

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
PLANNING COMMITTEE**

MAIDENHEAD DEVELOPMENT CONTROL PANEL

15 December 2021

Item: 2

Application No.:	21/02024/VAR
Location:	David Hunt Tool Merchant Bath Road Knowl Hill Reading RG10 9UR
Proposal:	Variation (under Section 73A) of planning permission 418365 to remove condition 5.
Applicant:	MR Hunt
Agent:	Not Applicable
Parish/Ward:	Hurley Parish/Hurley And Walthams

If you have a question about this report, please contact: Carlos Chikwamba on 01628796745 or at carlos.chikwamba@rbwm.gov.uk

1. SUMMARY

The proposed removal of the condition the subject of this application is deemed to be acceptable. The condition does not pass the tests outlined in paragraph 56 of the NPPF (2021) and is therefore considered to be neither necessary nor reasonable. The condition does not comply with the relevant guidance in the NPPG and its removal would not result in any material planning harm.

It is recommended the Committee grants planning permission with the condition listed in Section 11 of this report.

2. REASON FOR PANEL DETERMINATION;

- The application was made by Mr David Hunt, the husband of Cllr Maureen Hunt. Several objections were received in relation the proposal. Section 5 of Part 7 under Article B of the council's constitution, states that; if one or more objections are received within a development proposed by any close relative of a member, the application will be considered by the appropriate Development Management Panel and not by officers under delegated powers. Cllr Hunt is a Member and therefore the application has to be determined by the Maidenhead Planning Committee.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The premises of David Hunts Tools are located at the western end of a linear form of development fronting onto a service road setback from the carriageway of the A4 Bath Road at Knowle Hill. The tool shop comprises of a ground floor retail unit with ancillary offices and staff facilities at first floor level. The premises also comprise of a two-storey dwelling (The Firs) and a detached building, which is used for storage for the tool shop, and it is also used as commercial office space. The area is characterised by other businesses and residential properties.
- 3.2 The site is located within the Green Belt and an area of special landscape importance.

4. KEY CONSTRAINTS

- 4.1 Green Belt.

4.2 In proximity to listed buildings

5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

5.1 The proposal seeks permission for a variation (under Section 73A) of planning permission 418365 to remove condition 5.

5.2 418365 – Change of use of first floor to ancillary offices and staff accommodation, rear extension to shop and erection of tool store – Approved and dated 22.05.1986. Condition 5 stated: -

5. The offices indicated on the approved plan shall only be used for ancillary purposes in connection with the predominant retail use of the site.

The other planning history relating to this site is as follows: -

98/33478 – Change of use of part of tool storage building to form two studio units – Approved and dated 05.02.1998

04/41795 - Change of Use of part tool storage building to form B1 office unit – Approved and dated 11.06.2004

08/01972 - The installation of a metal stairway at the rear of Endfield – Approved and dated 28.10.2008

20/01241- Certificate of lawfulness to determine whether the use of the existing x2 offices used as offices not ancillary to David Hunt Tool Merchant is lawful. – Refused and dated 11.05.2020

6. DEVELOPMENT PLAN

Adopted Royal Borough Local Plan (2003)

6.1 The main Development Plan policies applying to the site are:

Issue	Local Plan Policy
Sufficient parking space available and Highway safety.	P4 and T5
Appropriate development in the Green Belt	GB1, GB2 and GB3
Proposals affecting listed buildings or their settings	LB2

7. MATERIAL PLANNING CONSIDERATIONS

7.1 National Planning Policy Framework Sections (NPPF) (2021)

Chapter 4. Decision-making
Chapter 6. Building a strong, competitive economy
Chapter 13. Protecting Green Belt land

7.2 Borough Local Plan: Submission Version and Proposed Changes

Issue	BLPSV	BLPSVPC Policy
Appropriate development in Green Belt and acceptable impact on Green Belt	SP1, SP5	SP1, QP5
Economy	ED1, ED3	ED1, ED3
Acceptable impact on neighbouring amenity	SP3	QP3
Proposals affecting listed buildings or their settings	HE1	HE1

Paragraph 48 of the NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. The plan and its supporting documents, including all representations received, was submitted to the Secretary of State for independent examination in January 2018. In December 2018, the examination process was paused to enable the Council to undertake additional work to address soundness issues raised by the Inspector. Following completion of that work, in October 2019 the Council approved a series of Proposed Changes to the BLPSV. Public consultation ran from 1 November to 15 December 2019. All representations received were reviewed by the Council before the Proposed Changes were submitted to the Inspector. The Examination was resumed in late 2020 and the Inspector's post hearings advice letter was received in March 2021. The consultation on the main modification to the BLPSV ran from 19 July to 5 September 2021.

The BLPSV together with the Proposed Changes are material considerations for decision-making. The weight to be given to each of the emerging policies and allocations will depend on an assessment against the criteria set out in paragraph 48 of the NPPF. This assessment is set out in detail, where relevant, in Section 9 of this report.

7.3 Supplementary Planning Documents

There are none relevant to the consideration of this application.

7.4 Other Strategies or Publications

- RBWM Parking Strategy

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

5 letters objecting to the application and 3 in support of the application were received from the 6 neighbouring properties directly notified, summarised below;

Comment	Where in the report this is considered
<p><i>Objections;</i></p> <ul style="list-style-type: none"> -Reference to previous application relating to the rear staircase. -Application should be refused based on negative planning history. -Overlooking due more frequent use of building and by virtue of the unobscured windows and rear staircase. -Proposed office space not required. -Area now more residential, therefore, conversion would harm character of area and impact residential amenity. -Inadequate parking and associated highway safety issues. -Proposal within close proximity of listed buildings - Detrimental impact on the Green Belt 	9.5 – 9.6
<p><i>In support;</i></p> <ul style="list-style-type: none"> -No parking issues -Small business offices beneficial to area's local economy 	9.5 – 9.6

Consultees

Comment	Officer Response
<p><i>Parish Council;</i></p> <p>No objection.</p>	Noted.
<p><i>Environmental Protection;</i></p> <p>No objection.</p>	Noted.

9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i. Reason for Condition
- ii. Other material considerations
- iii. Conclusion

Reason for Condition

9.2 This application relates to a variation (under Section 73A) of planning permission 418365 to remove condition 5. Application 418365 comprised of a change of use of the first-floor above the existing tool shop to ancillary offices and staff accommodation, rear extension to shop and erection of tool store. Condition 5 under that permission states; '*The offices indicated on the approval plan shall only be used for ancillary purposes in connection with the predominant retail use of the site*', the reason for its imposition was '*to retain effective planning control*'. The condition was not associated with a specific policy or material planning consideration.

9.3 Paragraph 55 of the NPPF (2021) states that *Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions*

and paragraph 56 states that *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*. The National Planning Policy Guidance (NPPG) (2014) further adds that it is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary control.

- 9.4 In this case, and particularly when considered in the light of contemporary national and local planning policy and the amendments to the Use Classes Order which introduced the new Class E which allows a flexible interchange between multiple use classes (Classes A1, A2, A3 and B1) without the need for planning permission, this condition is considered to no longer serve a planning purpose. In light of the foregoing, the condition does not perform a planning function, it does not pass the tests outlined in paragraph 56 of the NPPF and is therefore considered to be neither necessary nor reasonable.

Other material considerations

- 9.5 The removal of the condition would not, in itself, lead to a greater intensity in the use of the first floor and would not therefore result in any greater use of the external staircase or result in any additional overlooking of neighbouring properties. Neither would it lead to a need for an increase in parking provision at the site or in any increased use of the existing vehicular access resulting in any highway safety issues.
- 9.6 There are also no Green Belt policy implications in removing the condition and neither would it impact on employment space or the borough's business needs/demands. The site is near to listed buildings; however, the proposed removal of the condition would not have any impact on the setting of these listed buildings.

Conclusion

- 9.7 Overall, the condition is no longer deemed to serve a planning purpose and should therefore be removed to enable the first floor of the premises to be occupied without being encumbered by having to be associated with the ground floor retail use.

10. APPENDICES TO THIS REPORT

Appendix A – Site Location Plan

Appendix B – Tool shop's first floor plan as approved in original permission

Documents associated with the application can be viewed at <https://www.rbwm.gov.uk/home/planning/find-planning-application> by entering the application number shown at the top of this report without the suffix letters.

11. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

1. The development hereby permitted shall be carried out in accordance with the approved plans listed below.
Reason: To ensure that the development is carried out in accordance with the approved particulars and plans.