

Land at Harlocks Farm, Stuntney  
Proposed development of Class A1, A3, A4, D1 and  
D2 Uses  
LPA Ref: 18/01793/FUM



**Consideration of Potential Conditions**

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**Introduction**

1. East Cambridgeshire District Council ('ECDC') has asked WYG Planning ('WYG') to provide advice on potential conditions appropriate to attach to any grant of planning permission for the proposed development at Harlocks Farm, Stuntney (LPA ref: 18/01793/FUM).
2. This advice follows consideration by WYG of the further retail analysis provided on behalf of the applicant by Lambert Smith Hampton ('LSH') in a letter dated 10 October 2019 ('the October letter'), discussions with ECDC and the applicant on 10 December 2019 and suggested list of conditions received from the agent Carter Jonas ('CJ') on 17 December 2019.
3. WYG's position as expressed in the 10 December discussions was that the further information provided in the October letter meant that the evidence supported that there was no available or suitable sites or units for the proposed development in more central locations; the sequential test was passed.
4. Moreover, that the pivotal issue for the impact test was that the proposed development traded as described in the application and as tested. Only in this way, on balance, was it possible for the retail impact test to be met. Linking the development to Harlocks Farm Estate produce and rural enterprise provides a justification for the proposed development to be located at Harlocks Farm, which is located 1km outside Stuntney village in 'open countryside', 3.8km from Ely City Centre, 5.8km from Soham Town Centre and 11.2km from Littleport Town Centre. This will assist in reducing the competitive overlap with existing centres and, thus, the potential impact arising to below significant adverse levels. It also will assist in the scheme meeting an overarching policy in the 2015 local plan, Policy Growth 2, which provides that development outside development envelopes will be strictly controlled. These are the purposes for the suite of conditions suggested below.
5. At this juncture, it is relevant to note that the scope of the development has changed since the submission of the original application and so it is likely to be necessary to amend the description of development to remove, for example, reference to Class D1 and A4 uses and include reference to a micro-brewery. The latter can be considered to fall within Class B2, Class B1 or 'sui generis' depending

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on the particular operation, including amount of consumption on site by visiting members of the public. Further information on the envisaged 'micro-brewery' is sought from the applicant so that an amended description of development can be agreed with ECDC. In advance of this clarification, it is assumed that the 'micro-brewery' operates outwith any use class and so is 'sui generis'.

**Discussion**

6. Planning conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission. Section 70(1)(a) of the Town and Country Planning Act 1990 enables the local planning authority to impose 'such conditions as they think fit'. Paragraph 55 of the National Planning Policy Framework sets out six tests for conditions:

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

7. The draft suggested conditions seek to meet these tests, whilst allowing the scheme to potentially proceed where it would otherwise be refused:

Condition a: the **total gross internal floorspace** hereby consented shall extend to no more than 1,943sqm gross and notwithstanding the provisions of schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revising, revoking and re-enacting that order), no enlargement by way of extension, installation of a mezzanine floor (unless required for ancillary storage and/or office accommodation for any specific unit and for no other purpose) or other alteration to any building the subject of this permission shall be carried out without express planning permission first being obtained.

Condition b: the **total gross internal retail floorspace** shall extend to no more than 1,166sq m and **the total retail net sales area** to no more than 816sq m. The **retail floorspace** is limited to uses falling within Class A1 (shops) (a), (d), (e) and (g) and for no other purpose falling within Class A1 of the schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision

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equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification.

Condition c: the **total gross internal non-retail floorspace** shall extend to no more than 777sq m.

The **non-retail floorspace** is limited to:

- o uses falling within Class A3 (restaurant and cafes), as defined in the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification,
- o a spa/wellbeing and/or fitness studio (Class D2 (assembly and leisure)) and for no other purpose falling within Class D2 of the schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification, and
- o as a micro-brewery ('sui generis').

The **non-retail floorspace** hereby permitted can only operate where at least a single unit (excluding the kiosk) trading as a café/restaurant always includes the use of produce sourced directly from the Harlocks Farm Estate. For the avoidance of doubt, produce sourced directly from Harlocks Farm Estate can include, but not be limited to, potatoes, onions, celery, venison, partridge, pheasant, and/or pigeon. A register shall be kept by the operator of the produce sourced from Harlocks Farm Estate and this register shall be made available for inspection by the local planning authority upon request.

Condition d: the maximum unit size of the **retail floorspace** shall be 180sq m gross internal, save for a single large unit of 287sq m gross internal and excluding the combined retail/workshop space ('maker space') as defined in condition **y** below.

Condition e: the minimum unit size for both the **retail and non-retail floorspace** shall be 45sq m gross internal, save for a single 'kiosk' unit of 30sq m gross internal.

Condition f: for so long as a single unit (excluding the kiosk) is used for the sale of convenience goods including always the sale of produce sourced directly from the Harlocks Farm Estate and a minimum net sales floorspace of 200sq m is used for the provision of a combined retail/workshop space ('maker space') to accommodate tenants who make goods for sale on-site, the remainder of units making up the **total net retail floorspace** as defined in condition **x** above can be used for the sale of convenience or comparison goods, providing the net sales area for the sale of comparison goods

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outwith the retail/workshop space is no more than 487sq m and shall not be used for the sale of mobile phones and mobile phone accessories, domestic electrical white goods, pharmaceutical and medical goods, and audio visual goods. For the avoidance of doubt, produce sourced directly from Harlocks Farm Estate can include, but not be limited to, potatoes, onions, celery, venison, partridge, pheasant, and/or pigeon. A register shall be kept by the operator of the produce sourced from Harlocks Farm Estate and this register shall be made available for inspection by the local planning authority upon request.

Condition g: none of the **total gross retail floorspace** hereby consented shall be occupied by a retail multiple whereby the operator is part of a network of nine or more outlets (as defined by Experian).

Condition h: for a period of 36 months from the first occupation of the development hereby consented, none of the **total gross retail floorspace** shall be occupied by any retailer who at the date of such occupation, or within a period of 12 months immediately prior to occupation, trades retail floorspace in the town centres of Ely, Soham and Littleport.

- 8. The above draft suggested conditions seek to ensure the proposed development trades in line with the concept presented in the application and in line with how the scheme has been assessed by LSH. At the same time, they seek to meet the six tests set out in national guidance.

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