



Planning Statement

Applicant:

Mr M James

Site Address:

17 Rafborn Avenue, Salendine
Nook, Huddersfield, HD3 3UJ

Proposal:

Variation of Condition 5 from
permission granted under reference
2007/91505

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1.0 Introduction

1.1 RBA Town Planning has been instructed by Mr M. James to prepare and submit an application under Section 73 of the Town and Country Planning Act 1990 to vary condition 5 of planning permission reference 2007/91505.

1.2 This statement sets out the background to the application and provides a detailed justification for the proposed variation of Condition 5. It demonstrates that the restriction on permitted development rights is no longer necessary or reasonable in light of the current planning context, including updated national policy, revised permitted development legislation, and the specific site characteristics of 17 Rafborn Avenue. The variation sought is modest, proportionate, and would not undermine the original planning objectives, which remain safeguarded by other mechanisms.

2.0 The Site

2.1 The application site is located at 17 Rafborn Avenue, within a modern residential cul-de-sac comprising four large, detached dwellings of similar architectural style. The properties were constructed following reserved matters approval under planning permission 2007/91505 and are situated at the head of the cul-de-sac, accessed via a shared gateway from Rafborn Avenue. The properties form a private gated community with a large shared area to the front of the dwellinghouse.

2.2 The dwelling occupies a generous plot and is bound by a well-defined fence line to the rear and side. Adjacent dwellings to the north and east (outside the cul-de-sac) are older two-storey properties with a more traditional suburban layout.

2.3 The house itself is a two-storey detached property built from natural stone under a pitched slate roof, with a driveway and integral garage to the front. Rear garden space is private and of sufficient scale to accommodate modest domestic structures without resulting in adverse impact to neighbours.

2.4 The character of the cul-de-sac is spacious and low-density, and the rear curtilage of No. 17 is particularly well screened from adjoining properties by virtue of fencing, separation distances, and the orientation of surrounding dwellings.

3.0 Proposal

3.1 The application proposes to vary Condition 5 of planning permission ref. 2007/91505, which currently removes permitted development rights across all dwellinghouses constructed following the granting of said permission. Condition 5 currently removes permitted development rights across all dwellinghouses constructed under the original permission. It states:

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification) no buildings or extensions shall be erected in the area within the red line on the approved plan without the prior written approval of the Local Planning Authority.

The reason given was:

5. To ensure that unsatisfactory extensions do not result in close overlooking of adjoining property and to accord with Policy BE12 of the Unitary Development Plan.

3.2 The suggested variation reads as:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no buildings or extensions shall be erected within the area outlined in red on the approved plan without the prior written approval of the Local Planning Authority, with the exception of development within the curtilage of 17 Rafborn Avenue, Salendine Nook, Huddersfield, HD3 3UJ, to which this condition shall not apply.

4.0 Policy

4.1 Kirklees Local Plan

Policy BE12 (Space about buildings), as referenced in the reason for Condition 5, has since been superseded by Policy LP24 of the adopted Kirklees Local Plan.

Policy LP24 Design

Good design should be at the core of all proposals in the district and should be considered at the outset of the development process, ensuring that design forms part of pre-application consultation of a proposal. Development briefs, design codes and masterplans should be used to secure high quality, green, accessible, inclusive and safe design, where applicable. Where appropriate and in agreement with the developer schemes will be submitted for design review.

Proposals should promote good design by ensuring:

- a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape;
- b. they provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary;
- c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers;
- d. high levels of sustainability, to a degree proportionate to the proposal, through:
 - i. The re-use and adaptation of existing buildings, where practicable;
 - ii. design that promotes behavioural change, promoting walkable neighbourhoods and making walking and cycling more attractive;

- iii. considering the use of innovative construction materials and techniques, including reclaimed and recycled materials;
- iv. where practicable, minimising resource use in the building by orientating buildings to utilise passive solar design. This includes encouraging the incorporation of vegetation and tree planting to assist heating and cooling and considering the use of renewable energy;
- v. providing charging points to encourage the use of electric and low emission vehicles;
- vi. incorporating adequate facilities to allow occupiers to separate and store waste for recycling and recovery that are well designed and visually unobtrusive and allows for the convenient collection of waste;
- vii. designing buildings that are resilient and resistant to flood risk, where such buildings are acceptable in accordance with flood risk policies and through incorporation of multi-functional green infrastructure where appropriate;
- viii. designing places that are adaptable and able to respond to change, with consideration given to accommodating services and infrastructure, access to high quality public transport facilities and offer flexibility to meet changing requirements of the resident / user.
- e. the risk of crime is minimised by enhanced security, and the promotion of well-defined routes, overlooked streets and places, high levels of activity, and well-designed security features;
- f. the needs of a range of different users are met, including disabled people, older people and families with small children to create accessible and inclusive places;
- g. any new open space is accessible, safe, overlooked and strategically located within the site and well integrated into wider green infrastructure networks;
- h. development contributes towards enhancement of the natural environment, supports biodiversity and connects to and enhances ecological networks and green infrastructure;
- i. the retention of valuable or important trees and where appropriate the planting of new trees and other landscaping to maximise visual amenity and environmental benefits; and
- j. the provision of public art where appropriate.

5.0 Assessment

5.1 Condition 5 of planning permission ref. 2007/91505 was imposed to restrict permitted development rights across the wider application site, with the stated aim of preventing “unsatisfactory extensions” that could result in “close overlooking of adjoining property”. This condition removed the ability of householders to carry out works that would otherwise fall within the scope of the Town and Country Planning (General Permitted Development) Order (GPDO).

5.2 Since the original permission was granted, the planning context has evolved. The Kirklees Unitary Development Plan (UDP) has been superseded by the adopted Kirklees Local Plan, and the GPDO itself has been revised and consolidated through the 2015 Order (as amended). The previously cited Policy BE12 has now been replaced by Policy LP24, which incorporates updated design and amenity criteria, including privacy and separation distances.

5.3 The application site, 17 Rafborn Avenue, now forms an established and self-contained residential plot. The dwelling occupies a generous and well-defined curtilage and there is no realistic prospect of “close overlooking” from minor domestic development, particularly given the separation from neighbouring dwellings and the visual screening provided by fencing and boundary vegetation.

5.4 In addition, the current version of the GPDO includes detailed and robust safeguards which govern the size, height, location and use of outbuildings and extensions. Class E of Schedule 2, Part 1 restricts the placement and scale of incidental buildings — especially those near boundaries — and expressly prohibits features that could lead to loss of amenity, such as balconies, verandas, or raised platforms. These controls were less explicit in the 1995 Order in force when the condition was originally imposed.

5.5 Furthermore, development carried out under permitted development rights must still meet the GPDO's nationally prescribed limitations. Any structure which exceeds these thresholds or causes demonstrable harm to amenity can be controlled via normal enforcement powers or through the requirement for full planning permission.

5.6 Varying the condition to exclude No. 17 from its scope would not set a precedent for unrestricted development but would merely restore rights enjoyed by most homeowners. The proposed variation would not weaken local design control but would allow proportionate and low-impact domestic development in a location where the original justification for restriction no longer applies.

5.7 The proposed wording is carefully constructed to retain Condition 5 for the other dwellings within the original application boundary. This ensures that the LPA's original intent remains in force where it may still be justified, while enabling a site-specific and proportionate amendment for a plot that demonstrably does not pose the concerns that gave rise to the condition in the first place.

6.0 Conclusion

6.1 It is considered that the proposed variation of Condition 5 is fully consistent with the objectives of Policy LP24 of the Kirklees Local Plan and the wider aims of the National Planning Policy Framework, particularly with respect to proportionality, good design, and appropriate protection of residential amenity.

6.2 The proposal does not undermine the Council's ability to manage development on the wider site, nor does it introduce any risk of adverse impacts. The specific circumstances of No. 17 Rafborn Avenue justify a site-specific amendment to the condition, and the reinstatement of permitted development rights is a reasonable and proportionate outcome.

It is respectfully requested that the application be approved.