

REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	19 th September 2012		
Application Number	N/12/00542/S73		
Site Address	Whitehall Garden Centre Ltd, Corsham Road, Lacock, Wits SN15 2LZ		
Proposal	Erection of Replacement and New Buildings; Alterations to Vehicular Access, Parking and Servicing Areas; Re-Ordering of Outside Display Areas, Circulation Areas and Amenities Areas (Renewal of 08/00826/FUL)		
Applicant	Whitehall Garden Centre Ltd		
Town/Parish Council	Lacock Parish Council		
Electoral Division	Corsham Without and Box Hill	Unitary Member	Councillor Tonge
Grid Ref	390957 168835		
Type of application	S73		
Case Officer	Simon Smith	01249 706 633	simon.smith@wiltshire.gov.uk

Reason for the application being considered by Committee

The application has been called in by Councillor Tonge to allow the consideration of the impact of the disposal of surface water into local streams and the possible impact on Lacock. Associated application for proposed drainage works (reference 12/00974/FUL) is to be considered contemporaneously by the Committee.

1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

The Parish Council notes that this application is not a straightforward renewal of the 2008 permission and would like more detailed information regarding the drainage of surface water.

Nine (9) letters of objection have been received from local residents.

2. Main Issues

The main issues in considering the application are:

- Principle of development
- Associated application 12/00974/FUL
- Impact on the character and appearance of the area
- Residential amenity
- Parking and Highway safety
- Emerging Core Strategy and NPPF

3. Site Description

The site has developed over nearly 40 years from the original nursery to become a substantial garden centre. However, the current site reflects the rather incremental growth of the business with a number of buildings of various styles and conditions.

The garden centre comprises one large building containing sales areas, farm shop, restaurant, and other ancillary uses. There is an outdoor plant sales areas and a number of smaller buildings and structures selling related garden equipment and sundries. Whilst the site is in a prominent location on the main Chippenham/Melksham Road the existing buildings are largely screened from view by trees and landscaping that surround the site. Vehicular access is from the Corsham Road. To the west of this access there is a group of residential properties that back on to the site, although separated by substantial hedging.

The application site is somewhat removed from the main complex and is separated by a large overflow car park to the Southwest of the buildings, which is situated on gently downward sloping land surfaced in loose stone. To the immediate South of the site are a number of mature trees, behind which the land drops steeply away, down to the Bide Brook, marking the boundary of the landholding. The brook has been known to flood adjacent land, including footpaths.

4. Relevant Planning History		
Application Number	Proposal	Decision
12/00974/FUL	Drainage works	Awaiting determination
08/00826/FUL	Erection of Replacement and New Buildings; Alterations to Vehicular Access, Parking and Servicing Areas; Re-ordering of Outside Display Areas, Circulation Areas & Amenity Areas (Revised Application following Withdrawal of 07/02255/FUL)	Permission
07/02255/FUL	Erection of Replacement Buildings and New Buildings, Alterations of Vehicular Access, Parking & Servicing Areas; Re-Ordering of Outside Display Areas, Circulation Areas and Amenity Areas	Withdrawn

5. Proposal

Historically the site has experienced problems with service and delivery vehicles conflicting with customers' vehicles and pedestrians. The current proposals seek to rationalise the site and to address some of the problems experienced in operating it. The proposals see the main building on the site being extended to provide increased internal floorspace, additional buildings are provided in a courtyard of retail buildings and outside sales areas are rationalised. The internal sales area is currently 3,130m² this is proposed to be increased to 7,193m² (an increase of 4,063m²).

The proposal remains precisely that granted planning permission by the Northern Area Committee on 18th March 2009 under reference 08/00826/FUL. The application currently under consideration is submitted under s73 of The Town and Country Planning Act 1990, merely being an application to extend the time limit for implementation.

A separate application (reference 12/00974/FUL) comprising surface water drainage arrangements for the entire site has been submitted and is to be considered contemporaneously by the Northern Area Planning Committee.

6. Consultations

Lacock Parish Council – *“The Parish Council objected to planning application 08/00826/FUL in May 2008 and needs further information regarding the current application. It has been highlighted that this is not a straightforward renewal of the 2008 application as there is one alteration not shown on the accompanying plan. The Parish Council would like more detailed information regarding the drainage of surface water from the roofs and hardstanding areas of the proposed expansion so that it can fully consider the implications of the proposals.”*

Council's Land Drainage Engineer - The details now proposed are considered adequate to manage the runoff to the Bide Brook, such that the likelihood of further flooding can be minimised so far as reasonably possible. Through dialogue with the applicant, the specification of the drainage system has been agreed with and endorsed by the Council's Drainage Engineer.

Environment Agency – No objection subject to conditions imposed under 08/00826/FUL.

Environmental Health Officer – No objection subject to conditions 11 and 12 imposed under 08/00826/FUL to control noise from delivery operations and construction phase.

Highway Officer – No objection subject to conditions imposed under 08/00826/FUL.

Spatial Planning Officer – No objection subject to conditions 18 and 19 of 08/00826/FUL being carried forward to ensure there is no impact on the town centres.

7. Publicity

The application was advertised by site notice, press advert and neighbour consultation.

Nine (9) letters of objection received. Main issues raised:

- Whitehall has continually expanded over years to point it has become a retail development attracting heavy visitor and delivery traffic
- Corsham Road not wide enough to cope with additional traffic.
- Needs a zebra crossing on Corsham Road.
- Inadequate information in respect of highway safety submitted at time of 08/00826/FUL.
- Items sold no longer related to gardening interest
- Increased traffic and highway safety – especially Corsham Road and Notton
- Other traffic generating development given permission recently in locality
- Increased risk of flooding downstream from garden centre
- Inadequate drainage arrangements and different from that shown on application 08/00826/FUL.

8. Planning Considerations

Principle of development

The application is submitted under s73 of the Town and Country Planning Act 1990, seeking a replacement planning permission to extend the time limit for implementation of development. An application submitted under this section of The Act may only be for precisely the same development previously granted a planning permission. Government guidance “*Greater Flexibility for Planning Permissions*” (published October 2010) confirms that the requisite application form simply refers back to the earlier application. Under this application no alteration to that development proposed under 08/00826/FUL is possible.

In paragraph 23, Greater Flexibility for Planning Permission goes on to state:

“The development proposed in an application for extension 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 development plan policies and other material considerations which may have changed significantly since the original grant of permission.”

In this way, the principle of the acceptability of this development has already been concluded upon. What remains is a consideration of what, if any, material changes in circumstance have occurred since the grant of the earlier permission on 18th March 2009.

Associated application 12/00974/FUL

The subject of a separate but related application, the suitability and effectiveness of the proposed drainage system is rightly considered under that reference 12/00974/FUL.

Impact on the character and appearance of the area

The site is located on the opposite side of the A350 from the edge of the Lacock Conservation Area. A public footpath runs to the south of the site. The site continues to be generally well screened by trees and hedging around and within the site. The buildings currently on site can be glimpsed from the traffic light junction on the A350, from the A350 to the south and from the footpath that runs along the southern boundary. Views into the site from the Corsham Road again continue to be restricted.

The impact of the new development upon views from the Lacock Conservation Area on the opposite side of the A350, and upon the countryside location in general were carefully considered at the time of determining 08/00826/FUL. Contextually, the character and appearance of the locality has not significantly altered, and by extension, the likely impact of the proposed development upon it will, similarly, not have altered since 2009.

Residential amenity

As noted at the time of consideration of 08/00826/FUL, there has been a history of concerns raised by local residents relating to noise and disturbance from this site. Letters received in relation to the current application suggest that those concerns remain. It was further acknowledged that there is likely to be an increase in traffic generated by the proposals, but that there was a need to balance the opportunity redevelopment offers to improve the access and internal circulation of vehicles. It was noted that it would have been beneficial to move service roads away from residential properties on Corsham Road, it was not considered prejudicial to the acceptability of the scheme.

Whilst the objections received from local residents are understood, it remains the case that the neither the proposed development nor its relationship with the surrounding residential properties has altered since the time of determining 08/00826/FUL.

Parking and Highway safety

The garden centre currently offers 345 parking spaces in total. The proposed parking provides 75 spaces for staff; a coach drop-off lay-by; 407 customer spaces; and an overspill parking area including space for coaches. A transport assessment prepared and submitted in 2008 provided a comparison between existing and proposed traffic movements, with particular focus on the junction of Corsham Road and the A350 and traffic movements through Notton.

In association with the grant of permission under 08/00826/FUL, a legally binding Unilateral Undertaking was prepared into by the applicant. The undertaking requires the applicant (if so required by the Council) to pay the Council's costs to regulate the parking along Corsham Road, alter the management of the junction between Corsham Road and the A350 and the making of an Order to alter the speed limit along the length of Notton Lane. The Undertaking also requires the applicant to undertake works to alter the junction between Notton Lane and Corsham Road and provide necessary signage.

At that time, and based upon the assessment and associated Undertaking, the Council's Highway Officer was able to conclude that the proposal did indeed offer an ability to improve internal parking and vehicular circulation spaces to alleviate any potential congestion on Corsham Road; and the potential for increasing traffic through Notton.

In considering the current application submitted under s73 of The Act, the Highway Officer has concluded similarly. Whilst permissions for other traffic generating development have been granted planning permission on nearby sites in the intervening period (notably Notton Stables 11/02354/FUL and Folly Lane, Lacock 12/01105/FUL – both considered and granted permission by the North Area Planning Committee), cumulatively they are not thought to substantively alter local traffic and highway conditions to the point that it could be reasonably be used as a reason to refuse to grant a new and replacement planning permission.

Emerging Core Strategy and NPPF

There is considered to be nothing within the emerging Wiltshire Core Strategy or the National Planning Policy Framework that would alter the conclusion reached below.

10. Conclusion

In the published “*Greater Flexibility for Planning Permissions*”, the Government has advised that Local Planning Authorities should take a positive and constructive approach towards applications to extend the time limit for implementation. This application is for an extension of time to implement has, by definition already been judged to be acceptable by the Council at an earlier date. In coming to a conclusion on such applications, attention should focus on development plan policies and other material considerations to assess whether there has been a significant change since the original grant of permission.

In this particular instance there are considered to be no material considerations that should stop the grant of a replacement planning permission for this development.

11. Recommendation

Planning Permission be GRANTED for the following reason:

The proposal is for the extension and rationalisation of an existing well established Garden Centre. The proposal is considered to comply with local and national retail policies, will have only limited and acceptable impact upon the appearance of the area and the nearby conservation area, will have an acceptable impact upon highways issues such as access and traffic flow in the vicinity and will not adversely affect the amenities of neighbouring residential properties. As such the proposal complies with Policies C3, NE15 and R4 of the North Wiltshire Local Plan.

AND subject to relevant parties entering into a legal agreement under s106 of The Act in respect of highway improvements

SUBJECT to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out strictly in accordance with the approved plans subject to such minor amendments to the development as may be approved in writing under this condition by the local planning authority.

REASON: To ensure that the development is implemented in accordance with this decision in the interests of public amenity, but also to allow for the approval of minor variations which do not materially affect the permission.

- 3 No demolition or building work shall commence on the development site until the new access has been constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of highway safety.

- 4 No demolition or building work shall commence on the development site until the new main car park has been constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority

REASON: In the interests of highway and public safety.

- 5 The areas allocated for parking and servicing on the approved plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles and deliveries in connection with the development hereby permitted.

REASON: In the interests of road safety.

- 6 No development approved by this permission shall be commenced until a scheme for the provision, implementation and maintenance of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

REASON: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to prevent pollution of the water environment.

- 7 No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved programme and details.

REASON: To prevent the increased risk of flooding.

- 8 No development approved by this permission shall be commenced until a scheme for the provision and implementation of the surface water storage capacity during a 1 in 100 year plus climate change conditions has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

REASON: To alleviate the increased risk of flooding.

- 9 No development approved by this permission shall be commenced until a scheme for the disposal of foul drainage has been approved by and implemented to the reasonable satisfaction of the Local Planning Authority.

REASON: To prevent pollution of the water environment.

- 10 Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls, details of which shall be submitted to the Local Planning Authority for approval. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%; or 25% of the total volume that could be stored at any one time, which ever is the greater. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground, where possible, and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

REASON: To prevent pollution of the water environment.

- 11 No deliveries shall be received or goods despatched from the site outside the hours of 07:00 to 18:30 nor at any time on Sundays, Bank or Public Holidays.

REASON: In the interests of the amenity of the area.

- 12 The construction of any part of the development hereby permitted shall not include the use on site of any machinery, powered vehicles or power tools before 08:00 hours or after 18:00 hours on any weekday, nor before 09:00 hours or after 13:00; on any Saturday, nor at all on any Sunday or Bank or Public Holiday without the prior

approval in writing of the local planning authority.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area and to comply Policy C3 of the North Wiltshire Local Plan 2011.

- 13 No development shall commence until details of the proposed and existing levels across the site (including details of the finished floor levels of all buildings hereby permitted) have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the details so approved.

REASON: To ensure a satisfactory layout in the interests of the amenity of the area.

- 14 The development hereby permitted shall not be commenced until details of the landscaping of the site, including wherever appropriate the retention of existing trees, have been submitted to, and approved in writing by, the local planning authority.

The approved landscaping scheme shall be implemented within one year of either the first occupation or use of the development, whether in whole or in part, or its substantial completion, whichever is the sooner, and shall be maintained thereafter for a period of not less than five years. The maintenance shall include the replacement of any tree or shrub which is removed, destroyed or dies by a tree or shrub of the same size and species as that which it replaces, unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of amenity.

- 15 Fencing for the protection of any retained trees/hedges/shrubs shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

REASON: In the interests of protecting the existing trees/hedges/shrubs on the site during construction.

- 16 No development shall commence until details of materials to be used externally have been submitted to, and approved in writing by, the local planning authority. The development shall be built in the materials approved.

REASON: In the interests of visual amenity.

- 17 No development shall commence until a plan showing the precise location of any areas of open storage and specifying a maximum height of open storage within such area(s) has been submitted to, and approved in writing by, the local planning authority. No raw materials, finished or unfinished products or parts, crates, materials, waste, refuse or any other item shall be stacked or stored on the site outside the area, or above the height specified, as approved.

REASON: In the interests of the amenity of the area.

- 18 The proposal shall be used only for the purposes of a garden centre including related ancillary retailing and services as detailed on the submitted plans and documents (specifically the "schedule of indoor uses" at Appendix 2 of the Impact assessment prepared by C B Richard Ellis dated March 2008). Specifically the sale of convenience goods shall be restricted to a floorspace area not exceeding 1000sq.m.

REASON: To restrict the nature of the proposed development in order to comply with planning policy to ensure no adverse impact on existing town centres or upon issues of accessibility and sustainability.

- 19 Clothing sales shall be restricted to such items that are directly associated with and

ancillary to gardening or other similar physical outdoor activity as agreed by the local planning authority. The sale of any clothing shall be restricted to a floor area not exceeding 250 sq metres.

REASON: To restrict the nature of the proposed development in order to comply with planning policy to ensure no adverse impact on existing town centres or upon issues of accessibility and sustainability.

