



Mr L Pountain & Mrs L M Pountain

**Appeal Under Sec.174(2)a of the Town
and Country Planning Act 1990 Against
South Staffordshire District Councils
Issue of an Enforcement Notice Under
Sec.172 of the Town and Country
Planning Act 1990 Relating to an Alleged
Breach of Planning Control Under
Sec.171A(1) of the Town and Country
Planning Act – Construction of Brick Built
Two-Storey Building for the Purposes of
Independent Residential Dwelling House
at Meadow View, Paradise Lane, Slade
Heath, Staffordshire, WV10 7NZ.**

September 2023

2 Cities Planning Consultancy

APPEAL UNDER SEC.174(2)A OF THE TOWN AND COUNTRY PLANNING ACT 1990 AGAINST SOUTH STAFFORDSHIRE DISTRICT COUNCILS ISSUE OF AN ENFORCEMENT NOTICE UNDER SEC.172 OF THE TOWN AND COUNTRY PLANNING ACT 1990 RELATING TO AN ALLEGED BREACH OF PLANNING CONTROL UNDER SEC.171A(1) OF THE TOWN AND COUNTRY PLANNING ACT – CONSTRUCTION OF BRICK BUILT TWO-STOREY BUILDING FOR THE PURPOSES OF INDEPENDENT RESIDENTIAL DWELLING HOUSE AT MEADOW VIEW, PARADISE LANE, SLADE HEATH, STAFFORDSHIRE.

APPEAL REFERENCE:

REBUTTAL STATEMENT

The following is a Rebuttal Statement produced by 2 Cities Planning Consultancy on behalf of Mr and Mrs Pountain in response to Statement of Case produced by South Staffordshire District Council in relation to the appeal at Meadow View, Paradise Lane, Slade Heath, Wolverhampton.

1.0 Background

- 1.1 2 Cities Planning Consultancy are a Planning Consultancy based in Fradley near Lichfield, Staffordshire with over 30 year's experience in dealing with complex development management, planning policy and enforcement matters. We have been instructed by the appellants, Mr and Mrs Pountain to take this appeal forward.
- 1.2 On 19th May 2023 an Enforcement Notice was served on the appellants, Mr L Pountain and Mrs L M Pountain, both of which reside at the appeal premises, Meadow View, Paradise Lane, Slade Heath, Wolverhampton WV10 7NZ and Together Personal Finance Limited of Lake View, Lakeside, Cheadle SK8 3GW under Sec.172 of the Town and Country Planning Act 1990. The Enforcement Notice alleges that there has been a breach of planning control, within paragraph (a) of Sec.171A (1) of the Town and Country Planning Act 1990. The issued

Enforcement Notice describes the matter which appears to constitute planning permission as ‘the construction of a brick built two storey building (“the Building”) for the purposes of an independent residential dwelling house in the approximate position shaded blue on the plan’.

- 1.3 The Enforcement Notice notes that it appears to the Council that the breach of planning control (the construction of the brick built two storey building) on the land had occurred within the last four years and therefore is not immune from enforcement action. The appellants do not dispute this.
- 1.4 The Enforcement Notice (the “Notice”) continues by noting that the unauthorised development is located in an area of countryside and designated Green Belt to the east of the village of Coven. The land is also within a 15km radius Zone of Influence for the Cannock Chase SAC. The unauthorised development is the construction of a brick built two storey residential dwelling house set to the rear of the Land.
- 1.5 The “Notice” also notes that the unauthorised development is located within the designated Green Belt. Paragraphs 147 and 148 of the National Planning Policy Framework 2021 (NPPF) make it clear that inappropriate development is by definition, harmful to the greenbelt and that ‘very special circumstances’ must exist which clearly outweigh any harm for development to be permitted. No ‘very special circumstances’ exist for the unauthorised development, and it is therefore inappropriate development contrary to policy GB1 Of the Core Strategy (2012) and the Green Belt and Open Countryside SPD (2014).
- 1.6 The “Notice” continues by noting that the unauthorised development is in a highly visible location when viewed from the access road and from views from New Road. The siting to the rear of the property amounts to back land development and is in direct conflict with the landscape setting and respected settlement form of the residential dwellings in the area which follow a linear fashion and front directly onto the roads. It has brought a substantively more suburban feel to the otherwise rural area and appears alien and awkward in its setting of detriment to the otherwise relatively undeveloped rural character and appearance of the area.

- 1.7 The “Notice” further notes that the unauthorised development is sited immediately to the rear of the garden of the neighbouring properties where first floor windows face the garden and primary outdoor amenity space of the neighbouring site. Furthermore, the proximity of the unauthorised development to the boundary is overbearing, imposing, intrusive in its setting, and of detriment to the level of amenity reasonably anticipated for the neighbouring property. As a result, the unauthorised development is contrary to the guidance contained within Chapter 12 of the NPPF, Core Policies 3 and 4, and development policies EQ4, EQ9 and EQ11 of the Core Strategy, and the Council’s Design Guide 2018.
- 1.8 It is further noted in the “Notice” that the land is within 15km radius of the Cannock Chase Special Area of Conservation (SAC) which is protected under the Conservation of Habitats and Species Regulations 2010 and the NPPF at paragraph 182 makes clear that the presumption in favour of sustainable development does not apply where development is likely to have a significant effect on an SAC. No Habitat Regulations Assessment has been submitted or mitigation has been provided and based on the precautionary principle the Authority cannot be satisfied that that the new dwelling will not be likely lead directly or indirectly to have a significant adverse impact on the integrity of the Cannock Chase SAC contrary to, Core Policy 2, and development Policies EQ1 and EQ2, and the Cannock Chase SAC guidance document (2022).
- 1.9 The “Notice” continues further by noting that Paragraph 8(c) of the NPPF highlights the need to improve biodiversity to achieve sustainable development. Strategic objective 4 and Core Policy 2 of the Core Strategy aims to protect, conserve, and enhance the diversity of wildlife and habitats. Further, the NPPF encourages that all new development should provide beneficial biodiversity features as part of good design and leave the natural environment in a measurably better state than it was beforehand. Paragraph 174 specifically seeks to conserve and enhance the natural environment by minimising any impacts and providing net gains for biodiversity. No consideration has been given to biodiversity on the site and no mitigation or compensation has been provided.

1.10 The “Notice” concludes that given the substantial harm articulated above the Council do not consider that conditions could overcome the issues caused by the unauthorised development. The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development.

1.11 The Enforcement Notice requires the appellants “...to

- i) Cease the use of the Building on the Plan as an independent residential dwelling house.**
- ii) Demolish the Building including the concrete slab and footings.**
- iii) Remove all materials and debris resulting from compliance with ii) above from the Land.”**

1.12 The “Notice” states that the appellants have six months to from the date of issue to comply with the aforementioned requirements. The “Notice” was issued on the 19th May 2023 and takes effect on 22nd June 2023.

1.13 With reference to Sec.174(2) of the Town and Country Planning Act this appeal is based upon ‘Ground’ (a) i.e that planning permission should be granted for what is alleged in the notice.

1.14 The appeal site comprises a detached two storey brick-built building that the Council state is being used for the purposes of an independent dwelling house. To the east of the appeal building lies Meadow View, a bungalow located on land fronting Paradise Lane. The site lies within the Green Belt, to the east of the village of Coven. The site is bordered to the south by open paddock land and this land, Meadow View and the appeal premises are in the same ownership as the host dwelling. Further to the south are open fields; to the northern and western sides are a mixture of detached two storey and single storey dwellings. The property benefits from significant private amenity space, within which the garage, which the appeal premises replaced, sat to the rear of the Meadow View. There is generous off-street parking available at the front of the property and a detached rear garage available behind the site accessed by a track between the dwelling and the new build dwelling

to the northern side. Meadow View itself has been significantly extended over the years with the addition of the northern side/rear projection and the workshop to the principal elevation which has been historically connected into the footprint of the dwelling by the utility addition. A current application seeks permission for a revised roof design for previous approval of scheme (Ref No 20/00859/FUL).

- 1.15 The appeal proposal consists of the retention of a brick-built two storey building for currently used for the purposes of an independent residential dwelling house.

2.0 Rebuttal Statement

- 2.1 Paragraphs 1.1, 1.2 (x2), 1.3 2.1, 2.2 and 2.3 of the Councils Statement of Case are noted.
- 2.2 Paragraph 2.4 of the Councils Statement of Case refers to paragraph 80 of the National Planning Policy Framework (NPPF). Paragraph 80 of the NPPF states that **“Planning policies and decisions should avoid the development of isolated homes in the countryside...”** unless one or more of a number of circumstances apply. It is contended that whilst the appeal site does not lie within a village or settlement (as defined by the adopted Core Strategy, 2012) the built form of the surrounding area follows a linear pattern along the highway (Paradise Lane) which predominantly consists of residential properties. It is contended that the area consists of a group of properties in the countryside and as such the appeal proposal can not be considered as an isolated home. As such is it also contended that paragraph 80 of the NPPF is not relevant to the determination of this appeal.
- 2.3 Paragraph 2.4 continues by referring to Core Policy 1 of the Core Strategy (2012). Core Policy 1 relates to the Spatial Strategy for South Staffordshire and aims to aid the rural regeneration of South Staffordshire through the implementation of the Spatial Strategy. The principal aim of the Strategy is to meet local needs, whilst recognising the constraints that impact upon the District, and support and improve infrastructure and service delivery in the District. It is noted that development proposals are expected to make efficient use of land and prioritise the use of

Previously Developed Land (brownfield land) in sustainable locations, provided it is not of high environmental value, whilst safeguarding the character of existing residential areas. It is contended that whilst the appeal site does not constitute 'brownfield land' the site is currently being used inefficiently. The appeal premises (Meadow View) sits within a very large domestic curtilage within existing settlement that has been formed along Paradise Lane. The appeal site can not be considered to be isolated; the lies within the existing settlement of Slade Heath and as such would not give rise to significant harm to the intrinsic rural character of the surrounding countryside.

2.4 Paragraph 2.5 of the Councils Statement of Case contends that the appeal development is in a highly visible location when viewed from the access road and from views from New Road. It is contended that the appeal development cannot be seen from clearly from Paradise Lane nor New Road (adjacent to the appeal sites southern boundary). The access road referred to by the Council is a private road to the rear of the appeal site that provides access to a commercial premises (Manor Farm and Larry's Industrial Tyres). It is noted that the appeal development cannot be seen from distance along New Road to the east of the appeal site.

2.5 Paragraph 2.5 of the Councils Statement of Case continues by stating that **"...the siting to the rear of the property amounts to back land development and is in direct conflict with the landscape setting and respected settlement form of the residential dwellings in the area which follow a linear fashion and front directly onto the roads. It has brought a substantively more suburban feel to the otherwise rural area and appears alien and awkward in its setting of detriment to the otherwise relatively undeveloped rural character and appearance of the area."** It is noted that, whilst the majority of the residential development along Paradise Lane can be described as frontage development, there is significant commercial development behind the residential properties. These commercial properties include Manor Farm Larry's Industrial Tyres, Spray Tanker Services and ABCO Electrical Services which are accessed off the private road to the rear of the appeal site.

- 2.6 Paragraph 2.6 of the Councils Statement of Case discusses the impact of the appeal development on the residential amenities of the neighbouring properties. It is noted that this matter was previously examined in the appellants Statement of Case (paragraphs 6.23 and 6.24).
- 2.7 Paragraph 2.7 of the Councils Statement of Case discusses the impact of the development on the Cannock Chase Special Area of Conservation (SAC) which is protected under the Conservation of Habitats and Species Regulations 2010. This matter was previously examined in the appellants Statement of Case (paragraphs 6.20 and 6.21).
- 2.8 Paragraph 2.8 of the Councils Statement of Case discusses biodiversity. This matter was previously examined in the appellants Statement of Case (paragraphs 6.17 and 6.18).
- 2.9 Paragraph 2.9 of the Councils Statement of Case is noted.
- 2.10 Paragraphs 2.10 and 2.11 and 3.0 of the Councils Statement of Case are noted.
- 2.11 Paragraphs 4.1 to 4.9 of the Councils Statement of Case are noted.
- 2.12 Paragraph 5.0 of the Councils Statement of Case is noted.
- 2.13 Paragraph 6.1 of the Councils Statement of Case is noted.
- 2.14 Paragraph 6.2 of the Councils Statement of Case states that their case is straightforward; that the building is unauthorised and that it has a number of unacceptable harmful impacts upon the Green Belt, residential setting and residential amenity that clearly outweigh factors in favour of the development in the planning balance. It should be noted that just because the building is unauthorised does not mean that the building is unacceptable. The appellants were unaware that planning permission was required. The appeal building was constructed so that the appellants and their family had a suitable house to live in whilst they undertook

building works to Meadon View (works authorised by the Council under Planning Application Reference No's 20/00859/FUL, 21/00304/LHSHLD and 23/00502/FULHH. The issues concerning harmful impacts upon the Green Belt, residential setting and residential amenity are discussed in within the appellants Statement of Case.

2.15 Paragraph 6.4 of the Councils Statement of Case states that the **“The Building is, by definition, inappropriate development within the Green Belt and such harm is automatically afforded substantial weight in the planning balance of the decision-making process. The development causes substantial, demonstrable harm to the Green Belt by reason of its inappropriateness.”** The matter of whether the building is inappropriate development or not is discussed at length (para's 6.3 to 6.8) in the appellants Grounds of Appeal.

2.16 Paragraph 6.5 of the Councils Statement of Case of correctly states that the appeal building sits within the substantial grounds of the host dwelling but incorrectly states that it faces an access road to the rear of the site (east of the appeal site) that serves the commercial premises that lie behind the houses that front onto Paradise Lane. The appeal building actually faces into the site; towards Meadow View. It should be noted that both the appeal building and Meadow View are owned by the appellants.

2.17 Paragraph 6.6 of the Councils Statement of Case refers to Paragraph 149 of the NPPF which **“...indicates that, except for a small number of exceptions, the construction of new buildings within the Green Belt should be regarded as inappropriate. Exceptions to this include (e) 'limited infilling in villages.’** The Statement continues by noting that **“...whilst Policy GB1 [adopted CS policy] omits the requirement for limited infilling to occur in villages, the footnote gives a definition of what the LPA consider to constitute infill development as:**

‘Limited infilling is defined as the filling of small gaps (1 or 2 buildings) within a built up frontage of development which would not exceed the height of the existing buildings, not lead to a major increase in the developed proportion of the site, or have a greater

impact on the openness of the Green Belt and the purpose of including land within it.” Again, this matter is discussed at length in the appellants Grounds of Appeal.

- 2.17 The Council also make reference to the appellant stating that the appeal building is not materially larger than the building it replaces. It is unclear where the appellant has stated this as the Council do not reference where it was stated. It should be noted that there was a large two-storey building located in a similar position to the appeal building. The effect on the appeal building on the openness of the Green Belt was examined in paragraphs 6.10 to 6.15 of the appellants Grounds of Appeal.
- 2.18 Paragraph 6.8 of the Councils Statement of Case discusses the effect of the appeal building on the openness of the Green Belt. The LPA have produced aerial imagery dated April 2021 (Appendix 6 of their Statement of Case) shows the garage that lay in the approximate position of the appeal building (although turned at 90 degrees). The Council contends that this imagery shows a single storey building. It is contended that the aerial imagery does not clearly demonstrate whether the garage building was single or two storeys in height. This is the Councils only evidence to demonstrate that the appeal building has a greater impact on the openness of the Green Belt. In fact the aerial imagery clearly show that the existing garage building was substantial in size; when this building is compared to the double garage of the adjacent dwelling house the existing garage was at least double its size. The replaced double garage was not, as contended by the LPA, a small garage building.
- 2.19 In respect to the Councils contention that the appeal building has resulted in the clear presence of suburban development in an otherwise rural area (para 6.11), it is noted that they also contend that that is in direct conflict with the landscape setting, and a stark contrast to the much smaller garage with the appearance of an agricultural building that it has replaced. It should be noted that the appeal site forms part of the wider domestic curtilage of Meadow View and replaces a large double garage that was used by the occupiers of Meadow View. It should also be noted that no evidence has been put forward by the LPA to demonstrate the ‘agricultural’ appearance of the replaced garage building. It is, therefore, contended

that the Building is, therefore, in keeping with paragraphs 137, 147 and 148 of the NPPF and policies GB1 and EQ4 of the South Staffordshire Core strategy 2012.

2.20 In respect to residential amenity the Councils Statement of Case (para's 6.13 and 6.14); the Council contend that evidence has been produced that demonstrates the effects on residential amenity. It would appear from the photographs included in Appendix 3 of the Councils Statement that there is little or no overlooking due to the distance between the windows of the appeal building and the adjacent dwellinghouse). In fact the photographs clearly show the appeal building is not a two-storey dwellinghouse, as contended by the LPA, but a one and half storey dwelling where the upper floor accommodation is contained within the roof space. As such the unauthorised development is in keeping with the guidance contained within Chapter 12 of the NPPF, and development policies EQ9 and EQ11 of the Core Strategy, and the Council's Design Guide 2018.

2.21 The Councils comments with regards to 'Very Special Circumstances' are noted.

2.22 The Councils comments with regards to the provision of a sensory room for the appellants son are noted. The accommodation within the appeal building does include a sensory room for their disabled son. However, the appeal building is to facilitate the family being able to live on-site whilst the approved permissions for Meadow View are undertaken and whilst it is more common to use temporary buildings whilst the buildings works are undertaken the appellants son's disability does not make this form of temporary accommodation suitable.

2.23 As such, the Inspector is invited to allow the appeal under Ground A and planning permission should be granted.

3.0 Conclusion

3.1 The appeal proposal demonstrates that planning solutions can unlock the development potential of this site, meet local needs and deliver development where it is sustainable to do so, without adversity outweighing the positive merits. For the reasons set out above, the proposal represents appropriate development in the

Green Belt and as such residential development is entirely appropriate. It is not of detriment to the environment or to the amenity of existing or future occupants of the development. It makes the best and most efficient use of the appeal site.

- 3.2 At the heart of the NPPF is a presumption in favour of sustainable development and accordingly, sustainable development should be approved without delay. The location, type and scale of the proposed development represents sustainable development having regard to the current use and wider character of the site.
- 3.3 There are no adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme rather, the development as proposed will contribute towards enhancing and promoting the image of the area through the creation of a high quality and positive development. There are no policies in the NPPF which mitigate against this development being approved.
- 3.4 The appeal proposal has been fully assessed against national and local planning policy and is in accordance with the principles and objectives of these frameworks. It represents a truly sustainable development that is deliverable and provides a solution to address key planning issues. It would not be at jeopardy with or set precedencies that conflict with the Council's spatial strategy given the function of the site.
- 3.5 In these circumstances the Inspector is most respectfully requested to allow this appeal.

4.0 Suggested Conditions and Informative

- 4.1 The appellant agrees to the imposition of the suggested conditions (and informative) should the appeal be allowed and planning permission granted.