

27/2006/015

MR HABIB FARBAHI

ERECTION OF A HORTICULTURAL NURSERY AT LAND SOUTH OF HARRIS'S FARM, HILLCOMMON, TAUNTON AS AMENDED BY AGENT'S LETTER AND DRAWING NOS. HLCM/03 REV B, 04 REV B, 05 REV B, 06 REV B, 07 REV B, 08 REV B, 10 REV B RECEIVED ON 12TH SEPTEMBER, 2006 AND BADGER SURVEY SUBMITTED 19TH SEPTEMBER, 2006 AND FURTHER AMENDED BY APPLICANT'S E-MAIL DATED 19TH SEPTEMBER, 2006 AND DRAWING NO. 18274/001/5K01A AND E-MAIL DATED 29TH SEPTEMBER, 2006

315691/126072

FULL

PROPOSAL

This amended proposal relates to the erection of a horticultural building measuring 25 m x 20 m x 8.5 m to the ridge. A new access is also proposed from the B3227 incorporating visibility splays of 168 m in an easterly direction and 131 m in a westerly direction.

This proposal follows previous application 27/2006/009 for a garden centre building measuring 42.8 m x 25 m, which was withdrawn dated 14th July, 2006. The current application was submitted with the same size building as previous but stating that it was for horticultural purposes instead of a garden centre. However the building has subsequently reduced in size and first floor accommodation removed. The access has also been amended to provide greater visibility in a easterly direction.

The application is accompanied by a Traffic Impact Assessment which concludes that the proposal will not be prejudicial to highway safety and a wildlife survey that shows no protected species occupying the site. In light of the Highway Authority's initial comments the proposed access was amended following a speed survey to calculate the required visibility in an easterly direction. The applicants Transport Consultants survey consisted of "100 readings in free flow conditions, as is standard practice and we have found that the wet conditions 85th percentile speed (i.e. Highway Design Speed) at a location at the end of the extents of Mr Fabahi's land (i.e. within Mr Fabahi's ownership, and therefore within the potential visibility splay) is 49 mph. This is not a surprise, given that road users familiar with the road layout know that they are approaching the 40 mph limit and are already slowing down. If we move the proposed site access junction to the west we can achieve visibility of 165 m to the east towards Taunton, (which is in excess of the 160 m required for a 50 mph limit), whilst still maintaining the required visibility to the west."

In response to the Planning Policy units comments in respect of the revised scheme the applicant has confirmed that retail sales are not proposed, other than the ancillary items to complement products grown on site. The applicant has also confirmed that the building size is required for secure protection for machinery and products alike.

CONSULTATIONS AND REPRESENTATIONS

COUNTY HIGHWAY AUTHORITY (in response to the original submission) The proposed development site is located outside of any development limit and therefore remote from any urban area and is considered in transport terms, an unsuitable location. As a consequence, staff and customers of the new development are likely to be dependant on private vehicles and such fostering of growth in the need to travel would be contrary to Government advice. In addition to the sustainability issues, the proposal would be contrary to Policy 49 as it would derive access from the B3227 which is defined as a County route in the Somerset and Exmoor Park Joint Structure Plan Review. This stretch of highway is not only well utilised but also a fast stretch of highway, and the proposed point of access is to be sited at the point where the speed limit changes from national speed limit to that of 40 mph. At present, the speed limit is 40 mph eastbound, and unrestricted 60 mph westbound. This means that visibility splays of 4.5 m x 215 m are required in this direction. The plan accompanying the application, 18274/001/SK1, shows a 9 m x 120 m visibility splay. This is acceptable for the 40 mph speed limit but not acceptable for the 60 mph. The developer proposes the lower visibility splay on the basis that he is prepared to pay for a reduction in the speed limit. In March 2004 the Somerset County Council speed policy was revised and buffer zones are no longer used as a standard format on the entrance to a 30 mph speed limit. Department of Transport guidelines for setting local speed limits places the emphasis on speed limits being evidence-led and self-explaining. A key factor when setting a speed limit is what the road looks like to the road user. Where motorists do not understand the reasoning behind a speed limit or it is unrealistically low, it is likely to be ineffective and lead to disrespect for the speed limit. The 40 mph buffer zones for the 30 mph limit at Hillcommon are an example of where the speed limit is not being adhered to and simply to increase its length, because you do not have the required visibility distances, is not appropriate. The Highway Authority has great concern over the proposal in terms of its location and the fact that access proposals are inadequate bearing in mind the speed of traffic on the B3227. I would recommend the refusal of this application for the following reasons:-

1. The site is located outside the confines of any major settlement in an area that has very limited public transport services. The development, if approved, will increase the reliance on the private motor car and comprises unsustainable development which is contrary to the advice contained in PPG 13 and the provisions of STR1 of the Somerset Structure Plan.
2. The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review since the proposed development derives direct access from a county route and no overriding special need or benefit has been substantiated for the proposed development on this specific site.
3. The proposed access to the development does not incorporate the necessary visibility splays which are essential in the interests of highway safety.
4. The site has insufficient frontage to the B3227 to enable an access to be satisfactorily laid out incorporating the necessary visibility plays which are essential in the interests of highway safety.

(In response to the amended plans) With regard to drawing 18274/001/SK01 rev A showing an amended access this is now acceptable based on the 85th percentile speeds shown in the Transport Consultants latest report. This will enable me to withdraw reasons 3 & 4 set out in my letter to TDBC on 14th September, 2006. This now only leaves the two Policy Reasons 1 & 2. Should the Local Planning Authority recommend approval, conditions will need to be applied. COUNTY ARCHAEOLOGIST no

objections. RIGHTS OF WAY 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. ENGLISH NATURE the initial wildlife survey showed that badgers may be present within the site however the additional badger survey shows no species present. No objection.

LANDSCAPE OFFICER (in response to the original submission) the proposed building is large for a nursery building and will need considerable planting to provide proper mitigation. The proposed planting is acceptable in principle but needs amending to meet planning policy EN12. (In response to the amended plans) I would prefer to see a simpler more agricultural form of building to fit in with the rural character of the area but subject to revisions to the detail of the landscape it should be possible to reduce the impact of the building to meet EN12. NATURE CONSERVATION AND RESERVES OFFICER agree with English Natures comments. FORWARD PLANNING UNIT (in response to the original submission) This application mirrors application 27/2006/009, which was recently recommended for refusal prior to being withdrawn. The only obvious 'difference' is that the application description is now given as a 'Horticultural Nursery' rather than 'Nursery and Garden Centre'. Consequently the applicant states that policies EC7, EC20, PPG/S6 and PPG13 which were the reasons for recommending refusal, are no longer relevant. However, the details on the application form specifies 1642 sq. m. retail trading floorspace (as was the previous application) and the accompanying letter refers to "all production (being) sold on site to the public" . It is therefore considered that the applicant still proposes a 'garden centre' type operation by any other name. Whilst there is no objection to the principle of horticultural use of this land it is clear that the proposed use remains essentially retail. The proposed use by virtue of the scale of buildings proposed (1642 sq. m. being similar in size to BHS in North Street Taunton) and location in open countryside beyond any defined settlement limit and distant from any town or rural service centre remain contrary to policies EC7, EC20, S7, PPG6/S6, PPS7 and PPG13 and should continue to be resisted. Finally as also stated in the previous application, it is not considered that a successful argument could be advanced to over-ride policies due to 'need', even if more sequentially accessible and environmentally acceptable sites were not available. Within the west Taunton area there are already a number of operations selling plants (and other garden supplies) at Silk Mills, Wellington Road and Norton Fitzwarren. It is recommended that this response is read in conjunction with the comments on application 27/2006/009 which provide greater detail on the policy references made above. (In response to the amended plans) Further to the revised proposals for the 'Horticultural Nursery and Polytunnel' proposal, I would make the following additional comments: Firstly, Regarding the applicants letter of 11 September 2006 stating the building proposal was a result of joint consultation with the Planning Department, I would respond that the Forward Plan Team have not been contacted by the applicant, so from a policy perspective our advice has been consistent with regard to the use for which the building. The letter of 11 September 2006 requires the decision on the application to be based "on planning grounds, facts and reasoning...". The Forward Plan unit fully concurs with this, since the 2004 Planning Act re-establishes the need for decisions to be based on a Plan led system. The proposal has clearly been for a primarily retail facility (even though the description was changed in part, but not all of the application) which is contrary to the policies contained in Forward Plan comments made on this application (27 June

and 23 August). Whilst the revised proposal shows a much reduced building (c500 sq m as opposed to c1600 sq m previously), the issue still remains as to what the site and buildings will be used for. The application refers to retail sales in the description of the buildings use in the application form. Previous policy objections would still apply to the reduced buildings. However, this could perhaps be overcome if the use of the building was specifically conditioned to exclude any retailing. If the use is in reality a "horticultural nursery" this should not be an issue as the building would be used for storage of equipment and materials etc. Any incidental retailing could take place in the polytunnels, as happens in other 'nurseries'. My concern stems in part from previous approvals where nursery buildings have gradually evolved into garden centres, such as Blackdown on Wellington Road. Finally, this should really also require a change in appearance of the building frontage. Storage of machinery etc does not usually require a "Feature Entrance" which is more akin to a retail use. This is not a feature of agricultural buildings and would be incongruous in a rural/outside settlement limit area. DRAINAGE OFFICER no objections. Notes regarding surface water.

PARISH COUNCIL (in response to the original submission) - objects on the grounds that it is not in keeping. We also object on grounds of excess traffic impact and on impact to wildlife. The building is far too large for what is required for a nursery and we believe this to be against local Council policy. No response has been received from the Parish Council in response to the revised plans however the item is due to be discussed at their meeting on 10th October, 2006, the comments of which will be produced on the update sheet for Planning Committee.

8 LETTERS OF OBJECTION have been received in response to the original submission raising the following issues:- detrimental visual impact in a field with no other buildings; the proposed large two storey building is inappropriate to the area in what has always been agricultural land; this construction would spoil the outlook from all sides and intrude on the pastoral scene; a horticultural nursery surely requires glasshouses, not a big "shed"; if the applicants is in fact intending to expand from a nursery into a garden centre, (as has been done at Blackdown Nursery & Garden Centre on the A38 near Chelston) then surely the application should be refused for this?; it would be inappropriate for a retail centre on agricultural land, the large area of land would become covered in the ancillary items attached to Garden Centre, the B3227 would become busier and further speed restrictions would have to be implemented and inevitably there would be more light pollution, unsightly signs, adverts, all liable to distract drivers as they approach the Oake cross-roads; the building is outside any settlement limit; major road where cars and motor cycles travel very fast where there have been many accidents and a few deaths; the speed restrictions are seldom observed; the road is used by youngsters walking to and from school and there are no pathways along this stretch; another large nursery is not needed, we already have Wyevale, Monkton Elm, Littlebrook, Blackdown View and a nursery at Preston Boyer and the Oak to Bradford On Tone road near Hillfarrance; it is an exact repeat of application 27/2006/009 except called a nursery not a garden centre and this is how the applicants obtained planning permission for a Garden Centre by first applying for a nursery – re policy EC20; PPG6 and PPG13 require retail to be within settlement limits; prejudicial to highway safety; the thin end of the wedge towards a garden centre; the building is inconsistent and beyond the needs of a nursery; the first floor windows directly overlook our adjacent land; the building is

not predominantly glazed and clearly unsuitable for the propagation of plants; it is the applicants stated ultimate intent to have holiday/camping accommodation so where will the room be for growing plants so is this about horticulture at all?; if 250 tents are allowed on the site these temporary structures will become established and this is a short step to permanent structures on the site; detrimental to landscape and amenity due to security lighting and noise; the screening trees would be so high as to block our views of the Blackdowns which are enjoyed by residents and walkers; care should be taken to ensure that the public footpath is not impeded.

7 LETTERS OF OBJECTION have been received in response to the to the amended plans raising the following issues:- it is appreciated that the building is smaller however it is still the same height and the space is still there to form a first floor at a future date; the building is still of a size and style inconsistent with a nursery; the amended access will no doubt be commented upon by the Highway Authority who have already objected; the building has rather simplistically been cut in half allowing for future extension; the size of the polytunnel bears no relation to the size of the building; the building is an eyesore and detrimental to visual amenity; as the highways notes the traffic generated by this proposed retail business would contravene council policy in this location and on this road; even as amended the proposal would cause light pollution and would generate considerable noise during everyday use.

POLICY CONTEXT

Somerset and Exmoor National Park Joint Structure Plan Review the following policies are considered relevant:- Policy STR1 on sustainable development is relevant. Policy 49 states that proposals for development should be compatible with the existing transport infrastructure and provide safe access to roads of adequate standard whilst not deriving access from a County Route.

Taunton Deane Local Plan the following policies are considered especially relevant: - Policy S1 requires that proposals for development should ensure that: - (A) additional road traffic would not lead to overloading of access roads or road safety problems; (B) the accessibility of the site for public transport, walking, cycling, and pedestrians would minimise the need to use the car; (D) the appearance and character of any affected landscape, settlement, building or street scene would not be harmed as a result of the development; Policy S2 requires development to be of a good design; Policy S7 requires that outside development limits new buildings will only be allowed, amongst other criteria, that they are for the purposes of agriculture, accord with a specific Development Plan Policy and supports the viability and viability of the rural economy; Policy EN5 requires that protected wildlife are safeguarded.

ASSESSMENT

In terms of the principle of the proposal the site is located outside any defined settlement limit. However the development is considered acceptable against open countryside policy (S7) as nursery/horticultural use is inevitably located in these locations. Concern has been raised that this proposal will lead to a retail use due to the previous application for a garden centre on the site. This previous application

27/2006/009 proposed an identical building and only the proposal description was amended, when originally submitted, from garden centre to horticultural nursery. The Planning Policy unit have pointed out that the application forms state that the building will be used entirely for retail sales. The latter has now been rescinded by the applicant. This application has also been amended to reduce the size of the building by 50%, to a footprint only 35 sq m over that allowed under agricultural permitted development rights. In other words a building of 465 sq m could be applied for under the agricultural notification procedure where only issues relating to siting and design could be assessed. This nursery use is therefore considered acceptable in principle and it is only the buildings and access that require planning permission. In order to prevent retail sales an appropriate condition is proposed to restrict sales to products grown on site and ancillary sales only. Furthermore planning permission will be required to extend the building and insert a first floor and is therefore sufficiently within the control of the Local Planning Authority. Future speculation should not form part of the determination of the proposal. Although it is considered that any unwanted transition to garden centre use can be prevented through the imposition of appropriate conditions.

Objection has also been raised regarding visual impact and the form of the building, i.e. whether its appearance reflects a nursery use. The building measures 20 m x 25 m x 8.5 m to the ridge and in pure terms is of a size akin to many agricultural buildings in the area. The building is also set back some 56 m from the B3227, is approximately 2 m below road level and significantly screened by existing and proposed landscaping. The Landscape Officer has also confirmed that subject to the detail of the landscape plan it should be possible to reduce the impact of the building to meet Policy EN12, i.e. the character and appearance of the Landscape Area would be maintained. Any proposed lighting will require the benefit of a further planning application as would the display of advertisements.

The building would be constructed using natural stone and timber clad walling with profiled aluminium roof sheeting and apart from the porch would resemble the form of many agricultural buildings in the area. Considering the distance from the highway and abundance of proposed screening, the porch will not be visually prominent. Furthermore the public will be purchasing goods from the site and therefore a slight move away from the normal agricultural vernacular would be expected. However, the overall appearance of an agricultural building would remain. The size of the building as mentioned above is also considered commensurate with the proposed use. The proposal is therefore not considered to detrimentally affect the visual amenity of the area.

In terms of highway related issues, the amended access offers sufficient visibility to conform to Highway Authority standards. On this basis it would seem unreasonable to object to the proposal on highway safety grounds especially given that the Highway Authority have withdrawn their technical objections. The principle objections of the Highway Authority still however remain, namely that the site is in an unsustainable location, remote from services and will encourage reliance on the motor car for staff and customers and that the new access to a County Route is contrary to Policy 49 of the Structure Plan. However, as mentioned above this form of use is expected to be located in the open countryside and therefore an unsustainable argument would appear unreasonable. In terms of the Policy 49

objection, the access replaces an existing agricultural field access. The applicant could use the existing access in conjunction with a horticultural use (without any buildings) without the need for permission. This application however proposes a much safer access and a condition is proposed to block up the exiting access. There is therefore no net gain in the number of accesses on this stretch of the B3227. It would therefore appear unreasonable to object to the principle of the location or access.

The buildings are located some 200 m from the nearest dwelling with the majority of residences much further away. Even if the rooflights were still proposed they would not overlook any adjoining property. The latter distance, existing and proposed screening also means that the buildings will not have any overbearing affect upon properties in the area. No undue noise would be expected from such a use and again considering the distance from properties it would that no nuisance would be caused. Any lighting will be controlled by condition. The proposal would therefore not appear to affect the residential amenity of the area.

No protected species have been found on the site and the footpath would remain unaffected.

RECOMMENDATION

Permission be GRANTED subject to conditions of time limit, materials, landscaping, hard landscaping, prevention of surface water to highway, entrance gates, stopping up of existing access, visibility splays on the submitted plan, levels and details of access construction, hard surfacing of access, recommendations of the wildlife survey, boundary treatments, lighting; nursery/horticultural use only and no additional floors including mezzanine floors. Notes re soakaways and footpaths to remains unobstructed.

REASON(S) FOR RECOMMENDATION:- The proposal is considered to be an appropriate development and does not conflict with Somerset & Exmoor Joint Structure Plan Review Policies STR1 and 49 and Taunton Deane Local Plan Policies S1, S2, S7, EN5 and EN12.

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

CONTACT OFFICER: 356469 MR R UPTON

NOTES:

