

Planning Statement

Walnut Hill Nursery, Walnut Hill
Road, Longfield Hill, Kent, DA13 9HL

Application under Schedule 2, Part 3, Class
R of the GPDO for conversion of building to
commercial use (Class E)



RTPI

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GSP

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1 Introduction

- 1.1 This Planning Statement has been submitted in support of an application for the following development at Walnut Hill Nursery, Walnut Hill Road, Longfield Hill, Kent, DA13 9HL (hereafter referred to as 'the Site'):

Application under Schedule 2, Part 3, Class R of the GPDO for conversion of building to commercial use (Class E)

- 1.2 The proposed development affects the following Land Registry title(s):

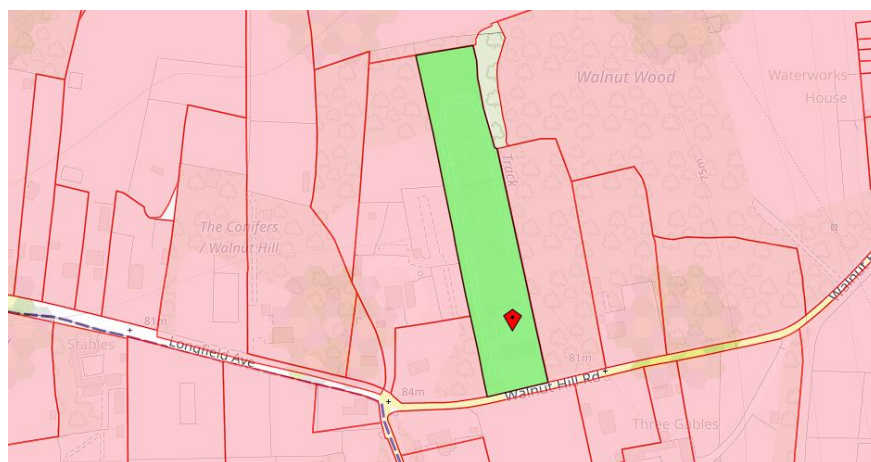
Title Number	Description	Owner
K421608	Walnut Hill Nursery, Walnut Hill Road, Gravesend, DA13 9HL	The Applicant

- 1.3 The application is accompanied by the following plans and documents:

- **Planning Statement**
- **Planning Statement Appendix GSP1**
- **4168-01 Site Location Plan**
- **4168-02 Existing Block Plan**
- **4168-03 Existing GF Plan**
- **4168-04 Existing FF Plan**
- **4168-05 Existing Elevations 1**
- **4168-06 Existing Elevations 2**
- **4168-07 Proposed GF Plan**
- **4168-08 Proposed FF Plan**
- **4168-09 Proposed Elevations 1**
- **4168-10 Proposed Elevations 2**

2 Site Context

- 2.1 This Site extends to some 1.2ha within a largely rectangular parcel of land and is situated on the north side of Walnut Hill Road in which the Site can be directly accessed from. This is the Site's only access which is protected by closeable metal gates.
- 2.2 There is a narrow dirt track that leads from the entrance which in turn allows access across the whole of the Site.
- 2.3 The remainder of the Site suggests the last use was for the growth of plants and flowers. The nursery closed in 2022, which coincided with the clearance of the northern part of the Site.
- 2.4 The Site is adjacent to The Conifers Camping and Caravanning Club to the west whilst the rest of the Site is surrounded by agricultural land and woodland.
- 2.5 In terms of access, the Site is a 2-minute walk to the eastern edge of the nearest village of New Barn along Longfield Avenue.
- 2.6 This Site is the subject of the following planning constraints and characteristics:
- Situated in the Metropolitan Green Belt
 - In close proximity to multiple Ancient Woodlands
 - Flood Zone 1 (low possibility of flooding from rivers or the sea)



3 Relevant History

3.1 The following records are understood to be relevant to the Site:

Retention of portacabin and continue use as office/cloakroom/store room/rest room

Ref. No: 19900708 | Validated: Fri 30 Nov 1990 | Status: Application Permitted

REVISED APPLICATION Removal of existing portacabins and sheds and erection of replacement building for gardening storage, machinery room, packing room and potting-up room at ground floor, incorporating sheltered walkway and refuse and chemical store, with office accommodation and storage at first floor level.

Ref. No: 19970030 | Validated: Fri 17 Jan 1997 | Status: Application Refused – *The application was refused on the basis that the proposal would be seriously detrimental to the character and amenity of the landscape, and the openness of the Green Belt by virtue of the height, bulk, and scale of the development proposed.*

Removal of existing portacabins and sheds and erection of a barn to provide equipment/materials storage, propagation area, potting and packing and loading areas at ground floor level and staff facilities, drying room, office and storage at mezzanine floor level and an external fire escape staircase at the side.

Ref. No: 20000600 | Validated: Thu 22 Feb 2001 | Status: Application Permitted on 18 May 2001 subject to the following conditions (in summary):

1. The development to be commenced within 5 years of the decision date;
2. The development to be carried out in full accordance with approved plans;
3. No retail sales to visiting members of the public shall take place from any part of the site or premises;
4. Before commencement of the development brick and tile samples shall be submitted to the LPA for approval;
5. Within 3 months of the completion of the building, the existing buildings and structures shown for demolition/removal on drawing 1/30/01/A shall be demolished/removed in their entirety from the site, with no additional or replacement structures or portable buildings shall be erected or placed on the site without prior permission from the LPA.

Any breaches of these conditions would have been ongoing for longer than 10 years and would now be considered to be immune from enforcement action.

4 Proposed Development

- 4.1 The Site is intended to be occupied by a drainage company that is looking to open an office here. The company operates 24/7 with the offices intended to be operational between 8am and 5pm Monday to Friday. The company owns around 60 vehicles and with the exception of 10, 50 are remotely based from across the local area all the way to places such as Birmingham.
- 4.2 Having recently purchased the former Walnut Hill Nursery site, the Applicant now wishes to use the main existing agricultural building to the front as offices as a new primary use of the Site, rather than have offices incidental to an agricultural use. No operational development is to take place as part of this application, hence the existing and proposed floor plans and elevations are the same.

5 Prior Approval Assessment

Permitted development

- 5.1 Part 3, Class R of the The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that the following is permitted development (PD):

"Development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within one of the following provisions of the Use Classes Order—

(a) falling within one of the following provisions of the Use Classes Order—

- (i) Class B2 (general industrial) of Schedule 1;*
- (ii) Class B8 (storage or distribution) of Schedule 1;*
- (iii) Class C1 (hotels) of Schedule 1;*
- (iv) Class E (commercial, business or service) of Schedule 2; or*
- (v) Class F.2(c) (outdoor sport or recreation) of Schedule 2; or*

(b) for the provision of agricultural training.

- 5.2 The proposed building and its curtilage are proposed to be used for commercial purposes, primarily as offices, falling within category (iv) above.

Development not permitted

- 5.3 **R.1:** development would not be PD under Class R if:

(a) the building was not used solely for an agricultural use as part of an established agricultural unit—

- (i) on 3rd July 2012;*
- (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or*
- (iii) in the case of a building which was brought into use after 3rd July 2012, for a period of at least 10 years before the date development under Class R begins*

- 5.4 The planning history supports the notion that this nursery use was in place since at least 1990, given the wording of condition (i) of planning permission 19900708. A later permission (20000600) did not include a material change of use of the land. GBC's pre-application response of May 2024 (ref: PRE20240071) confirms that the lawful use of the Site is as a plant nursery.

- 5.5 There is no information or evidence that indicates that this nursery transformed over time into a mixed use (as many do) whereby the agricultural purpose was combined with another dominant use, typically the sale of imported produce or goods. Appeal decision 2115961 is generally considered helpful in defining plant nurseries. This is included as part of this response as **Appendix GSP1**.
- 5.6 The Applicant agrees with GBC's admission that the lawful use is a plant nursery. The attached appeal decision confirms such a use is agricultural. The building existed before 3rd July 2012 and was used solely for an agricultural use as part of an established agricultural unit.
- 5.7 GSP has seen errors made by LPAs in determining prior approvals for changes of use of agricultural buildings where reference has been made to paragraph 106, reference 13-106-20180615 of the NPPG, but this only relates to a change of use of agricultural buildings to residential (Class Q), meaning this is not relevant to PD under Class R.
- 5.8 The following would also not be PD under Class R:
- (b) the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 1,000 square metres*
- 5.9 This is the first application for the Site seeking prior approval under Class R, whilst the building that is proposed to be converted to offices is less than 1,000 sqm.
- 5.10 The following would also not be PD under Class R:
- (c) the site is, or forms part of, a military explosives storage area;*
(d) the site is, or forms part of, a safety hazard area; or
(e) the building is a listed building or a scheduled monument.
- 5.11 The above do not apply to the Site.

Conditions

- 5.12 **R.2:** Development is permitted by Class R subject to the following conditions:
- (a) a site which has changed use under Class R may, subject to paragraph R.3, subsequently change use to another use falling within one of the use classes comprising the flexible use;*
(b) for the purposes of the Use Classes Order and this Order, after a site has changed use under Class R the site is to be treated as having a sui generis use;

- (c) *after a site has changed use under Class R, the planning permissions granted by Class E of Part 7 of this Schedule apply to the building [hard surfaces for commercial, business or service etc premises], subject to the following modifications—*
 - (i) *"curtilage" has the meaning given in paragraph X (interpretation) of this Part i.e. "curtilage" means the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser;*
 - (ii) *any reference to "office building" is to be read as a reference to the building which has changed use under Class R.*
- (d) *where the site is to be used for general industrial purposes within Class B2, it must only be used for the processing of—*
 - (i) *raw goods, excluding livestock, which are produced on the site and are to be sold on the site, or*
 - (ii) *raw goods mentioned in paragraph (i) together with goods ancillary to the processing of those raw goods*

5.13 The above is noted, but requires no action by the Applicant as part of this prior approval submission. It is the Applicant's understanding that Class R enables the use of the entire curtilage of a building to be changed to coincide with the proposed use of the building, but under (c)(i) above the PD right for hard surfaces can only relate to a smaller curtilage.

5.14 **R.3:** (1) Before changing the use of the site under Class R, and before any subsequent change of use to another use falling within one of the use classes comprising the flexible use, the developer must—

- (a) *where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit does not exceed 150 square metres, provide the following information to the local planning authority—*
 - (i) *the date the site will begin to be used for any of the flexible uses;*
 - (ii) *the nature of the use or uses; and*
 - (iii) *a plan indicating the site and which buildings have changed use;*
- (b) *where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit exceeds 150 square metres, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—*
 - (i) *transport and highways impacts of the development;*

- (ii) *noise impacts of the development;*
- (iii) *contamination risks on the site; and*
- (iv) *floodings risks on the site,*

and the provisions of paragraph W (prior approval) apply in relation to that application.

- 5.15 Section (b) of the above is relevant in this case due to the fact that the subject building exceeds 150 square metres.

Transport

- 5.16 The building was previously used as offices in connection with the plant nursery. There should be no concerns given that this same use of the building is to continue but as a primary use instead. No additional floor area is proposed, but the plant nursery use will be removed from the wider site. Evidently, there can be no valid transport related concerns when taking account of the existing lawful use of the Site.

Noise

- 5.17 Similarly, as the existing building was last used as offices in connection with a plant nursery, the proposed primary use as offices cannot give rise to any reasonable objections. Use of a building as offices is generally considered compatible with nearby residential dwellings in any case.

Contamination

- 5.18 As the building is existing, and the proposal seeks a change of use only (and to a new primary office use as opposed to an incidental office use), it is not anticipated that there are any significant contamination risks. No disturbance to the ground needs to occur in order to deliver this new primary use, so even conditions in connection with this issue would be unreasonable.

Flooding

- 5.19 The Site is not within flood zone 2 or 3, nor is it within an area of critical drainage. The Site is larger than 1 hectare in size, however, this is not a trigger for consultation with the Environment Agency or a trigger for the submission of a flood risk assessment for an application of this nature, which is limited to the aforementioned three scenarios only. Again, as the building was used as offices before, nothing changes in terms of flood risk in any case.

6 Conclusions

- 6.1 The building is considered to be an agricultural building, or part of an established agricultural unit as defined under paragraph 'X' of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 6.2 There is sufficient evidence that the building or site was wholly in agricultural use on 3rd July 2012, as set out in the planning history and confirmed by GBC in their pre-application response, supported by appeal decisions that have carefully considered whether a plant nursery is an agricultural use.
- 6.3 Therefore it does benefit from the rights as set out in Schedule 2, Part 3, Class R of that same Order.
- 6.4 In terms of the impacts of the development, given the lawful incidental use of the building was as offices and that offices would become the new primary use of the building, the Applicant considers, in the absence of any increased floor space coupled with the loss of the plant nursery, that it would be unreasonable of GBC to suggest that there would be transport, noise, contamination or flooding impacts associated with the proposed development.
- 6.5 Prior approval should therefore not be required in this circumstance.