

Planning Department
Gravesham Borough Council

20 December 2022

Dear Sir/Madam

**MEADOW COTTAGE, SCHOOL LANE, HIGHAM, KENT ME3 7JG
PROPOSED REMOVAL OF CONDITIONS 6 AND 7 OF PLANNING APPLICATION 20141170.
INSTALLATION OF SOLAR PANELS BY VIRTUE OF PERMITTED DEVELOPMENT
PLANNING PORTAL REFERENCE PP-11777015**

This planning application seeks the removal of conditions 6 and 7 of planning application 20141170 at Meadow Cottage, School Lane, Higham.

Solar panels are proposed to be installed by virtue of permitted development on the outbuilding and shed once the conditions are removed. This letter outlines the site's relevant planning history and supporting information.

The Proposal

This application seeks the removal of conditions 6 and 7 of planning application 20141170, to enable the outbuilding at Meadow Cottage to be renovated when necessary in the future, and for any internal changes to be made, should this be required. The proposal seeks to enable the outbuilding at the site to be used in part for a home gym and home office.

Also proposed are solar panels on the roof of the outbuilding and shed building which would be deemed as permitted development should the conditions 6 and 7 of planning application 20141170 be removed.

Planning History

The following planning history for the site is relevant:

Reference	Proposal	Decision
20140906	Change of use of ancillary outbuilding to a two bedroom dwelling with home office, parking, landscaping and separate curtilage to Home Farm Cottage	Granted 27/11/14
20141170	Revision to application 20140906 which sought the following amendments to the approved scheme: • The addition of a chimney flue; a rotary clothes dryer; a sky dish; and a television aerial; • The rewording of conditions 6 and 9 and the removal of	Granted 23/03/15

	conditions 10 and 11; • Removal of the existing greenhouse and its replacement with a shed.	
20151151	Application for removal of condition 10 of planning permission reference no. 20141170 for change of use of ancillary outbuilding to an independent two bedroom dwelling with home office, parking, landscaping and a separate curtilage to Home Farm Cottage; to reinstate permitted development rights	Refused 10/02/16 Appeal allowed 26/01/17
20180043	Erection of single storey side and rear extensions	Granted 05/03/18
20220311	Retention of replacement roof and recladding of elevations of existing outbuilding	Granted 01/07/22

Background

The use of Meadow Cottage for residential use was approved via planning application 20140906 and revised planning application 20141170. Conditions 6 and 7 of planning application 20141170 restrict internal and external alterations to and the use of the 'outbuilding permitted as garaging', the subject of this application. These conditions are as follows:

6. *The outbuilding hereby permitted as garaging to the use of the dwelling hereby permitted shall not subsequently be altered internally or externally or otherwise enlarged or extended unless a specific grant of planning permission has been given by the Local Planning Authority.*

Reason *In order that any enlargement or alteration of the buildings may be the subject of a separate planning application which the Local Planning Authority would wish to consider on its merits having regard to adopted planning policy and guidance.*

7. *The outbuilding hereby permitted as garaging shall be used as garaging ancillary to the residential dwelling hereby permitted and for no other purpose; the building shall not contain at any time any living accommodation and it shall not at any time be sold, parted, let or exchanged as a separate unit.*

Reason *That any other use of the building hereby permitted may be the subject of a separate planning application which the Local Planning Authority would wish to consider on its merits having regard to adopted planning policy and guidance.*

Planning Considerations

The main planning considerations in relation to the application relate to the proposed removal of conditions 6 and 7 and the proposed solar panels. These matters are addressed below.

Proposed Removal of Conditions

Condition 6

In relation to condition 6 of planning application 20141170, alterations to the garage outbuilding have recently been approved via planning application 20220311, including a replacement roof and recladding of the elevations. Now that the outbuilding has been renovated, no further external changes will be necessary to this outbuilding for some time. However, the wording of condition 6 is so restrictive (the building shall not to be altered internally or externally), such that when any future renovations become necessary to the building, a new planning application would seemingly be required. This condition is unreasonable and unnecessary and therefore does not meet the tests of the NPPF paragraph 56 and NPPG.

Any minor internal or external alteration to the building would not cause harm to the Green Belt or countryside, such that planning policies would be complied with. Internal changes to the building would make no impact upon the Green Belt or countryside in which the site is located. Any external alterations, would be of a minor nature and similarly therefore not impact upon the Local Plan designations.

In terms of 'enlargements' or 'extensions' to the building, the NPPG at paragraph 017 Reference ID: 21a-017-20190723 states that:

Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.... blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.

Permitted development rights should not therefore be more restricted in the Green Belt than in other places. Indeed, the appeal Inspector in relation to application 20151151 (removal of condition 10 of application 20141170 at Meadow Cottage) states at paragraph 9 that:

Planning Practice Guidance (PPG) sets out that conditions restricting permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Just because the land in dispute is within the Green Belt does not of itself make it exceptional circumstances.... Permitted development rights are not restricted more in the Green Belt than in other areas and in this regard, Green Belt land does not represent exceptional circumstances in itself. No other exceptional circumstances have been advanced. Therefore, the condition in dispute does not accord with guidance set out in the PPG.

It is noted that the GPDO places no restrictions on permitted development rights in the Green Belt. Therefore, the permitted development rights that existed on the outbuilding should be reinstated with the removal of condition 6.

Condition 6 of planning application 20141170 is therefore unreasonable and unnecessary in planning terms. The condition does not meet the tests of paragraph 56 of the NPPF and the NPPG. The NPPF further states at paragraph 56 that the use of planning conditions should be kept to a minimum.

Condition 7

In relation to condition 7, which restricts the use of the outbuilding, it is proposed to put some gym equipment in the outbuilding as well as an office desk, along with the general garage items/mower. Currently, the wording of condition 7 is restrictive (to be used as '*garaging ancillary to the residential dwelling*'). Whilst the building could be used for general purposes that are ancillary to the main dwelling, the inclusion of the word 'garaging' could be determined to be restricted to garaging purposes. If this is the Council's intention with the wording of the condition, it is considered to be unreasonable.

The applicants wish to use the outbuilding for general purposes that are ancillary to the main house such as a gym/home office. It is not proposed to include any 'living accommodation' nor sell/part/let or exchange the building as a separate unit. The use of the building for purposes that are not ancillary to Meadow Cottage would require the specific grant of planning permission in any event, as would its use as a separate residential unit.

Condition 7 of planning application 20141170 is therefore unnecessary and unreasonable in planning terms. The condition does not meet the tests of paragraph 56 of the NPPF and the NPPG. In accordance with the NPPF paragraph 56, the use of planning conditions should be kept to a minimum.

Proposed Solar Panels

Solar panels are proposed on the roof of the outbuilding and neighbouring shed. The General Permitted Development Order (2015 as amended) permits solar panels on the roofs of domestic outbuildings by virtue of Part 14, class A. In relation to the criteria outlined within the GPDO for solar panels to constitute permitted development, the following is noted:

- (a) the solar equipment would protrude more than 0.2 metres beyond the plane of the wall or the roof slope when measured from the perpendicular with the external surface of the wall or roof slope;
- (b) the highest part of the solar equipment would not be higher than the highest part of the roof;
- (c) the site is not within a conservation area or World Heritage Site;
- (d) the site is not designated as a scheduled monument;
- (e) neither Meadow Cottage or the outbuilding are listed.

In terms of the conditions outlined within the GPDO, the following is noted:

- (a) the solar equipment is sited to minimise its effect on the external appearance of the building, being only on two elevations.

(b) the solar equipment is sited so as to minimise its effect on the amenity of the area, with the site hidden from public viewpoints;

(c) the solar equipment would be removed when no longer needed.

It is therefore the case that the solar panels would be permitted development, by virtue of the GPDO should condition 6 of planning application 20141170 be removed.

Conclusion

This letter seeks the removal of conditions 6 and 7 of planning application 20141170 as they are unnecessary and unreasonable and do not meet the tests set out within the NPPF and NPPG. It is therefore respectfully requested that the conditions are removed from the planning permission.

Should you require further information, please do not hesitate to contact me.

Yours sincerely



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