
- 1.2 I have worked in Hampshire since 1996. From 1996 to 2014 I worked at Eastleigh Borough Council as a Senior Planning Officer and then as a Principal Planning Officer in the Major Applications Team.
- 1.3 I have practised as a planning consultant since September 2014. I established my Town Planning practice, Wessex Planning Ltd, in September 2016, specialising in small to medium scale residential development.
- 1.4 I was instructed to appeal against the refusal of planning permission X/25/99320 for the removal of Condition 9 (removal of temporary access within 12 months) of planning approval 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 at Derry Dacy, Peewit Hill, Bursledon, Southampton, SO31 8BL.

2 REFUSAL REASONS

- 2.1 Planning permission was refused by Eastleigh Borough Council on 27th June 2025 for removal of Condition 9 (removal of temporary access within 12 months) of planning approval 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 (planning application reference X/25/99320) at Derry Dacy, Peewit Hill, Bursledon, Southampton, SO31 8BL for the following reason;

The removal of Condition 9, which requires the removal of the temporary construction access and reinstatement of the land in accordance with the approved landscaping plan, would result in the permanent retention of an additional access point on a site located outside the urban edge and a settlement gap. The access is not necessary to serve the approved development, and its retention would contribute to the urbanisation and potential subdivision of the site, undermining the rural character and landscape integrity of the area. As such, this is contrary to Policies S5, S6, DM1 and DM26 of the Eastleigh Borough Local Plan (2016–2036), Quality Places SPD (2011), and the contents of the National Planning Policy Framework (2024).

3 REBUTTAL OF REASON 1

REBUTTAL OF REASON 1

The removal of Condition 9, which requires the removal of the temporary construction access and reinstatement of the land in accordance with the approved landscaping plan, would result in the permanent retention of an additional access point on a site located outside the urban edge and a settlement gap. The access is not necessary to serve the approved development, and its retention would contribute to the urbanisation and potential subdivision of the site, undermining the rural character and landscape integrity of the area. As such, this is contrary to Policies S5, S6, DM1 and DM26 of the Eastleigh Borough Local Plan (2016–2036), Quality Places SPD (2011), and the contents of the National Planning Policy Framework (2024).

Introduction

- 3.1 Planning permission was granted by the Bursledon, Hamble-le-Rice and Hound Local Area Committee for side and rear extensions and the raising of roof to provide first floor accommodation along with temporary changes to existing ground levels above development at Derry Dacy on 10th April 2025, with Condition 9 of the decision notice stating;

“Within 12 months of this planning approval, the temporary site access which has been constructed at the end of Peewit Hill shall be removed and land restored to its original condition, including replacement boundary planting in accordance with a reinstatement and landscape plan which has first been submitted to and approved in writing by the Local Planning Authority. All works shall be undertaken in accordance with the approved plan. Replacement landscaping shall be maintained for a minimum period of ten years. Any trees, shrubs, or plants that die, are removed, or become seriously damaged or diseased within this period shall be replaced in the next planting season with specimens of equivalent size, species, and maturity. No further tree or vegetation removal shall occur without prior written approval from the Local Planning Authority.

Reason: In the interests of the visual amenity of the locality.”

- 3.2 It is important to note that this condition was added at planning committee by Members, rather than recommended by officers. (See the printed minutes at Appendix 1).
- 3.3 The subsequent application to remove this condition was refused under delegated powers for the reason given above and is the subject of this appeal.
- 3.4 This appeal statement considers the legal and policy context that is engaged in the consideration of the appeal and rebuts the reason given for the LPA’s refusal to remove the condition.

Legal and Policy Context

- 3.5 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”

- 3.6 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.”

- 3.7 In the consideration of the reason for the condition, two local plan policies are particularly relevant:

S5 – New Development in the Countryside - This policy allows development in the countryside provided it is related to, amongst other things, a residential extension and does not have an adverse impact on intrinsic landscape character.

S6 – Protection of Settlement Gaps – The policy allows development in a settlement gap provided it does not undermine the physical extend and/or visual separation of settlements; and would not have an urbanising effect detrimental to the character of the countryside; or the separate identity of adjoining settlements

- 3.8 DM26 relates to residential extensions and replacement dwellings in the countryside and is therefore also irrelevant.

Site History

- 3.9 It is important to note that this additional access was constructed as a permanent access rather than a temporary access. The LPA have simply assumed that the access was temporary.
- 3.10 The access is required in order to provide a separate access to the owner’s large plot of land. This is not unreasonable and is a common sight in rural areas.
- 3.11 The construction of this access began alongside the use of the site as a builder’s compound for a new cycle route approved by the County Highways Authority, and provided a useful access for construction

vehicles whilst Derry Dacy was being extended. However the access point was always intended to be permanent.

- 3.12 The condition on the original permission for the extensions to Derry Dacy requires complete removal of this access point, which is considered unnecessary, irrelevant to the development that was permitted, imprecise (as the access is permanent rather than temporary) and also unreasonable.

- 3.13 It is important to note that condition 5 of the original permission for the extensions and alterations to Derry Dacy requires a landscaping scheme for the whole plot as part of the development. (See Appendix 2). This condition states:

“Within three months of this planning approval, a comprehensive landscaping scheme for the entire site shall be submitted to the Local Planning Authority for written approval. The scheme shall include:

- a) Detailed planting plans specifying the species, sizes, numbers and precise locations of all new trees, shrubs and vegetation to fully restore the site’s wooded character following extensive tree and vegetation removal;*
- b) A timetable for implementation, ensuring all planting is completed within the first planting season (November to March) following occupation of the development.*

The approved scheme shall be fully implemented as approved and maintained for a minimum period of ten years. Any trees, shrubs, or plants that dies, are removed, or become seriously damaged or diseased within this period shall be replaced in the next planting season with specimens of equivalent size, species and maturity. No further tree or vegetation removal shall occur without prior written approval of the Local Planning Authority.

Reason: In the interests of the visual amenity of the locality.”

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3.14 It is also important to note that Paragraph 50 of the original officer report to committee clearly stated that the access was permitted development under Schedule 2, Part 2, Class B of the GPDO. (See Appendix 3). It was the planning committee members who imposed the condition, the subject of this appeal (See printed minutes at Appendix 1). On this, the LPA appear to have changed their position.

Site Context and Precedent

3.15 The site is not within a National Park, nor a National Landscape, nor a Conservation Area. Neither are there any other 'special policy area' designations relating to the character of this area.

3.16 Whilst proposals in all areas deserve a thorough consideration of their impact on local character and appearance, Peewit Hill is not of any special character that elevates it above, or makes it more sensitive than, any other ordinary low-density street within a rural area.

3.17 Peewit Hill is an unclassified road which has been historically 'cut off' by the construction of the M27. No turning head was constructed at its end to allow vehicles to turn, something that the Highways Authority have commented on in relation to the appeal application.

3.18 Many of the dwellings along Peewit Hill have accesses onto the highway e.g. No 1, No 18 and No 21. There is also a garage court, most probably constructed to serve the enclave of local authority homes further up Peewit Hill. This garage court is also accessed from the main part of Peewit Hill.

3.19 Objectively, these existing vehicle accesses along the main part of Peewit Hill are an intrinsic part of its character. As such, one additional access, hidden away from public views at the very end of Peewit Hill, cannot be said to be 'out of character'.

3.20 Additionally, the enclave of local authority homes further up Peewit Hill displays numerous vehicle accesses onto the cul-de-sac that do

not accord with the original design intention of this development. It is evident from the sequential historical photographs (attached at Appendix 4) how additional new accesses and parking areas have been included along the frontages of No 6, No 10, No 11, No 12, No 13, No 15, No 19 and around the edges of the public open space in the centre of the enclave, over time.

3.21 The LPA will confirm that this enclave is also within the designated countryside and settlement gap. The LPA will also confirm that none of these accesses or large areas of hard-surfacing have received a specific planning permission or had their rights to an access or hardstanding removed by any Article 4 direction. It is therefore difficult to understand why such objection has been taken to the access at Derry Dacy. The inconsistency is concerning.

3.22 If each of the accesses mentioned above were considered permitted development, or it was decided that it was not expedient to take enforcement action if planning permission were required, then it would be useful for the Inspector to understand the LPA's reason for this position, and why this approach differs for Derry Dacy.

3.23 Whilst permeable hard standings under 5 square metres are permitted development under Schedule 2, Part 1, Class F, the LPA appear to be suggesting that this does not, in principle, apply to Derry Dacy. Whilst the current hardstanding breaches the size threshold, it has always been the intention to reduce the size of the hardstanding to under 5 square metres thus benefitting from the permitted development deemed permission.

3.24 The LPA appear to suggest that Schedule 2, Part 2, Class B does not apply to Derry Dacy because the access was not required in connection with any permitted development. This is erroneous. The provision of a residential hardstanding under Schedule 2, Part 1, Class F is permitted development. As the access is to a residential hardstanding (which is permitted development under Class F) the

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access does benefit, in principle, from Schedule 2, Part 1, Class F, both once it is reduced in size (as part of the landscaping scheme) and, at the very least, as a fall-back position.

- 3.25 It has always been the intention to reduce the size of the access and hardstanding, provide soft landscaping to 'ruralise' its character and provide a 5-bar gate for security. This landscape scheme is to be provided under the agreed landscaping condition of the original permission.
- 3.26 The application to discharge the landscaping condition is imminent and the landscaping plan is included at Appendix 5.
- 3.27 The condition to remove the access on the grounds of its visual impact is therefore completely unnecessary as the landscaping condition provides the control over the resulting visual impact of the whole site, including the access point.
- 3.28 It was utterly unreasonable for the planning committee to suggest that a secondary access point was unacceptable in principle before they had assessed its eventual impact subsequent to the required landscaping scheme.
- 3.29 In terms of character, the officer report states:

"Derry Dacy is located at the end of Peewit Hill, a quiet no-through road, and benefits from a generous setback from the highway. The site is also well screened by mature hedging, established trees, and a front entrance gate. This relatively secluded position, together with the boundary treatments, ensures that the proposed development would not be prominently visible from public vantage points. Consequently, the visual impact (of the extended dwelling) on the surrounding countryside and the strategic settlement gap between Hedge End and Bursledon would be minimal, thereby preserving the rural separation and local character."

- 3.30 With the visual impact of the proposed dwelling being 'minimal', it is contended that the visual impact of secondary access point is also 'minimal' and that there is therefore no clear justification for requiring the complete removal of this access point.

Appeal Assessment of Reason for Refusal

Condition is Imprecise and therefore Unenforceable

- 3.31 It should be noted that the access, the subject of this condition, is a permanent access, rather than a temporary access and in that respect, the planning condition is imprecise, therefore failing one of the six tests for a lawful planning condition. As such the condition is unenforceable.

Condition is Unnecessary

- 3.32 Condition 5 of the original planning permission requires a landscaping scheme. Under this condition the access will be 'ruralised', with the hardstanding not exceeding the 5 square metre threshold of Schedule 2, Part 1, Class F, thus also benefitting from Schedule 2, Part 2, Class B.
- 3.33 At the very least this is a future fall-back position.
- 3.34 As the decision notice already included a condition that provided the LPA with the control over the visual impact of this access, the further condition, the subject of this appeal, was unnecessary, therefore failing another of the 6 tests for a lawful condition.

Condition is Irrelevant to the Development Permitted

- 3.35 The application did not mention this secondary access point, nor was this access point included on any plans. The access was irrelevant to the extensions and ground level restorations considered under this application.

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- 3.36 The planning committee members behaved ‘opportunistically’ in adding this condition to the decision notice presumably because they did not like the secondary access and were concerned about what it ‘might’ mean for the future.
- 3.37 As the condition was irrelevant to the development permitted, it fails another of the 6 tests for a lawful planning condition.

Condition is Unreasonable

- 3.38 For all the above reasons the condition is unreasonable.
- 3.39 Additionally, paragraph 140 of the NPPF advises that conditions should refer to clear and accurate drawings to provide greater certainty for those implementing planning permissions. The approved proposed plans do not detail this permanent access. The condition is therefore unreasonable in this regard.
- 3.40 The LPA suggest that it was reasonable to add the condition because the access was **“not necessary to serve the approved development”**. In response, the access was not part of the application, and the applicants were not looking for a specific permission for the access.
- 3.41 Additionally, whether this secondary access was ‘necessary’ to serve the approved development was neither here nor there in terms of the extensions permission. Secondary accesses are considered ‘necessary’ by householders for many other reasons, some of which may never be known to decision-makers. There is no need test for such development, if it is considered to require full planning permission.
- 3.42 The LPA suggest that it was reasonable to add the condition because the access **“would contribute to the urbanisation and potential subdivision of the site”**. In response, an access at the very end of a no-through-road that is not used by any pedestrian or vehicle user to get to any destination is not considered likely to contribute to the

urbanisation of this part of the countryside or settlement gap in any materially harmful way. The planning committee appeared to forget or understand that any perceived ‘urbanisation’ on the wider plot would be more reasonably assessed under Condition 5 of the planning permission – the landscaping scheme for the whole plot. Instead it unreasonably assumed that the access would remain in its current form, despite the fact that it had not been included on any proposed plan.

- 3.43 With regard to concerns raised about the potential subdivision of the site, it is not clear exactly what the concern is, but it is assumed that the planning committee were worried that due to the site’s large size, that it ‘might’, in principle, support another dwelling.
- 3.44 In response, a new dwelling requires full planning permission. The Local Plan policies are very clear that new dwellings will not be supported in countryside/or settlement gap locations. The existence of an access to a potential subdivided residential plot would not alter this consideration in terms of the principle of such development in any way.
- 3.45 The imposition of this condition therefore represents an unreasonably opportunistic and overly suspicious approach to an assumed threat. The LPA has no evidence that the site would be subdivided and therefore, the perceived threat has no basis in reality. This is unreasonable.
- 3.46 Finally, the LPA consider that the proposal to remove this condition **“would undermine the rural character and landscape integrity of the area”**. In response, firstly this assumes that the access would remain as it is now, when Condition 5 is clearly intended to reintroduce trees, shrubs and grassland into the wider plot. This accusation leapfrogs what should be an unfettered consideration of the required landscaping scheme, undermining the unbiased approach required of a public authority. This is unreasonable.

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- 3.47 Secondly, and as has been considered above in the Site Context and Precedent section, the LPA have already assessed the resulting dwelling as having minimal impact on the countryside and settlement gap as a result of the good screening around the site. It is therefore difficult to comprehend how a secondary access point would have more than a minimal impact, especially once the landscaping plans required under condition 5 have been formally submitted.
- 3.48 Additionally, the GPDO allows such accesses in principle, provided the hardstanding to which they relate does not exceed 5 square metres. The LPA appear to suggest that even permitted development accesses in the countryside and settlement gap areas are so offensive that they should not be considered, even as a fall-back position. If this is the LPA's approach, one wonders as to the reason why an Article 4 direction, removing such permitted development rights, has not been applied to such areas.
- 3.49 The rural character of the area includes accesses onto Peewit Hill. These are an intrinsic part of its character, which do not detract from the experience of Peewit Hill as a rural street. As such, neither would a secondary access to this plot, especially once landscaped as part of the landscaping condition.
- 3.50 In terms of the landscape integrity of the area, it should be noted that the GPDO legislation does not remove or restrict permitted development (including hard standings, accesses, and other permitted development) for settlement gaps or designated countryside. The reason is to allow householders, amongst others, reasonable rights to modernise, update and add to their homes without having any materially harmful impact upon the landscape. The ability to remove these rights is available to LPAs, though an Article 4 Direction. The LPA has not been sufficiently concerned about these rights in Peewit Hill to action an Article 4 direction. It is not considered that such a direction could be reasonably justified in

any case due to the unique positioning of this plot at the end of a no-through road.

- 3.51 With the intended resulting access not exceeding permitted development thresholds, it is not considered reasonable to issue a condition that has the impact of producing a complete and total prohibition, without exception, on the retention of this secondary access.

4 CONCLUSION

CONCLUSION

- 4.1 For the reasons set out above, Condition 9 fails 5 of the 6 tests required to establish the lawfulness of a planning condition.
- 4.2 The condition is imprecise as the access is permanent rather than temporary.
- 4.3 Neither does the access appear on any proposed plan submitted with the application, and is therefore unenforceable.
- 4.4 The condition is unnecessary as Condition 5 requires a landscaping scheme across the whole plot to 'restore its wooded character'. The LPA therefore 'leapfrogged' the required unbiased consideration of an imminent but yet-to-be-submitted landscape plan that is intended to 'ruralise' this secondary access point, thus fettering this assessment of that plan.
- 4.5 The condition is irrelevant to the development permitted as permission was not sought for the access, nor was the condition relevant to what was applied for. The application description and plans related solely to extensions to the dwelling and land level restoration.
- 4.6 Additionally, contrary to the LPA's position, there is nothing in planning law or policy that requires a 'needs test' to be applied for this type of development. Neither would a secondary access, in principle, lead to any 'urbanisation' of the area – in this respect the LPA has pre-judged a yet-to-be-submitted landscaping plan. Furthermore, the LPA has no evidence that the access would lead to the subdivision of the plot, nor would such access influence a rational planning policy assessment of what might be considered acceptable in this location. Finally, the retention of this access, in principle, would not undermine the rural character of the area nor impact landscape integrity. Again, the LPA has pre-judged a yet-to-be-submitted landscape plan for the whole plot.
- 4.7 The LPA has also not correctly interpreted the GPDO which has excluded a consideration of the true fall-back position in this particular case.
- 4.8 As such, for all the above reasons, the condition is considered unreasonable.
- 4.9 Accordingly, it is respectfully requested that this Condition 9 is removed from planning permission H/24/98601.

5 APPENDICES

Appendix 1 – Printed minutes of Planning Committee

Appendix 2 – Original Decision Notice

Appendix 3 – Original Officer Report

Appendix 4 – Historic Photographs

Appendix 5 – Landscape Plan