BRETT INCORPORATED
PLANNING AND DEVELOPMENT SERVICES
LIMITED

25 October 2024

Our Ref.: 0973.4

LPA Ref.: RS/11/01

Dear Emma,

Daisy Cottage, Bonnetts Lane, Ifield RH11 0NX

Removal of conditions 3 and 4 of RS/11/01

I enclose herewith an application made under section 73 of the 1990 Planning Act for the removal of conditions 3 and 4 in their entirety from planning permission RS/11/01.

For the avoidance of doubt, the documents recently uploaded onto the planning register show amended Brett Associates (BA) plan 369/01/01A was approved in connection with this residential conversion permission. At the time, save for the electronic drawings, all BA application documents etc were retained as hard copies, since securely destroyed following winding up of that business in 2003.

For these reasons, the Council was requested to upload all supporting documentation, including the committee or delegated report onto the planning register in order to understand fully the background to the imposition of conditions 3 and 4. However, for reasons that are not entirely clear or transparent, other than the approved plan and decision notice, no other public

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documents from the planning file will be uploaded onto the register until such time as a formal Freedom of Information Request has been submitted and agreed in accordance with the associated charging schedule. This has not been pursued so this application is therefore based solely on the wording of the conditions and their related reasons for imposition.

Although a departure from the standard wording for conditions of this nature because it is not sufficiently precise as to the building(s) and specific elements of permitted development it purports to remove and could be read to control any alteration, inside and out, whatever its scale, condition 3 prevents the building(s) being extended or altered in any way unless permission is granted on an application in that behalf. The reason for the condition is in the interests of amenity and to comply with the Council's then policy regarding the conversion of buildings in the countryside. There are no references to policy documents or policies in justification of any other condition attached to the permission.

Condition 4 is considered appropriately worded because it specifically removes permitted development rights for Class E 'buildings etc incidental to the enjoyment of a dwellinghouse'. Unlike condition 3 however, there is no requirement for a planning application on that behalf before proceeding with such development but merely that prior approval in writing must be obtained from the LPA before doing so. The reason for the condition is in the interests of amenity with no mention of this control being exercised due to building conversion policy. It is unlikely this condition is enforceable or reasonable because there is no legal authority for an LPA to approve development outside a planning application or what passes as prior approval in writing.

Paragraph 003 of the Planning Practice Guidance notes that Paragraph 55 of the National Planning Policy Framework (NPPF) makes clear conditions should be kept to a minimum and only used where they satisfy the following tests:

1. necessary;

2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

Running alongside the guidance regarding conditions set out in the PPG and NPPF are the model conditions set out in Appendix A of Circular 11/95 entitled 'The use of conditions in planning permissions', which remains extant.

In the light of the requirements of section 38(6) of the 2004 Act to determine planning applications in accordance with the provisions of the Development Plan unless material considerations indicate otherwise, whether a condition is reasonable or necessary in principle will depend in no small measure on the policies etc of the Development Plan (DP). In this respect, the development itself and the conditions controlling it should, in essence, reflect the objectives of the Development Plan with every condition also complying with each of the six tests.

It appears there are no policies in the DP that promote the removal of permitted development rights, which is not surprising in view of the Government's commitment to extending such rights across the board to include upwards house extensions and conversion of agricultural and other buildings into residential use etc, all of which are considered will not harm amenity due to inbuilt limitations etc.

The reasons for condition 3 demonstrate that at the time RS/11/01 was determined the Council applied buildings conversion policy. Design Guidance Advice Leaflet No 3 entitled "Conversion of agricultural and other rural buildings into dwellings" was updated in December 2001. Along with the Local Plan, it encouraged residential conversion of rural buildings of character, reflecting the similar approach in the then Planning Policy Guidance Note No

7, and promoted the removal of permitted development rights for subsequent extensions to converted buildings in order to retain their original character and scale etc. In contrast, there appears to be no policy base for condition 4, which was applied to maintain control in the interests of amenity.

There can be no doubt, national and local DP policy has changed with reduced support for isolated residential conversions on sustainable transport grounds and the above 'barn conversion' guidance being withdrawn. Also, since 2001, there have been numerous appeal decisions that have confirmed, once converted, any extensions to a building converted into a dwellinghouse, must be considered against house extension policy prevailing at the time rather than conversion policy.

There are currently no policies in the DP, not even policy 10 of the HDPF that refers to rural economic development and encourages the conversion of existing rural buildings etc, which highlight permitted development rights or their need for removal etc. Furthermore, it is an intentional Government approach to increase domestic permitted development rights as a mechanism to reduce the burden of the planning system for as many as possible and to encourage economic growth etc. The latest domestic permitted development rights have been held to be within reasonable and acceptable limits in terms of impact on residential amenity etc of adjoining houses and the area in general etc. The application site does not stand within a protected countryside area such as an AONB or Green Belt etc, is under the flight path from Gatwick Airport and conjoins Stafford House where planning permission has been granted under DC/20/0882 and DC/21/2733 for its significant extension and subsequent use as a community centre with most of the remaining site put over to hardstanding for car parking. These combined works will urbanise the area and have a marked impact on the setting and amenity etc of Daisy Cottage such that the exercise of domestic permitted development rights will have no discernable impact on the visual amenity of the area, which, setting aside barn conversion policy that is no longer applied, is the reason given for the two conditions. There appears to be

no sound planning reason to retain the two conditions and preventing this well-established dwelling from benefitting from the full range of domestic permitted development rights enjoyed by the majority of dwellings in the District.

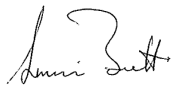
The Council is entitled to approve this application unconditionally or impose alternative conditions provided:

> *"they do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission."*

It is quite clear the Council's general approach to conversion of rural buildings and this part of the countryside has changed significantly since 2001. In the following years, appeal decisions effectively confirmed that once barns have been converted into residential use they should be subject to extension policy rather than barn conversion policy. At the same time the Government has extended domestic permitted development rights in the light of the new approach to planning control applied through the National Planning Policy Framework and Planning Practice Guidance.

In all the circumstances, it is considered the removal of conditions 3 and 4 of RS/11/01 in their entirety is now wholly justified and according it is hoped this application will be approved without applying any alternative controls.

Yours sincerely,



Simon Brett