

Garth Cottage Clitheroe Road Mitton Lancashire BB7 9PH

Variation of Condition Application in relation to Planning Permission Ref: 3/2012/0135

PLANNING STATEMENT
January 2024



REPORT CONTROL

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Primary Author	Gabriela de Amorim
Contributor	
Reviewer	Josh Hellowell

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CONTENTS

1	INTRODUCTION
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2	SITE DESCRIPTION AND PLANNING HISTORY
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3	APPLICATIONS UNDER SECTION 73
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4	REASON FOR VARIATION
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5	CONCLUSION
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/1 INTRODUCTION

- 1.1. PWA Planning is retained by Gwen Skillings ('The Applicant') to submit an S73 application at Garth Cottage, Clitheroe Road, Mitton, Lancashire, BB7 9PH ('The site') in relation to planning permission associated with application 3/2012/0135, granted on the 5th of April 2012.
- 1.2. It is the position of Ribble Valley Borough Council (the LPA), that the permission was lawfully implemented but not built in accordance with the approved plans. In taking this position, the Council have progressed enforcement action requiring the owner to rectify certain elements of the build, namely the principle fact it was being occupied as two independent dwellings.
- 1.3. Further details on the site history and on the proposed amendments to the scheme have been included in subsequent sections of this statement.



/2 SITE DESCRIPTION AND PLANNING HISTORY

- 2.1. The site comprises the existing dwelling known as 'Garth Cottage'; a detached property located off Clitheroe Road (B6243) in the hamlet of Mitton. The property has a large gravel drive to the front and a garden enclosed to the rear. A Location Plan is included within this application, but an image of the site and its surrounding area is shown below by Figure 1.



Figure 1: Aerial view of the site (Source: Google Maps)

- 2.2. The site received full planning permission for the demolition of the existing cottage and replacement with a new dwelling on the 5th April 2012 (ref. 3/2012/0135). The permission was implemented by the applicants, [REDACTED] who had a strong desire to live closely to permit for not only a continuation of their close relationship but also some level of care could be provided. The personal circumstances of the applicants and how this impacted the development are discussed in further detail within section 4 of this statement.
- 2.3. The existing dwelling features a tiled pitched roof and is finished with stone brickwork. The site is bounded by hedges and trees at the front of the property with an opening for cars to enter the drive. To the north and west of the property, the site is bounded by agricultural fields. Adjacent to the property to the south, are a number of dwellings of a similar scale and style, with a mixture of stone brick and slate tiles. Further down Clitheroe Road, there are various farmsteads and holiday accommodation.



2.4. The planning history associated with the site is detailed below:

- **3/2022/0387:** Regularisation of unauthorised change of use from one dwelling into two. Refused, 23rd May 2022. This application was appealed under appeal reference **APP/T2350/W/22/3300027** and was dismissed on the 7th November 2022.
- **3/2013/0272:** Application for the discharge of condition no. 3 (materials) and condition no. 4 (siting of septic tank) of planning permission 3/2012/0135P. Approved, 16th May 2013.
- **3/2012/1015:** Application for the discharge of condition no. 3 (materials) and condition no. 4 (siting of septic tank) of planning permission 3/2012/0135P. Refused, 8th January 2013.
- **3/2012/0135:** Proposed demolition of existing cottage and replacement with a new dwelling. Approved, 5th April 2012.

2.5. Enforcement action:

- The LPA issued an enforcement noticed on the 8th of February 2023, alleging that the development of Garth Cottage had not be undertaken in accordance with the approved plans and as such was in conflict with condition 2 of planning permission 3/2012/0135.
- The noticed was appealed, only on Ground F, and was heard under appeal ref. **APP/T2350/C/23/3318384**. The appeal was dismissed on the 25th October 2023.
- Following the dismissal of the appeal the notice was deemed valid and lawful and therefore comes into effect following the conclusion of six months from the date of the appeal decision, which is the 25th of April 2024.



/3 APPLICATIONS UNDER SECTION 73

Section 73

- 3.1. The application to vary condition 2 attached to planning consent ref. 3/2012/0135 is made under Section 73 of the Town and Country Planning Act 1990.
- 3.2. Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on planning permission.
- 3.3. On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and –

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

National Planning Policy Framework (NPPF)

- 3.4. Paragraph 135 of the NPPF states:

Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

National Planning Policy Guidance (NPPG)

- 3.5. The NPPG sets out the guidance for amending the conditions attached to a permission including seeking minor materials amendments (application under Section 73 TCPA 1990). The guidance has been considered when preparing this application.



/4 PROPOSED VARIATION

- 4.1. It is proposed to vary condition 2 of permission ref. 3/2012/0135 dated 5th April 2012 to replace the plans referenced within this condition. Condition 2 is currently set out below:

The permission shall relate to the development as shown on Drawing Nos:

RENIOI Dwg 02B - PROPOSED PLANS AND ELEVATIONS

- 4.2. The proposed amendments to Condition 2 are set out below to allow for the existing layout to the property to stay the same. These details are discussed further in Section 5.

The permission shall relate to the development as shown on the Drawing Nos:

EAD_228_01 Floorplans and EAD_228_02 Elevations

- 4.3. As the red line boundary is to remain unaltered, the approved Location Plan is not proposed to be replaced.
- 4.4. The proposed changes relate to the floorplan of the existing dwelling. As mentioned previously, the site gained consent for the demolition and erection of a replacement dwelling which was subject to various conditions. The original plans included 1no. kitchen and 1no. staircase in the property. These plans were included in Condition 2, however, the dwelling that was constructed including 2no. kitchens and 2no. staircases as, since its erection, the dwelling has been used as two properties.
- 4.5. An enforcement letter was sent to the owner stating that the existing dwelling did not comply with condition 2 and as such, a series of steps will need to be taken, which includes:

"Must take all necessary steps to alter the property so that it physically complies with the drawing, including but not limited to removal of the kitchen and all units, sinks, cookers and food preparation areas at the south end of the property, creation of the utility room and separate lounge at the south end of the property, removal of the staircase passing from the dining hall to the first floor, creation of the landing, study and bedrooms on the first floor in accordance with the drawing, and remove any dividing wall or walls separating the unauthorised separate dwellings and install any doorways and doors in compliance with the drawing."



- 4.6. As noted in section 2 of this statement, the original permission was secured by the applicants as it gifted them, [REDACTED] the opportunity to live closely with one another. Despite being consented as a singular dwelling the property was constructed, internally, as two. This was on the basis that whilst it was necessary for the applicant to [REDACTED] she was still able to live relatively independently and as such the constructed arrangements permitted for both. Whilst not material to the case it is worth highlighting that it was never the desire of the applicant to conceal works that they knew to be unlawful. On the contrary they were not aware the changes to the internal arrangements required permission from the Council. Upon becoming aware of their situation, the applicants realised that, throughout the process they had been let down by the professional advice they'd received and sought to regularise this through the submission of application 3/2022/0387.
- 4.7. Following the refusal of the application, whilst the applicant made further attempts via the appeal process to secure permission, they were ultimately accepting of the outcome. However it is evident that their rationale for trying to secure permission was founded in a desire to secure the best living arrangement for them as opposed to being for any long term financial gain. In fact its quite the opposite, in that one further reason for the sub-division was to allow for the applicant to remain at the property [REDACTED] [REDACTED] With the property as one dwelling it will not be possible for the applicant to afford the upkeep and as such will be forced to sell the property in such an eventuality.
- 4.8. In summary, the reason the applicant implemented the current arrangement is because it suited the occupants well, without inducing any perceptible day to day impacts regarding the use of the dwelling, given it was one family occupying the whole property.
- 4.9. Notwithstanding, the above the applicant is aware that the LPA's actions are not necessarily brought about due to an issue with the current arrangement. Rather that the prolonged use of the property as two dwellings would, over time, become lawful. At this point the properties could be sold on the market as indivual dwellings, which the LPA wishes to preclude due to the perceived unsustainable nature of the location. With this in mind the position of the applicant is to be accepting of the requirements of the enforcement notice and confirm the intention for the property to be utilised as a single dwelling.



- 4.10. The current owners will remain the same, so it will still be a multi-generational household, but from all measurable and enforceable aspects, the property will be a singular dwelling. It is hoped that in confirming this and offering a full degree of transparency, that the LPA may be able to be more pragmatic in the steps they have stated as necessary in order to comply with the enforcement notice.
- 4.11. It is our understanding that the whilst the enforcement notice is active and valid, that the obligations included within it can be modified through the granting of a new planning permission, hence the submission of this S73 application. The application looks to make some changes to the layout to enable its operation as a single household but stops short of all the measures detailed in the enforcement notice. This is on the basis that some of the works would represent a major structural undertaking, beyond the financial reach of the applicant and would compromise the functionality of the property.
- 4.12. At ground floor level, as per the request of the LPA, a new opening is to be made to connect both halves of the building. The southern end kitchen has been stripped back so it represents a secondary kitchen/utility/boot room space, more in line with the approved plans. This means that the occupants do have separate space, to permit for storage of their own kitchen and food goods but stops short of having two functional kitchens. This arrangement is not uncommon in larger properties and does not give the impression of independent occupancy. Otherwise at ground floor would be representative of a larger single household, with a kitchen dinner, kitchenette/utility and two reception rooms.
- 4.13. Its pertinent to note that a genuine reason for the larger utility kitchenette space was that the Aga in the kitchen is switched off during the summer and consequently there was a need for secondary cooking facilities. That said the utility space, as shown on the submitted plans, is still clearly subservient to the kitchen. The reason the wall between the utility and second lounge/snug was never built was due to it comprising the available space in each room and making the lounge unduly dark during the day.
- 4.14. At first floor the applicants are hopeful the LPA will allow for no new opening to be created. This is on the basis it would necessitate notable structural works and the removal of an extensive bathroom (serving the master bedroom), which has been designed to serve the needs of the elderly occupants. To enforce such an opening would require the total replanning of the first floor and likely force the applicant's to consider selling the property. The lack of a connection at first floor does not prelude the property operating as a single



household, especially considering the property will be opened up at ground floor, which prevents the occupation of the property as two dwellings. In not creating a first floor opening it is implied that both staircases will be retained, but again it is believed that changing the layout to eliminate the division between the separate dwellings at ground floor would be a reasonable and adequate step towards compliance without necessitating the removal of additional functional components, which would result in excessive unnecessary cost and large unusable space within the dwelling.

- 4.15. Further to the above and as noted in previous sections, the applicant are happy to formally confirm the dwelling will now be occupied as a single dwelling and there will be no attempts formal or otherwise to change the occupancy arrangements. It is hoped that in stating this the discussion over the necessary steps required can be revisited. If after reviewing this submission, the LPA still have concerns regarding the intentions of the applicant, they have also advised they would be willing to put forward a Unilateral Undertaking which will secure the occupancy of the property as a single dwelling. It is not our view that this is necessary but there is a willingness to provide such an agreement if it permits for an obtainable outcome to be reached for the applicant.



/5 CONCLUSION

- 5.1. The LPA is respectfully asked to approve the variation of Condition 2 (specified on approval ref. 3/2012/0135) as proposed by this application under Section 73 of the Town and Country Planning Act 1990.
- 5.2. From the description provided in Section 4 and the submitted revised plans, it is clear that the changes will result in the same outcome, which is the dwelling functioning as one property. The proposed changes are internal and as such, will not result in any harm on the site or its surroundings and as such, the application is commended to the LPA.



2 Lockside Office Park
Lockside Road
Preston
PR2 2YS

01772 369 669

www.pwaplanning.co.uk

