

# Planning Statement

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**Former Coal Yard, Station Yard,  
Station Road, Meopham, Kent, DA13  
oLU**

**Variation of Conditions 1 and 3 and removal  
of condition 2 of permission 20201253 to  
allow siting of 3 additional containers**



**RTPI**

Chartered Town Planners

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**By: GRAHAM SIMPKIN PLANNING**

**For: River & Country Ltd**

**Project reference: PR4260**

**14 November 2024**

**[office@gsplanning.uk](mailto:office@gsplanning.uk)**



**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 Former Coal Yard, Station Yard, Station Road, Meopham, Kent, DA13 0LU (hereafter referred to as 'the Site'):

**Variation of Condition 1 and 3 and removal of conditions of permission 20201253 to allow siting of 3 additional containers**

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

| Title Number | Description                                                                                                                                 | Owner                 |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| K797656      | <a href="#">COAL PRODUCTS LTD STATION APPROACH, MEOPHAM, GRAVESEND DA13 0LU</a><br><a href="#">LAND AT STATION ROAD, MEOPHAM, GRAVESEND</a> | River and Country Ltd |

- 1.3 The application is accompanied by the following plans and documents:
- Planning Statement
  - 4260 – 01 – Proposed Block Plan

## 2 Site Context

- 2.1 The application site extends to some 0.26 hectares and is located just to the south of the railway line. The Site is mainly open land, which is set down at a lower level than the station car park which runs along the northern boundary. Also, there is a small building with a footprint of approximately 40m<sup>2</sup>, in addition to the containers.
- 2.2 As a result of planning permission 20201253, the Site now has a lawful B8 use which covers storage whilst details of 13 parking spaces were approved which are situated on the northern boundary of the site as well as the aforementioned storage unit to the west which was previously used as a garage. There have also been security lights implemented on the Site as part of the planning permission.
- 2.3 There are no trees or plants within the Site itself, but there is a line of trees that are bound to the southern edge of the Site, within the gardens of the residential properties adjacent. These trees provide the residents with screening from the Site and the station car park.
- 2.4 There were previously two access points into the Site. The most direct and accessible way being from the west side via the station car park. The owner of the Site, and the other business premises to the west of the station car park, have a right of way through the car park, and access must remain open at all times. The previous secondary access into the Site was via The Railway Sidings road, which is accessed via Ediva Road. This access point has been closed by the applicant to both allow the siting of additional containers and make the site more secure.
- 2.5 To the east of the Site is a cluster of business / industrial units of various sizes and uses. The Site on its southern boundary abuts the gardens of the residential properties of 42-58 (even numbers only) Ediva Road. The previous coal yard use of the subject site had been in place for many years.
- 2.6 The Site is situated in the north of the village of Meopham which boasts amenities such as the closely situated train station which provides wider connections to Greater London. The village also comprises both shops and restaurants.
- 2.7 This Site is the subject of the following planning constraints and characteristics:
- Flood Zone 1
  - Urban Rural Boundary

## 3 Relevant History

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

[Use of land for erection of coal office - land at Station Approach](#)

Ref. No: 19480099 | Status: Application Permitted

[Retention of a portakabin for use as an office](#)

Ref. No: 19850821 | Status: Application Permitted

[Continued use of yard for the storage and sale of vehicles.](#)

Ref. No: 20060394 | Status: Application Permitted

[Outline application for 16 residential flats with provision of car parking and associated landscaping.](#)

Ref. No: 20120565 | Status: Application Refused for issues related to the size and design of the buildings, the impact on the amenity of the adjoining properties and the only access into the site being proposed via the station carpark.

[Outline application for the erection of 8 affordable dwellings with vehicular access from Ediva Road.](#)

Ref. No: 20140583 | Status: Application Refused for issues relating again to the access to the site being either from the station carpark or from The Railway Sidings which are not within the applicant's ownership, the impact of the scheme on the neighbour's amenity and a lack of information about the drainage on the site.

[\\*\\*AMENDED APPLICATION\\*\\* Change of use of the building and land to self-storage \(B8\) and the siting of storage containers with associated parking for a temporary period of three years.](#)

Ref. No: 20170662 | Status: Granted Temporary Permission. This expired on 31 January 2021.

[Application for approval of condition 3, 4 and 9 attached to planning permission reference number 20170662 relating to details on how the southern boundary will be treated as to prevent the headlights of vehicles from shining into the residential gardens and properties along Ediva Road, details of the 2m high security gate and fence and a lighting scheme and report demonstrating the proposed lighting.](#)

**Ref. No: 20180572 | Status: Refused on the basis that insufficient information was provided to show how the proposed impact from the security lights will be mitigated to the neighbouring dwelling in the south.**

**[Application for the approval of condition 9 attached to planning permission reference number 20170662 relating details of a lighting scheme and report.](#)**

**Ref. No: 20190603 | Status: Permitted**

**[Application for approval of condition 3 & 4 attached to planning permission reference number 20170662 relating to details on how the southern boundary will be treated as to prevent the headlights of vehicles from shining into the residential gardens and properties along Edvia Road and details of the 2m high security gate and fence.](#)**

**Ref. No: 20190977 | Status: Permitted**

**[Application for change of use of the building and land to self-storage \(Use Class B8\) and the siting of storage containers with associated parking.](#)**

**Ref. No: 20201253 | Status: Application Permitted. This permitted a permanent storage use of the Site**

## 4 Proposed Variation

- 4.1 This application seeks to vary conditions 1 and 3 whilst proposing to remove condition 2 of planning permission 20201253 to allow for the siting of 3 additional containers on the Site as well as relieve the Applicant of maintenance of the southern fence. The proposed containers will be situated in place of the existing visitor parking spaces. The conditions read as follows:

4.2 **Condition 1**

*The development hereby permitted shall be retained only in precise accordance with the following schedule of approved plans and details, unless alternative details are approved pursuant to the conditions imposed on this decision notice:*

*Design & Access Statement;  
Lighting Product Information;  
Drawing No.01 Rev B - Site Location Plan;  
Drawing No.03 Rev H - Proposed Block Plan;  
Drawing No.04 Rev B- Existing and Proposed garage: Elevations and Plans;*

- 4.3 It is proposed that condition 1 should read as follows to include the appropriate changes to Drawing No.03 Rev H – Proposed Block Plan. The updated plan will show where the 3 additional containers will be situated within the Site.

*The development hereby permitted shall be retained only in precise accordance with the following schedule of approved plans and details, unless alternative details are approved pursuant to the conditions imposed on this decision notice:*

*Design & Access Statement;  
Lighting Product Information;  
Drawing No.01 Rev B - Site Location Plan;  
Drawing No.4260 01 Proposed Block Plan  
Drawing No.04 Rev B- Existing and Proposed garage: Elevations and Plans;*

4.4 **Condition 2**

*The existing boundary treatment and security gates approved by 20190977 shall be maintained at all times.*

- 4.5 It is proposed that condition 2 is removed as the applicant has never had control over the fence and therefore it is considered to be unreasonable for the applicant to be expected to maintain it.

4.6 **Condition 3**

*The self-storage containers shall only be located on the area marked container area on Drawing No.03 Rev H and at no time shall containers be stacked upon each other.*

- 4.7 It is proposed that condition 3 should read as follows to include the appropriate amendments to Drawing No. 3 Rev H

*The self-storage containers shall only be located on the area marked container area on 4260 01 and at no time shall containers be stacked upon each other.*

## 5 Planning Policy

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Court of Appeal has clarified that for a decision maker this means establishing whether a proposal is in accordance with the development plan as a whole. The question of compliance with one policy should not dictate the outcome of a proposal in the absence of considering compliance with all other relevant policies. Decision makers are therefore tasked with identifying and understanding all relevant policies and material considerations in order to reach a properly informed planning judgment on a proposal, and to avoid an irrational or vulnerable decision that may be subject to criticism in a public law challenge.
- 5.2 Paragraph 2 of the National Planning Policy Framework ('the Framework') reiterates what is said in Section 38(6), whilst paragraph 12 of the Framework is clear that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 5.3 Paragraph 38 of the Framework encourages local planning authorities to approach decisions on proposed development in a positive and creative way. It also encourages working proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, adding that decision-makers should seek to approve applications for sustainable development where possible.
- 5.4 Annex 1 of the Framework confirms that for the purposes of decision-taking, the policies in the plan should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. It adds that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, with greater weight being given to those policies that are closer to the policies in the Framework.

### **Development Plan**

- 5.5 It is understood that the Development Plan for Gravesham within which the Site is located comprises the following documents:

- Core Strategy (2014) (CS)
- Gravesham Local Plan First Review (1994) – Saved Policies

5.6 The CS sets out a long-term vision for the future of Gravesham based on evidence of the need to support communities and outline what makes Gravesham a distinctive and attractive place to live and work. Furthermore, it helps to support and inform sustainable development via investment in infrastructure, economic development, and regeneration proposals within the borough, while promoting healthy communities. Lastly it aims to provide a consistent basis for planning application decisions. The following policies are considered as relevant:

- Policy CS07 – Economy, Employment and Skills
- Policy CS11 – Transport
- Policy CS12 – Green Infrastructure
- Policy CS19 – Development and Design Principles

5.7 The Gravesham Local Plan First Review (1994) was replaced by the adopted Local Plan (2014). In September 2007, the Secretary of State issued a direction on policies to be saved and deleted. The following are policies that have been saved, remain operational and are relevant to the proposal.

- Policy T1 – Impact of Development on the Highway Network

### **Other Material Considerations**

#### *The Framework*

5.8 In summary, the following paragraphs are considered most relevant as additional material considerations in the determination of this application:

- Paragraph 11 – Presumption in favour of sustainable development
- Paragraph 85 – Building a strong, competitive economy
- Paragraph 117 – Traffic generation

## 6 Planning Assessment

### Key Issues

6.1 The following are considered to be the key issues in the assessment of this application:

- 1) Principle of the variation of conditions
- 2) Impact on the residential amenity
- 3) Impact on highway safety

#### **1) Principle of the variation of conditions**

6.2 The first matter to consider in the determination of this particular application is whether the proposed changes can be dealt with by way of an application under section 73 of the Town and Country Planning Act 1990 (as amended) or whether a fresh application is required.

6.3 Lord Justice Lewison in a recent court judgment in the Court of Appeal between John Leslie Finney and Welsh Ministers, Carmarthenshire County Council and 'Section 73 application stated that "On receipt of such an application section 73 (2) says that the planning authority must "consider only the question of conditions". It must not, therefore, consider the description of the development to which the conditions are attached. The natural inference from that imperative is that the planning authority cannot use section 73 to change the description of the development. It is notable, however, that if the planning authority considers that the conditions should not be altered, it may not grant permission with an altered description but subject to the same conditions. On the contrary it is required by section 73 (2) (b) to refuse the application. That requirement emphasises the underlying philosophy of section 73 (2) that it is only the conditions that matter."

6.4 The above judgement has been further endorsed recently in the case of *Armstrong v Secretary of State for Levelling-Up, Housing and Communities & Anor* [2023] EWHC 142 where the High Court stated that "section 73 is clearly intended to be a provision which enables a developer to make a section 73 application to remove or vary a condition, provided of course that the application does not conflict with the operative part of the planning permission".

- 6.5 On the basis of the above judgements, it is clear that permission for a Section 73 application shall only be granted for the same development and any variation shall only relate to the conditions imposed to the original permission.
- 6.6 The minor amendments that are the subject of this application do not depart from the description of the previously approved development. The specific amendments do not feature in the description although they form part of the development. The amendments would not necessitate a change to the description of the previously approved development. Consequently, the variations do only relate to conditions imposed to the original permission and relate to the same development. As such, GBC is in a position to be able to legally grant the proposed changes under a S73 application as they do not necessitate any alterations to the description of a development.
- 6.7 If GBC is of a different opinion the applicant would welcome a discussion regarding what element(s) justify such a position with the view to removing or amending the nature of any changes to the plans due to the applicant's desire to retain the additional containers.
- 6.8 Moving on from this, it is considered that the proposal adheres to policy CS07. The policy states 'The Council will also support the refurbishment and upgrading of existing industrial and commercial premises'.
- 6.9 Since the variation of condition involves upgrading the number of containers situated on the Site, it is considered that the proposal is in line with policy CS07 and therefore should be supported by the Council. Paragraph 85 of the Framework adds that "Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development."
- 6.10 Overall, the proposed variation of condition is considered to fall into the parameters of a section 73 application as well as improving the existing B8 use of the Site.
- 6.11 Regarding condition 2, as per paragraph 56 of the Framework, planning conditions should only be applied where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable.
- 6.12 To begin with the condition is not considered to be **necessary** since the fence in question belongs to the neighbouring residents and not the Applicant. Should the subject site not exist, or the planning permission not be in place, the neighbouring

residents would be rightfully expected to maintain their own fences, proving the condition is not necessary.

- 6.13 Furthermore, this directly leads to the view that the condition is not **enforceable**. Since the fencing and the land on which the fencing is situated does not belong to the Applicant, it is considered that the Council will be unable to enforce condition 2.
- 6.14 This directly relates to the fact that the condition is not **reasonable**. Since the Applicant has no control over the fence, it is considered to be unreasonable for it to be of their responsibility.
- 6.15 Since the condition does not meet all six specified tests in paragraph 56 of the Framework, it is respectfully requested that condition 2 is removed.
- 6.16 It should also be noted that the previous permanent permission (20201253) referred to the need to maintain the fencing details as approved in connection with the expired temporary permission. It is said that condition 2 as it currently exists is not **enforceable** in any case on the grounds the detail relates to an expired permission.

## **2) Impact on residential amenity**

- 6.17 Given the approved lawful use of the Site, it is considered that 3 additional storage units will not adversely impact the residential amenity of the nearby neighbours.
- 6.18 As per the delegated report of planning permission 20201253, it is considered that 'the closest property to the Site is 50 Ediva Road which is 12m from the southern boundary of the Site and the only properties which have storage containers against their rear boundary are 44 Ediva Road which is just over 18m and 42 Ediva Road which is over 30m from the boundary of the Site.
- 6.19 The containers will be matched in size to those that currently exist on the Site and given where they are situated, it is considered that their presence does not create any further impact on the neighbouring amenity as they are not at a closer distance in comparison to what exists nor are they materially larger.
- 6.20 Furthermore, there is no additional lighting proposed as part of the variation of conditions. This concern was raised in the original decision but has since been secured by condition to ensure the lights are only active between 7am and 10pm Monday-Saturday and 9am to 5pm on a Sunday.

- 6.21 Therefore, it is considered that the proposed variation of conditions will have no further impact on the neighbouring amenity and subsequently remains in line with policy CS19 since no further noise or disturbance will be created.
- 6.22 Lastly, it will not adversely affect the wider landscape or environment of Meopham since it is considered to be part of a built-up area adjacent to housing as well as the railway car park and therefore remains in line with Policy CS12.
- 6.23 In terms of the removal of condition 2, it is evident that the Applicant has no control over the maintenance of the variety of fences along the southern boundary of the Site as they do not belong to him. For this reason, it cannot be said that the removal of condition 2 will adversely affect the residential amenity of the neighbouring dwellings since the existing residents will retain the ability to be able to maintain their own respective fences as they have always done.

### **3) Impact on highway safety**

- 6.24 As per planning permission 20201253, condition 3 was imposed to ensure that there was no adverse impact on neighbouring amenity, which has been addressed above, as well as to maintain highway safety both on and off the Site.
- 6.25 The proposed containers in question will not adversely impact the highway safety on the Site since the existing number of parking spaces will remain the same.
- 6.26 This issue was not considered a concern as part of the original application, with the Gravesham Highways Development Management Officer raising no concerns. Additionally, as part of the previous delegated report, it was considered that the existing car parking spaces were sufficient for the Site's use and since this figure is not decreasing, this opinion should remain the same. The Applicant is unaware of any requirement for visitor bays for the Site's use.
- 6.27 Although the proposal includes additional containers, it is not considered that it will result in any noticeable increase in traffic generation and therefore adheres to policy T1 of the LPFR as well as paragraph 117 of the Framework.
- 6.28 Overall, the proposal will not adversely impact the highway safety both on and off the Site since there will be no decrease in car parking spaces on the Site and the additional containers will not result in an increase in traffic. Therefore, the proposed minor amendments to the previous permission will continue to adhere to the same traffic and highway related policies as before.

## 7 Conclusions

- 7.1 In consideration of all relevant development plan policies and material considerations, this application should be viewed positively by the authority, and it is respectfully requested that this submission is approved.
- 7.2 It is considered that the proposed variation to conditions 1 and 3 and the deletion of condition 2 will not adversely impact the neighbours and their amenity as well as not impacting the highway safety on Site and in Meopham.