

27/09/0020/REX

MR H FARBAHI

**ERECTION OF A HORTICULTURAL NURSERY TO INCLUDE POLY TUNNEL AND CONSTRUCTION OF ACCESS AT LAND SOUTH OF HARRIS'S FARM, HILLCOMMON (TO REPLACE EXTANT PERMISSION 27/06/0015)**

315696.126071

Replace an Extant Planning Permission

---

**PROPOSAL**

Planning permission is sought for an extension of the time limit imposed on planning application 27/06/0015. The application, for a horticultural nursery, was approved at Planning Committee on the 11 October 2006. Changes to the procedures for extending the time limit of existing planning permissions were introduced on 1st October 2009 by virtue of the Town and Country Planning (General Development Procedure) (Amendment No.3) (England) Order 2009. The legislation provides a mechanism for existing planning permissions, granted on or before October 1 2009, to be replaced before they expire in order to allow a longer period for implementation (although the previous permission will not be revoked, rather a new permission granted subject to a new time limit). The guidance sets out that only one extension of time will be permitted.

The application is before Planning Committee as the applicant is a District Councillor.

**SITE DESCRIPTION AND HISTORY**

The site area comprises 4.14 ha of agricultural land and is located to the South of Harris's Farm and to the east of Hillcommon. The site slopes gently from north to south. There is a hedgerow along the highway frontage with the B3277 and hedgerow/trees along the site boundaries. In 2006 permission was granted for the erection of a horticultural nursery, polytunnel, and associated access. The existing access to the field is the North West corner of the site. The existing access will be stopped up and a revised access was approved as part of the previous scheme to provide an acceptable visibility splay. The materials of the building were stated as red cedar cladding and red sandstone walls, timber windows, under a silver grey profiled aluminium clad roofing system. The application was accompanied by a Transport Impact Assessment and landscape strategy.

**CONSULTATION AND REPRESENTATION RESPONSES**

**NATURAL ENGLAND** – Natural England requests that the recommendations of TDBC Nature Conservation and Reserves Officer be used in determining the application and attaching conditions.

**NATURE CONSERVATION & RESERVES OFFICER** – As the wildlife report and recommendations are now 3 years old, a new survey is required to determine any

possible changes on site with regards to wildlife. Recommend condition be imposed.

DRAINAGE OFFICER – No objection subject to note regarding soakaways on previous application.

HIGHWAY AUTHORITY – Observations to follow.

SOMERSET COUNTY RIGHTS OF WAY – A public right of way (PROW) recorded on the Definitive Map runs in the south east corner of the site (footpath WG 9/5). It appears the proposal would not affect the right of way. However, if the development would result in any changes or alterations to the PROW then the authorisation of the Somerset County Council Rights of Way Group must be sought. The path must remain open and unobstructed at all times.

DIVERSIONS ORDER OFFICER – Public footpath WG9/5 is to be found on the application site.

LANDSCAPE OFFICER – As per previous comments (to the amended plans on original application) – I would prefer to see a simple more agricultural form of building to fit in with the rural character of the area but subject to revisions in detail of the landscape it should be possible to reduce the impact of the building to meet Policy EN12.

## **Representations**

4 letters of OBJECTION has been received. Summary of OBJECTIONS: - disappointed the applicant has continued with the application despite public feeling; site entrance is in close proximity to commencement of 40mph speed restriction; existing speed limit is often ignored – record of serious/fatal accidents; poor visibility; road used by walkers – no footpaths; site is opposite residential properties and the additional activity generated at all hours, noise and light pollution will be detrimental in this rural setting; intrusive development; advertisements would give a cluttered appearance; concern the nursery may become a garden centre e.g. Blackdown Garden Centre and expand; close proximity of similar businesses already – no justified need; size of polytunnel bears no relation to the size of the building which is excessively large; eyesore; screening would block views of Blackdown Hills; contrary to policy; previous conditions should be re-imposed if minded to grant (particularly that only products grown on site shall be sold from the premises); two-storey building is inappropriate in open countryside; position of toilet, staff room and office, on the west side of the building, results in neighbouring properties being overlooked; care should be taken to ensure that the public footpath is not impeded;

One letter received confirming no planning related observations/comments to make.

## **PLANNING POLICIES**

PPS1 - Delivering Sustainable Development,  
PPS7 - Sustainable Development in Rural Areas,  
PPS9 - Biodiversity and Geological Conservation,  
PPG13 - Transport,  
S&ENPP1 - S&ENP - Nature Conservation,  
S&ENPP5 - S&ENP - Landscape Character,  
STR1 - Sustainable Development,

STR6 - Development Outside Towns, Rural Centres and Villages,  
S&ENPP19 - S&ENP - Employment and Community Provision in Rural Areas,  
S&ENPP49 - S&ENP - Transport Requirements of New Development,  
S1 - TDBCLP - General Requirements,  
S2 - TDBCLP - Design,  
EN6 - TDBCLP -Protection of Trees, Woodlands, Orchards & Hedgerows,  
EN12 - TDBCLP - Landscape Character Areas,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issue in the determination of this application is whether there has been any material change in policy or circumstances since the grant of consent.

The new legislation has been brought in by the government in order to enable developers and Local Planning Authorities to respond quickly to improvements in the economic climate, and provide greater certainty and flexibility to both parties by giving the power to planning authorities to extend the time limits for extant permissions.

The guidance associated with the legislation states that 'Development proposed in an application for extension (of time) will by definition have been judged to be acceptable in principle at an earlier date. While these applications should, of course, be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, local planning authorities should, in making their decisions, focus their attention on national and development plan policies and other material considerations which may have changed significantly since the original grant of permission. In doing so, it will be particularly important to ensure the development is consistent with the Governments planning policies on climate change'.

The previous application was considered to be acceptable and accord with the Development Plan. There has been no significant change in policy guidance or material considerations that would give rise to an alternative recommendation. The consideration of environmental issues must be given due consideration and the Councils Nature Conservation & Reserves Officer requests that a condition is imposed requiring a new wildlife survey to be submitted. This is due to the period of time since the initial survey and recommendations were put forward.

It is therefore considered that permission be granted subject to the imposition of a new three year time limit and all previous conditions and notes remain applicable and are therefore re-imposed, together with a requirement for an updated wildlife condition.

## **RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

There has been no significant change in policy guidance or material considerations since the previous permission was granted on the 12th October, reference 27/06/0015. It is therefore considered that the proposed extension of time for the implementation of that permission by grant of a new permission is acceptable. The proposal accords with Taunton Deane Local Plan Policies S1, S2, S7 and EN12.

## **RECOMMENDED CONDITION(S) (if applicable)**

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. Before the commencement of any works hereby permitted, details or samples of the materials to be used for all the external surfaces of the building(s) shall be submitted to and be approved in writing by the Local Planning Authority, and no other materials shall be used without the written consent of the Local Planning Authority.

Reason: To reinforce the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policies S1(D) and S2(A).

3. (i) Before any part of the permitted development is commenced, a scheme of planting of trees, shrubs and hedges, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority. (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority. (iii) For a period of five years after the completion of the planting scheme, the trees, shrubs and hedges shall be protected and maintained to the satisfaction of the Local Planning Authority and any trees, shrubs or hedges that cease to grow shall be replaced by trees, shrubs or hedges of similar size and species, or the appropriate trees, shrubs or hedges as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2.

4. Before any part of the permitted development is commenced, a scheme of hard landscaping showing the layout of areas with stones, paving, walls, cobbles or other materials, shall be submitted to and approved in writing by the Local Planning Authority. Such scheme shall be completely implemented before the development hereby permitted is occupied.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2.

5. Details of arrangements to be made for the prevention of surface water being discharged onto the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such arrangements

shall be provided before the proposed access is brought into use

Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

6. Prior to commencement of the development hereby approved, details of any entrance gates to be erected shall be submitted to and approved in writing by the Local Planning Authority and retained as such thereafter. Any such gates shall be hung to open inwards and shall be set back a minimum of 10m from the carriageway edge.

Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

7. The existing access shall be permanently closed when the access hereby permitted is brought into use. Details of the means of closure shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is commenced.

Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

8. The visibility splays shown on the submitted plan 18274/001/SK01/A shall be constructed prior to the commencement of the use of the premises and unobstructed visibility shall be provided above a height of 300 mm from adjoining carriageway level and thereafter be maintained to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

9. Before any work is commenced, details of the levels and construction details of the access and driveway shall be submitted to and approved by the Local Planning Authority and no variation from the approved levels shall take place without the express written consent of the Local Planning Authority.

Reason: To ensure that the work is carried out at suitable levels in relation to the highway in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

10. Prior to the new access and drive being brought into use, it shall be hard surfaced in tarmacadam or such other material as shall be agreed in writing by the Local Planning Authority for a distance of 10 metres back from the edge of the carriageway.

Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

11. Prior to commencement of works on site a full wildlife survey shall be undertaken by a qualified environmental consultant and a report submitted to and approved in writing by the Local Planning Authority. The survey and report shall include an identification of species present, an impact assessment and mitigation/avoidance measures in order to safeguard protected species in accordance with the law.

Reason: To protect wildlife and their habitats in accordance with the Wildlife and Countryside Act (as amended) 1981 and enhance the site for wildlife in

accordance with PPS9.

12. Before any part of the permitted development is commenced, details of all boundary walls, fences or hedges forming part of the development, shall be submitted to and approved in writing by the Local Planning Authority and any such wall, fence or hedge so approved shall be erected/planted before any such part of the development to which it relates takes place.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2.

13. No external lighting shall be installed on site without the prior written consent of the Local Planning Authority.

Reason: To safeguard the visual amenities of the area.

14. The development hereby approved shall only be used for nursery/horticultural purposes only as described in the applicants e-mail dated 29th September 2006.

Reason : In the interests of highway safety, the amenities of the area and the site is within an area where the Local Planning Authority does not wish to see the establishment of a retail outlet due to this location remote from any defined settlement boundary in accordance with Policy 49 of the Somerset & Exmoor Joint Structure Plan review and Policies S1, S2 and S7 of the Taunton Deane Local Plan.

15. Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 1995 (or any subsequent order amending or revoking and re-enacting that Order) no additional floors, including mezzanine floors shall be erected in the development hereby approved without the express grant of Planning Permission. unless an application for planning permission in that behalf is first submitted to and approved by the Local Planning Authority.

Reason : To ensure that the proposed development does not have an adverse effect on the area by reason of the size of premises and/or an excessive amount of extra activity in this open countryside location in accordance with Taunton Deane Local Plan Policies S1, S2 and S7

#### Notes for compliance

1. You are advised that the soakaway should be constructed in accordance with Building Research Digest 365 (September 1991).
2. Any alteration to the footpath, route or surface, must be authorised by the County Council. The path must remain open and unobstructed at all times.
3. It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the applicant should

ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.

Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.**

**CONTACT OFFICER: Mr A Pick Tel: 01823 356586**