



Delegated Report

Application for Variation of Condition

Planning Application No: 20240598

Location: Horns Oak Farm Horns Oak Road Meopham Gravesend

Description: Application for variation of condition 3 attached to planning permission reference number 20200117 for the application for retention of change of use from barn to B1 (office) and B1C (workshop) for the design and production of sustainable fibre optic and low energy LED lighting; to allow the change of the condition to relate solely for the benefit of the owners of Horns Oak Farm.

Applicant: Mrs C.E Tarr

Submitted Documents/Plans

Application Form
2821-03 – Existing Elevations and Location Plan
Planning Statement

Relevant Planning History

Reference	Description	Decision	Decision Date
20200117	Application for retention of change of use from barn to B1 (office) and B1C (workshop) for the design and production of sustainable fibre optic and low energy LED lighting.	Permitted	31.03.2020

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS07 – Economy, Employment and Skills
- CS11 – Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 - Design & Development Principles

Gravesham Local Plan: First Review (1994)

- C11 – Change of Use of Redundant Buildings in the Countryside
- T1 – Impact of Development on the Highway
- T4 – Development Outside the Built-Up Area
- P3 – Vehicle Parking Standards

Paragraph 33 of the NPPF (2023) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as

necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 6 – Building a strong, competitive economy
- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed and beautiful places
- Section 13 – Green Belt

Supplementary Planning Guidance

- SPG2 - Residential Layout Guidelines (1996)
- SPG 4 - KCC Parking Standards (2006)
- Landscape Character Assessment (2009)
- Kent Downs Area of Outstanding Natural Beauty Management Plan

Consultations, Publicity and Representations

Consultees

Meopham Parish Council

No comments received.

Ward Councillors

No comments received.

Neighbouring properties

4no. surrounding properties were consulted, and 0 comments were received from members of the public. The final date to submit comments ended on 9th August 2024.

Officer's Analysis

Permission was granted under planning reference 20200117 for *'Application for retention of change of use from barn to B1 (office) and B1C (workshop) for the design and production of sustainable fibre optic and low energy LED lighting.'*

This application seeks to vary condition 3 of the decision notice, which reads as follows:

'This permission shall relate solely for the benefit of the applicant and her immediate family only unless otherwise agreed in writing by the Local Planning Authority.'

Reason: To ensure control over any changes to future business use to allow assessment of the potential impact on amenity in accordance with Policy CS19 of the Core Strategy 2014.'

The change proposed would alter the wording of this condition to allow the permission to relate to the owners of the property, instead of specifically to the applicant of that application and their family members. The wording suggested in the provided planning statement is as follows:

'This permission shall relate solely for the benefit of the owners of Horns Oak Farm unless otherwise agreed in writing by the Local Planning Authority.'

Use Class B1 was revoked from 1st September 2020 and replaced with use class E(g)

Use class B1 was as follows:

- **B1 Business** – Uses which can be carried out in a residential area without detriment to its amenity. This class was formed of three parts:
 - B1(a) Offices - Other than a use within Class A2 (see above)
 - B1(b) Research and development of products or processes
 - B1(c) Industrial processes

The use as approved would therefore fall under the current class, which is now E(g), which is as follows:

- **E(g)** Uses which can be carried out in a residential area without detriment to its amenity:
 - **E(g)(i)** Offices to carry out any operational or administrative functions,
 - **E(g)(ii)** Research and development of products or processes
 - **E(g)(iii)** Industrial processes

The wording varies slightly for E(g)(i) but would otherwise remain similar to B1. Class E(g) would allow a range of different functions for the application site. Given the change in use class, relevant conditions will need to be updated to correspond to the updated Use Class Order.

Condition 3 as currently worded, specifically restricts the use to the current applicant, which would mean that should a new owner purchase the property, planning permission would be required. It is likely that this was considered necessary due to a new owner potentially using the building differently, either with an intensification of its use, change to its use either within the E(g) use class or by utilisation of permitted development rights. This property is in a sensitive location, in the Green Belt, National Landscape and Harvel Wooded Downs Landscape Character Area. In such a location, alteration to the use as previously described, would require careful consideration and assessment against current planning policy.

The condition ties the approved use of the workshop as use to the applicant and their family members. The reason given for the existing condition is to; *'To ensure control over any changes to future business use to allow assessment of the potential impact on amenity in accordance with Policy CS19 of the Core Strategy 2014.'*

Paragraph 015 of the Use of Planning Conditions section of the NPPG (2019) is as follows;

Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?

Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.

A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.

Paragraph: 015 Reference ID: 21a-015-20140306

Revision date: 06 03 2014

Despite this, there have been occasions where at appeal, the inspector has allowed personal conditions to be applied which would control a use where the style of management may be thought important as a factor in mitigating amenity impact. For instance, in appeal decision APP/T5150/A/1032046 in Brent, for an unauthorised homeless hostel converted from a nursing home in a residential area was allowed with inclusion of a condition which tied the use to the appellant to ensure that any agreement with the council to give priority to the Brent Homeless was 'effectively secured'. In another case in Penwith, APP/L0825/A/04/1149363 for 'change of use from an eight bedroom house in multiple occupancy to an eight bedroom hostel', allowed an appeal which included a condition restricting the use of the hostel to be operated only by the Salvation Army, or other organisation approved in writing by the Council. Whilst this application does not relate to a hostel use, these cases provide indication of instances where personal conditions are appropriate.

Focussing particularly on industrial uses, there are examples where personal conditions are considered to be necessary for the operation to continue in an acceptable way. In appeal ref APP/C/97/Z0116/649171, in Bristol, the inspector allowed an appeal against an enforcement notice described as 'use of the premises for the welding and fabrication of metal goods, which is a Class B2(General Industrial) use and is contrary to the authorised use as a warehouse (B8).' In that case the inspector applied a personal condition to enable the business to continue to operate as they observed that the appellant was operating his business in an acceptable way. In another case, in Oxon at appeal reference; APP/C3105/A/07/2053004, an inspector dismissed an appeal against a refusal to remove a named firm occupancy tie on a storage building to allow an industrial use. In this case, the site was within the Green Belt. The inspector found that by removing the personal condition, this would allow unfettered B1 use, which would potentially result in more vehicles parked on site and for longer periods of time. The inspector found that this unfettered use would therefore be 'inappropriate development and in addition impair the openness of the Green Belt.', citing the location as 'unsustainable for an unrestricted B1 use.'

This last case is similar to the one at hand, in that the use class is B1, and the application seeks to remove the personal restriction condition. However, in this case no details of who the owners would be and how they would intend to manage the site have been provided. The argument put forward in the planning statement for this application, is that the dwellinghouse is in close proximity to the subject building and *'this proximity will restrict noise, disturbance and vehicular movements to the commercial use if it is retained for the benefit of the owners of Horns Oak Farm. This will also preserve neighbouring amenity.'* It is noted that the building itself is 14 metres from the dwellinghouse, shares an access and has parking spaces abutting the dwellinghouse. However, although the proposed wording of the condition would tie the use to owners of the dwellinghouse, it would not require that the owners occupy the dwellinghouse and so the proposed wording would not appropriately ensure control over any changes to future business use to allow assessment of the potential impact on amenity, which is the entire purpose of the condition. Amended wording as follows, would more appropriately secure the proper management of the site as an occupier of the property is more likely to ensure appropriate management of the industrial use, so as to mitigate impacts on neighbouring amenity, if they are occupying the dwellinghouse.

'This permission shall relate solely for the benefit of the occupiers of the dwellinghouse at Horns Oak Farm unless otherwise agreed in writing by the Local Planning Authority.'

This new wording was discussed with the planning agent, who have agreed in writing.

Conclusion & Recommendation

Condition 3, in its current format protect the amenity of the area and allows for consideration of impacts of alternative management of the site by any future owner in this sensitive location. To remove the personal restriction entirely would prevent assessment and control of future management of the building as B1/ E(g) use which could potentially result in substantial harms to the Green Belt, Landscape, Character and Residential Amenity. However, the change to restrict this use to the occupier of the dwellinghouse on site, would allow an appropriate level of control of the use of the site and its management. The recommendation is therefore to approve this application.

The original approval included four conditions. Condition 1 detailed the approved plans and required that the development be retained in accordance with those plans. Condition 2 limited the area of the approved change of use to the workshop, Condition 3 applied the personal use condition and condition 4 limited the hours of use. Condition 3 should be amended as per this assessment. The remaining conditions would remain relevant to ensure that residential amenity continues to be protected and to apply appropriate planning controls to the development. However, they will be updated where necessary to refer to the updated use class.

(For detailed conditions / reasons for refusal and informatives, see draft Decision)

Case Officer:	Mrs Lisa Fisher	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	23rd August 2024	Dated:	23 August 2024