

3<sup>rd</sup> June 2022

Dear Sir or Madam

I write to provide further details for your consideration to support an application under Section 73 of the Town and Country Planning Act 1990 to remove or at the very least vary planning condition 4.

**Property:** 145 Waterdales, Northfleet DA11 8HY

**Planning permission** ref GR/20050329 dated 22 June 2005

Conversion of post office into residential dwelling

**Condition 4** *Notwithstanding the provision of Article 3 of and Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended, no enlargement, improvement or other alteration to the dwelling, as hereby permitted including the insertion of windows or an addition or alteration to its roof shall be carried out without the prior written permission of the District Planning Authority having first been obtained.*

**Reason**

*In order that any further alterations of the building may be subject of a separate planning application which District planning authority would wish to consider on its merits having regard to the impact on the privacy and amenity of the occupants of adjoining dwellings.*

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I recently purchased this property. It is a link detached 3 bedroomed property with garden to the rear only. The property appears to have been in the same ownership since the conversion from post office to residential in 2005. Since then, the property has been poorly maintained throughout and its fabric has significantly deteriorated over the years

and now requires an extensive programme of repair, refurbishment and improvement.

It is important to note that the property is currently not habitable due to its poor condition and therefore remains empty. The roof is not structurally safe as it stands at present.

Condition 4 removed a significant part of permitted development rights, and this unfortunately will severely restrict us in what we can do now to restore and improve its amenities .

Permitted Developments rights that are enjoyed by most householders up and down the country are severely restricted on this property!.

I wish to respectfully request you to reconsider the necessity of Condition 4, please .

The property is not locally or nationally listed. Nor is it in a conservation area nor Green belt area.

It is a standard house in an urban area with no notable or significant features. When it was converted from post office to residential in 2005, you will note from the plans, enclosed, that there was no enlargements or extensions carried out then. The only modification/material change carried out was that the lower front shop windows and door opening were changed to give it a residential appearance. That was simply the extent of alteration work that was done at that time before it was used as a dwellinghouse.

1. Given that the modifications were extremely limited, modest and straightforward the imposition of condition 4 appear punitive.

The property is no different to any other property, by virtue of its location, that is allowed to exercise Permitted development rights.

2. The Council's reason for the condition imposed is due to *'impact on privacy and amenity of occupants of adjoining dwellings'*.

I would like to address these as follows:

**PRIVACY**– The property is a 2-storey link detached house with bedrooms on the first floor and bathroom to the rear with obscured glass. and living areas to the ground floor. The front windows face the street directly and there is no front garden

The existing rear windows face the very long back garden which backs onto the disused railway line that is overgrown by vegetation.

The adjoining houses on either side of the subject property are therefore:

- a) 147 Waterdales – converted to upstairs and ground floor flats. In fact, the upper flat has a rear balcony platform on the first floor that protrudes by about 1.3m from the rear wall leading to stairs going down into their garden. This upper balcony area and upper part of stairs does overlook into my property's garden from that vantage point. I would deem this as having an impact on privacy to the adjoining property yet this planning permission has been granted for this structure (Application Ref 19910399)

There is a high shrubbery between my property and 147 which obstructs most of the overlooking on either side of the two properties at present.

- b) 9 Fleet Terrace – This forms part of the Fleet Tavern pub conversion to residential.

Planning Reference number 20010450 and 20000442. This property appears to have built after 145 Waterdales.

This property is set back from my property by approximately 9 meters. So the rear wall of this property extends into their back garden by about 8 meters from the rear wall of my property. As such, their patio area is not visible from any of my rear windows.

I would also like to add that as this property extends by 8 meters to the rear, from the rear wall of my property, there is some overshadowing to the ground floor patio door of my property (not following the 45 degree guidelines) by this adjoining property , yet it has passed planning controls.

There is already an existing small window in the ground floor to the side flank of my property facing 9 Fleet terrace. However, it

overlooks a small parcel of land that belongs to UK Power Network (Title K903323) a disused electricity substation.

My existing rear windows on the first floor which are bedrooms, do overlook to some extent into a portion of the rear gardens on either side. However, this is mutual and no different to any other urban line of houses.

There is no overlooking either present or potential into the habitable rooms of any of the neighbouring properties.

So, the privacy issue as a result of any proposed development under Permitted Developments rights (if allowed) to 145 Waterdales, will not be any more than what is existing at present.

A block plan is enclosed for your reference

## **AMENITY**

- Private Rear garden

The rear garden of this property measures about 8.5meters wide by about 28 meters long. This garden is private to neighbouring houses and is more than ample for a residential property of this size. Currently due to the neglect by the previous owners of the property, the garden is extremely overgrown and encroaching into neighbouring properties which as it stands does interfere with their amenity. We propose to address this as soon as possible and clear the garden which will benefit the neighbours too.

- Parking

Waterdales has some retail properties but mostly residential. There is reasonable amount of traffic and parking is plentiful on the street.

Although there are no restrictions on parking on the main road, this property benefits from a right of way (pedestrian and vehicular) from its rear garden into Waterdales. At present, there is a dilapidated garage situated at the end of the garden, which we

propose to restore to use as secure parking spaces for 2-3 small cars.

Also, it should be noted that the property was formerly a post office, so it stands to reason that visiting customers and post office service vans etc will have needed to use the parking spaces on the road. So, parking issues would not be have been made any more worse being residential.

At the time of the application permission, Council planning was also aware of the garage provisions to the rear of the property, yet chose to give 'amenity' as one of the reasons for the imposition of Condition 4.

- Light

Any proposed development due to the location of the property and the location of the neighbouring property will not have any more of an impact than that of the existing arrangement.

### **Supplementary information enclosed**

I read with interest the C73 application for removal of condition 4 .  
Planning ref 19950472 Fairwinds, Pear Tree Lane, Shorne DA12 3JX.

And, in particular the Appeal Decision that was allowed–

APP/K2230/D?21/3285274 dated 28 April 2022.

Some of the general statements made with regard to condition 4 by the Planning Officer from The Planning Inspectorate resonated with my situation.

Please refer to Planning Officers Reasons for Recommendation, as numbered in his report which I am quoting below verbatim “....

5. It is necessary to consider whether the disputed planning condition meets the guidance for planning conditions set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The condition in dispute effectively removes Classes A and B, Part 1, Schedule 2 permitted development rights

as are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) which relate to the enlargement, improvement or other alteration of a dwellinghouse, as well as additions to the roof of a dwellinghouse.

6. The Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness and necessity. The NPPF indicates that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
10. I find the disputed planning condition is unnecessary and conflicts with paragraph 56 of the NPPF which seeks to ensure that planning conditions are only imposed where they are necessary and reasonable. “

Isn't it also the case, as the appeal inspector states '.... that permitted development rights for extensions only relate to the original part of the dwelling and any potential extensions would be in moderate scale and relative to the size of the plot' as per the guidelines dictated, anyway?

On the basis of this recent successful appeal decision on a property that is actually on a Green belt area, it would seem that the condition 4 imposed a modest conversion to residential such as 145 Waterdales in an area of no particular significance is 'overly cautious and restrictive'.

I understand that the reason for condition 4 is different by comparison. However, 145 Waterdales by nature of its position and location and limited scope is no more significant in privacy and amenity issues than any other property on that street (who are freely enjoying PD rights) or for that matter any other property in a similar urban setting to warrant justification of removal of significant permitted development rights.

And as alluded to in the appeal example 'may not pass the tests of reasonableness and necessity' in this case with regard to impact and privacy and amenity of the occupants of the adjoining dwellings, for reasons I have explained earlier in this letter.

Lastly, I would like to take this opportunity to also look at some of the tests listed on NPPF Para 55 that lay down the general criteria for the validity of conditions. I would like to present my comments as follows by quoting relevant sections from PPG:

### Test 1 Necessary

In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification.

I understand that my property might have been extended in the past, to the ground as well as a first floor, so there is no intention to extend any further into the garden that would have an impact on privacy of either adjoining properties.

In any case, even if (hypothetically) Permitted Development applied in this case, the allowance on ground floor rear extension will have been already used up by additions created well before the 2005 application that meant we would need to apply for full planning anyway.

So, inserting Condition 4 for the sake of impact on 'privacy' and 'amenity' to occupants of adjoining dwellings, seems unnecessary, due to the following reasons:

- There are no properties to the rear by more than 80 meters for 'overlooking' considerations and is obscured by vegetation on the disused railway.
- Any new windows inserted if any, would follow the PD guidelines for example .... "If new windows are in an upper-floor side elevation they must be obscure-glazed and either non opening or more than 1.7 metres above the floor level' etc.
- The privacy reason for the Condition seems to duplicate a requirement for compliance that is already in GPDO Permitted guidelines, which can be enforced.
- Concerns about "...the property sits well forward of the adjoining newer properties to the east and any potential

extensions or additional fenestration could material impact on the nearest property”, can be addressed as follows, notwithstanding the existing overshadowing 45 degree breach) aspect of 9 Fleet Terrace on 145 Waterdales.

- a) Any ground floor extension, if proposed, would need full planning submitted anyway, due to the fact the property having been extended previously. So any privacy considerations will be dealt with by planning separately, making this Condition redundant
- b) Even if there were ‘additional fenestrations’ on the side wall this would be covered by the obscure glazing conditions in GDPD anyway, eliminating privacy concerns. I note that 9 Fleet terrace has 2 windows on the side wall facing my property.
- The property has facilities for its own secure private parking to the rear for 2-3 cars (as explained earlier) so ‘amenity’ issues will be covered under this provision.
- The permission granted in June 2005 mentions this clearly under Condition 5, so the planning officer was well aware of the private parking amenity at that time.

### Test 3 Relevant to the development permitted

As is apparent from the drawings submitted with the application in 2005 (attached) , there were no enlargements to the property. The changes made were extremely limited which were submitted to planning. Only windows and door changes were submitted. Therefore, condition 4 was not relevant to the actual plans submitted in the original planning application that was permitted.

It is not sufficient that a condition is related to planning objectives: it must also be justified by the nature or impact of the development permitted.

### Test 6 Reasonable

The original application was for conversion of post office to residential. Given it is a conversion from a commercial premises, condition 4 is 'unduly restrictive' as it effectively nullifies the full benefit of that permission for executing a commercial to residential conversion.

I consider it unreasonable that we are unable to work, on this dilapidated property, without going through an onerous process with the planning authorities, to make it safe, habitable and improve it, due to restrictive Condition 4 which are unnecessary for reasons above.

Also, as explained earlier it is not 'reasonable' to restrict PD rights without good reason when there is nothing sensitive, significant about this property nor its location when compared to any other dwellings in the country that automatically enjoys Permitted Development rights.

Conditions should be tailored to tackle specific problems, rather than impose unjustified controls.

I conclude that Condition 4 has not satisfied the tests of being necessary, reasonable and relevant to the development permitted and therefore falls short of the guidance contained in Paragraph 55 of the National Planning Policy Framework.

I respectfully request your kind consideration of all these reasons in reconsidering Condition 4. It will mean that we can get on with the job of restoring this dilapidated property unburdened, like most householders are entitled to do.

*As quoted in Circular 11/95* "...Secretaries of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants.

Ideally, I request the removal of Condition 4 for the reasons justified above, but at the very least a variation of the Condition by removing Class B and C (addition or alteration to the roof) so we can get on with

the pressing jobs. As mentioned earlier, the roof is not structurally sound, there are gaping holes in the roof tiles (as a result of several missing tiles and damage, see photos) and there has been water ingress over several years, whilst in the possession of the previous owner, which has led to the first floor ceiling to bow and on the verge of collapse. This has rendered the property unsafe and uninhabitable in its present state. It is imperative that we replace the roof as soon as possible and replace several of the damaged/decayed supporting timbers that are causing the collapse. During the process of replacing the entire roof coverings and replacing decayed roof structure, we propose to take advantage of the re roofing opportunity to convert part of the loft as a habitable space subject to the guidelines. Again with this option, privacy issues will be exactly the same as existing arrangement for reasons explained earlier and of course enforceable if in breach.

I would be happy to provide any additional information that you may require. Or, if you need to make a site visit, I would be happy to arrange at your earliest convenience.

It would be greatly appreciated if could speak with me to discuss before you make your decision.

Yours faithfully

Sheila Gopinathan