

Delegated Report

Section 106 Amendments

Planning Application No: 20250211

Location: Greenacres Farm Brimstone Hill Meopham Gravesend

Description: Request under Section 106A of the Town and Country Planning Act 1990 (as amended) to modify planning obligations pursuant to planning permission reference 20151137.

Applicant: Mrs Joann Hill

Submitted Documents/Plans

Application Form

*Officer Note: It is noted that for this application form a map identifying the land to which the obligation relates must be provided with the application. However, this has not been received in this case. It is noted that given the provision of planning history details, the site area is clear in this case and so the assessment can proceed despite the inadequate information provided.

Relevant Planning History

Reference	Description	Decision	Decision Date
20211077 APP/K2230/W /22/3297257	Application for removal of condition 4 attached to planning permission reference no. 20151137 to allow the annexe to be a separate residential dwelling.	Refused and Allowed at Appeal	Refused: 10.11.2021 Allowed: 13.04.2023
20151137	Erection of a single storey front extension and change of use from holiday let to annex.	Permitted	12.07.2019

Relevant Legislation

[Town and Country Planning Act 1990](#)

[The Town and Country Planning \(Modification and Discharge of Planning Obligations\) Regulations 1992](#)

[National Planning Policy Framework.](#)

[Planning practice guidance - GOV.UK](#)

Consultations, Publicity and Representations

Consultees

Ward Councillors

No comments received

Parish Council

No comments received

Dickens Protection Society

The Society notes the site is in an area where Green Belt Policies apply and a National Landscape area. The agreement referred to, includes a requirement that the additional residential unit remains as an annex and this condition should be retained.

Neighbouring properties

0 comments were received from members of the public.

Officer's Analysis

This application seeks to discharge planning obligations imposed by S106 RGS/446 relating to planning approval reference 20151137, which was for '*Erection of a single storey front extension and change of use from holiday let to annex*'.

Background

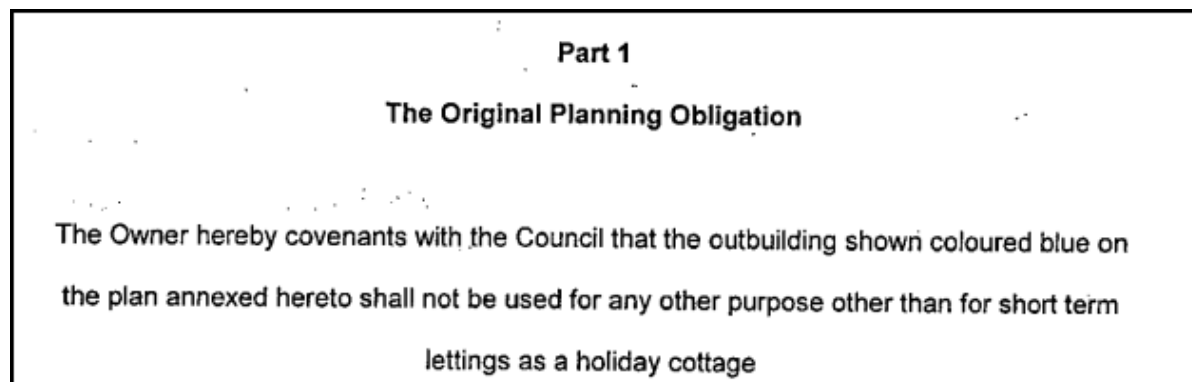
Condition 4 of 20151137 is as follows:

4. *The annexe hereby permitted shall at all times be used for accommodation ancillary to the existing dwelling at Greenacres Farm, Brimstone Hill, Meopham and it shall not at any time be sold, parted, let or exchanged as a separate dwelling.*

Reason To protect the amenity of the area, prevent over intensification of the site and to protect the openness of the Green Belt in accordance with Policy CS02, Policy CS12, Policy CS19 of the Gravesham Local Plan: Core Strategy (September 2014).

S106

The original Section 106 from 2002 was amended as part of application reference 20151137 as follows:



Part 11

The New Planning Obligations

The Owners covenants

1. Not to use the Outbuilding for any purpose other than for an annexe ancillary to the Main Dwelling
- 2.2 Not to permit nor cause to be permitted the occupation of the Outbuilding by any person other than close family members (meaning the Owners children over the age of 18 years and/or brothers, sisters and grandparents of the Owners) and the Owners visitors

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- 2.3 Not to sell part with let or exchange part or whole of the Outbuilding as a separate dwelling from the Main Dwelling

In 2015 under planning ref 20151137 the change of use of the existing outbuilding from holiday let to annex was approved, which had ancillary restriction by condition 4 and a S106 agreement. In 2021 the application to remove condition 4 was refused but was allowed at appeal in 2023. This application seeks to vary the s106 to remove this restriction to bring the site into accordance with the removal of condition which was allowed at appeal.

Planning Procedure

Paragraph: 020 Reference ID: 23b-020-20190315 of the NPPG addresses whether planning obligations can be altered;

Can an agreed planning obligation be changed?

Planning obligations can be renegotiated at any point, where the local planning authority and developer wish to do so. Where there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application may be made to the local planning authority to change the obligation where it “no longer serves a useful purpose” or would continue to serve a useful purpose in a modified way (see section 106A of the Town and Country Planning Act 1990).

The [Town and Country Planning Act 1990](#) Section 106A(6), addresses how an authority would deal with modification or removal of obligations;

*(6)Where an application is made to an authority under subsection (3), the authority may determine—
(a)that the planning obligation shall continue to have effect without modification;
(b)if the obligation no longer serves a useful purpose, that it shall be discharged; or
(c)if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modification*

The factors/tests for consideration in deciding the application are reasonably determined in conjunction with relevant caselaw as:

1. What is the current obligation
2. What purpose does it fulfil
3. Is it a useful purpose
4. Would the obligation serve that purpose equally well subject to proposed modifications.

Assessment

1. What is the current obligation

The obligations have been laid out in the background section of this report. To summarise they ensure that;

- The outbuilding must be used as an ancillary annexe.
- Only close family members can occupy the outbuilding.
- The outbuilding cannot be sold separately from the main dwelling.

2. What purpose does it fulfil

When applied these obligations would have ensured that the outbuilding would essentially not be used or sold as a separate residence. Given that the outbuilding at the time was intended as an ancillary annexe, then that was a useful purpose, to prevent the separate residential use of the outbuilding without the necessary planning considerations being undertaken by way of an application for its separate residential use.

3. Is it a useful purpose

At its time, this was a useful purpose, and it can be considered that it was effective as a planning application was utilised to remove the condition which allowed assessment of the impacts of the use as a separate residential dwelling. Planning reference 20211077 allowed the removal of condition 4 of 20151137 which required the building to be used as an ancillary annexe, so that it may be used as a separate residential dwelling, by way of planning appeal. This latest planning permission would essentially supersede 20151137, and the outbuilding is consented to be used as a separate dwelling. The original purposes to prevent the separate residential use of the outbuilding are therefore defunct and no longer serve a useful purpose.

4. Would the obligation serve that purpose equally well subject to proposed modifications.

As the purpose of the obligation has been identified as no longer useful, it is not reasonable to modify the obligation to meet the purpose and discharge of planning obligations is the necessary assessment in this instance.

Conclusion

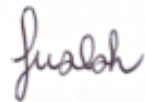
Planning permission has been granted under reference 20211077 for the annexe to be used as a separate

dwelling and therefore the obligations no longer serve a useful planning purpose.

Recommendation

The recommendation is to discharge this planning obligation.

(see draft Decision)

Case Officer:	Mrs Lisa Fisher	Team Leader:	Mrs Faye Walsh
Signed:		Signed:	
Dated:	24 th April 2025	Dated:	25 April 2025