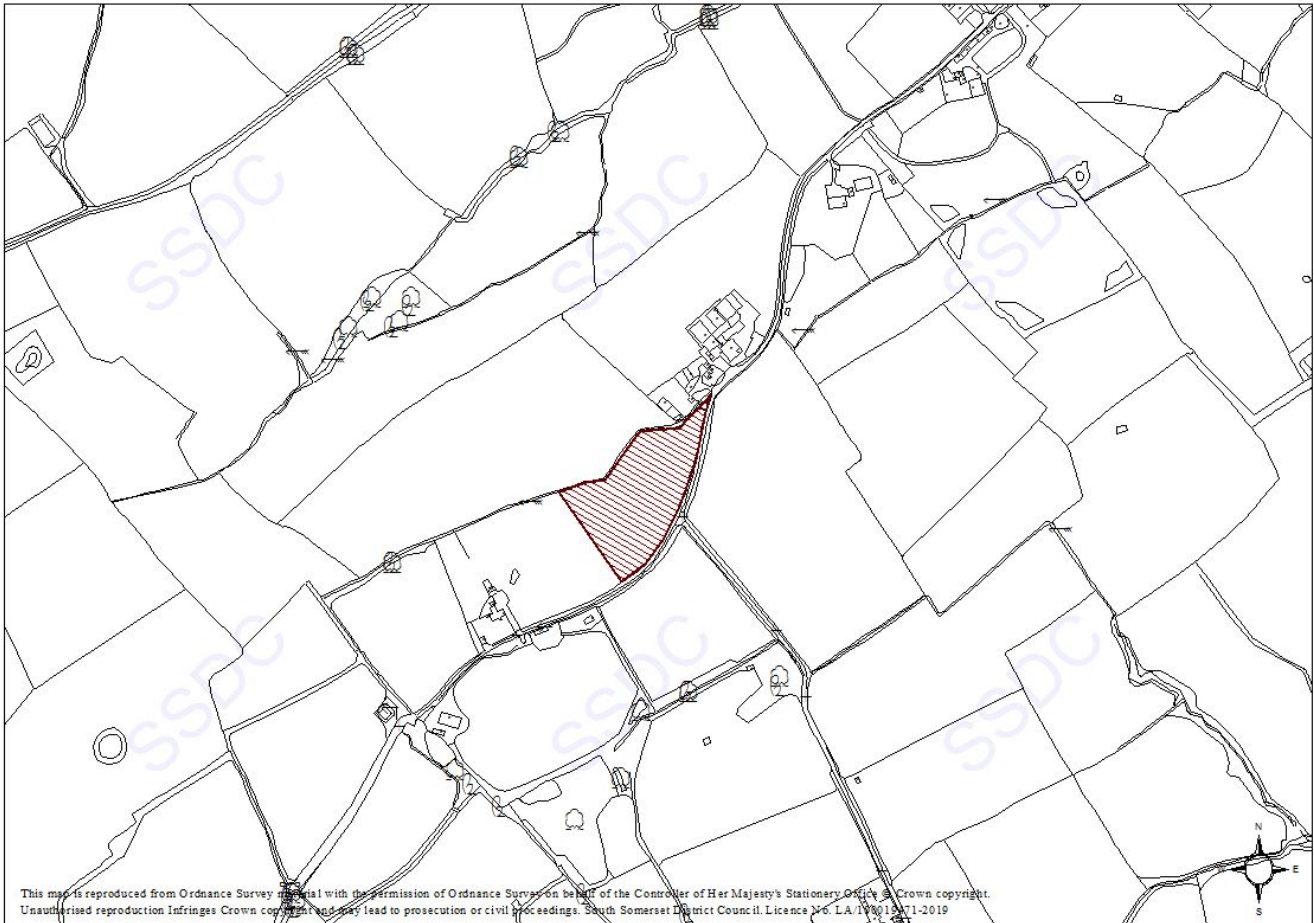


Officer Report On Planning Application: 18/03282/S73A

Proposal :	Application to vary condition 6 of approval 16/04084/FUL to allow retail sales from the premises.
Site Address:	Land At Cabbage Lane Horsington Templecombe
Parish:	Horsington
BLACKMOOR VALE Ward (SSDC Member)	Cllr W Wallace Cllr Hayward Burt
Recommending Case Officer:	Planning Case Team Tel: (01935) 462462 Email: planningcaseteam@southsomerset.gov.uk
Target date :	3rd December 2018
Applicant :	Mr & Mrs Holley
Agent: (no agent if blank)	Mr Matt Williams Brimble Lea & Partners Wessex House High Street Gillingham SP8 4AG
Application Type :	Minor Other less than 1,000 sq.m or 1ha

At the request of the Ward Member and with the agreement of the Area Chairman, this application is referred to Area Committee for full consideration around Policy TA5 (Transport Impact of New Development) of the South Somerset Local Plan 2006-28.

SITE DESCRIPTION AND PROPOSAL





The site is located on the north side of Cabbage Lane in the rural area of Horsington and is currently occupied by Blooming Wild Nursery.

A shade tunnel and 2 no. polytunnels and associated equipment barn and track were approved under application 16/04084/FUL which included the following condition:

06. *There shall be no retail sales carried out from the application site.*

Reason: In the interests of ensuring development is sustainable and of highway safety in accordance with policies SD1, SS1, and TA5 of the South Somerset Local Plan. "

This application seeks permission to vary the condition to provide ancillary sales. Varying the permission would allow ancillary sales to be undertaken from the premises.

During the course of the application the agent confirmed that there will be 2-3 deliveries each year in the spring. Customers are expected to visit infrequently with generally 0-1 customers each day in March and April, 2-5 customers per day between May and July and 1-2 customers per day between August and October. Only plants grown at the nursery will be sold.

HISTORY

16/04084/FUL - Erection of 2 No polytunnels and 1 No shade tunnel with associated machinery and equipment barn, formation of new access track. - permitted with conditions 21.11.16

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

South Somerset Local Plan (2006 - 2028)

SD1 - Sustainable Development
SS1 - Settlement Strategy
EP11 - Location of Main Town Centre Uses
TA4 - Travel Plans
TA5 - Transport Impact of New Development
TA6 - Parking Standards
EQ2 - General Development
EQ5 - Green Infrastructure
EP4 - Expansion of Businesses in the Countryside
EP11 - Location of Main Town Centre Uses (the sequential approach)

National Planning Policy Framework

Chapter 6 - Building a Strong Competitive Economy
Chapter 7 - Ensuring the Vitality of Town Centres
Chapter 9 - Promoting Sustainable Transport
Chapter 15 - Conserving and Enhancing the Natural Environment

Planning Practice Guidance

Somerset Parking Strategy

CONSULTATIONS

Horsington Parish Council - "Horsington Parish Council discussed this application at a meeting yesterday and Councillors are unanimously opposed to the application. Councillors shared the residents concerns about the increased traffic that will be generated along the narrow roads of Cabbage Lane and the approach from the other side from Wilkinthroop."

County Highway Authority:

18.01.2019 - "The planning application proposes to vary condition 6 of consent 16/04084/FUL to permit the sale of plants grown at the site. The original 2016 planning application was dealt with by standing advice and the condition imposed by the Local Planning authority in the interest of sustainability and Highway Safety. The approach road to the premises are very narrow and poorly aligned and the Highway Authority would not wish to see a significant increase in the traffic generated on these roads. It is difficult to quantify the level of vehicular movements that the removal of this condition could generate. Commercial sales of plants to the general public may have the potential to generate a significant increase in vehicular movements here. I note from the submitted covering letter from Brimble, Lea and Partners that from the applicants experience, the levels of vehicular movements connected to the sale of plants is 2-5 movements day. I also note that the applicants plan to restrict the trade to between 1 March to 31st October with opening days/hours for selling plants to be restricted between 9.30am - 4.30pm Wednesday to Friday and 10.00am - 4.00pm on Saturdays. I think that more in depth information regarding the traffic movements likely to be generated here is required and further information in relation to the exact nature of the sales element. Please can applicants submit a more detailed traffic report for likely/expected levels of traffic generation - deliveries, additional staff members etc, peak hours of traffic generation. At which point the Highways Authority will be able to make more substantive observations."

21.02.2019 - "I've had a chance to review the email from Matt Williams of Brimble, Lea and the detailed review of traffic movements likely to be generated with such a development. I note the key elements of Matt's email which refer to the type of sales that will be generated by the business and plants only grown at the site to be sold. If the LPA are content to provide a condition which limits sales to a seasonal basis as alluded to, I do not believe the proposed use has a potential to generate a significant increase in the use of the local Highway Network. There are therefore no objections subject to the following conditions:" (See below for conditions)

SSDC Highways Consultant - Refer to SCC comments.

REPRESENTATIONS

A site notice was displayed and 8 neighbours informed.

One letter of support was received as follows:

The Old Farmhouse - As a local resident and small business owner, we just wanted to write and lend our support for this application. It's refreshing to see other local businesses expanding in our area and we can only see this as a positive for the local economy.

Seven letters of objection were received alongside a petition containing the signatures of 21 people.

Issues raised included:

- i. Planning has only been granted for a nursery, not a shop. 16/04084/FUL approval was based on the principle of no commercial sales
- ii. Concerns that a garden centre could be established
- iii. Site could accommodate a much larger commercial / retail business
- iv. Unauthorised silo
- v. Impact on landscape
- vi. Concern that a house will be erected
- vii. Disruption to residents
- viii. Destroy tranquillity of lane
- ix. Millington case does not have an implication for this application
- x. By refusing application, Council would not prevent applicants from carrying out their business of attending plant fairs and deliveries to garden designers
- xi. Narrow, windy lanes - highway safety issue
- xii. In some areas the road is only the width of a car
- xiii. Blind corners and tow ninety degree bends
- xiv. In relation to claim that Cabbage Lane supports traffic attracted by pub, the White Horse public house is on junction with A357 and the riding stables are a third of a mile along Cabbage Lane
- xv. Increased traffic and lack of passing places could cause more nuisance to residents
- xvi. Entrance is on a bend with poor visibility
- xvii. Danger to horse riders, children, pedestrians and free range chicken and ducks
- xviii. Traffic movements could increase if successful or other retail opportunities are added
- xix. Lane unsuitable for deliveries
- xx. Summer retail sales is when lane is at its busiest
- xxi. Concern that customers would park on the road
- xxii. Accident in October 2018 where car ended up in ditch after reversing. Traffic bollards erected warning drivers verge s unsafe.
- xxiii. Gullies, dangerous bends and lack of passing places

All representations are available to view in full at www.southsomerset.gov.uk

CONSIDERATIONS

Principle

The site is located in the rural area of Horsington away from any Town Centre. Condition 6 of 16/04084/FUL was imposed to avoid the introduction of non-conforming retail use. Policy EP11 in the South Somerset Local Plan 2006 - 2028 aims to direct main town centre uses (which include retail) to the town centre.

The proposal is to vary condition 6 of approval 16/04084/FUL to allow retail sales from the premises. If this restriction was removed entirely, it opens up the potential for the entire site to become retail use. This would invoke the requirements of policy EP11 regarding the need for a sequential test, meaning that the applicant should assess firstly sites in the town centre, then edge-of-centre locations, then out-of-centre sites that are served by a choice of sustainable travel modes. This approach is supported by the National Planning Policy Framework, which makes clear that where an application fails to satisfy the sequential test, it should be refused.

However, on the application form it appears that the applicant seeks to vary the condition to sell plants between March - October grown solely onsite from an outside area measuring 115 square metres. Customers are expected to visit infrequently with generally 0-1 customers each day in March and April, 2-5 customers per day between May and July and 1-2 customers per day between August and October. If this is the case, it is considered that the retail sales would be ancillary to the existing horticultural use. Therefore in this case the principle is accepted and a sequential approach would not be required, as detailed in Policy EP11.

Highway Safety

Blooming Wild Nursery is an established business which operates from Cabbage Lane approximately 0.8 miles from the junction with the A357. The Parish Council and local residents have raised a number of concerns (points xi - xxiii above) as to the potential highway impacts of the proposed development. It is acknowledged that Cabbage Lane is predominantly narrow with sharp bends and that additional traffic may be disruptive to local residents as it could result in additional manoeuvring to a passing point.

Planning consent 16/04084/FUL was approved on the basis of no retail sales because the applicant confirmed that no retail sales would take place as part of that proposal. As such, the impact of ancillary retail sales was not assessed as part of that application. The applicant has now stated that they would like to sell plants between March to October, grown onsite from an outside area measuring 115 square metres. The applicant has stated that the onsite sales would only be a small part of the overall business and would be prepared to accept the imposition of a condition to control this, including a limitation as to only sales of plants grown onsite between March - October.

The agent has provided expected traffic movements. It has been detailed there will be 2-3 deliveries each spring and that customers are expected to visit infrequently with generally 0-1 customers each day in March and April, 2-5 customers per day between May and July and 1-2 customers per day between August and October. In assessing this level of use there is considered to be sufficient parking on the site to serve the existing use and the proposed ancillary retail use. As such, the proposal complies with Policy TA6 of the South Somerset Local Plan.

Paragraph 109 of the National Planning Policy Framework states that: 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The Highway Authority was consulted. Following additional information submitted by the agent, the Highway Authority raised no objection subject to the imposition of conditions to restrict sales to seasonal, agree details for disposal of surface water and keeping the parking area clear of obstruction. As such, the proposal is considered

to comply with Policy TA5 of the South Somerset Local Plan.

Impact on residential amenity

Due to the position of the buildings and structures, it was not considered that the development would give rise to undue overlooking or an overbearing relationship with neighbouring properties as part of 16/04084/FUL. A condition was imposed on 16/04084/FUL to ensure no livestock was accommodated in the building and it is considered reasonable to re-impose that condition. Accordingly, the proposal is considered to comply with Policy EQ2 of the South Somerset Local Plan and not introduce harm to residential amenity

Landscape

Concern was expressed with regards to the impact on the landscape. As the polytunnels and building are already approved, it is considered the addition of an outdoors ancillary sales area will not introduce further harm to the surrounding landscape.

Future use

Concern has been expressed that a garden centre could be established. However, the applicant has confirmed their willingness to accept a condition to limit sales between March and October to those of plants grown onsite. The retail sales area will also be restricted by condition to the 115 square metres as shown on the proposed site plan.

Concern has also be expressed about the future erection of a dwellinghouse. At no point during this application has a dwellinghouse been suggested and any future application would be assessed on its own merits according to policy at that time.

Other Issues

As this is a Section 73A application, this is in effect a new application for the erection of 2 No polytunnels and 1 No shade tunnel with associated machinery and equipment barn, formation of new access track. Therefore all previous conditions imposed can be reassessed.

It is clear from the records that of the 9 conditions imposed some were pre-commencement conditions of which 4,7 and 8 were discharged. These conditions relate to landscaping, surface water drainage and consolidation of surface. As conditions 4 and 7 have been implemented they do not need to be re-imposed. However, although condition 8 relating to surface water drainage has been agreed and discharged, it has not yet been implemented. As such, the condition will be re-imposed on this consent.

In considering other conditions 1 can be reworded to reflect the retrospective nature of the application, with the nurseery operational since April 2017. Conditions 5 and 9 are still relevant and should be re-imposed.

Condition 6 is the condition applied to be varied and can be changed to include ancillary retail sales.

RECOMMENDATION

Grant permission

01. The proposal to vary the condition to allow ancillary sales from the site would not be harmful to visual amenity, the character of the locality or highways safety and would not be prejudicial to the vitality and viability of the town centre. As such the proposal complies with policies EQ2, EP4,

EP11, TA5 and TA6 of the South Somerset Local Plan 2006 - 2028 and the policies contained within the National Planning Policy Framework 2019.

SUBJECT TO THE FOLLOWING:

01. Notwithstanding the time limits given to implement planning permission as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission (being granted under section 73A of the Act in respect of development already carried out) shall have effect from April 2017.

Reason: To comply with Section 73A of the Act.

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

TD813-02B, Plan 1, and Plan 2 received 22 September 2016

TD813-05A received 04 October 2016

Drawing number 18151 - 1 - Proposed Site Plan received 08.10.2018

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

03. The storage building hereby approved shall not be used for the accommodation of livestock, for the storage of slurry or sewage sludge, or for storing fuel for or waste from a biomass boiler or an anaerobic digestion system without the prior written consent of the local planning authority.

Reason: In the interests of residential amenity and in accordance with policy EQ2 of the South Somerset Local Plan.

04. There shall be no retail sales from the site, except for plants grown at the site from a maximum gross area of 115 square metres as shown by the hatched area on Drawing 18151 - 1. No other goods, equipment or services shall be sold, exhibited, displayed, demonstrated or promoted without the prior express grant of planning permission.

Reason: To determine the scope of the permission and in the interests of highway safety and sustainability, and to comply with policies EP11, EQ2 and TA5 of the South Somerset Local Plan and the aims and provisions of the NPPF.

05. The retail use shall only take place during the following hours: 9.30am - 7.30pm on Wednesday - Friday and 10.00am - 4.00pm on Saturdays between 1st March - 31st October each year.

Reason: In order to determine the scope of the development permitted and avoid the introduction of a non conforming retail use in accordance with policy EP11 of the South Somerset Local Plan (2006 - 2028) and the aims and objectives of the NPPF.

06. There shall be no obstruction to visibility greater than 900mm above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on the centre line of the access and extending to a point the nearside carriageway edge 43m to the north east side of the access. Such visibility shall be fully provided before the development hereby permitted is first brought into use and shall thereafter be maintained at all times.

Reason: In the interests of highway safety and in accordance with policy TA5 of the South Somerset Local Plan.

07. The area allocated for parking on the submitted plan shall be kept clear of obstruction at all times and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: In the interest of highway safety, in accordance with Policies TA5 and TA6 of the South Somerset Local Plan 2006-28

08. The proposed drainage methods as previously agreed as part of application 17/0228/DOC shall be installed within three months of the date of this decision and shall be retained and maintained thereafter.

Reason: In the interests of highway safety and to prevent water discharging onto the highway in accordance with policies TA5 and TA6 of the South Somerset Local Plan 2006 -28.
