

5j 3/10/0619/FP - Erection of a horizontal close boarded fencing and planter with roof extension to rear (retrospective) at Riverside Garden Centre for Mr Russell Jeffrey.

Date of Receipt: 19.04.2010

Type: Full - Minor

Parish: BAYFORD

Ward: HERTFORD – RURAL SOUTH

RECOMMENDATION

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

1. Approved plans(2E102) - 'HD09014/40 B'
2. Within 1 month of the date of this permission, details of measures to provide permeability to flood water within the side (west) fencing of the structure, shall be submitted to and approved in writing by the local planning authority. The measures shall thereafter be implemented within 3 months of the date of this decision unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of flood water management and to ensure the development does not obstruct flood water flows from the Bayford Brook and increase the risk of flooding in accordance with Policy ENV19 of the adopted East Herts Local Plan 2007.

3. Notwithstanding any notation shown on drawing HD09014/40 B, details of any external lighting to be fixed to the structure shall be submitted to and approved in writing by the local planning authority within 1 month of the date of this decision. Such lighting shall be provided in accordance with those agreed details within 3 months of the date of this decision unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the appearance of the development and the visual amenity of the Green Belt and in accordance with policy ENV1 of the adopted East Herts Local Plan 2007 and national planning guidance in PPG2.

4. The structure created by the fence and roof hereby permitted shall be used for storage purposes ancillary to the Riverside Garden Centre only and for no other purpose, including any additional sales space.

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Reason: Having regard to the inappropriateness of the development within the Metropolitan Green Belt in accordance with policy GBC1 of the East Herts Local Plan 2007 and the justification for the building.

Directives

1. Other legislation

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 the saved policies of the East Herts Local Plan Second Review April 2007), and in particular policies GBC1, ENV1 and ENV19. The balance of the considerations having regard to those policies and the other material considerations 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 is part of an established nursery site recently granted permission (3/09/0939/FP) for a replacement retail and restaurant building following flood damage to the former buildings of the garden centre at the site.
- 1.2 The site lies within the valley of the River Lee outside Hertford and is within the Metropolitan Green Belt. The buildings and its car park are located adjacent to the Lower Hatfield Road which provides vehicle access to the site.
- 1.3 During previous applications, new fencing had been noted to the rear of the main car parking area located at the front of the site. Given its height, planning permission is required for the fence which is clearly visible from the main road. The fence, together with a return fence, supports a roof structure over a storage area for the Garden Centre. The retrospective application submitted has been amended to clarify that it includes the provision of the roof and side fence which appears to Officers to comprise one structure.
- 1.4 Being directly alongside the River Lee, the site is within flood zone 3 and as for previous development proposals, flooding is a key consideration.

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2.0 Site History

2.1 Aside from the replacement garden centre building there have been several recent applications at the site related to the hours of use of the restaurant at the site.

2.2 The most recent planning history for the site is as follows:-

- 3/10/1227/FO. Variation of Condition 9 (3/09/0939/FP) which states 'The use of the premises shall be restricted to the hours 08.00 to 23.00 Monday to Saturday and 10.00 - 22.00 on Sundays and Bank holidays' to read 'The use of the restaurant by customers shall be restricted to the hours 08:00-23:00 Monday-Saturday and 10:00-22:00 on Sunday and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.' Approved with conditions 22 Sept 2010.
- (3/10/1226/FO & 3/10/0704/FO – hours of use applications. One granted, one appeal pending)
- 3/09/0939/FP. Replacement garden centre, retail & restaurant building & new sewage treatment plant. Approved with conditions. 23 Sept 2009.
- 3/06/1735/FP. Retrospective planning for retention of caravan on site for intermittent accommodation. Refused 3 Nov 2006.

3.0 Consultation Responses

3.1 County Highways have no objection to the application and advise there will be no impact on parking or access arrangements at the site.

3.2 The Environment Agency have withdrawn an earlier objection following the completion of modelling of the site. However they advise that the development is only acceptable if a planning condition is imposed for the side fencing to be made permeable to flood waters. Details of this are requested within 3 months of the date of the decision of timetable as agreed in writing with the local planning authority.

4.0 Parish Council Representations

4.1 Bayford Parish Council has made no representations in relation to the application.

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 Letters of objection have been received from the resident of Burrowfields which lies immediately north east of the site. The resident doubts the accuracy of the submitted plans. Concerns remain over floodlighting disturbance from the “in situ” lighting on the structure, floodlit strip within the structure and from the site generally. Other major concerns are the impact on flooding at the site as well as a concern about pipes within the planter, although it is acknowledged the application is not made for drainage. It is alleged that these pipes discharge water from the garden centre car park onto their land, finally it is questioned whether the boundary fence is on land in their ownership.
- 5.3 A supporting letter for the application has been received from a resident of the Directors House pointing out that that they overlook the site and support the design, position and associated landscaping of the proposal.

6.0 Policy

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

GBC1 Green Belt
ENV1 Design and Environmental Quality
ENV19 Development in areas liable to flood

- 6.2 In addition, the provisions of national policy guidance in PPS1 Delivering Sustainable Development and PPG2 Green Belts are of relevance.

7.0 Considerations

- 7.1 The main issues to consider in the determination of the application are the appropriateness of the development in the Green Belt, the impact of the development on the appearance and character of the rural area and the visual amenity of the Green Belt and the impact of the development on flooding at the site and within its vicinity.

Principle of development

- 7.2 The construction of new buildings for a retail / garden centre use is not one of the categories identified as appropriate development in the Green Belt as set out in Policy GBC1 of the adopted Local Plan and within the national guidance of PPG2. The applicant has given a view that the development is no more than raised fencing (there having been a previous lower fence on this boundary) with a rear roof attached in order to conceal the containers stored at the site.

- 7.3 However, in Officers' view, the development is more akin to a covered building than a fence enclosure having two sides and a roof. As such, it constitutes inappropriate development within the Green Belt. It is necessary therefore to establish whether there are very special circumstances to justify inappropriate development in the Green Belt in accordance with the requirements of PPG2.

Impact on surroundings

- 7.4 The structure performs a valuable function at the site by containing and screening the storage areas and containers at the site. Although the fence is of a significant height, this is partly necessary for adequate screening and the provision of a planter and the planting provided by it will help to modify and soften the impact and appearance of the fence enclosure.
- 7.5 The structure erected provides an additional screening to the containers stored behind it and the height enables this to be complete. The building is not proposed for any active retail or commercial floorspace use but a planning condition is recommended to retain control over the use having regard to the justification for the building as inappropriate development in the Green Belt.
- 7.6 As designed, with raised planters adjacent to it, I consider that the development will be of an acceptable appearance and not result in any significant adverse impacts on the appearance of the site or the wider surroundings or in turn be harmful to the visual amenity of the Green Belt.

Flooding

- 7.7 The site lies within a flood zone 3a with a high probability of flooding as defined by PPS25. Following modeling work with the Environment Agency the objection to impacts on flooding have been addressed by the resubmitted Flood Risk Assessment but the Agency's acceptance is subject to the side fencing being adjusted to be permeable to water flows and therefore a planning condition is recommended to require that these details be agreed and implemented within 3 months of this decision.

Miscellaneous

- 7.8 The neighbour has objected to problems of lighting at the site. This is controlled by the lighting condition imposed on the permission for the new garden centre. Although floodlighting is shown on the application drawing none is approved by this permission and a condition is added to address this point.

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7.9 A further objection of the neighbour is to pipes within the structure and their impacts on flooding to her property. The Environment Agency is aware of this issue and has not raised any of its own objections. The applicant has not given a clear statement about the role of the drainage pipes. However as drainage in this case is not development requiring planning permission I see no valid reason to delay the determination of the current application on this issue.

8.0 Conclusion

8.1 To conclude, the structure provides a valuable ancillary role to the established use of the site and screens unsightly storage areas and containers from public view. These in my view constitute the very special circumstances necessary to justify its retention albeit that it is not appropriate development within the Green Belt.

8.2 The conditions recommended will address concerns on flooding and lighting, and will ensure that no material harm is caused to the wider area or to the amenity of neighbours.

8.3 I therefore recommend the grant of planning permission subject to the planning conditions as set out.