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Our ref APL/00426/DGu
Portal ref PP-14011554

Dear Sir/Madam

Planning Application for variation of Condition 2 of permission DM/22/0536 at Moatlands, Hitchins Cottage, Vowels Lane, RH19 4LL

We have today submitted via the Planning Portal a S73 planning application to vary condition 2 (provision and retention of car parking spaces) which was attached to the planning permission granted for the retrospective application for the conversion from existing garages and studio into a dwellinghouse, together with the construction of a detached pair of garages associated with the dwelling (MSDC ref: DM/22/0536).

The application comprises the completed application form, a plan showing where two parking spaces could be accommodated within the site (drawing 001), and this covering letter.

Condition 2 of original permission

Condition 2 of the planning permission required the following:

“No part of the development shall be first occupied until the car parking spaces within the garages have been constructed in accordance with approved plans. These spaces shall thereafter be retained at all times for their designated purpose.”

The reason given for the imposition of the condition was “to provide car-parking space for the use and to comply with DP21 of the Mid Sussex District Plan.”

Policy DP21 of the local plan has a number of broad objectives which are to be met by decisions on development proposals taking account, amongst other things, the following:

- Sustainability of the location (which in a rural area could be the economic use);
- Scheme design to adoptable standards, including the size of garages;
- Adequate parking provision within the scheme;
- Scheme designed to protect the safety of road users and pedestrians; and
- Avoidance of harm to the special qualities of the National Landscape through traffic impacts.



These matters were addressed when the original application was determined by the Council, with West Sussex County Council, the local highway authority (LHA) providing comments on the application.

The LHA in considering the original development was satisfied it would not have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network and therefore that it was not contrary to paragraph 111 of the then NPPF (now paragraph 116 of the NPPF December 2024), and consequently there were no highway grounds to resist the proposal.

Additionally, the LHA noted that there appeared to be plentiful space on-site for the parking demand associated with the proposed conversion of the existing garages into a dwellinghouse. In their response to the LPA, the LHA advised that the following condition should be imposed:

"No part of the development shall be first occupied until the car parking spaces have been constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority. These spaces shall thereafter be retained at all times for their designated purpose."

The reason given by the LHA was in order *"to provide car-parking space for the use."*

As noted above, the LPA attached a somewhat different condition, namely requiring the car parking spaces within the garages to be provided in accordance with the approved plans and thereafter to be permanently retained for their designated purpose.

Earlier S73 application to vary condition 2

We submitted a previous application to vary condition 2 (MSDC ref: DM/24/2924), however, that application was refused by the Council on 26 February 2025 for the following reason:

"This application is refused as it is not possible to amend the operative part (the description of the development) of the original permission via s73 of the Town and Country Planning Act 1990, to remove the requirement to provide parking spaces within the retrospectively permitted garage and provide them in an alternative location. The deletion of this condition would result in the approved dwelling not having secured, designated, parking to meet occupiers needs and would be contrary to Policy DP21 of the Mid Sussex District Plan."

Non-material amendment application

On 23 March 2025 in order to address this issue, an application for a non-material amendment was submitted by Hereward & Co, Solicitors (MSDC ref: DM/25/0783), seeking to remove the following words from the description of development in the decision notice:

"(Amended plans and description 14.11.2022) (Amended existing and proposed floor plans and elevations 25/09/2023)."



The justification for the proposed non-material amendment was that:

“The words are superfluous and should never have been included in the Description of Development. The Drawings being Approved were specified by Condition 1 and listed at the end of the Decision Notice.”

The Council concurred that the alteration sought was a non-material amendment and therefore the wording should be removed from the decision notice. The description of the development for DM/22/0536 is now:

“Conversion from existing garages and studio into a dwellinghouse, together with the construction of a detached pair of garages associated with the dwelling (Retrospective).”

Variation sought

In the light of the non-material amendment approval having addressed the concern raised previously by the Council officer, we are now seeking a variation of condition 2 on DM/22/0536, so that it be substituted with the following:

“The parking spaces shown shaded blue on Drawing 001 (dated 27 November 2024) shall be retained at all times for their designated purpose.”

The LHA has previously commented on this amended plan in response to the Council’s consultation on the previous S73 application (MSDC ref: DM/24/2924), confirming that there is sufficient off-street parking provision available on-site and raising no concerns to the proposed variation of condition 2, stating: *“The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in ‘severe’ cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 116), and that there are no transport grounds to resist the proposal.”*

We consider that the varied planning condition proposed meets the six tests set out in paragraph 57 of the NPPF, and that planning permission should accordingly be granted.

We trust that you will find this application in order and will be able to confirm that the application has been duly validated.

Yours sincerely

David Gurtler
Director