Application Number: 2003/62/90357/E6

Application: RE-USE, EXTENSIONS AND ADAPTATION OF EXISTING BARN TO FORM TWO DWELLINGS WITH DETACHED DOUBLE GARAGE/IMPLEMENT STORES

At: Rear Of 21, Abbey Road, Shepley, Huddersfield.

CONDITION 2 WAS IMPOSED ON THE ABOVE PLANNING PERMISSION AND STATES;

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995, permitted development rights are removed for the erection of porches, extensions, buildings within the curtilage of the dwellings, the formation of additional door, window or other openings or alterations to the roof of the dwellings.

THE REASON FOR IMPOSING THE CONDITION IS;

To safeguard the character and appearance of the building and to safeguard the openness, character and amenity of the Green Belt in accordance with Policies BE2, D12A and D8 of the Unitary Development Plan.

Based on the information I can see the planning application with reference number 2003/62/90357/E6 has been implemented and condition 2 of that permission removed permitted development (PD) rights for development under several classes of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 1995 (the GPDO),

including extensions (Class A), roof extensions and alterations (Classes B and C) and outbuildings (Class E).

Against this background the main issue is whether this condition is reasonable and necessary in the interests of protecting the Green Belt and the character and appearance of the area.

The Planning Practice Guidance states that 'conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity'.

TEST OF REASONABLENESS AND NECESSITY;

Given the specific areas of land included under Article 2(3), it can be surmised that the omission of land within the Green Belt from the list was intentional on the Government's part, and as a result, land within the Green Belt is regarded as no different in terms of the application of PD rights as land outside of it. Furthermore, the requirement of the National Planning Policy Framework that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Therefore, the starting point is that PD rights should remain in place, even in the Green Belt, unless clear justification is advanced which is specific to the site.

Moreover, the fact that PD rights have not been removed for land in the Green Belt means that the Government's fundamental Green Belt aims of preventing urban sprawl by keeping land permanently open do not extend to preventing permitted development within a domestic curtilage. Given this

position and bearing in mind the limitations of the GPDO in terms of size and position of development permitted, this demonstrates, that extensions to the dwelling would have such an effect on the openness of the Green Belt or its purposes that removal of PD rights is justified.

Based on the limitations of PD rights, these often result in enlargements, improvements or alterations that have due regard to the character and appearance of an area. However, it is nonetheless possible for homeowners, in implementing these rights, to affect the character and appearance of the area in a way that the Council would not have found acceptable had a planning application been necessary. Therefore, I consider that imposing Condition 2 to protect the character and appearance of the surrounding area, of themselves, do not constitute the '*clear justification*'

Accordingly, Condition 2 is therefore not reasonable or necessary in the interests of protecting the Green Belt, the character and appearance of the area. Therefore, the removal of this condition in itself would not be contrary to the Green Belt aims.

CONCULSION

In light of the above we believe that condition 2 on the above referenced application should be removed as requested.