

MC/16/5177

Date Received: 23 December, 2016

Location: Flanders Farm, Ratcliffe Highway Hoo St Werburgh Rochester  
ME3 8QE

Proposal: Removal of condition 17 of MC/14/3063 - To retain buildings,  
hardstanding and access

Applicant: AC Goatham and Son

Agent: Mr Ogden Bloomfields 77 Commercial Road Paddock Wood  
Tonbridge TN12 6DS

Ward Peninsula

Case Officer Hannah Gunner

Contact Number 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 15 March 2017.**

**Recommendation - Approval with Conditions**

- 1 The landscaping scheme shall be retained as implemented in accordance with planning approval MC/15/2279 (discharge of condition 4 (Landscaping) of MC/14/3063). Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation. All of the hard landscaping works that form part of the approved scheme of details shall be installed prior to the first use of the development hereby permitted and shall be retained thereafter.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

- 2 Notwithstanding the details contained within the "Best Practice Strategy" document that accompanies the planning application no part of the site shall be used outside the hours of 05.30 to 23.00 Mondays to Sundays and the existing external storage hardstanding area to the north east of the north eastern access shall not be used at any time between the hours of 18.30 and 07.00 hours between Mondays to Fridays inclusive, 13.30 and 07.00 on

Saturdays and at no time on Sundays or Public Holidays.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 3 No external lighting other than that shown on drawings 2360-13000-003A and 2360-13000-0034 and specified in 'Exterior Lighting Recommendations' report prepared by WSP and dated 23 September 2014 ( all approved under MC/14/3063) shall be installed and this lighting shall only be used during the site's permitted operating times as defined by condition 7 of this permission.

Reason: To ensure the development does not prejudice conditions of residential amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 All fork lift trucks operated in association with the development hereby permitted shall be fitted with broad band sound reversing alarms.

Reason: To ensure the development does not prejudice conditions of residential amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 5 The north eastern (existing access) shall not be used by Heavy Goods Vehicles at any time between the hours of 20.00 and 07.00 hours on any day.

Reason: To ensure the development does not prejudice conditions of residential amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 6 Other than when Heavy Goods Vehicles (HGVs) equipped with diesel powered refrigeration units or trailers designed to be hauled by HGVs and equipped with diesel powered refrigeration units are being manoeuvred within the site, any diesel powered engines associated with the operation of the aforementioned refrigeration units shall be switched off and be powered as necessary via the electric hook up points to be provided at the site in association with the development hereby permitted. The electric hook up points shown on drawing ICA/ENQ/1367/103/J (of planning permission MC/14/3063) and referred to in any other documentation accompanying the application shall be installed and be available for use prior to the first use of the development hereby permitted and shall thereafter be retained for the duration of the development.

Reason: To ensure the development does not prejudice conditions of residential amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 7 The new acoustic fencing shown on drawing ICA/ENQ/1367/103/J shall be installed prior to the first use of the development hereby permitted and shall thereafter be retained for the duration of the development.

Reason: To ensure that the development does not prejudice conditions of

residential amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 8 The biodiversity of the application site shall be enhanced in accordance with the measures detailed in the Biodiversity Enhancement Strategy prepared by KB Ecology (September 2014) and shown on drawing 2769/DR005 Rev C of planning permission MC/14/3063.

Reason: To provide habitats/features and species of ecological interest and importance for biodiversity, in accordance with Policy BNE37 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

### **Proposal**

This application relates to the removal of condition 17 of MC/14/3063. That application was for the construction of a new grading, packing and storage facility with ancillary access, hardstanding, landscaping and relocation of refuelling point.

Condition 17 of planning permission MC/14/3063 states:

“Upon the cessation of the use of the building and hardstanding hereby permitted for the purposes of the packing and storage of fruit, the building shall be demolished and the resultant material and the hardstanding shall be removed and the land reinstated to land capable of being used for agriculture as defined in section 336 of the Town and Country Planning Act 1990 (or any Act amending, revoking or re-enacting that Act).

Reason: This permission is only granted on the basis of the agricultural need for the development.”

### **The Site**

Flanders Farm is a packhouse and store complex situated on the north side of the Ratcliffe Highway between Hoo and High Halstow with some remaining orchards. The original packhouse and store were constructed following an outline planning permission (MC/08/1121) granted in January 2011. These consist of two main buildings with a combined gross floor area of 5,443m<sup>2</sup> and the packhouse facility is accessed via the old section of Ratcliffe Highway.

The second building, the subject of this application was approved in April 2015 (MC/14/3063) and consisted of a single building equating to 8,079.7m<sup>2</sup>. This contains a second packhouse and a controlled atmosphere and chilled store,

Within the rest of the packhouse facility/overall site there are: hardstandings at either end of the site; car parking to the south; a detention reservoir to the north west; and an area for the storage of fruit boxes. Additional to these two main permissions, additional developments have been undertaken including the fruit box storage area, the construction of a diesel tank with pumps on the eastern side and a hardstanding for

the stationing of caravans on the north side.

The complex is used for storing, sorting and packing top fruit (apples and pears). The location for this subject building was on some of the remaining orchard to the south west of the original buildings.

The pack house site (Flanders Farm) is in the open countryside with both orchards and open fields in arable use surrounding it. Some orchards were cleared to make way for the overall existing complex.

There is a public footpath running east west along the site boundary to the north east of the complex linking with other footpaths to the north and High Halstow. The site is within the Area of Local Landscape Importance identified in the Local Plan and the Hoo Peninsula Farmland in the Medway Landscape Character Assessment. The buildings on site are visible from surrounding roads as well as the footpaths.

The site is Grade 1 in the Agricultural Land Classification.

There are residential properties to the south west and to the east on the old Ratcliffe Highway as well as a nursery to the south west.

### **Relevant Planning History**

**Case ref:** MC/16/1172 Details pursuant to condition 04 on planning permission MC/15/3086 'Change of use and creation of an area of hardstanding to provide for the stationing and storage of 6 caravans for rural workers'  
**Decision Decided**

**Case ref:** MC/15/3086 Change of use and creation of an area of hardstanding to provide for the stationing and storage of 6 caravans for rural workers  
**Decision Approval With Conditions Decided 22/01/2016**

**Case ref:** MC/15/2440 Details pursuant to conditions 13 on planning permission MC/14/3063 for 'Construction of a new grading, packing and storage facility with ancillary access, hardstanding, landscaping and relocation of refuelling point'  
**Decision Discharge of Conditions Decided 08/04/2016**

**Case ref:** MC/14/3063 Construction of a new grading, packing and storage facility with ancillary access, hardstanding, landscaping and relocation of refuelling point  
**Decision Approval With Conditions Decided 02/04/2015**

- Case ref:** MC/14/1737 Change of use of land and creation of an access, provision of a hardstanding and noise attenuation barrier and the stationing of diesel fuel storage tanks and delivery point  
**Decision** Approval With Conditions  
**Decided** 12/09/2014
- Case ref:** MC/12/1542 Application for Prior Notification under Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for the construction of a reservoir  
**Decision** No Application Required  
**Decided** 25/07/2012
- Case ref:** MC/11/2579 Application for approval of reserved matters (layout, scale, appearance, access & landscaping) pursuant to outline permission MC/08/1121 for construction of a fruit processing & storage facility with associated access  
**Decision** Approval With Conditions  
**Decided** 25/04/2012
- Case ref:** MC/08/1121 Outline application for construction of a fruit processing and storage facility with associated parking  
**Decision** Approval With Conditions  
**Decided** 19/01/2011

## Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

**6 letters** have been received raising the following objections:

- Site has a history of conditions being placed on it by committee then removed after:
  - Alterations to plans
  - Hours of operation
  - Days of operation
- The site is a blot on the landscape.
- Why does condition need to be removed?
- The long term existence of this building leads to more workers and more caravans being needed.
- Caravans currently being occupied all year.
- Can 'agricultural workers' work in pack house which is packing produce from a wider area (not just that particular farm)?
- Scale of business on site has escalated from orchard to industrial operation.
- Removal of this condition will allow further development of the site.
- Removal of the business could encourage financial failure.
- The condition merely holds back the business.

- Applicants constantly show contempt for the planning system.
- Upholding the condition retains the integrity of the planning department of Medway Council.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2012 and are considered to conform.

## **Planning Appraisal**

### *Background*

Flanders Farm is one of 17 farms that make up the farm business known as AC Goatham & Son which now farm approximately 1,925 acres of top fruit in Kent with an additional 1,850 acres worth of top fruit from 20 partner farms.

It is understood that 1 in 4.5 home grown apples and 1 in 3 conference pears sold in Britain is grown and supplied by one of AC Goatham & Son's 17 farms or partner farms within Kent.

By 2014 AC Goatham & Son had contributed an estimated £100 million to the Kent economy, over the preceding eight years.

Last season AC Goatham & Son employed 230 full time equivalent staff, 300 - 350 seasonal staff and overall it is understood that they had an influence on 1,200 jobs in Kent. 60 of their staff were studying for NVQ qualifications and 6 were fruit grower trainees.

This season, AC Goatham & Son will employ 251 full time equivalent staff, and in the order of 350 seasonal staff (this is calculated to be 58% of the total agricultural labour force in Medway). There are now 80 staff studying for NVQ qualifications. This is a result of AC Goatham & Son's continuing expansion of their farming business through buying land and renting on long term agreements. Taking on 175 acres at Turkey Hall Farm being the most recent example at the end of 2015.

Broadly, by 2019 it is estimated that AC Goatham & Son will have a throughput in the order of just short of 120,000 bins of top fruit. The increase in fruit production generates a requirement for more seasonal agricultural workers and storage facilities.

### *Principle*

AC Goatham & Son are continuing to look to expand their farming enterprise through the purchase of additional land, renting on long term agreements and replanting of orchards. A long-term lease at Turkey Hall Farm, Malmaynes Hall Rd, Stoke in Medway (two miles from Flanders Farm) proving such an example. This expansion and development requires investment and funding. Total investment in planting and irrigation alone at Turkey Hall Farm will be in the order of £2.1 million when 165 acres

are put to orchard. This does not have any regard to any other infrastructure that may be required on this site.

In order for the bank to include the subject building at Flanders Farm within their security and therefore to be able to lend against it allowing the business to continue to grow and invest, a formal valuation is required to ascertain its market value.

The valuation must be carried out by an RICS registered valuer and be in accordance with the RICS Valuation: Professional Standards (the Red Book) 2014. RICS valuers have valued the building and Condition 17 impacts significantly on the value due to its restrictive wording. The wording of Condition 17 creates uncertainty for the valuer and plainly limits the valuation, and further, their recommendation to the bank on whether it is suitable for secured lending purposes.

It has been stated by the applicants agent that Condition 17 is questionable in commercial feasibility and lending terms, in terms of the site and the specific business profile of AC Goatham & Son.

This is not least because the bank must adopt a worst case scenario, by which the bank works on the reasonable premise, of general application to agricultural land serving horticultural purposes, that there is a need to rely upon a security. In this case a 'Red Book' valuation of the Flanders Farm site will amount to a fraction of the actual construction cost. Therefore in simple terms, and in this case, every pound that the business has expended on the site will be half of that expenditure. In effect this results in a net loss of half of the construction cost of the project.

If Condition 17 did not constrain the permission the value of the site would be at or above the cost of construction, and the bank funding requirement would not be restricted. At present however, a valuer instructed by a lender will have to take into account the fact that upon cessation of the business, the subject building must be demolished. Therefore the valuation must be perfected on the basis that the property will be at a severely discounted value to its construction cost. The condition therefore clearly puts the business at an overwhelming disadvantage within this sector, both domestically and internationally. Effectively, the Business is now unable to expand or structure its current funding in any effectual or competitive way.

In relation to this application, condition 17 was requested by members at Planning Committee. This was done so after the application had been deferred for a site visit and further consideration by Councillors, whereupon 2 conditions were added to the report (conditions 15 and 16). Condition 17 was added on the night and was not raised or discussed prior to that evening.

It is considered that Condition 17 of MC/14/3063 does not support the principles within the National Planning Policy Framework (NPPF). This conclusion has been made in relation to paragraphs:

#### Core Planning Principles

Para 17 states that planning should: proactively drive and support sustainable economic development to deliver the homes, business and industrial units,

infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.

### Building a strong, competitive economy

Para 18 states: The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

Para 19 states: The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

Para 20 states: To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

Para 21 states: Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment.

It also states that Local Authorities should "support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances".

### Supporting a prosperous rural economy

Para 28 states: Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;

### Promoting healthy communities

Para 70 states: Planning policies and decisions should ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community

As can be seen from looking at the NPPF extracts above, there is a strong emphasis within the document supporting rural economy, creation of jobs and sustainable



economic development. It is considered that condition 17 that requires the removal of a £10 million investment would not be constructive and could be considered unreasonable, given that this is an investment in the wider local economy.

Whilst it is acknowledged that this building has been erected in an area that was originally classified as Grade 1 agricultural land, there is now a substantial building in place that plays a significant role in the local economy within Medway. This type of business here is important within the borough and the rural economy should be supported. It is acknowledged that the construction of this building has led to a significant alteration to the landscape, however this alteration has already occurred and effectively been granted consent.

The planning permission on which this condition was attached was for the "Construction of a new grading, packing and storage facility with ancillary access, hardstanding, landscaping and relocation of refuelling point." It is therefore considered that the use of this building for anything other than a grading, packing and storage facility would not be in compliance with the permission itself and would require a change of use application.

It should also be noted on a similar level, that should Goathams decide to move on (highly unlikely given the investment and location of extensive orchards) then it is quite possible that the unit would have to be marketed for a significant period in order to gain the correct end user. This being the case, the building would technically have to be removed in order to comply with this condition. It is not considered reasonable that the building should have to be taken down, given the expense and permanence of the physical structure.

#### *Other matters*

It is noted that some of the neighbour representations that have been received question the implications of the long term existence of the building and business growth in relation to worker accommodation and the fact that they are out of character in this area. It is also noted that there are greater concerns in relation to the business here and some of the noise/disturbance issues that have had to be dealt with over the years. Whilst these are acknowledged, they are not considered to be part of the planning consideration in relation to this application and do not impact on the decision that has been recommended in this instance. It is advised/welcomed that if neighbouring residents have any concerns in relation to existing breaches that may be occurring on site that these are dealt with separately through the Local Authority Enforcement procedure.

#### **Conclusions and Reasons for Approval**

It is considered that the removal of condition 17 of MC/14/3063 is acceptable given that the growth and support of rural business is something that is supported by the Local Authority and is further supported within the National Planning Policy Framework. The circumstances in relation to the financial implications for investment potential are understood and considered reasonable also.

Whilst it is understood why the imposition of this condition came about (to ensure that

the use of the land is restricted/monitored), it is concluded that the original consent is for a grading, packing and storage facility specifically and re-use of this building for any other purpose would require planning permission. At this stage the acceptability of another use would have to be considered in great depth. It is not however foreseen that the current users are looking to move from the site in the near future, given the amount of investment that has occurred on this site.

The removal of condition 17 is therefore considered to be reasonable and will not have a detrimental wider impact to the future use of this building.

The application would normally be determined under delegated powers but is being referred to Committee for decision due to the extent of the representations received expressing a view contrary to the recommendation.

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## **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>