

2.6 REFERENCE NO - 21/500222/FULL		
APPLICATION PROPOSAL Change of use of agricultural barn to provide storage and distribution of seed and crop protection products.		
ADDRESS Grove End Farm Bredgar Road Tunstall Sittingbourne Kent ME9 8DY		
RECOMMENDATION – Grant subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Re-determination and consideration of additional working hours requested by applicant.		
WARD West Downs	PARISH/TOWN COUNCIL Tunstall	APPLICANT Pauline Panton & Philip Bartholomew AGENT Hobbs Parker
DECISION DUE DATE 18/03/21		PUBLICITY EXPIRY DATE 28/07/21

1.0 INTRODUCTION

- 1.01 Members will note that this report refers to one of the five decisions recently quashed at the High Court. As Members will be aware those decisions had been issued in error. As a result of the Court quashing the decisions, the applications now need to be redetermined. In effect this is akin to the clock having been wound back on these applications to a time before the now quashed decisions were issued. Members are reminded that, whilst extremely unfortunate, this delay and any inconvenience suffered by the applicant are not material planning considerations and should not be taken into consideration when assessing the planning merits of the application itself.
- 1.02 Members will also recall that this particular application was considered at the Planning Committee meeting on 19th August 2021 as item 2.1. The original report is attached as an appendix to this report. The Committee resolved to approve the application subject to a number of conditions, including one regarding hours of use of the building as set out below:

(4)The use of the premises hereby permitted (excluding unattended storage) including the collection and delivery of goods/items stored within the building, shall be restricted to the hours of 7am to 5pm on weekdays, and shall not take place at any time on weekends or Bank Holidays.

Reason: In the interests of the amenities of the area.

- 1.03 The agent for the applicant was due to speak during the meeting, but due to audio problems accessing the meeting online he was unable to do so (or to hear proceedings very well) and his statement was read out by a member of the Democratic Services team. The agent's statement raised no concerns over the recommendation except for condition (4), but here he suggested that this condition was of some concern to the applicant. Specifically, he said:

Suggested planning condition 4 states that the hours should be restricted to 7am to 5pm on weekdays and shall not take place at any time on weekends or Bank Holidays. This is at odds with the application we submitted.

This suggested condition is our only area of concern. Agriculture is a seasonal business and as with a lot of things agricultural, demand is largely governed by weather patterns. Agrovista must react to needs of their customers and during the peak season (mid-March to mid-June) this may mean opening for limited hours on an occasional Saturday. Depending on the timing of Easter, they normally operate on Good Friday so it would not be ideal to have bank holiday operation restricted either.

The Saturday hours were requested because Agrovista has had to work for 5 Saturdays in the last year at their other depot. I can confirm that Agrovista does not intend to work on a Sunday, the condition is not a problem in that respect.

The business would not be able to operate with those weekend and bank holiday restrictions in place and that would mean a loss of potential employment here.

The ground for the condition is, 'in the interests of the amenities of the area'. There are no immediate neighbours likely to be affected by limited Bank Holiday or Saturday working and we would suggest that a limited Saturday opening (perhaps restricted to a limited yearly number of days to be recorded), and a Bank Holiday limited opening would not cause any detriment to the amenities of the area. We would request that this be considered by Members.

The agent's reference here to the additional working hours being included in the original application paperwork refers to a passage in the original covering letter which explains the reason why these hours are not stated on the application form, as follows:

The proposed facility would be used as a BASIS Registration Certificated and EA approved facility. Hours of operation would be around 7am to 5pm Monday to Friday, with perhaps some seasonal variation to include occasional Saturday working through the spring. This element is however, unknown and therefore this has not been included on the planning application form for the current proposed hours of use.

- 1.04 Problems with audio via remote access to the meeting meant that the Area Planning Officer was not able to hear the reading out of agent's comments relating to condition (4) and, when he was asked by the Committee why condition (4) was set out as above, he referred the Committee to the applicant's application form and the suggested hours of operation set out thereon, which the condition reflected. Members then agreed to grant planning permission according to the hours as stated on the application form, as in condition (4) above.
- 1.05 The Committee's instruction was to grant planning permission with condition (4) as originally drafted, although the applicant's agent was not aware of what had been decided at the time. Members also resolved to impose an additional condition proposed by Councillor James Hunt which reads:

Before the use is commenced, or the premises occupied, details of signage warning of pedestrians, and the location of those signs, be submitted to and approved by the Local Planning Authority. The agreed scheme shall then be implemented in full in accordance with the agreed implementation programme.

In the interests of highway safety and amenity.

The actual minute reads:

Resolved: That application 21/500222/FULL be approved subject to conditions (1) to (7) in the report and the additional condition in respect of signage as minuted.

1.06 However, earlier that day the erroneous decision mentioned above had been issued, and the Committee's decision was not therefore issued.

2.0 PROPOSAL

2.01 The application needs to be determined afresh now, and this has afforded the applicant the opportunity to outline more clearly his concern regarding condition (4). All other aspects of the application are unchanged, and the Committee is familiar with and has previously come to a clear conclusion and resolved that it was in favour of approving the application. Whilst a fresh decision needs to be made now, the original report sets out all the relevant planning considerations, is still up to date, and can be relied upon. I see no need to repeat all of its contents again here, but would ask Members to have regard to all material considerations before re-determining the application.

2.02 This report effectively asks the Committee to re-determine the application based on the recommendation in the original report, but with the opportunity to approve an amended version of condition (4) in the light of the applicant's explanation of their position. Accordingly, I have requested that the applicant submit his preferred wording of condition (4) and an explanation for it.

2.03 The applicant's preferred version of condition (4) is:

The use of the premises hereby permitted (excluding unattended storage) including the collection and delivery of goods/items stored within the building, shall be restricted to the hours of 7am to 5pm on weekdays and not at all on a Sunday. Saturday and Bank Holiday working shall be allowed, but be restricted to a maximum of 10 days per calendar year and only between the hours of 7am to 12 noon. These weekend and Bank Holiday days shall be recorded and made available at the request of the local planning authority.

2.04 The agent's explanation for this preferred version of the condition is:

Agrovista UK Limited is a supplier of agronomy advice, seed, crop protection products and precision farming services working with arable, grassland, fruit, vegetable and horticultural growers and the amenity sector. These sectors are widely recognised as having seasonal variations of business and work pressure. Working alongside these business sectors therefore requires similar working patterns and is key to giving suitable and sufficient provision to those that we support and supply.

Hours of opening as recorded on the Application for Planning form represent the general office hour opening times. Opening hours during periods of seasonal business inactivity will very likely be reduced from these general times. The occasional Saturday and Bank Holiday working would be an imperative addition during seasonal peak pressure periods.

3.0 BACKGROUND PAPERS AND PLANS

3.1 Application papers and drawings referring to application 21/500222/FULL.

4.0 APPRAISAL

- 4.01 The whole application needs to be determined afresh now, but the reason for my recommendation for approval is fully set out in the original report, and I see no reason to amend any of that now. No relevant circumstances have changed in the meantime.
- 4.02 The additional hours now proposed by the applicant amount to very few, and are unlikely to present any significant harm to amenity or road safety. As such I can see no objection to condition (4) being amended as requested and as set below.
- 4.03 The applicant has already agreed to the addition pre-commencement condition proposed by Councillor James Hunt. This is also now included below.

5.0 CONCLUSION

- 5.01 I see no reason for the Committee to take a different view on this application from that which it took in August, nor for it to object to the slightly greater flexibility in working hours that the applicant has now outlined and explained the reason for.

6.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The premises shall be used only for the storage and distribution of agricultural produce or products used for the production of agricultural and horticultural crops and amenity grass, and for no other use including any other use in Class B8 of Schedule 1 to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: In the interests of the amenities of the area.

- (3) No external storage of parts, equipment, raw materials or products shall take place within the site.

Reason: In the interests of the amenities of the area.

- (4) The use of the premises hereby permitted (excluding unattended storage) including the collection and delivery of goods/items stored within the building, shall be restricted to the hours of 7am to 5pm on weekdays and not at all on a Sunday. Saturday and Bank Holiday working shall be allowed, but shall be restricted to a maximum of 10 days per calendar year and only between the hours of 7am to 12 noon. These weekend and Bank Holiday days shall be recorded and made available at the request of the Local Planning Authority.

Reason: In the interests of the amenities of the area.

- (5) The areas shown on approved drawing 201208-S-001 as vehicle parking areas shall be provided before the use is commenced, and these areas shall be retained for the use of the occupiers of and visitors to the premises. No permanent

development, whether or not permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on these areas or in such a position as to preclude vehicular access to these areas.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- (6) The area shown on approved drawing 201208-S-001 as 'Loading/Unloading Area' shall be retained for the use of the occupiers of and visitors to the premises. No permanent development, whether or not permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area or in such a position as to preclude vehicular access to that area.

Reason: In the interests of highway safety and amenity.

- (7) Before the use is commenced, or the premises occupied, details of a scheme for the provision of Electric Vehicle charging points to serve the development (including an implementation programme) shall be submitted to and approved by the Local Planning Authority. The agreed scheme shall then be implemented in full in accordance with the agreed implementation programme.

Reason: In the interests of encouraging the use of sustainable travel modes.

- (8) Before the use is commenced, or the premises occupied, details of signage warning of pedestrians, and the location of those signs, be submitted to and approved by the Local Planning Authority. The agreed scheme shall then be implemented in full in accordance with the agreed implementation programme.

Reason: In the interests of highway safety and amenity.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF) the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

