



Delegated Report

Householder Planning Application

Planning Application No: 20221356

Location: Meadow Cottage School Lane Higham Rochester

Description: Application for removal of conditions 6 and 7 attached to planning permission reference 20151151; in order to allow internal and external changes to the outbuilding and to remove the restriction for the outbuilding to be used solely as a garage.

Applicant: Graham & Anita Loft

Site Visit Date: 27/02/2023

Submitted Documents/Plans

- Application form;
- Drawing no. 08.03.02/3A – Elevations and Floor Plans Existing and Proposed;
- Solar panel details; and
- Letter to the Council.

Relevant Planning History

Reference	Description	Decision	Decision Date
20180043	Erection of single storey side and rear extensions.	Refused	10.02.2016
20151151	Application for removal of condition 10 attached to 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	10.02.2016 (Allowed on appeal 26.01.2017)
20141170	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.	Permitted	23.03.2015
20140906	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.	Permitted	27.11.2014

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS11 - Transport

- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 - Development & Design Principles

Gravesham Local Plan: First Review (1994)

- C13 – Extensions to Dwellings in the Countryside
- P3 – Vehicle Parking Standards

Paragraph 33 of the NPPF (2021) 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 (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- 2 – Achieving Sustainable Development
- 4 – Decision-making
- 8 – Promoting healthy and safe communities
- 9 – Promoting sustainable transport
- 11 – Making effective use of land
- 12 – Achieving sustainable development and well-designed places
- 13 – Protecting Green Belt land
- 15 – Conserving and enhancing the natural environment

Supplementary Planning Guidance

- 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020;
- Technical Housing Standards – nationally described space standard (2015);
- SPG 4 - KCC Parking Standards (2006);
- Householder Extensions/Alterations Design Guide (2021); and
- Gravesham Landscape Character Assessment (2009).

Consultations, Publicity and Representations

Consultees

No response from:

- Higham Parish Council

Neighbouring properties

12 surrounding properties were consulted plus site notice – overall consultation expiry date was 17 February – no responses received.

Officer's Analysis

The application site consists of a detached dwelling situated off of the eastern side of School Lane, Higham very close to its northern end. The dwelling was an outbuilding to Home Farm Cottage that has been converted to a self-contained dwelling under ref. 20141170. The property has subsequently been extended under application ref. 20180043 with single storey side and rear extensions.

The site is located in the Green Belt and the Higham Arable Farmlands Landscape Character Area.

The permission for Meadow Cottage was formed from conversion of a barn which was part of Home Farm Cottage to a self-contained dwelling (ref. 20141170) and was subject to a number of conditions including nos. 6 & 7 which this application seeks to remove;

Condition 6 is:

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.*

Condition 7 is:

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.*

The covering letter sets out that the reason the applicant wants to remove these two conditions is that they are too restrictive and so to enable the outbuilding to be renovated when necessary in the future, for any internal changes to be made should this be required, enable the outbuilding to be used in part for a home office and home gym and to allow solar panels on the roof of the outbuilding, without having to apply for applications for anything that they may want to do in the future.

The principle consideration is therefore whether the condition nos. 6 & 7 are necessary and reasonable having regard to adopted planning policy and guidance.

It is prudent to note that the applicant has applied previously to remove planning condition no. 10 from permission ref. 20141170 under application ref. 2015115. Condition no. 10 related to the removal of Article 3, Part 1, Classes E, F and H and Article 3, Part 2, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, as amended (GPDO) within the area of land south of the driveway to the dwelling.

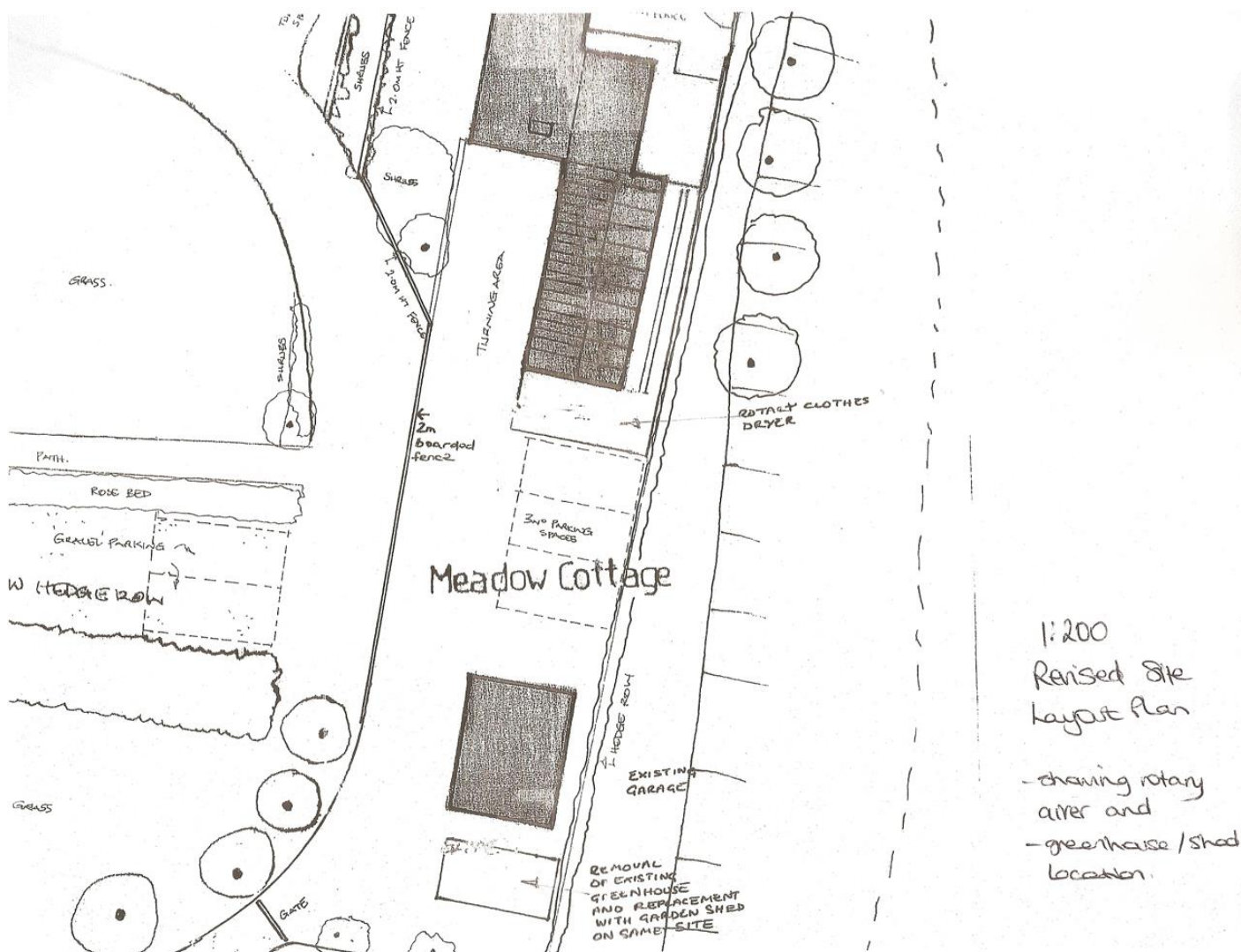
Condition 10 was as follows:

10. *Notwithstanding the provisions of Article 3, Part 1, Classes E, F and H, and Article 3, Part 2, Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended, (or in any provision equivalent to those Classes in any Order revoking or re-enacting that Order with or without modification) no additional outbuilding, boundary wall, fences, gates, walls or other means of enclosure required for a purpose incidental to the enjoyment of the dwellings (including any fixed items of domestic paraphernalia such as washing lines) or any hard surface, domestic heating storage container or microwave antenna shall be installed, constructed or placed within the land shown south of the existing driveway serving the new dwelling, other than as may be shown in the approved drawings, unless a specific grant of planning permission has been given by the Local Planning Authority.*

Reason *In order that any development of this area may be considered on its merits, in relation to development plan policies and having regard to their impacts on the Green Belt, landscape, visual and residential amenity and highway safety.*

The application was refused by the Council but allowed on appeal. The Inspector set out that Meadow Cottage was a result of permission having been granted (under ref. 20141170) for conversion of a barn to a two bedroom dwelling including a separate curtilage from the host dwelling Home Farm Cottage. It was not disputed by the Council or the appellant that the land to the south was not within the curtilage of Meadow Cottage; it was the extent of the curtilage of Home Farm Cottage that was in dispute. The Inspector however, considered that from the evidence that the land to the south did fall within the curtilage of Home Farm Cottage and so would benefit from permitted development rights associated with that dwelling. In this regard the development sought to be restricted by condition 10 would be contained within a domestic curtilage and so not encroach into the countryside. The Inspector considered any development carried out which condition 10 seeks to preclude would be well screened by planted boundaries of the site and there would be limited views from surrounding land. The Inspector considered the removal of condition 10 would not result in material harm to the Green Belt or the character or appearance of the locality. The Inspector also made reference to Planning Practice Guidance (PPG) which sets out that conditions restricting permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances and that permitted development rights are not restricted more in the Green Belt than in other areas. The Inspector considered therefore that condition 10 did not accord with the PPG guidance. Conditions restricting alterations to and the use of the garage from the original 20141170 permission were kept on the 20151151 amended application.

In the case of this current application, the garage subject of condition nos. 6 & 7 of permission ref. 20141170 is contained within the curtilage of Meadow Cottage (which as stated was a barn converted into a self-contained dwelling with its own separate curtilage from the host dwelling Home Farm Cottage). The below is an extract from the site layout plan which shows the garage outbuilding to the south of Meadow Cottage within its curtilage:



It is prudent to note condition 9 of permission ref. 20141170 which was kept on 20151151 has removed permitted development rights for Meadow Cottage, including outbuildings;

9. Notwithstanding the provisions of Article 3, Part 1, Classes A-H of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended, (or in any provision equivalent to those Classes in any Order revoking or re-enacting that Order with or without modification) no enlargement, improvement or other alteration of the dwelling hereby permitted shall be carried out, including the provision of dormers, roof lights or other roof alterations, the erection or construction of a porch outside any external door, the installation of any chimney, flue, vent pipe, rainwater goods or microwave antenna or the formation of any additional window, door or other form of opening and no building or enclosure required for a purpose incidental to the enjoyment of the dwellings (including any fixed items of domestic paraphernalia such as washing lines) or any hard surface, domestic heating storage container or microwave antenna shall be installed, constructed or placed within the curtilage of the dwellings, other than as may be shown in the approved drawings, 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 building and the curtilage may be considered on its merits, in relation to development plan policies and having regard to their impacts on the Green Belt, landscape, visual and residential amenity and highway safety.

As can be seen permitted development rights under Class E (Outbuildings) of the GPDO have been

removed. This means that any new outbuildings within the curtilage of Meadow Cottage will require planning permission. However if condition nos. 6 & 7 were to be removed, there would therefore be limited control over the existing garage outbuilding in respect of any enlargements, alterations and use etc. Despite permitted development rights for the property being removed, the Council could not be satisfied safe in the knowledge that the applicant would not be able to carry out development under Class A-H of the GPDO for other alterations to the outbuilding. If condition nos. 6 & 7 were to be removed, the garage outbuilding would therefore just become a building with no control over what sort of enlargements, alterations and particularly uses could be carried out (there are no other conditions on ref. 20151151 which would protect against this). This is considered important here given that the site is located within the Green Belt and protection is needed to ensure that any future alterations, enlargements or uses of the building would not constitute inappropriate development, impact on the openness of the Green Belt or conflict with the purposes of including land within the Green Belt, in particular 'safeguarding the countryside from encroachment'. Also given the plots constrained size and the extensions which have already been carried out to the property and having due regard to the character of the host dwelling and the surrounding locality, it is therefore considered condition nos. 6 & 7 should remain attached to permission ref. 20141170 and should not be removed.

While the applicant may wish to remove these two conditions to enable the outbuilding to be renovated in the future, , to enable the outbuilding to be used in part for a home office and home gym and to allow solar panels on the roof of the outbuilding, once the conditions are removed these elements are unrestricted and any future occupants may proposed alterations beyond want is currently implied which need to be assessed against relevant local and national policies.

For the above reasons condition nos. 6 & 7 are therefore considered to meet the six tests in the NPPF (2021) and PPG namely of being necessary, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other respects and the original reasons for the conditions are still considered justified namely that any enlargement, alteration or any other use would need to be considered on its merits having regard to adopted planning policy and guidance.

Conclusion & Recommendation

For the reasons as explained above it is considered condition nos. 6 & 7 of permission ref. 20151151 should remain and not be removed.

Recommendation: Refusal

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

Case Officer:	Ms Rebecca Harrison	Team Leader:	Miss Faye Hobbs
Signed:	<i>Rebecca Harrison</i>	Signed:	
Dated:	6th March 2023	Dated:	06 March 2023