

Development Management
Bury Council
3 Knowsley Place
Duke Street
Bury
BL9 0EJ

Our Ref: MJ/RG/G315/L001
Date: 6 November 2022

Dear Sir / Madam

**DELETION OF CONDITION 3 OF PERMISSION REF 54822
ABBOTTS HALL, WOODHEY ROAD, HOLCOMBE BROOK, RAMSBOTTOM, BURY,
BL0 9RD**

On behalf of Mr. & Mrs. Abbott, we hereby submit this application seeking the removal of Condition 3 of planning permission 54822.



Condition 3 currently states that :

'The occupation of the dwelling shall be limited to a person solely or mainly employed in the locality in aquaponics (fish breeding for food) or agriculture (as defined in Section 336 (1) of the Town and Country Planning Act 1990 (including any dependants of such a person residing with him/her) or a widow of such a person.'



The reason for imposing the condition states that :

'The site is located within the Green Belt and the erection of a dwelling not connected with agriculture or forestry would not normally be permitted pursuant to Policy OLI/2 - New Buildings in the Green Belt of the Bury Unitary Development Plan and PPG2 - Green Belts.'

That variation of condition was granted well over a decade ago (in March 2012). It sought to vary the original planning permission to erect the dwelling, which was granted over 30 years ago for a 'farmhouse' associated with what was an intended rabbit farm.

The case that was set out in 2012 is recorded at *Annexe A* of this letter.

The planning permission is recorded at *Annexe B* of this letter.

While it is understood that, 30+ years ago (and indeed today) planning permission would normally be resisted to erect an unrestricted dwelling in the Green Belt, it is the Applicants' contention that time has moved on and circumstances have changed, and that – notwithstanding the original reason for restricting occupancy (which made sense 30 years ago) – a common sense, proportionate and pragmatic stance is called for in this case.

The Appellants have been involved in farming for much of their lives. Indeed, they continue to own land surrounding the subject site, but the reality is that has not been farmed in a meaningful fashion for many years and cannot sensibly be claimed to be a *bona fide* agricultural enterprise. The land is not grazed or used for growing crops, and we understand that the quality of the soil is quite poor. Its grass is cut each summer for the purposes of hay making, but beyond that there is and has been no true agricultural use. Furthermore, the land is somewhat 'land locked' and surrounded on most sides by suburbia. Much of the Appellants' land is covered in trees, and as such is not well suited to any type of meaningful agricultural use.

The Appellants have made concerted attempts to establish / operate an aquaponics business over the past few years, but – for a host of reasons (including poor management of fish by past managers, resulting unfortunate consequences for the fish concerned) – that business has not yet succeeded. We understand that the Appellants are intending to resurrect their aquaponics business in 2023, but (as past experiences have demonstrated) it is a quite specialised industry.

Notwithstanding that position, the Applicants are now well into their 70s and suffer from poor and deteriorating health. Mrs. Abbott is largely blind and cannot sensibly perform an active role in either an aquaponics or agricultural business. She attends regular hospital visits, and Mr. Abbott spends much of his time caring for her. Further evidence / details of this can and will be presented to the LPA if it is required, but we would request that it is treated in confidence as it is clearly of a personal and sensitive nature.

While – to an extent – the Applicants can continue to legitimately claim to have associations with both agriculture and aquaponics, their lives have moved on and they are in a state of semi-retirement and declining health and infirmity. Their son has no interest or qualifications / experience in either the farming and aquaponics industry, and (as noted above) past attempts to establish a



successful aquaponics business have unfortunately failed (albeit Mr. Abbott intends to make a further attempt to make that business succeed).

The house clearly exists as a house. It was the case – over 30 years ago – that it would not have been granted had it not been for an agricultural connection, but it is our case that matters have changed materially, the world moves on, and the timing is now correct to remove the occupancy restriction as governed by Condition 3.

Green Belt policy is primarily concerned with preserving openness. That openness was lost 30 years ago when the house was built, and we suggest that it would seem perverse, unfair and draconian for any party to seek the demolition of the house (and the associated agricultural building) at this point in time, and to seek to evict two elderly people in poor health (and their son who also resides in the house) on the basis that they no longer partake in agricultural activities and have failed thus far to establish a successful aquaponics business.

The house effectively forms part of a cluster of residential properties along Woodhey Road, some of which have been heavily extended / developed. It is on the urban fringe, and while the Applicants continue to have a loose association with agriculture, the reality is that this is not a formal agricultural unit in its own right, and – given its somewhat isolated nature as a pocket of space in the midst of a suburban area – is highly unlikely to be so in the future.

It is for those reasons that we contend that the occupancy restriction put in place by Condition 3 is no longer apt or appropriate. No harm whatsoever will arise to the purposes or objectives of the Green Belt if the condition is removed. The house will remain a house, but the heavy burden of a restriction applied 30+ years ago (and renewed / adjusted over a decade ago) will be lifted, such that this home will be commensurate with the array of other homes along Woodhey Road and in many other urban fringe locations in Bury and elsewhere.

Policy Considerations

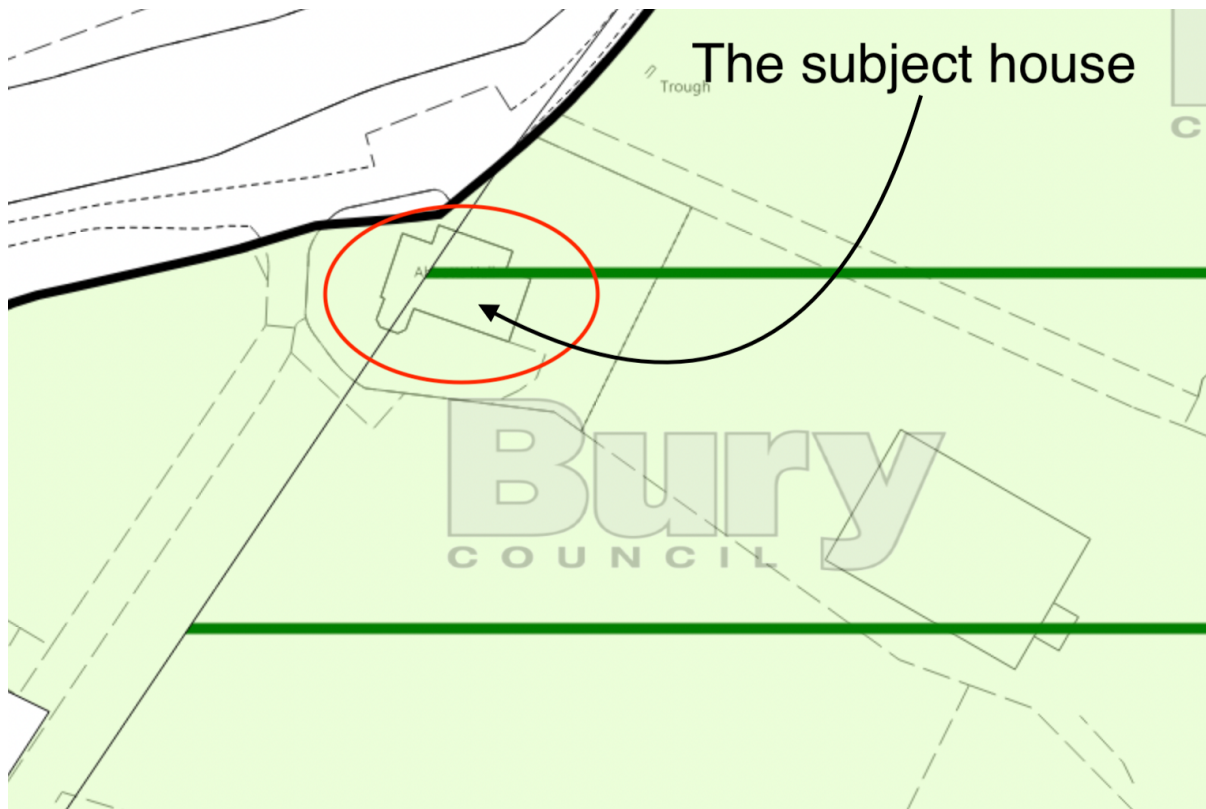
The Development Plan

Section 38(6) of the Town and Country Planning and Compulsory Purchase Act 2004 places a statutory duty on local planning authorities to determine planning applications in accordance with the development plan, unless material planning considerations indicate otherwise. Section 39 of the Act requires decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development.

For the purposes of this application, the Development Plan is the Bury UDP (adopted over 25 years ago, in August 1997).



An extract from the UDP Policies Map is reproduced below.



The site is located within both the Green Belt and a Special Landscape Area.

UDP Policy OLI (Green Belt) seeks to maintain the Green Belt, ensuring that it fulfils the following strategic purposes:

- a. to check the unrestricted sprawl of large built-up areas;
- b. to prevent neighbouring towns from merging into one another;
- c. to assist in safeguarding the countryside from further encroachment;
- d. to preserve the setting and special character of historic towns;
- e. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The removal of Condition 3 will not result in harm to any of these purposes. It will not result in 'unrestricted sprawl'. It will not result in any 'merging' of towns. It will not result in encroachment beyond the existing built footprint / hardstanding. It has no implications for any historic town, and it has no bearing on urban regeneration that might take place elsewhere. There is therefore no conflict with Policy OLI.

Policy EN9/I (Special Landscape Areas) states that any development will be strictly controlled and required to be sympathetic to its surroundings in terms of its visual impact. High standards of design, siting and landscaping will be expected. Unduly obtrusive development will not be permitted in such areas.



Again, we contend that the proposal is consistent with this policy. The house (in one form or another) has existed for circa 30 years, and any perceived harm to landscape character resulted decades ago. The fact of the matter is that this is a house of good quality design and materials, and it fits well against the landscape character and, we suggest, forms a positive part of it. Its traditional design and materiality was clearly influenced by the agricultural / rural fringe context and nearby robust and rustic homes in this part of Bury.

For the same reasons, the proposal is consistent with **Policy EN11 (Visual Amenity)**, which states that development will not be permitted which would have a detrimental effect on the visual amenity (both within, or viewed from) of areas of environmental interest, including the Green Belt and Special Landscape Areas.

In view of the above assessment of the proposal against the most relevant policies, the Applicants contend that the application is in accordance with the development plan when considered in overall terms, and – furthermore - there are no material considerations that suggest that Section 38(6) ought not to be applied.

NPPF

The NPPF ('Framework') is an important material planning consideration (particularly given the somewhat datedness of the UDP), but it does not change the statutory status of the development plan as the starting point for decision making. Paragraph 2 of the Framework confirms :

“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements”

NPPF §10 states that, at the heart of the Framework, is a presumption in favour of sustainable development.

§11 is very clear in stating that :

‘[planning] decisions should apply a presumption in favour of sustainable development.

where ... the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance [such as Green Belt] provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.’



The UDP is inarguably out out-of-date in some respects. For example, its policies on housing land supply and a degree of inconsistency with the NPPF's Green Belt policies.

The NPPF requires councils to '**significantly boost**' housing supply and to maintain a minimum of 5 years supply (with an appropriate buffer) at all times. It sets out what types of development are 'appropriate' in the Green Belt. Bury Council cannot, at the point of this submission, demonstrate a 5 year supply.

The Framework (at §149, 150 and elsewhere) sets out Green Belt policy, and defines the types of 'appropriate' forms of development. §150 confirms that '**material changes in the use of land**' are not inappropriate provided they preserve its openness and do not conflict with the purposes of including land within it.

We suggest that the proposed deletion of Condition 3 will be broadly in line with that part of NPPF. We have acknowledged that, if an application was to be made today to build a house such as this in the Green Belt, it would probably deemed to be inappropriate. But the house exists, and it has existed for 30 years. A proportionate and common sense stance calls to be adopted. A change of use from a house with restricted occupation to one without such restriction seems to be a perfectly appropriate change, and it will have no bearing whatsoever on any of the purposes or objectives of Green Belt policy.

Indeed, we suggest that this S73 proposal presents the LPA with a good opportunity to better regulate development in the Green Belt, because the subject permission (ref: 54822) did not define the residential curtilage or remove permitted development rights to extend the building or to erect outbuildings within its curtilage. This application presents the LPA with an opportunity to introduce a new condition that not only defines the domestic curtilage, but also removes all domestic PD rights. We have indicated below the extent of domestic curtilage that we consider logical in this case, and confirm that the Applicants will accept an associated condition to govern this, and also a condition to restrict PD rights.





Turning to other aspects of the NPPF, Chapter 12 of the Framework is focused on ‘Achieving Well Designed Places.’ §124 states that :

‘Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’

§127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and are sympathetic to local character and history, including the surrounding built environment and landscape setting, ‘while not preventing or discouraging appropriate innovation or change.’

The proposal is also consistent with §170, which requires planning decisions to contribute to and enhance the natural and local environment by, *inter alia*, protecting and enhancing valued landscapes (bearing in mind that this is designated as a Special Landscape Area), recognising the intrinsic character and beauty of the countryside, and minimising impacts on and providing net gains for biodiversity.

In conclusion, we contend that the application is consistent with the relevant policies of the NPPF as an important material consideration, and that this ought to carry considerable weight in the overall planning balance.

Concluding Comments

At the heart of this case, we question what purpose the occupancy restriction serves today when considering the background and history, and current status of the Applicants.

The restriction was imposed around 30 years ago, and adjusted over a decade.

While the Applicants continue to have a quite loose connection with agriculture, and have made numerous attempts to establish an aquaponics business, they are now well into their 70s and in poor / declining health. In short, they no longer have the energy or capability of driving forward a meaningful agricultural or aquaponics operation in their own right, and experience has demonstrated that identifying a suitable employee to manage an aquaponics business is not easy. The nature of such a business is that there is a long growth period associated with the nurturing of fish, and no income can be derived until the fish have reached a reasonable size. Notwithstanding that, Mr. Abbott advises that he remains determined to move that business forward in 2023, and an associated application relating to the separate ‘agricultural building’ is likely to be submitted in the near future.

We have considered the application proposal against the development plan and have explained why we consider it to be compliant. Crucially, we consider it to be ‘appropriate’ development in the Green Belt, in that a simple ‘change of use’ is proposed – namely a change of use from a house that has restricted occupancy, to a house that has no such restriction. None of the purposes or objectives of the Green Belt will be affected or offended.



Furthermore, this application presents the LPA with a new opportunity to establish a clear residential curtilage and to remove permitted development rights that the dwelling currently enjoys to extend and / or erect outbuildings in its (currently undefined) curtilage.

For the reasons explained above, we seek the removal of Condition 3.

Finally, we are mindful that Condition 5 of the current permission places a similar restriction on the use of the separate 'agricultural building'. It is highly likely that a separate application relating to the use and future of that building will be presented to the LPA in the near future.

Application Content

The application comprises the following :

- Application form and certificate
- This covering letter / planning commentary
- Drawing ref: cm-00 'Location Plan' (PPY Design Ltd)

We look forward to receiving confirmation of receipt and validation of the application, and please do not hesitate to contact Richard Gee at the above offices if further information is required.

Yours faithfully
for Roman Summer Associates Ltd

Richard Gee
Director



Annexe A - Statement submitted in support of Application 54822

Planning permission was granted on 9th July 1992 for the erection of a rabbit farm building plus associated farmhouse, application number C/27209/92. Construction began soon after, the farm building being built and the shell of the farm house currently completed.

Condition 3 restricts the occupation of the dwelling to be occupied by a person mainly employed in the locality in agriculture.

Condition 5 specifies the farm building to be used exclusively for rabbit breeding.

The proposed variation to condition 3 is for the person occupying the farmhouse to be mainly employed in the locality in aquaponics and agriculture.

The proposed variation to condition 5 is for the farm building to be used for aquaponics and agriculture.

The process of aquaponics begins with the breeding of tiny fish fry, in this case using Tilapia. This is one of the world's most farmed, and sustainable fresh water fish species. It does not have a strong odour, and is favoured by chefs as it readily accepts different flavour combinations.

At first the fish occupy small fish tanks, and are transferred to larger tanks which increase in size incrementally allowing the fish grow to their adult size of 450-500 grams in weight, at which point they will be distributed to local restaurants.

Water from the fish tanks is filtered, and the waste removed. The water, now rich in nitrates is fed to plant beds to promote growth. The plants extract the nitrates from the water, which is then filtered and pumped back into the fish tanks, where the fish produce waste, and the cycle begins again.

The process produces organic produce using no fertilisers or chemicals.

The applicant has constructed a working prototype, which he has refined and developed over the past five years, to prove that it is practical. From this, it is expected that a turnover of around 1000 fish would be available for sale, plus an equivalent amount of lettuce, herbs, tomatoes and peppers, every month.

The existing building on site would be used for hatching the fish and growing the fry into fingerlings, small fish. They would then be transferred to 'working tanks,' containing the water to be fed to the plants. These would be housed in an additional 'lightweight' farm structure, which would be subject of a future planning application.

The existing building would also contain a packaging area, the packaging required in distributing the produce, ice making machines to keep the fish chilled, and back-up generators to ensure the water and air temperature is maintained at a constant.

It is intended that the income generated from this new venture will allow the completion of the farmhouse, and the site which has historically been used as a tip, to be tidied.



Annexe B – Planning permission 54822

NOTICE OF PLANNING PERMISSION

Town and Country Planning Act 1990 Town and Country Planning (Development Management Procedure) Order 2010

To:

Mr Gary Dearden
PPY Design Ltd
2 Helmshore Road
Holcombe Village
Bury
BL8 4PA

On Behalf Of:

Mr & Mrs Chris Mason
31 Stanford Hall Crescent
Ramsbottom
Bury
BL0 9FD

PART 1 - Particulars of Application

Application Number: 54822

Date of Registration: 30/01/2012

Proposal:

Variation of conditions. New conditions to read No. 3. The occupation of the dwelling shall be limited to a person solely or mainly employed in the locality in aquaponics and/or agriculture. No. 5. The agricultural buildings hereby approved shall be used exclusively for aquaponics and/or agriculture.

Location:

Land at Woodhey Farm, Woodhey Road,
Holcombe Brook, Ramsbottom, Bury, BL0
9RD

PART 2 - Particulars of Decision

Bury Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been **GRANTED** for the carrying out of the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

- 1 The use hereby approved must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 The parking and servicing facilities shall be made available before the development is brought into use.
Reason. To ensure adequate off-street facilities in the interests of highway safety pursuant to Policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
- 3 The occupation of the dwelling shall be limited to a person solely or mainly employed in the locality in aquaponics (fish breeding for food) or agriculture (as defined in Section 336 (1) of the Town and Country Planning Act 1990 (including any dependants of such a person residing with him/her) or a widow of such a person.
Reason. The site is located within the Green Belt and the erection of a dwelling not connected with agriculture or forestry would not normally be permitted pursuant to Policy OL1/2 - New Buildings in the Green Belt of the Bury Unitary Development Plan and PPG2 - Green Belts.



- 4 The landscaping scheme hereby approved at the reserved matters stage shall be implemented to the written satisfaction of the Local Planning Authority not later than 12 months from the date the building(s) is first occupied. Any trees or shrubs removed, dying or becoming severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted to the written satisfaction of the Local Planning Authority.
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policy EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.
- 5 The agricultural buildings hereby approved shall be used exclusively for aquaponics and/or agriculture.
Reason. To safeguard the character of the Green Belt and to ensure against inappropriate development in the Green Belt in accordance with Policy OL1/2 - New Buildings in the Green Belt of the Bury Unitary Development Plan and PPG2 - Green Belts.
- 6 No development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters has been approved by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans.
Reason. To ensure a satisfactory means of drainage pursuant to Policy EN7/4 - Groundwater Pollution and Policy EN7/5 - Waste Water Management of the Bury Unitary Development Plan.
- 7 The highway improvements indicated on plan reference cm-01 shall be implemented to the written satisfaction of the Local Planning Authority before the buildings hereby approved are brought into use.
Reason. To ensure good highway design in the interests of road safety pursuant to Policy EN1/2 - Townscape and Built Design of the Bury Unitary Development Plan.

The application was granted for the following reason(s):

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows:-

The proposed development would be acceptable in principle and would not have a significant adverse impact upon the amenity of the neighbouring residents. The proposed development would not be detrimental to highway safety.

There are no other material considerations that outweigh this finding.

The following policies of the Bury Unitary Development Plan, National and Regional Government were considered relevant:

H1/2	H1/2 - Further Housing Development
H2/1	H2/1 - The Form of New Residential Development
H2/2	H2/2 - The Layout of New Residential Development
EN1/1	EN1/1 - Visual Amenity
EN1/2	EN1/2 - Townscape and Built Design
EN7/2	EN7/2 - Noise Pollution
EN7/4	EN7/4 - Groundwater Protection
EN7/5	EN7/5 - Waste Water Management
EN8	EN8 - Woodland and Trees
EN8/2	EN8/2 - Woodland and Tree Planting
OL1/2	OL1/2 - New Buildings in the Green Belt
OL4/4	OL4/4 - Agricultural Diversification
OL4/5	OL4/5 - Agricultural Development



OL4/6 OL4/6 - Agricultural Dwellings
HT2/4 HT2/4 - Car Parking and New Development
PPG2 PPG2 - Green Belts

This decision relates only to the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Applicant Plan Numbers:

cm-00

cm-01

NOTES TO APPLICANT

1. The applicant's attention is drawn to the existence of Public Right of Way No. 87, which abuts the site. No development should take place which affects the Right of Way in the absence of an appropriate closure or diversion order.
2. The installation of a generator in the farm building does not form part of this application and it should be noted that planning permission would be required.

Signed:

3 of 3

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On behalf of the Council

Date of Decision: 21/03/2012