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Proposal:	Removal of condition 3 (The garage shall not be used for any other purpose than the accommodation of private vehicles or for a purpose incidental to the enjoyment of the related dwellinghouse and no trade or business shall be carried on therefrom) of planning permission TM/04/02763/FL: Conversion of double garage to habitable room
Location:	39 Nutfields Ightham Sevenoaks Kent TN15 9EA
Applicant:	M Metcalf

1. Description:

- 1.1 The application seeks the removal of a condition imposed on a previous planning permission, as set out in detail above. The applicants agents letter accompanying the application makes specific reference to the clause that precludes the building being used for a trade or business. In practice therefore, the application seeks retrospective planning approval for the change of use of this detached double garage at 39 Nutfields, Ightham. The garage was converted to a habitable room following planning permission in 2004 under ref TM/04/02763/FL. Condition 3 of the 2004 approval restricted the use of the converted garage to ensure that the use was incidental to the enjoyment of the dwellinghouse, and that no business use took place.
- 1.2 The garage was converted and subsequently used as an office for Mr Metcalf's Independent Financial Advisory business. This application seeks to regularise the current use which is in breach of condition 3 of TM/04/02763/FL.
- 1.3 The conversion is, in terms of its physical appearance, as approved previously and no new openings are proposed as part of this application. The false garage doors which accord with the 2004 permission are to remain to the frontage.
- 1.4 The office accommodates Mr Metcalf and his two daughters. The office hours are stated as Monday to Thursday 08.00 – 16.00 (15.00 on Wednesdays and Thursdays). The applicant has stated that the nature of the business only involves infrequent visitors (approx 17 in a twelve month period), deliveries of general stationery once per month and normal daily post deliveries.
- 1.5 The applicant is proposing to install an air conditioning unit to serve the office to enable it to operate without the need to have doors and windows open, and thus mitigate against residential amenity complaints that have arisen hitherto.

2. Reason for reporting to Committee:

- 2.1 The application raises unusual issues, which it is proposed be dealt with by way of a temporary permission with restrictive conditions. If this approach is not considered appropriate, it would be necessary to give consideration to the expediency of taking enforcement action.

3. The Site:

- 3.1 The application site forms the detached (former) double garage building to the southwest of 39 Nutfields. The building retains an appearance as a garage from the public realm as the garage doors have been retained (though do not open). The inserted glazed patio doors and original pedestrian door to the garage are on the north elevation with outlook on to the private garden. The office is only accessed through a side gate and via the private garden of No.39. The site is located within a residential housing development with dwellinghouses on all sides along with associated access roads and landscaping.
- 3.2 The site lies within the Metropolitan Green Belt and an Area of Special Character.

4. Planning History: (most relevant)

TM/02/03605/FL	Refuse	22 May 2003
	Appeal Dismissed	10 March 2004
Conversion of double garage to habitable room		

TM/04/02763/FL	Grant With Conditions	9 September 2004
Conversion of double garage to habitable room		

5. Consultees:

- 5.1 PC: We object since the condition was imposed at the time of the original approval and we feel it should be observed as any approval would create an undesirable precedent.
- 5.2 KCC (Highways): The proposal will permit the double garage to be used as an office having already been converted to habitable room under a previous application.
- 5.2.1 The dwelling has four bedrooms and under KVPS could attract up to a maximum of three off street parking spaces. An office use attracts a parking provision of 1 space per 20sq m. With the double garage being in the order of 30sq m. it could attract 1 to 2 spaces. Therefore in the order of 4 to 5 spaces are required to serve both uses on the site. The applicant has submitted a plan showing that 4 vehicles can be accommodated on the driveway. Based on the supporting information supplied by the applicant regarding the operation of the site I would find this level

of off street parking acceptable. Should additional temporary parking be required then with the operating times of the office being during the day when on street residential parking is unlikely to be at a premium, room should be available. In any event parking would be available in front of the dwellings own driveway that would not impinge on the general on street parking.

5.3 DHH: I refer to my previous comments concerning this application in which I noted that a busy office is typically characterised by the noise of telephones ringing and of workplace discussions/conversations. I expressed the opinion that such noise would be clearly audible in the garden of 38 Nutfields and would result in significant detriment to residential amenity.

5.3.1 My view was that, whilst theoretically it might be possible to control noise emission from within the building by requiring doors and windows to be kept closed, this would be likely to result in excessive internal temperatures and an unacceptable work place environment. Also it would not resolve the issue of noise from meetings/breaks taken outside the building. Accordingly I objected to the application on the basis of detriment to aural amenity by virtue of noise emissions from within the building and from the area outside the building used for workplace related activities.

5.3.2 I have considered the information provided in the letter from Mr and Mrs Metcalf dated 2nd June 2007 and the email from Robinson Escott Planning dated 19th June 2007. In particular I note that:

- client meetings do not take place where there is a possibility of their being overheard;
- the applicant is prepared to provide air conditioning so that doors to the office can remain closed when people are working therein.

5.3.3 I am satisfied that the implementation of these measures should be sufficient to safeguard the aural amenity of nearby residents provided that any air conditioning plant is of appropriate sound reduced design. Clearly keeping the doors of the office closed and ensuring that business conversations are inaudible is dependant on management control and I think it would be prudent to “test” this by way of a suitably conditioned temporary permission.

5.3.4 With regard to noise emissions from the air conditioning plant I recommend the imposition of a condition.

5.3.5 I confirm that EHHS has received no complaints about the existing use.

5.4 Private Reps (9/3R/4S/1X): Three letters of objection have been received, one letter raising no objection and four letters of support (two from one author) have also been received. The comments/concerns are summarised below:

Points of objection:

- Removal of the condition would result in no control over the future use or level of activity. Low level limited office use at present is acceptable but we must remember that this is a residential site and you need to ensure that any decision taken at this stage does not open the flood gates to unrestricted use in the future.
- Employees and clients park in the road outside the property. This is a very narrow road with specific cut-ins so as not to block the view of people pulling off their drives and these cut-ins act as pull in spaces to allow any oncoming traffic to pass.
- There are currently double glass doors and a single door from the garage and during the summer months these are usually left wide open at all times. Office discussions, telephones and fax machines constantly ring and well as key board and printer noise can be heard.
- Employees sit at the garden table to eat their lunch which is located next to the boundary with 38, and close to their garden and kitchen. The garden is also used to conduct business meetings. Such meeting also cause congestion in the road outside.
- The granting of permission would set a precedent. We can see Nutfields becoming an industrial/business park rather than an exclusive residential development.
- It is reasonable to assume that the business in operation will grow over time and hence the problem can only become worse.

Comments raising no objection:

- The applicant's daughters assist him four days a week and they and he all park their cars on his drive so they do not impede the traffic movement in the road in any way.
- All the houses have sufficient parking space on their drives for at least 3-4 cars so it is very rare for a car to be parked on the road.
- Mr Metcalf does not appear to have clients visiting his office, rather he appears to go and visit them as his car is often not at his house.

- This particular cul-de-sac is very quiet and we are not aware of any noise coming from Mr Metcalf's garage.

Comments in support:

- We do not envisage that the planned change will be detrimental in any way and therefore see no valid reason for objections. Consequently, we support this application.
- I have not seen any evidence of additional parking in the cul-de-sac and Mr Metcalf's daughters park quietly on his driveway without giving me any cause for concern.
- There is an advantage to having an observant and considerate neighbour working from home.
- If we had not known the Metcalf's are working at home we could not have detected this from noise or disturbance, as there is none.
- The Metcalf's have shown consideration for their neighbours at all times, to the extent that they have provided lighting to the joint access drive.
- It is government policy to encourage lower use of cars.
- What little noise emanates from No.39 is, in our opinion, well within acceptable levels, and results from social/family occasions, not due to working from home.

6. Determining Issues:

- 6.1 The main determining issues within this application are the impact on residential amenity and highway issues.
- 6.2 The principle of conversion of the garage was approved under TM/04/02763/FL when permission was approved for conversion to habitable space. It was considered within that approval that the driveway space to the front of No.39 could comfortably accommodate sufficient parking to serve the needs of the dwellinghouse. It must now be considered whether the use of the garage as office space and the associated employees/clients visiting the site, would give rise to an unacceptable level of parking or number of movements.
- 6.3 The applicant has provided a plan showing 4 car parking spaces can be accommodated on the driveway forward of the now converted garage. KCC Highways considers this to be acceptable and sufficient to meet the demands of the dwelling and the business use. There is space within the wider development

for ad hoc parking for occasions when all four driveway spaces are occupied, and accordingly KCC Highways raises no objections to the proposal. I do not therefore consider that the retrospective approval of this use would give rise to undue harm to highway issues.

- 6.4 I therefore consider the principal issue to be the impact of the current use on residential amenity. The application site is located within a residential area and the garage building partly forms and abuts a shared boundary with No.38 Nutfields. It should be remembered that, by definition, a B1 use (including office use) is one that can take place in any residential area without causing harm to amenity, including harm arising from noise.
- 6.5 However, in practice, it is clear that the current use of the garage as an office has given rise to a level of noise and activity which is not commonplace in a residential area. Within summer months the double doors and separate door are open to allow air flow within the office space, thus giving rise to office noise reaching neighbouring property and land. It may well be that the particular impact experienced in this case is due to the very close proximity of the neighbouring house and the generally low background noise levels. I therefore consider that as it stands, the current use of the building would give rise to undue levels of noise and disturbance to the occupants of No. 38. However, the applicant has proposed to install an air conditioning unit to provide a suitable internal temperature and ensure the windows and doors to the building remain closed. It is my opinion that such a measure would mitigate the harm caused by noise to a suitable extent. I therefore propose a condition is attached to any approval to ensure the proposed unit is installed within a prescribed time frame.
- 6.6 The applicant has stated that the cost of installing the air conditioning unit is significant and accordingly would not wish to see a strict limit on any temporary condition considered, if a temporary condition is indeed considered necessary.
- 6.7 It is my opinion that a temporary permission is appropriate as this will give an opportunity to consider whether the installation of the air conditioning unit satisfactorily abates the concerns over residential amenity, and indeed whether the unit itself would give rise to concerns over noise. I would consider a two year permission to be reasonable to assess this issue fully. I understand that the applicant would prefer a five year permission, however if concerns over noise were not resolved by the installation of an air conditioning unit then neighbouring property may unduly suffer for up to five years.
- 6.8 The current office use is operated over limited hours and is occupied by employees who have links to the main dwellinghouse. Such a link to the residential dwelling is in my opinion necessary for use of essential facilities, and access to the office is via the residential garden. In addition a balance has been struck on parking provision due to the applicant Mr Metcalf being resident in the main

building. Accordingly, I consider it reasonable and necessary for restrictive conditions to limit the use of the building to office use and link the permission to the occupiers of No.39 Nutfields.

6.9 Concerns have been raised over the use of a large set of patio furniture as a place for meetings and discussions relating to the business use of the former garage. The applicant has maintained that such conversations are not conducted in this location. However, in the interests of preserving the residential amenity of the locality, I consider it reasonable to restrict the business use to the confines of the garage building.

6.10 I note that several residents have stated that the use of the garage as an office does not give rise to noise or disturbance. However, in my opinion it would only be No.38 who would, by virtue of proximity, be detrimentally affected by the proposal.

6.11 In light of the above considerations and subject to several restrictive conditions, I am satisfied that the proposed regularisation can be considered acceptable for an initial limited period of two years.

7. Recommendation:

7.1 **Grant Temporary Planning Permission** in accordance with the following submitted details: Letter dated 08.03.2007, Location Plan dated 08.03.2007, Historic Decision Notice TM/04/02763/FL dated 08.03.2007, Drawing MM 001 01 dated 08.03.2007, Letter dated 17.07.2007, Email dated 19.06.2007, Letter dated 06.06.2007, Letter dated 06.06.2007, Letter dated 17.04.2007, Letter dated 21.03.2007, Letter dated 15.05.2007, Parking Layout dated 15.05.2007, Details AIR CONDITIONING dated 17.07.2007, Technical Specification FTXS-FV1B dated 17.07.2007, Technical Specification RXS25-35-50-60-71F dated 17.07.2007, subject to:

Conditions

1. The use hereby permitted shall be discontinued and the land restored to its former condition (as ancillary habitable space approved under TM/04/02763/FL) on or before 30 June 2010. (T002*)

Reason: In the interests of safeguarding the residential amenity of adjacent dwelling and highway safety.

2. The building edged red on site location plan date stamped 08.03.2007 shall be used as an office within Use Class B1(a) office use and for no other purpose (including any other purpose in Class B1 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 amending, revoking and re-enacting that Order). (T006*)

Reason: In the interests of amenity and highway safety.

3. The business shall not be carried on outside the hours of 08.00 to 16.00 Mondays to Fridays with no working on Saturdays, Sundays or Public and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority. (I003*)

Reason: To avoid unreasonable disturbance outside normal working hours to nearby residential properties.

4. Within one month of the date of this permission full details of the proposed locations of the internal air conditioning unit and external condenser shall be submitted to the Local Planning Authority for approval. The air conditioning system approved shall be installed within one month of approval of and implemented in strict accordance with those details.

Reason: In the interests of residential amenity and the working environment of those within the building.

5. The use of the building for the purpose(s) hereby permitted shall remain ancillary and subservient to the primary use of the premises as a residential dwellinghouse and shall not become a separate or dominant use at any time. (S004)

Reason: In the interest of residential amenity and highway safety.

6. The occupancy of the building the subject of this application shall be restricted to the occupier of No.39 and no more than two additional employees at any one time. (T005*)

Reason: In the interests of the residential amenity of the main dwellinghouse, adjacent neighbours and highway safety.

7. At no time shall the noise rating level L_Ar,T, calculated in accordance with the method provided in BS4142:1997, attributable to the operation of any air handling/conditioning and machinery installed at the premises exceed the background noise level L_A90,T by more than 3 dB at the outside of any adjoining noise sensitive premises.

Reason: In the interests of aural amenity.

8. All business activities shall be confined to the converted garage building to which this application relates, and no such activities shall take place outdoors.

Reason: In the interest of residential amenity.

9. At all times the former garage building is occupied in connection with the business use hereby approved, all external windows and doors shall remain closed other than to allow access to and from the building, and no windows or similar openings shall be inserted in any face of, or within the roof of the building, without the prior written approval of the Local Planning Authority.

Reason: In the interest of residential aural amenity.

Contact: Lucy Stainton