Dated this 1st December 2025

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APPLICATION UNDER SECTION 73, TOWN AND COUNTRY PLANNING ACT 1990
Merryhill Mushrooms – Merryhill, Storrington Road, Thakeham RH20 3ED
Variation of Condition 11 of planning permission DC/25/0944

We act for the applicant, Mr K Rucklidge, in relation to planning permission DC/25/0944, granted on 4 November 2025 for the "Erection of barn for use by Merryhill Mushrooms business, acoustic fencing and alterations to driveway" at Merryhill, Storrington Road, Thakeham, West Sussex RH20 3ED.

This statement supports an application under section 73 of the Town and Country Planning Act 1990 to vary Condition 11 of that permission.

Background and purpose of the permission

As set out in the officer's delegated report and the June 2025 Planning, Design and Access Statement:

- the site comprises two dwellings, Merryhill and Merryhill Cottage, historically sharing a single curtilage
- the family business, Merryhill Mushrooms, has operated since around 2010 from a collection of small timber sheds and the garage at Merryhill, producing and distributing mushroom growing kits via online sales
- application DC/24/1404 for a larger, two-storey barn was refused on grounds including scale, perceived intensification of countryside activity, amenity and water neutrality and
- the resubmission DC/25/0944 significantly reduced the height and massing of the barn, relocated it to the south of Merryhill, and was supported by a Water Neutrality Statement, business information and ecology / BNG material.

The report concludes that the approved scheme represents a proportionate form of rural economic development, consolidating an existing small family business in a single, purpose-built, insulated building. It does not result in any intensification of commercial activity in the countryside, and it complies with Policies 7, 10 and 26 of the Horsham District Planning Framework and with relevant NPPF policy supporting rural economic growth.

The approved barn is now intended to be the principal base for the Merryhill Mushrooms business on the site.

The existing conditions

Condition 11 currently provides that:

"The building hereby permitted shall be used only to facilitate the continued commercial operations of Merryhill Mushrooms (in connection with the dwellings known as Merryhill and Merryhill Cottage) only, and for no other purpose (including any other purpose in

any class the schedule to the Town and Country Planning (Use Classes) Order 2020), unless otherwise agreed to and approved in writing by the Local Planning Authority."

Conditions 12 and 13 then provide, in summary, that:

- the use is restricted to storage, packing and dispatch of products sold exclusively via online sales channels
- the premises shall not be used for retail sales to visiting members of the public and no customer visits shall take place and
- deliveries are limited to prescribed daytime hours, with no Sunday or bank holiday operations.

Taken together with the description of development, this package of controls already defines a small-scale, low-impact commercial use tied to the existing Merryhill Mushrooms enterprise and sets clear parameters on traffic and amenity impacts.

Why a variation is sought

Following the recent passing of the applicant's grandfather, it is likely that Merryhill (the main dwelling) will in due course be sold on the open market, with the Merryhill Mushrooms business continuing to operate from the approved barn and the wider site.

The intention of Condition 11 was to:

"*…ensure the building remains ancillary to the host dwelling and in use solely for purposes connected with the existing business, to avoid any risk of severance or independent commercial use."*

The applicant fully accepts and supports that objective. However, the specific wording adopted in Condition 11 presents three practical and legal difficulties:

1. **Ambiguity as to "connection" with the two dwellings**
   The condition requires the use to be "in connection with the dwellings known as Merryhill and Merryhill Cottage", but does not define what form that "connection" must take (ownership, occupation, staffing, servicing, simple proximity, etc.) or at what point such a connection might be said to fall away. For a planning condition, this gives rise to avoidable uncertainty.

2. **Reference to named dwellings rather than the planning unit / application site**
   The condition refers by name to the two individual dwellings, rather than to the planning unit or application site. This is unusual where the planning harm to be controlled relates to the nature and intensity of the commercial use, not to the identity of particular house occupiers. A condition framed by reference to the application site or planning unit would be more orthodox and robust for enforcement purposes.

3. **Unnecessary complication of any future sale of Merryhill**
   In practical terms, the current wording has the potential to complicate any future disposal of Merryhill, even though the permission was granted on the basis that the barn consolidates an existing home-based business which the Council considered acceptable in principle. There is a real prospect that future buyers and their advisers would raise queries, seek indemnities or request a further application or certificate purely because of the way Condition 11 is drafted, rather than due to any change in planning impact on the ground.

These issues do not go to the planning merits of the development. They are concerned only with whether the specific wording of Condition 11 is necessary, precise and proportionate in order to achieve the planning aims already identified in the officer's report.

Consistency with officer's delegated report

The proposed variation is entirely consistent with the assessment and planning balance set out in the officer's delegated report on application DC/25/0944.

The report's justification for granting permission focuses on the following points:

- that the barn consolidates an existing, small-scale rural business already operating from the site, rather than introducing a new or more intensive commercial use in the countryside
- that the nature and scale of activity would be modest and compatible with the residential context, subject to appropriate controls on hours, customer visits and the nature of sales and
- that, with those controls in place, any potential impacts on neighbouring amenity and the local highway network would be acceptably mitigated.

Those conclusions do not depend on the two dwellings remaining in common ownership or occupation indefinitely, nor on the business being "connected" to Merryhill and Merryhill Cottage in any particular legal or personal sense. On the contrary, the report treats the land as a wider residential planning unit with an established home-based business, with the key planning concern being to prevent the barn operating as a separate, unrestricted commercial unit.

The revised wording of Condition 11 is intended to reflect that analysis more accurately. It continues to tie the barn firmly to the Merryhill Mushrooms enterprise (or any similar business run by the same operator(s) from the application site), and it maintains the ancillary relationship with the residential planning unit. It therefore secures exactly the type of use and level of impact which the report found to be acceptable, while removing wording which introduces uncertainty but does not add any meaningful planning control.

Policy tests and effect of the proposed variation

National policy and guidance (NPPF and Planning Practice Guidance) require planning conditions to be necessary, relevant to planning and to the development permitted, enforceable, sufficiently precise and reasonable in all other respects.

In this case, the planning harms identified in the earlier refusal DC/24/1404 – intensification of countryside activity, amenity and highways impacts, and the risk of an unrestricted commercial unit – are already fully addressed by the description of development ("barn for use by Merryhill Mushrooms business") together with the first limb of Condition 11 ("continued commercial operations of Merryhill Mushrooms"). This is further reinforced by Condition 12 (online-only operation, no visiting customers, restricted activities) and Condition 13 (restricted delivery hours).

The additional reference to the two dwellings by name is not required to prevent a freestanding commercial unit and does not materially assist enforcement. It introduces uncertainty as to how the condition would operate in future where the main house is legitimately sold, but the business continues on site on the same modest basis described in the approved documents.

The section 73 proposal does not seek to widen or intensify the permitted use. It simply refines the wording of Condition 11 so that the barn remains tied to the Merryhill Mushrooms enterprise (or any similar business carried on by the same operator(s) from the application site) and it remains ancillary to the wider residential planning unit, so that it cannot lawfully become a standalone, unrestricted commercial unit in the countryside.

The planning balance which justified the original grant of permission is therefore unchanged. The varied condition would, in our view, be clearer, easier to understand and easier to enforce, whilst continuing to secure compliance with the HDPF and relevant NPPF policies.

Proposed revised wording

To give effect to the above, we respectfully invite the Council to replace Condition 11 with the following wording:

Proposed Condition 11 (preferred wording)

"The building hereby permitted shall be used only for the commercial operations of the business currently trading as 'Merryhill Mushrooms', or any business of a similar nature carried on by the same operator(s) from the application site, and for no other purpose (including any other purpose within any class in the Schedule to the Town and Country Planning (Use Classes) Order 2020 (as amended)), unless otherwise agreed in writing by the Local Planning Authority."

The existing Conditions 12 and 13 would remain in force and continue to control the detailed nature and timing of operations.

Should officers prefer a slightly different form of wording which secures the same objective, the applicant would be happy to engage constructively on that basis.

Conclusion

In summary, the section 73 application does not alter the development itself, or the planning balance already struck by the Council. It simply refines Condition 11 so that it more accurately and precisely secures the Council's stated objectives, while avoiding unnecessary ambiguity and potential future difficulty in the legitimate disposal of the main dwelling. The varied condition remains firmly within the scope of the policy support relied upon in determining DC/25/0944 and provides a clearer and more robust basis for future monitoring and enforcement.

We therefore invite the Council to grant planning permission under section 73 on the basis of a replacement Condition 11 in the terms set out above.

Polly Reynolds, Partner

Temple Bright LLP

1 December 2025