HUNTINGDONSHIRE DISTRICT COUNCIL

24/02336/S73

OFFICER REPORT

Case No: **24/02336/S73** **Removal/Variation of Conditions**

Proposal: **Variation of Condition 2 (Approved plans) and Condition 9 (Hours of deliveries or dispatches) for 17/00764/FUL**

Location: **The Orchard Garden Farm The Town**

Applicant: **Mr M Mackay**

Grid Ref: **512027 264009**

This application relates to a parcel of land (approximately 0.76ha) within the wider site of Garden Farm, Great Staughton. This application seeks permission to vary condition 2 (approved plans) of 17/00764/FUL to alter the layout of the office space and external fenestration and condition 9 has been added to the application due to an error in the times for the condition.

The application is extant as a lawful start was made on site.
Officers have scrutinised the plans and have familiarised themselves with the site and surrounding area.

NATIONAL GUIDANCE

The National Planning Policy Framework (December 2024) (NPPF 2024) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2024 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development .'

The NPPF 2024 sets out the Government's planning policies for (amongst other things):

* delivering a sufficient supply of homes;
* building a strong, competitive economy;
* achieving well-designed, beautiful and safe places;
* conserving and enhancing the natural, built and historic environment.

Planning Practice Guidance and the National Design Guide 2021 are also relevant and material considerations.

For full details visit the government website: https://www.gov.uk

PLANNING POLICIES
Huntingdonshire's Local Plan to 2036 (Adopted 15th May 2019)
The site is outside the built up area.
Policy LP1 - Amount of Development
Policy LP2 - Strategy for Development
Policy LP4 - Contributing to Infrastructure Delivery
Policy LP5 - Flood Risk
Policy LP6 - Waste Water Management
Policy LP11 - Design Context

Policy LP12 - Design Implementation
Policy LP14 - Amenity
Policy LP15 - Surface Water
Policy LP16 - Sustainable Travel
Policy LP17 - Parking Provision and Vehicle Movement
Policy LP19 - Rural Economy

Huntingdonshire Design Guide Supplementary Planning Document (2017)
Local policies are viewable at https://www.huntingdonshire.gov.uk

The Great Staughton Neighbourhood Plan has now reached the stage of the Regulation 16 Consultation by Huntingdonshire District Council.

RELEVANT PLANNING HISTORY
7400838FUL for LIVESTOCK & CROP STORAGE, GARDEN FARM GT STAUGHTON,
GRANTED dated 18.11.1974

98/01392/LBC for Demolition and rebuilding of chimney stack,Garden Farmhouse The Town Great Staughton,
CONSENT dated 09.11.1998

0403645FUL for Extension to dwelling, GRANTED dated 07.02.2005

0403646LBC for Extension to dwelling, CONSENT dated 07.02.2005

0600295FUL for Change of use from agricultural to B1/B8 (office/warehousing), alterations and construction of new access,
REFUSED dated 22.03.2006

0603433FUL for Retention of use of redundant farm buildings for B1/B8 (light industrial/warehousing),
GRANTED dated 20.12.2006

0801530AGDET for Erection of agricultural storage building, dated 06.06.2008

0802157AGDET for Erection of agricultural storage building, dated 13.08.2008

1100308FUL for Change of use of existing agricultural building to storage of agricultural products, formation and landscaping of new access to highway and garden cottage.,
GRANTED dated 21.07.2011

1200153FUL for Change of use of existing building to a micro brewery from class (B8) to class (B2),
GRANTED dated 15.05.2012

16/00799/FUL for Change of Use from Agricultural Barn to B2 (workshop/motor repairs) and other associated work,
GRANTED dated 08.06.2016

17/00764/FUL for Proposed warehouse/office development including ancillary landscaping,
GRANTED dated 31.08.2018

19/80326/COND for Conditional Information for 17/00764/FUL: C3 (SWD scheme), C4 (maintenance of SWD), C5 (Foul Water Strategy), C6 (WSI Archaeology), C7 (Landscape management plan),
DISCHARGED dated 09.12.2019

CONSULTATIONS

The application was readvertised in full after condition 9 was added to the application.

Historic England: No comment, seek conservation advice.

Conservation: No heritage assets affected by this proposal. No comment.

Archaeology: Have reviewed the amended plans and confirm we have no objections or recommendations.

Environmental Health: We have no objection to the variation of the previously approved plans identified in Condition 2. Support the amended condition 9 wording.

Highways: No significant adverse effect upon the Public Highway should result from this proposal should it gain benefit of Planning Permission.

Parish Council: Whilst the Parish Council was opposed to the original planning application, it recognises that that it was approved. The Parish Council decided last night it had no objection to the Section 73 variation to the application.

Lead Local Flood Authority (LLFA): The updated site plan does not show an increase in impermeable area and therefore there will be no increase in surface water flood risk. The LLFA continues to support this application subject to condition.
Officer comment: The drainage conditions have already been discharged and the changes would not affect these details. Therefore it would be unreasonable to introduce new conditions.

REPRESENTATIONS

The application was advertised by neighbour letter, site notice, on the council website and press advert.
The application was readvertised in full after condition 9 was added to the application.
No neighbour representations have been made.

ASSESSMENT

The Planning Practice Guidance (PPG) notes that there are instances where new issues may arise after planning permission has been granted, which require modification of the approved proposals.

It advises where these modifications are fundamental or substantial, a new planning application will be required. Where less substantial changes are proposed a non-material amendment application can be submitted, or a minor material amendment (S73 application) where there is a relevant condition that can be varied. There is no statutory definition within the PPG of a 'minor material amendment' but it states that it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

The PPG advises that "Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged". As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

Whilst there is a presumption in favour of sustainable development, the National Planning Policy Framework defines sustainability as having three strands - social, economic and environmental. One of the NPPF's core principles is to achieve well-designed places and it is noted that "The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Firstly, the 2017 original application (17/00764/FUL: granted 31.08.2018) would have expired on the 31.08.2021. The timeline of events is that the applicants have

* discharged the conditions that were prior to commencement (19/80326/COND),
* served an initial notice to approved inspectors on the 21st July 2021 and this was approved on the 30th July 2021
* a Notification of Commencement of Development was issued advising that development would commence on 25th August 2021
* developers striped an area of the development and undertook ground preparations

Therefore a lawful start was made before the applications expiry.

This was further confirmed on a recent application. A site visit was undertaken for the consideration of an agricultural prior notification application (24/01862/AGDET) on the 22nd October 2024. The case officer confirmed subsequently to in an email dated 28th October 2024 - "Considering this, the prior development that commenced in 2021 with conditions discharged would still be regarded as being provided within the preceding two years, as although works have been ceased, the ground work into providing a building has been commenced and I am aware that they are due to hopefully be continued in the new year." Therefore, the start was further confirmed on this recent application.

The conditions being amended through this s73 are Condition 2 and Condition 9 of consent granted under 17/00764/FUL..

Condition 2 reads:
The development hereby permitted shall be carried out in accordance with the approved plans listed in the table above.

Condition 9 reads:
No deliveries or dispatches to/from the development hereby approved shall take place outside the following hours:
a) 23:00-07:00 Monday to Friday
b) 07:00 - 13:30 on Saturdays
For the avoidance of doubt, no deliveries or dispatches to/from the development hereby approved shall take place on Sundays or public holidays.

The main issues to consider in the determination of this application are:

* If the changes impact amenity detrimentally
* If the changes impact character and design detrimentally
* If the changes harm highway safety

Firstly, in regard to condition 9, an error was made on the previous decision notice. The environmental health officer recommended times when deliveries should not occur. However, the condition restricted weekday deliveries to happening overnight only. The condition reason refers to residential amenity, which is usually protected by preventing overnight goods vehicle movements, not requiring them. Therefore, the condition was wording in reverse. It has been amended to ensure deliveries are within the day on Mondays to Fridays and will now read:

No deliveries or dispatches to/from the development hereby approved shall take place outside the following hours:
a) 07:00 - 23:00 Monday to Friday
b) 07:00 - 13:30 on Saturdays
For the avoidance of doubt, no deliveries or dispatches to/from the development hereby approved shall take place on Sundays or public holidays

In regard to condition 2, the application relates to a minor amendment to the previously approved plans to amend the internal layout arrangements and subsequent fenestration layout.

The original submission included for two storey ancillary office development on the frontage of Building A. The applicants have stated in their covering letter that they have subsequently decided that their office staffing requirements can be adequately met within the existing office premises located on site. This section 73 variation application is for the removal of 2 storey office content on Building A and the introduction of ancillary office accommodation into Buildings A and B at ground floor level only.

The amended plans and elevations for the two warehouse structures remain similar to those originally approved with the same pallet of external materials. However, the window arrangements have changed.

Building A elevations now proposed significantly less glazing, creating a larger massing of wall and less brick detailing to the ground floor. Although this does change the character of the building. The unit will remain utilitarian and appropriate to its use and does not harm the character of the area.

Building B elevations will now introduce a frontage at ground floor on the northern elevation for the offices proposed. Again this appear appropriate to the scale and use of the building and so these changes are felt to be minor and not adversely affect character or design.

Building A will now have no first floor office space and reduced office space on the ground floor compared to the original plans. Building B did not include any office space but now will accommodate the same space as that proposed in Building A. This will not create a greater impact as it will not increase the quantum use of the buildings beyond what could have originally been achieved.

Car parking arrangements, external access, central courtyard space and site landscaping remain unchanged. The proposals also do not impact on highway safety.

Amenity of nearby residents will not be harmed as the use will remain the same, condition 9 has been corrected to protect amenity and no objections have been raised form environmental health. No heritage assets are adversely affected either.

The changes are considered minor and would not harmfully impact on the character of the area. The units appearance will be appropriate to their use. The changes do not detrimentally impact on neighbouring amenity and no neighbours have raised any concerns to the proposal after consultation. The Parish Council have not objected and the proposal will not harmfully impact highway safety. The proposal is therefore felt to be an acceptable amendment.

CONCLUSION

The proposed development is compliant with the relevant national and local policy as:
* Is of an appropriate scale and design to the original principle under the approved application.
* Would not have a harmful impact upon the character and appearance of the area;
* Would not have a significantly detrimental impact upon the amenity of neighbours.
* It would not harm highway safety.

The proposed amendment to vary Conditions 2 and 9 are considered relatively minor in relation to the wider scheme, will protect amenity and will not fundamentally change the nature of the development given consent.

It is therefore recommended that the S73 be granted.

Conditions:
The development has commenced and therefore a time condition is not required.
The plans condition has been updated to reflect the latest plans and the approved plans through approved condition discharges.

Compliance conditions have been imposed to ensure the agreed details in the approved condition discharge are carried out in accordance with these details and retained thereafter.

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CONTACT OFFICER:
Enquiries about this report to **Hannah Hodges**