

DELEGATED FILE NOTE

CASE OFFICER: ...Tom Rea.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
25/00004/S73	Removal of condition 3 of planning permission 10/00693/1 granted 04.06.2010 for Replacement dwelling following demolition of existing dwelling, amendment of planning permission 09/02154/1 granted 15 January 2010	Southview Pottersheath Road Welwyn Hertfordshire AL6 9SY

Submitted Plan Nos

Location Plan Survey as existing 01 03

D1	Sustainable design
D2	House exts, replcmnt dwellings outbuild
D3	Protecting living conditions
SECN13	Protecting Green Belt Land
SP5	Countryside and Green Belt

2.0 **Relevant Site History**

07/00218/1: Replacement dwelling. Granted 22nd March 2007.

09/02154/1: Replacement dwelling following demolition of existing dwelling, renewal of planning permission 07/0218/1 granted 22 March 2007. Granted 15/1/2010

10/00693/1 Replacement dwelling following demolition of existing dwelling, amendment of planning permission 09/02154/1 granted 15 January 2010 Location: Southview, Pottersheath Road, Codicote, Welwyn, AL6 9SY. Granted 9/6/2010

Condition 3 stated:

‘Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended no development as set out in Classes A & E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area’

10/02657/1HH: Single storey side and rear extensions

15/00270/1HH: Two single storey side extensions. Granted 18th March 2015.

3.0 **Representations**

3.1 Codicote Parish Council: No response

3.2 Adjoining occupiers: No response

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 Southview is a detached property located on the east side of Pottersheath Road. The site is within the Green Belt.

4.2 **Proposal**

Removal of condition 3 of planning permission 10/00693/1 granted 04.06.2010 for Replacement dwelling following demolition of existing dwelling, amendment of planning permission 09/02154/1 granted 15 January 2010.

The application is supported by an appeal decision dated 4th April 2022 regarding the removal of a permitted development rights condition at a property in Chorleywood in Three Rivers District.

The applicants make the following statement in the application:

'The planning appeal decision APP/P1940/W/21/3275230 dated 4 April 2022 relating to a Three Rivers District Council application ("the Appeal") confirmed that a condition restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. There have been other appeal cases, in other areas, where Inspectors have come to the same conclusion. Schedule 2, Part 1 of the GPDO sets out the PD rights for development within the curtilage of a dwellinghouse. These rights apply generally to all dwellinghouses, with specific exceptions for some classes. Rights under Class A, for example, do not apply on Article 2(3) land which is defined as land within a conservation area, an area of outstanding natural beauty, a National Park, and a World Heritage Site. Article 2(3) does not include land falling within the Green Belt. The Inspector determining the Appeal noted the fact that Article 2(3) does not remove PD rights 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. Southview, the application site, is similar to the 'appeal site' which comprised a detached dwelling along Stag Lane. Southview is a detached house along Pottersheath Road on a substantial plot. As with the appeal site, this part of the lane is characterised by a variety of detached dwellings in a range of designs and sizes, sited on large spacious plots. The majority of existing dwellings across the Green Belt retain and may exercise PD rights without reference to the effect on the openness of the Green Belt, even if they been subject to previous extensions. Therefore, we now have very limited PD rights. We only wish to utilise the PD right to extend from the western elevation, within the permitted limits, to add a room for a live-in carer for my elderly mother who is unwell. The live-in carer's room needs to be adjacent to my mother's room. She can no longer live on her own. We have tried a care home and it has not suited her. We hope

this application will be considered with compassion and look forward to an early response so that we can move her permanently to our home.'

4.3 **Key Issues**

- 4.3.1 The key issue is whether retention of condition 3 of planning permission 10/00693/1 which withdrew all permitted development rights for extensions and outbuildings under classes A – E is reasonable and necessary in the interests of the character and amenities of the area.
- 4.3.2 Southview and its curtilage is well screened from Pottersheath Road and the surrounding properties by mature landscaping including hedges and mature trees along its boundaries. This landscaping has matured since the replacement dwelling was constructed in 2010 over 15 years ago. Any new extensions that could be undertaken under permitted development (although that is now limited due further extensions having been added (see history above)) or outbuildings will be well screened by the existing landscaping around the site. Therefore the impact of such development on the 'character and amenities of the area' (as the reason given for withdrawing permitted development) will be limited in my view. As such the reason for withdrawing permitted development since the construction of the original dwelling has diminished over time.
- 4.3.2 Paragraph 57 of the NPPF (2024) 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.'*
- 4.3.3 Planning permission ref: 10/00693/1 has been implemented in full and the dwelling extended since under two further planning permissions (see above history). As stated above the scope for extending the property further with extensions under permitted development is limited because of the new extensions added since the construction of the replacement dwelling.
- 4.3.4 Several dwellings in the Pottersheath Road area have been extended in recent years and some new dwellings added. The character of the area has gradually changed over the last few years. Furthermore, apart from being within the Green Belt there are no special designations such as a conservation area or nearby listed buildings, that convey a level of special character that would be harmed by the normal exercising of permitted development rights by house owners on the area.
- 4.3.5 The application site is a substantial plot (despite the size of the current dwelling as extended) and like the appeal decision mentioned, the spacing around this plot is no different to its neighbours to suggest that the continued removal of permitted development rights is necessary to protect the 'character and amenities' of the area.
- 4.3.6 In view of the above analysis it is considered that the retention of condition 3 of planning permission ref: 10/00693/1 is not reasonable or necessary in the interests of the character and amenities of the area. Accordingly permission should be granted to remove the condition.

4.3.7 In terms of conditions there is no need to re-impose the original time limit condition or condition 2 for the development to be carried out in accordance with the approved plans as the dwelling has been constructed. The original dwelling house has been demolished therefore the original condition 4 is not required either. Condition 5 requiring a turning area to be provided has been complied with so that is not required to be re-attached to any new permission either. Condition 3 is deleted as requested. A simple grant of planning permission is all that is required. The originally approved plan numbers have been added to the list of approved plans so that it is clear what is being granted permission.

4.3.8 BNG and Climate change

This application is exempt from the BNG regulations and the scale of the development is unlikely to result in any significant impact on local climate change.

4.4 **Conclusion**

The proposal to remove condition 3 is now justified and acceptable in planning terms.

5.0 **Recommendation**

5.1 That planning permission be **GRANTED**

1. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

Biodiversity Net Gain

1. This development is not subject to the statutory Biodiversity Gain Plan condition because it is considered exempt under the statutory exemptions (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>) or transitional arrangements in respect of the biodiversity gain condition.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed  Sam Dicocco	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 22 April 2025	