

27/12/0024/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 27/09/0020/REX)

Grid Reference: 315696.126071

Replace an Extant Planning Permission

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 in November 2009, under reference 27/09/0020. It is therefore considered that the proposed extension of time for the implementation of that permission by grant of a new permission is acceptable and accords with Policy 5 of the Somerset and Exmoor National park Joint Structure Plan Review, Policies DM1 (General Requirements), DM2 (Development in the Countryside) and CP8 (Environment) of the Taunton Deane Core Strategy.

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. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A1) Proposed access - 18274/001/SK01A
(A3) Street Scene - HLCM/10B
(A3) Ground Floor Plan - HLCM/08B
(A3) Side Elevation (West) - HLCM/07B
(A3) Side Elevation (East) - HLCM/06B
(A3) Rear Elevation (South) - HLCM/05B
(A3) Front Elevation (North) - HLCM/04B
(A4) Site Location Plan - HLCM/01

Reason: For the avoidance of doubt and in the interests of proper planning.

3. 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 Core Strategy Policy DM1.

4. (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 Core Strategy Policy DM1.

5. 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 Core Strategy Policy DM1.

6. 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.

7. 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.

8. The existing access shall be permanently closed within one month of 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.

9. 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 at this height and in accordance with drawing 18274/001/sk01/A.

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

10. 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.

11. 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.

12. Three months prior to commencement of works on site, a full up to date 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.
The report shall include

1. Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
2. Details of the timing of works to avoid periods of work when the species could be harmed by disturbance
3. Measures for the retention and replacement and enhancement of places of rest for the species

Once approved the works shall be implemented in accordance with the approved details and timing of the works unless otherwise approved in writing

by the Local Planning Authority and thereafter the resting places and agreed accesses for wildlife shall be permanently maintained.

Reason: To protect and accommodate protected species and their habitats from damage, which are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c) Regulations 1994 (as amended), in accordance with Taunton Deane Core Strategy Policy CP8 and relevant guidance in Section 11 of the NPPF.

13. 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 Core Strategy Policy DM1.

14. 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 as set out in Taunton Deane Core Strategy Policy DM1.

15. 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 DM1 and DM2 of the Taunton Deane Core Strategy.

16. 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 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 Core Strategy Policies DM1 and DM2.

Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy

Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

2. You are advised that the soakaway should be constructed in accordance with Building Research Digest 365 (September 1991).
3. 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.
4. Note to applicant at request of Nature Conservation Officer:
 1. The condition relating to wildlife requires the submission of information to protect and accommodate wildlife. The Local Planning Authority will expect to see a detailed wildlife survey and a method statement clearly stating how the wildlife will be protected through the development process and to be provided with a mitigation proposal that will maintain favourable status for wildlife that are affected by this development proposal.
 2. It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer 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.
 3. Badgers are protected under the Protection of Badgers Act 1992. Planning and licensing applications are separate legal functions.

PROPOSAL

This application relates to a 4.14 ha block 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 in 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.

That application was renewed in November 2009 for a further three years under application 27/09/0020/REX. The current application now seeks planning permission for an extension of the time limit imposed on planning application 27/09/0020/REX.

Changes to the procedures for extending the time limit of existing planning permissions were introduced on 1 October 2009 by virtue of the Town and Country Planning (General Development Procedure) (England) Order 2009. The legislation provided a mechanism for existing planning permissions, granted on or before 1 October 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 Town and Country Planning

(Development Management Procedure) Order 2010 has subsequently amended the above to apply to those seeking a new planning permission to replace an existing planning permission where the original was granted on or before 1 October 2010, provided the permission had not expired at the time of the application.

This application is accompanied by an up to date Wildlife Survey, along with supplementary information confirming that an EPS licence is not required to create the access and hence remove a section of roadside hedgerow.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

OAKE PARISH COUNCIL - Parish Council stand by previous observations in objecting as nothing has changed from the previous application.

SCC - TRANSPORT DEVELOPMENT GROUP - On the basis that this application is identical to the previous application in detail (application 27/09/0020), all previous comments are suggested conditions are still applicable.

BIODIVERSITY - The initial comments were made as the Wildlife report carried out by Greena Ecological Consultancy dated October 2012 was not available. I have now read the report and, like Natural England, consider that permission could be granted subject to condition including biodiversity enhancement.

Usually I would just suggest the general condition that a wildlife strategy be submitted. As this is a resubmission of a previous approval and there are badgers on site, which are mobile creatures, I consider it to be prudent to suggest a full up to date survey immediately prior to commencement of the works (which could be any date in the future). In addition if any hedges or trees are planned to be removed these also would require resurvey as there may be licence implications. Suggest condition and notes to applicant.

LANDSCAPE - No new comments.

NATURAL ENGLAND - Not likely to be an adverse effect on statutorily protected landscapes, conservation of soils, nor is proposal EIA development. Protected species survey identified that Bats, Hazel, Dormice and Great Crested Newts may be affected. Using Standing Advice Species Sheet regarding: Bats, NE summarised that permission could be granted but the LPA should consider requesting enhancements; Hazel Dormice and Great Crested Newts, NE advises the authority to accept the findings, consider promoting biodiversity and enhancements for dormice (creation of habitat linkages) and great crested newts (creation of new water bodies and suitable terrestrial habitat) in accordance with NPPF and Section 40 of NERC. However, if any removal of hedgerows are affected, full species surveys will be required. It is for the local planning authority to establish whether the proposed development is likely to offend against Article 12 (1) of the Habitats Directive.

SCC - RIGHTS OF WAY - Comments awaited.

DRAINAGE ENGINEER - No drainage information submitted therefore cannot comment on this application until details are forwarded. Surface water flows will need to be attenuated on site or dealt with by a SUDS system.

Representations

Four letters of OBJECTION received on the grounds of:

- My objections to development has not changed since first application.
- Prime agricultural land, one polytunnel will not make development a nursery.
- Why is a two storey structure required for a plant nursery. Unless other activities planned, irrelevant and out of keeping with area.
- B3227 is extremely busy and dangerous. A regularly used entrance, especially a commercial one, from the B3227 is potentially dangerous (e.g accidents at access to Blackdown Nursery on A38) and there would be a possibility of mud on the road adding to the danger.
- Consider there is sufficient businesses of this type in this area. Need another nursery like a hole in the head.
- The road and the land is prone to flooding. Paving a parking area, constructing buildings and walkways will contribute to inability of land to absorb water.
- Peace and quiet or rural farm land will be disturbed by traffic and the noise of lorries and machinery used at the nursery.
- Nursery will be an eyesore in an otherwise beautiful countryside setting.

PLANNING POLICIES

NPPF - National Planning Policy Framework,
S&ENPP1 - S&ENP - Nature Conservation,
S&ENPP5 - S&ENP - Landscape Character,
STR1 - Sustainable Development,
STR6 - Development Outside Towns, Rural Centres and Villages,
S&ENPP49 - S&ENP - Transport Requirements of New Development,
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,
DM2 - TD CORE STRATEGY - DEV,
CP8 - TD CORE STRATEGY- ENVIRONMENT,

DETERMINING ISSUES AND CONSIDERATIONS

It is important to note that planning permission has already been granted for an identical scheme in 2006 and renewed in 2009 and this is a further renewal of that scheme. No changes have been proposed. The matter for consideration is therefore whether there have been any material changes to policy or circumstances, since the grant of consent.

The amendment to the legislation that allows this application to be considered has been introduced by the government 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. It is noted that the National Planning Policy Framework introduced in March 2012 superseded the Planning Policy Guidance/Statements, although it is pertinent to note that there were local plan policies directly relevant to the proposals, which were formulated taking into account National Policy Guidance and these were given due consideration.

It is also acknowledged that the Council's Core Strategy has now been adopted, which superseded the relevant policies of the Taunton Deane Local Plan. However, the general thrust of policies DM1, DM2 and CP8, is similar to that of the Local Plan policies S1, S2, S7 and EN12, against which the previous application was assessed.

There have therefore been no material changes to policy guidance or circumstances that would give rise to an alternative recommendation. The consideration of environmental/wildlife issues must be given due regard. The wildlife report concludes that further surveys are required and the Councils Nature Conservation Officer agrees with Natural England that permission could be granted subject to a new condition requiring a full up to date wildlife survey three months prior to the commencement of works on site.

Whilst the Council's Drainage Officer states that he is unable to comment on the application due to the lack of drainage information, it is important to note that this information was provided on the initial application and this remains the same. As such, the note to applicant on this matter will be re-imposed.

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

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

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