

3/09/0939/FP - Replacement garden centre, retail & restaurant building & new sewage treatment plant at The Riverside Garden Centre, Lower Hatfield Road, Bayford, Hertford, SG13 8XX for Mr. Jeffery.

Date of Receipt: 19.06.2009

Type: Full

Parish: BAYFORD & HERTFORD

Ward: HERTFORD – RURAL SOUTH & HERTFORD-CASTLE

Reason for report: Major application

RECOMMENDATION

That planning permission be **GRANTED** subject to the following conditions:-

1. Three Year Time Limit (1T12)
2. Materials of construction (2E11)
3. Refuse disposal facilities (2E24)
4. No external lighting (2E26)
5. External details of extraction equipment (2E37)
6. Construction parking and storage (3V22)
7. Wheel washing facilities (3V25)
8. The permission hereby granted relates to the provision of 428sq.m. floorspace for the restaurant use. The creation of any additional restaurant floorspace within the building shall not be undertaken without the prior written consent of the Local Planning Authority.

Reason: In order to control any intensification of the restaurant use and subsequent impact on the Green Belt.

9. The use of the premises shall be restricted to the hours 08.00 to 23.00 Monday to Saturday and 10.00 to 22.00 on Sundays and Bank Holidays.

Reason: In the interests of the amenities of the occupants of nearby properties.

10. Construction hours of working - plant & machinery (6N07)

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11. The development hereby permitted shall only be carried out in accordance with the Flood Risk Assessment 1028/09 by Michael Thomas Consultancy, and mitigation measures including flood proofing measures and finished floor levels to be set no lower than 42.14m above Ordnance Datum (AOD).

Reason: To reduce the risks and impact of flooding on the proposed development and future occupants in accordance with PPS25 and policy ENV19 of the East Herts Local Plan Second Review April 2007.

12. The construction of the site drainage system, including sewage and surface water, shall be carried out in accordance with details to be submitted and approved in writing by the Local Planning Authority prior to the commencement of development, and the building hereby permitted shall not be occupied until such infrastructure is in place.

Reason: To prevent pollution of the water environment in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

Directives

1. Other Legislation (01OL)
2. Food, hygiene and sanitary provisions (06FH)
3. The applicant is advised that water voles are a legally protected species under the Wildlife and Countryside Act 1981 (as amended), and it is an offence to intentionally kill or injure, or damage, destroy or obstruct access to any place that is used for their shelter. Should the works impact on water voles or their burrows, a licence will need to be obtained from Natural England.

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular policies SD1, SD2, GBC1, TR2, TR7, TR20, STC10, ENV1, ENV2, ENV17, ENV18, ENV19, ENV20 and ENV23. The balance of the considerations having regard to those policies, and the very special circumstances relevant in this case, is that permission should be granted.

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1.0 Background

- 1.1 The application site is shown on the attached OS extract. It comprises an established garden centre located on the edge of the River Lee within the Metropolitan Green Belt. The site is accessed via an established vehicular access from Lower Hatfield Road. The surrounding area is predominantly rural in character, with the only immediate neighbour being Burrowfield to the east.
- 1.2 This application proposes a new garden centre and restaurant building to replace one which was damaged beyond reasonable repair as a result of flooding in February 2009. The previous building has subsequently been demolished. A number of other buildings remain on site and are used in connection with the established garden centre use.
- 1.3 The proposed building will be sited on a similar footprint to the previous building with a total floorspace of 1405m², approximately 100m² larger than the previous building. The building is proposed to be formed of metal sheet cladding with a timber clad frontage and a dual-pitched roof to a height of 4.5m.
- 1.4 The application also proposes an overground sewage treatment tank to deal with wastewater from the site, the effluent of which is suitable for discharge into the adjacent river. This replaces a previous septic tank. The site is not connected to mains sewage.

2.0 Site History

- 2.1 The site was previously known as Kingfisher Nurseries, and started out only selling produce grown on site. A number of new buildings were granted permission in the 1970s and 80s, including a new farm shop. Then in 1996, permission was granted to remove an earlier condition that prevented the sale of produce not originating from the nursery (3/96/1641/FO). The garden centre has since continued to expand.
- 2.2 In December 2005, retrospective permission was granted for a part change of use of the land to a bistro, with a new covered outdoor seating area (our reference 3/05/2129/FP). This bistro was in connection with the building that has now been demolished.
- 2.3 Retrospective permission was then refused in November 2006 for retention of a caravan on site (3/06/1735/FP) and an appeal was subsequently dismissed. An earlier outline application for a dwelling on site was refused in 2001 (3/01/1762/OP) given the location of the site within the Green Belt and within a floodplain.

3.0 Consultation Responses

- 3.1 The Environment Agency state that the proposed development will only be acceptable if the permission is carried out in accordance with the submitted Flood Risk Assessment. A condition is recommended to require flood proofing measures in the development, and for finished floor levels to be set no lower than 42.14m above Ordnance Datum (AOD). A condition is also recommended to require details of the construction of the site drainage system (sewage and surface water) to be submitted and approved prior to the commencement of development.
- 3.2 Environmental Health raise no objection subject to conditions on construction hours of working and soil decontamination.
- 3.3 County Highways do not wish to restrict the grant of permission subject to conditions on details of wheel washing facilities, and providing space for parking, storage and delivery of materials within the site and not on the public highway. They note that there will be an overall minor increase in floorspace. Although the number of full-time and part-time employees would double, the applicant states that there will be no alterations to existing parking arrangements, however this is still within East Herts parking standards. No alterations have been proposed to existing access arrangements off secondary distributor B road, Lower Hatfield Road.
- 3.4 The Herts and Middlesex Wildlife Trusts advise that the proposed development is adjacent to a section of the River Lee which may provide riparian habitat for water voles, which are a protected species.
- 3.5 Hertfordshire Property do not require any planning obligations from this particular development.
- 3.6 At the time of writing no response had been received from the Council's Landscape Officer.

4.0 Town Council Representations

- 4.1 Hertford Town Council has no objection the application.
- 4.2 At the time of writing no comment had been received from Bayford Parish Council.

5.0 Other Representations

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.

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5.2 2 letters of representation have been received from Burrowfield and The Granary, Bayfordbury Park Farm, which can be summarised as follows:-

- Concern over potential impact of flood lighting;
- The proposed development should not be allowed to exacerbate the potential for flooding, and measures to protect against future flooding should not be detrimental to neighbouring property;
- Incorrect claims in application form – boundary line is incorrect, no tearoom on site until after 14th April 1997 (not 20 years), and flooding was caused by concrete boundary walls not the Bayford Brook which functioned very well;
- Sewage and storage tanks will be extremely unsightly and smelly; request to re-site the tank to a different area.

5.3 The applicant has submitted a petition of 765 signatures from customers of the Garden Centre in support of the proposed rebuilding.

6.0 Policy

6.1 The relevant Local Plan policies in this application include the following:-

- SD1 Making Development More Sustainable
- SD2 Settlement Hierarchy
- GBC1 Appropriate Development in the Green Belt
- TR2 Access to New Developments
- TR7 Car Parking - Standards
- TR20 Development Generating Traffic on Rural Roads
- STC10 Garden Centres and Nurseries
- ENV1 Design and Environmental Quality
- ENV2 Landscaping
- ENV17 Wildlife Habitats
- ENV18 Water Environment
- ENV19 Development in Areas Liable to Flood
- ENV20 Surface Water Drainage
- ENV23 Light Pollution and Floodlighting

6.2 In addition to the above it is considered that Planning Policy Statement 1, (Delivering Sustainable Development), Planning Policy Guidance 2 (Green Belts), Planning Policy Guidance 4 (Industrial, Commercial Development and Small Firms), Planning Policy Statement 7 (Sustainable Development in Rural Areas), and Planning Policy Statement 25 (Development and Flood Risk) are considerations within this application.

7.0 Considerations

Principle of Development

- 7.1 The site lies within the Metropolitan Green Belt wherein permission will not normally be granted for inappropriate development. The proposed replacement of a garden centre and restaurant building constitutes inappropriate development by definition, and therefore very special circumstances must be demonstrated that clearly outweigh the harm caused by inappropriateness.
- 7.2 The very special circumstances in this case relate to the presence of an earlier building of similar scale and footprint, and the circumstances under which the earlier building was demolished.
- 7.3 The new building will have a similar footprint to the previous building, but will provide approximately 100m² additional floorspace. It will also be of a similar height to the previous building. The earlier building was damaged beyond reasonable repair following a flood in February 2009. The building in question serves as the main trading space for an established local business, and is therefore given significant weight in determining this application. The level of support for the proposal is clear from the petition of 765 signatures submitted by the applicant. It is therefore the Officer's view that such very special circumstances exist in this case to allow the construction of a new garden centre building.

Restaurant Use

- 7.4 The new building will also include a restaurant, as was the case in the previous building. The previous restaurant was granted separate retrospective permission to be used as a bistro in 2005, but no conditions were put in place to restrict opening hours or usage. In this case, the new restaurant will account for a greater proportion of floorspace than previously (approximately 30% as opposed to 22%). This could constitute an ancillary use to the garden centre; however it is noted from the application form that the restaurant is intended to open in the evenings, once the garden centre has closed for the day. The restaurant will therefore not be an ancillary use, and the application is being determined as a mixed use proposal.
- 7.5 Given the proposed increase in floorspace for the restaurant; its revised siting; and the provision of a dedicated outdoor seating area, it is considered reasonable and necessary to restrict the opening hours and noise disturbance from this aspect of the development. The application form suggests that the restaurant will be open from 08.30 to midnight Monday to Saturday and 10.30 to 22.00 on Sunday. Midnight is considered to be unacceptably late and would potentially result in disturbance to the nearest

neighbour, Burrowfield, through the movement of traffic and people leaving the site. A condition to restrict the opening hours of the restaurant to 8.00 to 23.00 Monday to Saturday and 10.00 to 22.00 on Sunday is therefore recommended.

Design and Layout

- 7.6 The proposed building will take the form of a more industrial style building, comprising a single structure measuring 31.5m in width and 47m in length with a dual pitched roof to a maximum height of 4.5m. The building is proposed to be predominantly steel sheet clad in a green colour, with a horizontal timber clad front elevation. The roof will also be formed of metal sheeting, with 4 no. front rooflights and 5 no. rear rooflights. An additional gable pitch is proposed to the front elevation to provide some detail above the main entrance. There will be extensive full height glazing along the front and rear elevations.
- 7.7 A canopy extension of the roof is also proposed to the rear elevation in order to provide a covered seating area for the restaurant, adjacent to the river. This replaces a previously approved detached canopy for a similar outdoor seating area, and is considered to be acceptable in design terms.
- 7.8 Overall, Officers consider this building to be of a basic design with little architectural interest. However, it will be of a similar scale to the previous building, and has been designed with a low pitch to reduce its visual impact. The previous building was of a similar height, but comprised a number of separate pitched greenhouse roofs, which is more characteristic of a garden centre building. However, the siting of the building set back from the road, and with enhanced planting along the road frontage, it is not considered that the building would significantly impact on the openness of the Green Belt, or the character or appearance of the surrounding area. Therefore, whilst Officers consider the design of building could be improved, it is not considered to be of such poor design so as to refuse permission.
- 7.9 It is also unfortunate that the new building has been designed with the front elevation flush with the existing car park. Cars will therefore be parked up against the front wall and windows, whereas previously a covered terrace area provided a partial break between the car park and the building. However, given the landscaping to the front of the site, it is not considered reasonable to require the re-planning of the existing parking area. No further landscaping is considered to be necessary in this case; the applicant has recently enhanced the planted border along the road frontage of the site.

Parking and Access

- 7.10 The application proposes no change to the existing parking and access arrangements; 68 no. spaces and 2 no. disabled spaces will remain. Although the new building will be slightly larger than the previous building, sufficient space will remain for parking in accordance with the Council's adopted Parking Standards. Vehicular access will remain from Lower Hatfield Road. Although there will be a marginal increase in the size of the building, it is not considered that the proposal will give rise to a significant change in the amount of type of traffic on local rural roads. County Highways have raised no objection to the proposal on highway grounds. The proposal is therefore considered to be acceptable in this regard.

Sewage Tank

- 7.11 The application also makes provision for a new overground sewage treatment tank, which has already been installed on site. This is situated towards the rear of the site, at a distance of 1m to the neighbouring boundary with Burrowfield. The tank measures approximately 9m in length and 2.5m in width up to a height of 3m above ground level, and is positioned on a fixed concrete base.
- 7.12 The tank is green in colour, and is located amongst existing storage containers towards the rear of the site, adjacent to the river. It is set back some 60m from the road and is therefore not unduly prominent in the surrounding area. There would be more open views from the other side of the river; however this is agricultural land with no public access.
- 7.13 The tank is described as a NuDisc treatment system, which is a single system to remove nutrients from sewage for sites which are not connected to the mains sewage network. Waste water is treated such that the effluent becomes suitable for discharge into a watercourse (subject to applying for a Discharge Consent from the Environment Agency). The sludge treatment is driven by a pump that operates at 1rpm and is therefore virtually silent.
- 7.14 The proximity of the tank to neighbouring land, and objections raised by the owner of Burrowfield are noted. However, the tank will be well-screened from the neighbouring garden by existing mature trees. It is acknowledged that there may be more open views during the winter, but this is not considered to represent an unacceptable visual impact. The tank is green in colour, and is located at a distance of over 50m from the dwelling at Burrowfield. It will therefore result in no material harm to residential amenity.

Flood Risk

- 7.15 The site is located within Floodzone 3, and part of the site was flooded in February 2009. Flood prevention and protection is therefore a principle consideration in determining this application. A full Flood Risk Assessment (FRA) has been undertaken by Michael Thomas Consultancy, and the Environment Agency have raised no objections subject to a condition that the development be carried out in accordance with the FRA, and to control flood prevention measures, finished floor levels and site drainage. On the basis of the Environment Agency's response, it is considered that the proposal is acceptable in this regard and will not exacerbate flood risk to people or property, subject to conditions set out above. The proposal is therefore considered to comply with policy ENV19.

Sustainability Statement

- 7.16 A Sustainability Statement has been submitted in accordance with policy SD1. This sets out that the new building has been designed to achieve a 10% improvement in carbon dioxide emissions over the current Building Regulation requirements. This will be achieved by re-use of existing materials where possible, use of low impact or recyclable materials, and low energy fittings. It is noted that the site is predominantly accessed by private vehicles; however it is also in close proximity to public bus routes.

Ecology

- 7.17 The Herts and Middlesex Wildlife Trusts have raised concerns over the possible presence of protected water voles along this riverbank. However, further discussions with the Wildlife Trusts reveal that their presence is unlikely given that the riverbank adjacent to the proposed development comprises a concrete flood barrier wall rather than a natural bank. On this basis a directive is recommended rather than a condition.

8.0 Conclusion

- 8.1 Overall, it is the Officer's view that as the application proposes a replacement building for one of similar scale and footprint that was destroyed in a recent flood, the proposal amounts to very special circumstances to override Green Belt policy. Whilst the design and layout of the proposal could be improved, this is not considered to be unacceptable. Further, there will be no material harm to the openness of the Green Belt.

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- 8.2 The proposed sewage tank is also considered to be acceptable with regards to its visual impact and limited impact on neighbouring amenity.
- 8.3 It is therefore recommended that, on balance of the above considerations, permission be granted subject to the conditions set out above.