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PLANNING SUPPORT STATEMENT

SECTION 73 APPLICATION FOR VARIATION OF
CONDITION NO 3 (EXTERNAL STORAGE) ATTACHED TO
PLANNING PERMISSION NO 2015/0271
“ERECTION OF EXTENSION TO EXISTING HAY BARN
INCLUDING CHANGE OF USE
TO ALLOW THE PRODUCTION,
STORAGE AND SALE OF ANIMAL FEEDS”

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1.0 INTRODUCTION

Planning permission was granted by the Council on the 20th May 2015 for the erection of extension to existing hay barn including change of use to allow the production, storage and sale of animal feeds Muscle Hill Farm, Lee Lane, Royston, Barnsley (application No 2015/0271).

It should be noted that the application site at the time of the decision was identified as “Safeguarded Land” within the local development plan documents including the Barnsley Core Strategy (2011) and Unitary Development Plan (2000). These Local Plan documents have since been superseded in 2019 when the Barnsley Local Plan was adopted and the site now falls within “Mixed Use” allocation MU5.

The following supporting documents/information are submitted with this application:-

- (i) Planning Support Statement – Townsend Planning Consultants;
- (ii) Decision notice - planning permission (ref 2015/0271);
- (iii) Planning Officers Delegation Report – planning permission (ref 2015/0271);
- (iv) Appeal Decision for the additional storage building (ref 2019/0168); and
- (v) Plan showing proposed area of the site to be excluded from external storage and area of height restricted storage as part of the variation of condition proposals - NYPA Ltd.

The subject condition which is sought for variation is attached to permission ref 2015/0271 which was granted consent by the Council on the 20th May 2015 and was subject to a number of planning conditions, including the subject condition sought for variation the requirements of which are:-

“There shall be no outdoor storage permitted on the site or adjoining land that is owned by the applicant.”

The stated reason for the imposition of the condition as set out in the decision notice was:-

“Reason: In the interest of visual and residential amenity in accordance with Core Strategy Policy CSP 29 & CSP 40.

The Core Strategy was superseded with the adoption of the Barnsley Local Plan in 2019 which now constitutes the up to date development plan.

This submission follows initial matters raised by the Head of Planning at Barnsley Council, in respect of the use of the landholdings for external storage and raised the potential issue of a potential breach of condition 3.

This application seeks to vary condition 3 to allow for external storage within part of the landholdings subject to an area of the site where storage will be excluded and a second area for height restricted storage site. It is considered that this will ensure the protection of the residential amenity to the property immediately adjacent to the east, "The Stables".

It is considered that the original imposition of the condition was unreasonable in the form set out for the reasons which will be set out in detail in this statement. It is clearly unduly restrictive to the reasonable operations of the business. Further to preclude external storage to the whole of the site goes beyond what is required to protect neighbouring amenity and the appearance of the site.

It will be noted that since the 2015 approval further planning permission was granted on 2019 an appeal for the "Erection of agricultural storage building" (LPA 2019/0168, Appeal Ref APP/R4408/W/19/3227492). At that point the site formed part of the MU5 (mixed use) allocation in the Local Plan and the Inspector noted the land is likely to be the last phase of development for the allocation and that this is likely to be some years ahead. Of note the Inspector identified existing open storage on the site and specifically did not require for a condition to be imposed to restrict this. Further comments on this decision are set out section 2.3.

This statement now goes on to outline the background to the proposal including the planning history of the site. The officer's delegated report for the 2015 approval with the subject condition is then examined together with 2019 appeal decision. Following this, the development at the time of determination and that in place are now examined. Central Government policy and advice are then examined including advice on the imposition of conditions as set out in the NPPF and NPPG. It will be demonstrated that following the set off areas from storage that condition no 3 in its current form does not pass the relevant 'six' tests set out in the guidance.

Finally, issues that the proposal raises are set out and it is clearly demonstrated that the condition should be varied as proposed. Overall it will be demonstrated that there is no justification for the imposition of the condition in the first instance and there is no justification for its retention now.

2.0 THE SITE, THE PROPOSAL AND BACKGROUND

2.1 The Site and Business

Muscle Hill Farm is located to the north of Lee Lane to the west of the village of Royston. The site also incorporates the application dwelling. The immediate area in which the site is located is characterised by agricultural and equestrian related activities. The farm 200 acres of land or thereabouts of mixed tenure.

Adjacent to the eastern boundary of the site is a dwellinghouse known as “The Stables” which the Council granted permission through converting of stables in 2014 (ref 2014/1473). Planning permissions have been granted by the Council and Planning Inspectorate for the commercial expansion of the business since the approval of the adjacent dwellinghouse.

Part of Muscle Hill Farm agricultural enterprise is involved in the processing of hay, straw and sawdust, which is from produce from both the farm’s landholdings and imported from nearby landholdings. There are currently 2no buildings on site involved in the storage and processing activities.

The Council are fully aware of the processing activities at the site, first having granted permission for the processing building in 2015 and secondly having refused an agricultural storage building in 2019 (subsequently granted approval on appeal). The nature of the activity on site (which is lawful owing to the grant of planning permission) is essentially the process of agricultural produce from the holding and nearby holdings. The form of activity necessitates produce to be imported onto the site by HGV’s, tractors, trailers, be handled on site by mechanical machinery and to be stored pre and port processing before finally being exported from the site.

It is considered that the condition was wrongly imposed in the first instance as the activities related to the processing for which planning permission was granted require outside storage or produce and machinery. To expect such a processing activity to not generate this requirement is wholly unrealistic unreasonable and unjustified. The condition is clearly unduly restrictive in terms of the activities when the Council granted approval. To conform with such a condition would render the business unable to carry on its activity. In effect

the condition removes the right to use the site for the purpose for which the approval which was granted.

It will be noted that Muscle Hill Farm currently employs 10 staff, all from the local area with more taken on during harvest periods and the continued ability to retain these jobs and continue with the business is wholly reliant on the proposed variation of the condition. If external storage is precluded the business will be severely restricted and the only reasonable conclusion that can be reached is that the business would have to close.

2.2 Historical Planning Policy Context

At the time of the grant of planning permission in 2015 the site was identified as “Safeguarded Land” as set out in the Barnsley Core Strategy (2011) and Unitary Development Plan (2000).

In 2019 with the adoption of the Barnsley Local Plan, the land was however reallocated as part of Mixed Use Allocation MU5. A Masterplan was approved in association with this allocation in 2021.

However, it should be noted no planning applications have been approved in accordance with the Masterplan and that the subject site forms part of the latter 2 phases of development phase 5 and 6 of the Masterplan. Therefore there is no known date when the application can and will come forward in accordance with the Masterplan. Indeed it will be noted that the overall allocation site involves numerous separate landowners and we are aware that they are not at this stage in the process of selling to housing or any other form of developers.

2.3 Planning History of the Commercial Enterprise

The first recorded planning approval was in 2009 when the Council granted permission for an agricultural storage barn which replaced a number of existing agricultural buildings on site (LPA Ref 2009/0144).

In 2015 the Council granted permission for “Erection of extension to existing hay barn including change of use to allow the production, storage and sale of animal feeds” (LPA Ref 2015/0271). The approval included the subject condition.

In respect of the policies referred to Policy CSP 29 was a general design policy applied to new development. Policy CSP40 related to pollution control and protection and minimising the effects of development including air, surface water, ground water, noise, dust, vibration and other nuisance issues.

From examination of the officer delegated report it is noted that in relation to “visual” amenity sets out that in the location of storage within the building would enhance the “openness” and appearance of the site. It will be noted that at this point the land was not within the Green Belt and the requirement for “openness” is a Green Belt test. It is not clear why this was deemed to be an issue as it was not relevant to the site’s development plan status.

It should be noted that the Barnsley Core Strategy defined Safeguarded Land as:-

“land which is set aside in case it is needed for development in the long term. It is not available for development in the short term because it is not needed. The need to develop safeguarded land will be considered when the Local Development Framework is reviewed”.

There is therefore no requirement for land which was Safeguarded to remain “open”. There are also no references to restrictions or controls in terms of the appearance of the land.

Interestingly in relation to residential amenity the officer considered there was no difference between the proposed agricultural related commercial use and an agricultural use. No specific reference is made to the adjacent dwelling “The Stables”. As such it is unclear why the condition was imposed for issues of ‘residential amenity’.

Also of note in terms of the context of such issues following refusal of an application in 2019 for the “erection of agricultural storage building” permission was granted on appeal (LPA 2019/0168 Appeal Ref APP/R4408/W/19/3227492). At the time of the appeal, the land formed part of the MU5 (mixed use) allocation the site. The Inspector noted the land is likely to be the last phase of development for the allocation and that this is likely to be some years ahead and the proposed building would not *“preclude the potential for the land to be purchased for housing at some time in the future to meet the purposes of MU5 and its comprehensive development”*. The Inspector therefore considered development of the site would not harm its long term use in terms of the site’s allocation.

The Inspector also went on to consider the issue of residential amenity in respect of the adjoining property and noted:-

“there is an existing agricultural business on the appeal site and the land surrounding it. Indeed, I observed that there are already vehicle movements within this wider agricultural holding, at least associated with transferring hay for open storage.”

When considering neighbouring properties the Inspector stated:-

“Moreover, whilst the rear elevation of this neighbouring dwelling would look towards the appeal proposal, there are only two small windows and a high- level opening to this rear façade. Consequently, its main outlook is eastwards from the front elevation, away from the appeal proposal”.

No formal condition was imposed by the Inspector restricting outdoor storage.

Clearly the Inspector did not consider the proposals to be detrimental to the residential amenity of the neighbour.

2.4 The Proposal

Following the initial enforcement inquiry raised by the Head of Planning, in relation to the potential breach of condition 3, the applicant agreed to submit this application to seek to regularise the matter.

Prior to proceeding with the application the issues of the imposition of the condition were fully analysed. It was considered that the requirements for “openness” were not relevant as the site did not constitute a Green Belt site. There were also no other policy constraints in terms of the appearance. It was however recognised that the amenity of the adjacent neighbour was a material consideration, notwithstanding the comments of the Inspector. It was therefore determined not to seek to wholly remove the condition in its entirety but to seek to allow external storage to provide a “buffer” between the storage areas on site and the neighbouring property where storage would be precluded. It was considered that such an approach was reasonable as it would allow for the continuation of this agricultural business and at the same time protect the amenity of the adjacent property.

This application therefore seeks to amend condition 3 of the 2015 planning permission to preclude storage in the areas adjoining the property marked on the submitted plan in blue and to restrict the height of the storage in the area marked on the plan on the site's frontage in pink.

It is therefore considered that condition 3 should be amended to restrict external storage within the areas set out on the submitted plan.

3.0 PLANNING POLICY

By virtue of Section 38 (6) of the Planning and Compulsory Purchase Act 2004, the planning authority must determine the planning application in accordance with the statutory development plan (insofar as it is material to the application), unless material considerations indicate otherwise. The NPPF also advises of a presumption in favour of development which accords with the development plan. The importance of the statutory development plan in the decision making process necessitates an examination of the relationship between the policies and proposals of the plan and government guidance.

3.1 Local Planning Policy

The Development Plan at the time the decision was made was the Barnsley Core Strategy (2011) and the Barnsley Unitary Development Plan (2000). Both documents were superseded in 2019 by the Barnsley Local Plan. The relevant policies are explored further.

3.1.1 Policy at the Time of Determination – Barnsley Core Strategy and Unitary Development Plan

It will be noted that there is no reference in the decision to UDP policies. Within the Core Strategy and UDP the site falls within an area defined as safeguarded land which is defined as:-

“land which is set aside in case it is needed for development in the long term. It is not available for development in the short term because it is not needed. The need to develop safeguarded land will be considered when the Local Development Framework is reviewed”.

The policies referred to in the reasons for the imposition of the condition in the decision notice are as follows:-

(i) Policy CSP 29 Design

The policy is a general design policy which relates to all new development and states:-

“Design Principles:

High quality development will be expected, that respects, takes advantage of and enhances the distinctive features of Barnsley, including:

- *topography, Green Infrastructure assets, important habitats, woodlands and other natural features*
- *views and vistas to key buildings, landmarks, skylines and gateways*
- *heritage, townscape and landscape character including the scale, layout, building styles and materials of the built form particularly in and around:*
 - *Barnsley Town Centre*
 - *Penistone and the rural villages in the west of the borough*
 - *within and adjacent to Conservation Areas*

Development should:

- *contribute to place making and be of a high quality, that contributes to a healthy, safe and sustainable environment*
- *help to transform the character of physical environments that have become run down and are lacking in distinctiveness*
- *enable all people to gain access safely and conveniently, providing, in particular, for the needs of families and children, and of disabled people and older people*
- *contribute towards creating attractive, sustainable and successful neighbourhoods*
- *achieve a Building For Life assessment rating of 'good' or equivalent as a minimum, in developments of 10 or more dwellings”*

(ii) CSP40 Pollution Control and Protection

The policy relates to pollution control and protection and minimising their effects and sets out that:-

“Development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause a nuisance to the natural and built environment or to people.

We will not allow development of new housing or other environmentally sensitive development where existing air pollution, noise, smell, dust, vibration, light or other pollution levels are unacceptable and there is no reasonable prospect that these can be mitigated against.

Developers will be expected to minimise the effects of any possible pollution and provide mitigation measures where appropriate.”

It is considered that neither of these policies provide any justification for the imposition of the subject condition.

3.1.2 Barnsley Local Plan (Adopted)

The Barnsley Local Plan was adopted in 2019 and forms the up to date Local Development Plan for Barnsley. The policy defines the site as forming part of Local Plan allocation MU5. The allocation text sets out that:-

“Site MU5 Land off Lee Lane, Royston Indicative number of dwellings 828

Planning permission has been granted on this site for 166 dwellings. The indicative number of dwellings above relates to the remainder of the site.

The development will be subject to the production of a Masterplan Framework covering the entire site which ensures that development is brought forward in a comprehensive manner.

The development will be expected to:

Provide a primary school on site;

Ensure that access is via the construction of a roundabout on Lee Lane which along with the road layouts will allow the development of the entire site;

Provide a small scale convenience retail facility as part of the development that is in compliance with Local Plan policy TC5 Small Local Shops;

Investigate options for improving public transport access to the development and interventions to encourage public transport use by residents; and

Ensure that hedgerows, the trees at the west side of the site and the strip adjacent to the disused railway line at the north of the site are retained, buffered and managed.

Archaeological remains may be present on this site therefore proposals must be accompanied by an appropriate archaeological assessment (including field evaluation if necessary) that must include the following:

Information identifying the likely location and extent of the remains, and the nature of the remains;

An assessment of the significance of the remains; and

Consideration of how the remains would be affected by the proposed development”

3.1.3 Royston Masterplan Framework

A Masterplan was approved in association with the MU5 allocation in 2021. It sets the phases and locations of the above type’s development in the Masterplan area.

It should be noted no planning applications have been approved in accordance with the Masterplan and that the site forms part of the latter 2 phases of development phase 5 and 6 of the Masterplan. Therefore there is not an anticipated date when the application can and will come forward in accordance with the masterplan. Indeed it is noted that the allocation involves numerous separate landowners and we are aware that they are not at this stage in the process of selling to housing developers.

As outlined the policy basis on which the current application will be considered has changed from that which the condition was initially imposed. However there are no policies which would preclude or conflict with the approach proposed by the applicant.

3.2 Central Government Policy Advice

It is considered that the following central government policy advice in the form of the National Planning Policy Framework and retained Circulars are relevant to the consideration of this application.

3.2.1 The National Planning Policy Framework

The following are comments on the advice in the Framework which is considered to be relevant to the consideration of the application:

Paragraph 2 of the 'Introduction' sets out that:

“Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.”

Paragraph 8 sets out the overall objective of the sustainable development At Para 8 it states:-

“Achieving sustainable development means that the planning system has clear overarching objectives which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a. An economic objective to help build a strong, responsive and competitive economy.***
- b. A social objective to support strong, vibrant and healthy communities... with accessible services and open spaces that reflect current and future needs and support communities' health social and cultural wellbeing.***
- c. An environmental objective to contribute to protecting and enhancing our natural built and historic environment.”***

The proposal meets with these requirements: safeguarding an existing established business in the rural economy and safeguarding local jobs.

Paragraph 57 of the NPPF is concerned with the use of planning conditions and states:

“Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects...” (TPC underlining).

The imposition of a condition limiting the outdoor storage is not necessary or reasonable to the functioning of the business. The provision of a set off area and area for restricted height storage ensures the protection of residential amenity. It is noted that the Inspector in the 2019 appeal did not deem it necessary to impose any condition relating to external storage and noted it's presence on site.

In relation to building a strong competitive economy (Section 6) para 80 sets out that:-

“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. 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.”

Section 6 deals with ‘Building a Strong Competitive Economy’ and with regard to ‘Supporting a Prosperous Rural Economy’ at Para 88 it states:

“Planning policies and decisions should enable:

- a. The sustainable growth and expansion of all types of businesses in rural areas both through conversion of existing buildings and well designed, new buildings;***
- b. The development and diversification of agricultural and other land based businesses;***
- c. Sustainable rural tourism and leisure developments which respect the character of the countryside;***
- d. The retention and development of accessible local services and community facilities such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.” (TPC underlining).”***

The amendment of the condition as proposed will support a rural agricultural business.

3.1.2 Planning Practice Guidance – Use of Planning Conditions

This advice is of particular relevance to the consideration of this application and the variation of the condition.

The advice at Paragraph 1 (Reference ID: 21a-001-20140306) states:

“When used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable.”

It was set out within the officer’s report that the subject condition 3 of 2015/0271 was imposed by the Council to ***“protect visual and residential amenity of neighbouring residential properties on the activities of the business”***. It is considered it was not necessary or reasonable to impose this condition which precludes all external storage for a commercial business. This was further considered by the Inspector in considering the agricultural storage building on the site in 2019 (ref 2019/0168) who noted the existence of external storage and not imposing a condition precludes external storage. The officers report in terms of visual amenity refers to the issue of “openness” which is essentially a Green Belt concept. It is not a reasonable justification for the imposition of the condition.

Notwithstanding the Inspectors comments it is not considered unreasonable to seek to protect the amenity of the adjoining property. However it is considered that this can be achieved in the manner proposed in this application which retains a buffer/restriction between the storage and the adjacent property.

The advice goes on to state:

“Planning conditions be only imposed where they are

- ***Necessary;***
- ***Relevant to planning; and***
- ***The development to be permitted;***
- ***Enforceable;***
- ***Precise; and***
- ***Reasonable in all other respects.”***

These are known as the “six tests”.

The advice goes on to state that the six tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.

(i) Necessary

It is considered that condition 3 requiring no external storage on the applicants' landholdings was not necessary at the time of the application and is unworkable in respect of the approval for agricultural processing that the Council were approving. It remains unnecessary today.

Clearly ongoing external storage has taken place since this approval which was noted by the Inspector in the 2019 decision (ref LPA 2019/0168 Appeal Ref APP/R4408/W/19/3227492). The Inspector noted:

“there is an existing agricultural business on the appeal site and the land surrounding it. Indeed, I observed that there are already vehicle movements within this wider agricultural holding, at least associated with transferring hay for open storage.”

The Inspector did not deem it necessary impose a condition precluding external storage.

Indeed, in imposing the condition on the 2015 permission, the planning officer set out that the proposals which removed external storage would enhance openness. The site was safeguarded land and is now part of MU5 (a mixed use allocation). The test of “openness” relates to a requirement for proposals in the Green Belt and was not relevant at the time of imposition nor is it relevant now.

To satisfy the Council in ensuring the protection of residential amenity of the adjacent neighbour a buffer area is proposed to be kept free from external storage (and a small area for height restricted storage at the frontage of the site) as shown on the submitted plan.

The condition in its current form was not necessary at the time of imposition and is clearly not necessary now.

(ii) Relevant to the Development Permitted

The approval was for an agricultural processing building. That function requires the delivery and storage of goods to be processed and post processing. The condition essentially takes away the benefit of the development which was permitted.

(iii) Reasonable in all other respects

The advice states:

“Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness.”

It is clear that the imposition of a condition precluding external storage in the first instance was wholly unreasonable for a commercial agricultural business to operate.

As stated in Inspector in considering the 2019 appeal for the additional building did not apply a condition requiring no external storage and noted that external storage was already taking place on site.

The imposition of the condition placed unreasonable burdens on the operator. The condition precludes the essential requirements as a processing facility. This essentially takes away the permission which was granted.

The advice at Section 3 goes on to the imposition of conditions and states:

“Any proposed condition that fails to meet any of the six tests should not be used.”

It is therefore clear that the requirement to preclude all external storage on the applicant's landholdings does not pass the 6 tests.

In relation to the use of planning conditions or obligations to achieve an objective. It sets out at Paragraph 011 Reference ID: 21a-011-20140306:-

“It may be possible to overcome a planning objection to a development proposal equally well by imposing a condition on the planning permission or by entering into a planning obligation under section 106 of the Town and Country Planning Act 1990.”

It is considered that the proposed amendment to the condition which includes an area precludes for external storage ensures that neighbouring amenity is protected.

In relation to the undertaking an application for variation/removal of condition para 031 sets out Reference ID: 21a-031-20180615

“.....Some or all of the conditions could be removed or changed by making an application to the local planning authority under section 73 of the Town and Country Planning Act 1990. In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.....”

Therefore the only consideration for the Council relates to the subject condition for external storage not the principle of development.

4.0 THE ISSUES – THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

4.1 The Development Plan

The development plan is the starting point for the consideration of this application.

It has been demonstrated that there was no policy justification for the imposition of the condition and that remains the case on the basis of the up to date development plan.

It is considered that the variation of the condition will not prejudice the allocation coming forward at a future date and with the amendment of the condition on an already granted planning permission will not conflict with the development plan.

There were two specific points the Council considered in imposing the condition visual (openness) and neighbouring amenity. It is considered that area from exclusion from storage and area of lower level storage ensures the protection of neighbouring amenity. In relation to openness this was not a reasonable consideration as it is a green belt test.

It is considered amending condition 3 to show the storage area as shown on the supporting plan will not conflict with the development plan and in particular amenity reasons for the condition's imposition. The approval will not preclude the land from coming forward for development as mixed use at a later date.

4.2 Other Material Considerations

The following are issues which it is considered are material considerations in respect of the determination of this application, all of which support the removal of the subject condition.

4.2.1 Government Guidance and the “Six Tests” for Conditions

The subject condition falls to be considered in respect of the “six tests” set out in the NPPF and NPPG.

It is not considered that the overall condition passes the subject tests for the reasons set out. By reference to Government policy unless a condition passes all 6 tests it should not

be imposed and that same tests apply in respect of the Section 73 application for the removal or variation of the condition.

4.2.2 Amenity

It is considered amendment of the condition in accordance with the supporting site plan which includes an area for the exclusion of storage and for low level storage removes the amenity reasons for the imposition of the condition i.e. proximity to a residential property including the stables adjacent.

4.2.3 Appeal Decision

The Inspector's Appeal Decision in 2019 forms a key material consideration in the consideration of the application. The appeal was determined in under current Local Plan policy. The following considerations are made:-

- The land formed part of the MU5 allocation the site and the Inspector noted the land is likely to be the last phase of development for the allocation and that this is likely to be some years ahead. It should be noted that whilst a Masterplan was adopted in 2021 no applications have been approved for development on the land in accordance with the Masterplan. The further expansion of the site would not prejudice the delivery of the allocation; and
- The Inspector noted external storage on site and did not impose a condition restricting outdoor storage.

It is considered that the amendment of the condition as proposed would not prejudice the future development of the site in accordance with the Masterplan which has no yet begun.

4.2.4 Jobs/Rural Enterprise

If the application is not approved it will result in the loss of jobs as the business has to reduce its operations. The firm currently employs 10 staff permanently with more staff taken on during harvest periods.

5.0 CONCLUSION

This Section 73 application seeks the amendment of a planning condition which requires that there is no external storage to take place on an established commercial agricultural processing business for which the Council granted planning permission.

A detailed analysis of the subject condition has been provided in terms of development plan policy (both at the time of imposition and that in place today) and government guidelines in respect of amenity and the use of planning conditions. It has been demonstrated that condition should be amended to allow for external storage on the site if subject to a defined area which will be excluded from storage and an area of height restricted storage to the front of the site.

By reference to the development plan and all material consideration it is considered that the condition was wrongly imposed at the time of the decision and that remains to be the case today.

The condition has been tested against the “six tests” for conditions. It is clear that the condition in its current form does not pass the 6 tests and should be varied on the basis of the proposal put forward by the applicant.

Is also considered that the amendment of the condition will not prejudice the site allocation as part of MU5.

In the light of all evidence, the Council are invited to grant approval for the variation of the subject condition as proposed. The applicant remains happy to discuss with the Council the exact working of any revised condition.