

Assistant Director of Planning  
Gravesham Borough Council  
Civic Centre  
Windmill Street  
Gravesend  
DA12 1AU

25 June 2024

**OUR REF: JE/21/240**

Dear Sir,

**ROCKLEY HOUSE, WROTHAM ROAD, CULVERSTONE, GRAVESEND, DA13 0QN.**

I enclose on behalf of my client, Mrs Ann Green an application under Section 73 of the Act for the removal of condition 10 of planning permission 20230700 granted on the 21<sup>st</sup> February 2024. The application is accompanied by the appropriate fee.

As this is a Section 73 application for the removal of a condition, I am attaching only the site location plan with the original application site outlined in red and other land owned by the applicant outline in blue.

**Background**

Planning permission was granted on the 21<sup>st</sup> February 2024 for the conversion and change of use of an existing detached garage building to a 2 bedroom dwelling with 2 parking spaces at Rockley House, Wrotham Road, Culverstone. As the building is an existing building of sound and permanent construction it was judged that the application proposal constituted appropriate development in accordance with paragraph 155 of the Framework. The detached garage building is within the residential curtilage of Rockley House. However, the existing dwelling would not be deprived of parking spaces as there is other existing parking availability within the curtilage.

The planning permission that was granted was subject to condition 10 which removed all permitted development rights in respect of Class E and F of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Condition 10 states as follows;

***Notwithstanding the provisions of Article 3, Part 1 Classes E and F of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended or any provision equivalent to those classes in any statutory instrument revoking and re-enacting that Order, with or without modification, no building or enclosure for a purpose incidental to the enjoyment of Rockley House nor any hard surface shall be constructed within the curtilage of Rockley House.***

This application seeks to remove condition 10 as it is considered not to comply with relevant policy as set out in National Planning Policy Framework (NPPF) nor relevant guidance in the NPPG.

### **Relevant Policy**

Paragraph 56 of the Framework states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. These are often referred to as the 6 tests.

In the NPPG at; 21(a) -017-20190723 it is stated that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. It also states that blanket removals of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.

In this case, Rockley House currently enjoys the rights conferred by Classes E and F of Schedule 2 of the GPDO. Those rights would be extinguished upon the implementation of planning permission 20230700.

### **Assessment**

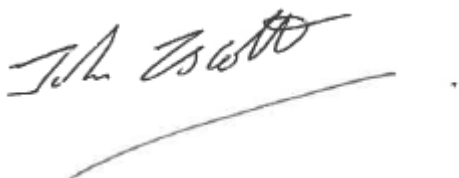
Paragraph 155 of the Framework makes it plain that the conversion and re-use of existing buildings that are of sound and permanent construction is acceptable in principle in the Green Belt provided that the conversion preserves openness of the Green Belt and does not conflict with the purposes of including land within it. The conversion of the existing garage, on its own merits, would not result in any adverse impact on Green Belt openness.

It is assumed that condition 10 was imposed on the basis of speculation that the loss of the detached garage may result in a new garage building being erected as permitted development within the curtilage of Rockley House. However, the applicant could erect a garage or any other outbuilding or install any hardstandings at the moment as permitted development provided that they comply with the criteria set out in Classes E and F of Schedule 2. To remove PD rights on this basis would be unreasonable and also unnecessary. Class PD rights are not disapplied simply because land is within the Green Belt. It must follow, therefore, that the exercise of such rights are not to be judged as having a harmful effect on Green Belt openness. This point is made in the attached appeal decision which is consistent with a multitude of other similar decisions.

Accordingly, it is considered that condition 10 does not accord with policy as set out in paragraph 56 of the Framework. It fails the tests of reasonableness and necessity and it should be removed.

If there are any matters that you feel require further discussion or clarification then please do not hesitate to contact me, otherwise, I look forward to receiving the Council's approval at the earliest opportunity.

Yours Faithfully.



**John Escott**

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