

**Part B (see Note 1 and Note 8 para 4.2)**

Please use a separate Part B form for each representation you wish to make

Name or Organisation (see Note 8 para 4.1)

Mrs J M Shephard

1. To which part of the BDP does this representation relate?

|               |                 |              |
|---------------|-----------------|--------------|
| Page: 67      | Paragraph:      | Policy:BDP15 |
| Policies Map: | Other document: |              |

If your representation does not relate to a specific part of the document, or it relates to a different document, for example the Sustainability Appraisal, please make this clear in your response.

2. Do you consider the BDP is legally compliant? (see Note 2)

Yes:

No:

3. Please give details of why you consider the BDP is not legally compliant. Please be as precise as possible. If you wish to support the legal compliance of the BDP, please also use this box to set out your comments. (Continue on a separate sheet /expand box if necessary)

The policy fails to take account of the Town and Country Planning (Use Classes) Order

4. Please set out what change(s) you consider necessary to make the BDP legally compliant, having regard to the issue(s) you have identified above. You will need to say why this change will make the BDP legally compliant. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. (Continue on a separate sheet /expand box if necessary) (see Note 8 para 4.3)

Remove the words in brackets from sub-paragraph (c) of Policy BDP15.

5. Do you consider the BDP is sound? (see Note 3)

Yes:

No:

Do you consider the BDP is **unsound** because it is not:

|  |                                     |
|--|-------------------------------------|
| (1) Justified (see Note 4)                       | <input checked="" type="checkbox"/> |
| (2) Effective (see Note 5)                       | <input checked="" type="checkbox"/> |
| (3) Consistent with national policy (see Note 6) | <input checked="" type="checkbox"/> |
| (4) Positively prepared (see Note 7)             | <input type="checkbox"/>            |

6. Please give details of why you consider the BDP is unsound. Please be as precise as possible. If you wish to support the soundness of the BDP, please also use this box to set out your comments. (Continue on a separate sheet /expand box if necessary)

The statement that "steel portal frame buildings are not suitable for conversion" is inconsistent with the fact that such buildings are capable of conversion to other uses, such as business uses, and even in some cases dwellings. Since the Use Classes Order now allows the conversion of such buildings to new uses without planning permission, it is inconsistent for the District Plan to make a blanket assumption that no such buildings are capable of re-use.

7. Please set out what change(s) you consider necessary to make the BDP sound, having regard to the test you have identified at 6 above. You will need to say why this change will make the BDP sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. (Continue on a separate sheet /expand box if necessary) (see Note 8 para 4.3)

Delete the words in brackets in Policy BDP15.1(c)

*Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change(s), as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.*

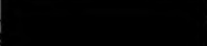
**After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.**

8. If your representation is seeking a change, do you consider it necessary to participate at the oral part of the examination? **Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.**

|  |                                     |
|--|-------------------------------------|
| No, I do not wish to participate at the oral examination | <input type="checkbox"/>            |
| Yes, I wish to participate at the oral examination       | <input checked="" type="checkbox"/> |

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary. (Continue on a separate sheet /expand box if necessary)

In order to answer questions and explain the basis of the representations.

|   |                       |
|---|-----------------------|
| Signature  | Date: 8 November 2013 |
|---|-----------------------|

**Part B (see Note 1 and Note 8 para 4.2)**

Please use a separate Part B form for each representation you wish to make

Name or Organisation (see Note 8 para 4.1)

Mrs J M Shephard

1. To which part of the BDP does this representation relate?

|               |                          |         |
|---------------|--------------------------|---------|
| Page: 24      | Paragraph: 8.34 and 8.35 | Policy: |
| Policies Map: | Other document:          |         |

If your representation does not relate to a specific part of the document, or it relates to a different document, for example the Sustainability Appraisal, please make this clear in your response.

2. Do you consider the BDP is legally compliant? (see Note 2)

|                               |   |
|-------------------------------|---|
| Yes: <input type="checkbox"/> | No: <input checked="" type="checkbox"/> |
|-------------------------------|---|

3. Please give details of why you consider the BDP is not legally compliant. Please be as precise as possible. If you wish to support the legal compliance of the BDP, please also use this box to set out your comments. (Continue on a separate sheet /expand box if necessary)

The paragraphs fail to take account of the Town and Country Planning (General Permitted Development) Order 2008 (as amended).

4. Please set out what change(s) you consider necessary to make the BDP legally compliant, having regard to the issue(s) you have identified above. You will need to say why this change will make the BDP legally compliant. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. (Continue on a separate sheet /expand box if necessary) (see Note 8 para 4.3)

Remove all reference to 40% and 140 square metres.

5. Do you consider the BDP is sound? (see Note 3)

|                               |   |
|-------------------------------|---|
| Yes: <input type="checkbox"/> | No: <input checked="" type="checkbox"/> |
|-------------------------------|---|

Do you consider the BDP is **unsound** because it is not:

|  |                                     |
|--|-------------------------------------|
| (1) Justified (see Note 4)                       | <input checked="" type="checkbox"/> |
| (2) Effective (see Note 5)                       | <input checked="" type="checkbox"/> |
| (3) Consistent with national policy (see Note 6) | <input checked="" type="checkbox"/> |
| (4) Positively prepared (see Note 7)             | <input type="checkbox"/>            |

6. Please give details of why you consider the BDP is unsound. Please be as precise as possible. If you wish to support the soundness of the BDP, please also use this box to set out your comments. (Continue on a separate sheet /expand box if necessary)

The reference to 40% and 140 square metres is no longer consistent with national planning practice and national planning law. The assertion that nothing has changed since SPG7 was adopted in 2001 is not correct, as the rules on 'permitted development' have changed significantly since then. The 40% policy was intended to allow householders to extend to a greater degree than they could as 'permitted development'. The opposite is now the case under the present rules on 'permitted

development'. Since the rules on 'permitted development' indicate what the Government considers to be the acceptable – and hence 'not disproportionate' - extent to which dwelling houses can be extended it follows that what can be considered as 'disproportionate' must now be reviewed. The BDP fails to do this.

Please see attached statement "BDP extensions to Green Belt dwellings and note on Permitted Development rights" for further exposition.

The statement that only existing curtilage buildings within 5 metres of the dwelling will be taken into account is logically inconsistent. It ignores curtilage buildings that existed in 1948 but which no longer exist, yet other parts of the house which did exist in 1948 but no longer exist are taken into account.

There is no logical consistency in treating the original dwellinghouse as being that which existed in 1948. What was the original dwellinghouse for the purpose of Green Belt policy can only be the building which existed when the Green Belt was first designated. This is a position which is taken by other planning authorities, e.g. Stratford-on-Avon.

7. Please set out what change(s) you consider necessary to make the BDP sound, having regard to the test you have identified at 6 above. You will need to say why this change will make the BDP sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. (Continue on a separate sheet /expand box if necessary) (see Note 8 para 4.3)

Remove all reference to 40% and 140 square metres.

Make clear that curtilage buildings within 5 metres of the dwelling will be taken into account in assessing the size of the original dwelling even if they are no longer in existence.

Redefine the original dwellinghouse as that which existed when the Green Belt was first designated.

**Please note** your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change(s), as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

**After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.**

8. If your representation is seeking a change, do you consider it necessary to participate at the oral part of the examination? **Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

|  |                                     |
|--|-------------------------------------|
| No, I do not wish to participate at the oral examination | <input type="checkbox"/>            |
| Yes, I wish to participate at the oral examination       | <input checked="" type="checkbox"/> |

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary. (Continue on a separate sheet /expand box if necessary)

In order to answer questions, respond to points made in rebuttal and explain the basis of the representations.

Signature

Date: 8 November 2013

## **BROMSGROVE DISTRICT PLAN**

### **Representations on paragraphs 8.34 and 8.35 relating to extensions to dwellings in the Green Belt**

- 1.1 The requirement that extensions to dwellings in the Green Belt should not be disproportionate, and the adoption of the 40% rule, was formulated at a time when extensions that could be carried out as 'permitted development' were much more limited than they are today. Under the 1995 Town and Country Planning (General Permitted Development) Order (which itself re-enacted the earlier provisions of the 1978 and earlier Orders), development within Class A was particularly restricted:

*"Development is not permitted by Class A if—*

*(a) the cubic content of the resulting building would exceed the cubic content of the original dwellinghouse—*

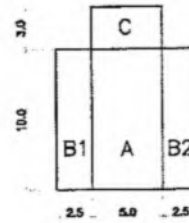
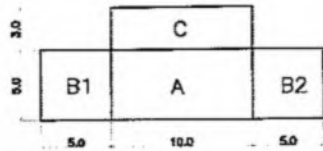
*(i) in the case of a terrace house or in the case of a dwellinghouse on article 1(5) land, by more than 50 cubic metres or 10%, whichever is the greater,*

*(ii) in any other case, by more than 70 cubic metres or 15%, whichever is the greater,*

*(iii) in any case, by more than 115 cubic metres;"*

- 1.2 For the most part this meant that the allowable increase in size of a dwelling under Class A permitted development rights was limited to no more than 15%. It was less than 15% for larger dwellings because of the maximum allowable increase of 115 cubic metres. Although these restrictions were formulated in terms of volume, the allowable floorspace increases were broadly similar – i.e. around 15% or less. The Green Belt extensions policy formulated by Bromsgrove District Council (and others) which permitted increases of up to 40% therefore allowed extensions over and above those that could be constructed as permitted development.
- 1.3 The 2008 amendments to the General Permitted Development Order removed the effective 'permitted development' limit of 15% and replaced it by broader impact-based thresholds. For a detached house within a plot large enough to accommodate such extensions (which applies to a large proportion of Green Belt properties), Class A now permits extensions which would increase the floorspace of the dwelling by between 80% and 110%, as shown by the examples below.

Examples of Effect of 2008 GPDO changes



|                                  |                         |
|----------------------------------|-------------------------|
| A – Original 2 storey            | 100m <sup>2</sup>       |
| B1– Single storey side extension | 25m <sup>2</sup>        |
| B2– Single storey side extension | 25m <sup>2</sup>        |
| C – Two storey rear extension    | 60m <sup>2</sup>        |
|                                  | Total 210m <sup>2</sup> |

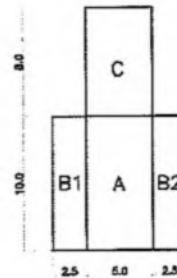
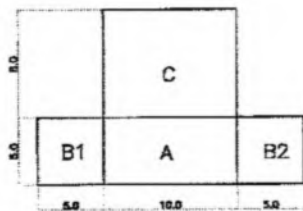
Original floorspace 100m<sup>2</sup>  
 PD extension 110m<sup>2</sup>  
 Percentage increase 110%

|                                  |                         |
|----------------------------------|-------------------------|
| A – Original 2 storey            | 100m <sup>2</sup>       |
| B1– Single storey side extension | 25m <sup>2</sup>        |
| B2– Single storey side extension | 25m <sup>2</sup>        |
| C – Two storey rear extension    | 30m <sup>2</sup>        |
|                                  | Total 180m <sup>2</sup> |

Original floorspace 100m<sup>2</sup>  
 PD extension 80m<sup>2</sup>  
 Percentage increase 80%

- 1.4 More recently, there has been a further increase in Class A rights under the 2013 GPDO amendments. For a similar detached house to that described in the previous paragraph, Class A now permits extensions above ground level which would increase the floorspace of the dwelling by between 90% and 130%, as shown by the examples below.

Examples of effect of 2013 GPDO changes



|                                  |                         |
|----------------------------------|-------------------------|
| A – Original 2 storey            | 100m <sup>2</sup>       |
| B1– Single storey side extension | 25m <sup>2</sup>        |
| B2– Single storey side extension | 25m <sup>2</sup>        |
| C – Single storey rear extension | 80m <sup>2</sup>        |
|                                  | Total 230m <sup>2</sup> |

Original floorspace 100m<sup>2</sup>  
 PD extension 130m<sup>2</sup>  
 Percentage increase 130%

|                                  |                         |
|----------------------------------|-------------------------|
| A – Original 2 storey            | 100m <sup>2</sup>       |
| B1– Single storey side extension | 25m <sup>2</sup>        |
| B2– Single storey side extension | 25m <sup>2</sup>        |
| C – Single storey rear extension | 40m <sup>2</sup>        |
|                                  | Total 190m <sup>2</sup> |

Original floorspace 100m<sup>2</sup>  
 PD extension 90m<sup>2</sup>  
 Percentage increase 90%

- 1.5 These increases are simply in terms of what can be created above ground under Class A. There are further opportunities for increasing the size of dwellings over and above the percentages shown above under the new Class B provisions, and by the creation of basements, as the abolition of the volume limits under Class A means there is now no restriction on the size of basements.

- 1.6 Against this background, therefore, adherence to a 40% limit on the size of extensions in the Green Belt is no longer appropriate. If the Government had felt that the new permitted development limits would lead to disproportionate extensions in the Green Belt, contrary to its own policy, it would have excluded Green Belts from the list of areas to which the new limits did not apply. Since it did not, it must therefore consider such extensions to be 'not disproportionate'.
- 1.7 Since the Government, through the changes in the permitted development regime, has determined that extensions of over 100% are acceptable without harming amenity and not 'disproportionate', the limit of 40% is no longer a suitable measure of what is 'disproportionate'.
- 1.8 Moreover, if the point of the policy on Green Belt extensions is to allow people to extend to a greater amount than they could do without planning permission, which it clearly was when it was formulated, then it is no longer up to date or fit for purpose. Indeed it is baffling to the layman that a property can be extended to a greater degree without planning permission than it can be with planning permission, and such rules only serve to highlight the absurdities of the planning system.
- 1.9 It should be borne in mind that the 2008 GPDO changes were made by a Labour government, and the 2013 GPDO changes were made by a Conservative/Liberal Democrat government. There is obviously cross-party agreement as to the acceptable extent that dwellings can now be extended and therefore what is not 'disproportionate' and thus no foreseeable likelihood that the rules on permitted development will ever revert to the situation that gave rise to the 40% rules.

## 2. Conclusions

- 2.1 The 40% rule was adopted at a time when permitted development rights effectively allowed extensions of no more than 15%. It sought to allow such properties to extend to a greater degree than they could under 'permitted development'.
- 2.2 Now that houses in the Green Belt can be extended sometimes by over 100% under permitted development rights, the 40% rule is no longer an appropriate measure of whether an extension is disproportionate. Indeed by sanctioning permitted development extensions of greater than 100% in the Green Belt, the Government clearly feels such extensions are 'not disproportionate'. The 40% limit should be dispensed with as not fit for purpose, and contrary to both Government policy and the law as set out in the General Permitted Development Order.