

## **APPENDIX 1.**

### **3. FULL APPLICATION – CHANGE OF USE OF GARDEN CENTRE TO MIXED USE AS A GARDEN CENTRE, RETAIL AND CAFÉ, RIVERSIDE HERB CENTRE, CASTLETON ROAD, HATHERSAGE (NP/DDD/1209/1091, P.8858, 14/12/2009421286 382047/KW)**

#### **APPLICANT: B & S GOULD**

The Riverside Garden Centre is located about 1 mile outside Hathersage on the west side of the main road to Hope and Castleton. The site occupies a linear wedge of land between the main road and the River Derwent. Within the site there is a range of single-storey, mostly green steel-clad buildings that originally were associated with the garden centre or nursery, but which in part have been put to alternative uses of an industrial or commercial nature. In the remaining part there is a garden centre which incorporates a café and retail shop. The steel-clad buildings were originally glasshouses that were associated with the original nursery which was first established on the site in the mid-1950's.

Vehicular access and parking is situated immediately to the east of the building complex.

#### **Proposal**

Retrospective consent for the change of use of the garden centre buildings to mixed use comprising garden centre, retail and café. The agent has submitted a comprehensive supporting statement to explain why there are mitigating factors in respect of this site that justify the retention of the garden centre/café/retail use.

#### **Key Issues**

1. Whether the principle of the change of use to a mixed use garden centre, retail and café complies with the Authority's Local Plan policies relating to retail development outside towns and villages.
2. The impact of the current use on the landscape character of the locality.
3. Highway Issues, whether the existing access/parking provision is sufficient to accommodate the scale of vehicle movements generated by the present use.

#### **History**

1955 - Office and carnation houses. Approved Nov 1955. Not implemented.

1958 - Timber framed chalet for sales office (Temp approval).

1958 – Erection of packing shed - Approved (since demolished).

1973 - Replacement of existing glasshouses – Approved.

1981 - Mobile refreshment unit for weekends - Approved.

1986 - Erection of potting and storage shed, and glasshouse - Approved. Since re-clad or replaced (see below) and extended.

1994 - Erection of hotel - Refused.

1998 - Erection of dwelling required in connection with the herb nursery business - Refused and subsequent appeal dismissed.

1999 - Alterations to retail building - Approved. Implemented. Condition attached requiring the steel sheet cladding to be removed and building restored when no longer required for herb growing in order to allow the character and appearance of the original glasshouse to be restored

2003 - Extension to building - Approved (this part now used for curtain making).

2005 - Replacement building to form store and preparation area in connection with the previous herb nursery. Approved and implemented.

2005 - Extension to form food development and production area in connection with the previous herb nursery. Partially commenced. A condition was attached restricting the use of the building for this purpose and not for public access or retail sales.

September 2009 – Retrospective planning permission granted for the change of use of land and remaining attached buildings to the west of the café/retail buildings to a dairy delivery business and sewing business and removal of a planning condition requiring the steel cladding to the glasshouses to be removed. It was considered that the proposed dairy business was providing a service that was valued by the local community and employed 29 staff and was therefore an activity that contributed significantly to the local economy. Furthermore, the proposed uses and existing buildings did not have any appreciable or adverse impacts upon the landscape because of the existing screening roadside vegetation.

October 2009 – Application for a Lawful Development for A1 retail and A3 café use - Refused on grounds that on the balance of probability, the submitted evidence showed that the café use is a new use that commenced in May 2008 following refurbishment of the building. Prior to this date the evidence shows that light refreshments were being sold to some extent, but these were limited in terms of what was sold and the facilities for consumption on the land did not amount to an A3 café. The creation of the café as from May 2008 therefore amounted to a material change of use of part of the building because a café becomes a destination for customers in its own right generating increased vehicle movements. There had therefore been a material change of use in the 10 years prior to the date of the application.

In respect of the retail use, the Certificate of Lawful Use or Development concluded that a limited retail use of building was permitted in accordance with condition 2 of planning permission NP/BAR/1272/25 for the replacement of the existing glasshouses with new ones. This permission restricted the use of the glasshouses for horticultural purposes and for retail sales of horticultural produce and accessories only and for no other purpose and that the retail sales should not exceed 1300ft<sup>2</sup>. In arriving at this conclusion, the Authority's Assistant Solicitor stated that at the time of the application it was clear that this condition was being breached in that items such as the delicatessen foodstuffs and gifts were being sold. Given that limited retailing was permitted in accordance with condition 2, the onus was on the applicants to prove that there had been a continuous breach of the condition over a 10-year period, that is, since 9<sup>th</sup> June 1999. The evidence produced was insufficiently precise and unambiguous to determine whether the breach of the condition had been occurring continuously for this length of time and therefore the breach of condition 2 was not proven to the satisfaction of the Authority.

## **Consultations**

Highway Authority – It is noted that the application is a retrospective one and the Highway Authority is unaware of any adverse effects on the highway resulting from these operations. The access to the site is considered to be acceptable therefore; subject to an appropriate level of off-street parking being provided clear of adequate manoeuvring space (to enable all vehicles to enter and exit the site in a forward gear) being maintained throughout the life of the development.

Outseats Parish Council – Strongly support this application on the basis that the retail and café uses remain ancillary to the primary business of the site, which should remain as a herb and garden centre, and also on the understanding that the land should remain designated for agricultural use.

Hathersage Parish Council – it is noted that this is not within Hathersage Parish Council's area, but the Council has previously been consulted on planning matters relating to these premises. The Parish Council supports this application and feels that the facility is valued and supported by both residents and visitors.

## **Representations**

At the time of preparation of this report, 170 individual letters of support have been received. Of these, 98 have been from Hope Valley residents, primarily residents of Hathersage and Bamford. 36 of the remaining letters are from Sheffield residents and the remainder are from further afield. Many of the letters praise the high standard of the garden centre/café/retail enterprise and make regular visits to the site. They state that the business is valued by the community and visitors alike and whilst outside Hathersage and Bamford is within easy level walking distance of both villages. They state that it provides facilities which are not available in these villages and also provides ample free off-road parking and access for the disabled. They consider that the business provides employment for local people and is of a scale that does not impinge upon the special qualities of the National Park.

## **Main Policies**

Relevant EMRP (Regional Spatial Strategy) policies include: 1, 2, 18, 24, 26, 31

Relevant Local Plan policies include: LC2, LC3, LC4, LS3, LR1, LT10, LT18

## **Comment**

### Policy Framework

### Government Guidance

With regard to strategic planning guidance, government's Planning Policy Statement 1 sets out broad objectives for promoting sustainable development and a high quality of design, encouraging local planning authorities to have robust design policies.

The recently published government advice in *Planning Policy Statement 4 (PPS4): Planning for Sustainable Economic Growth* is relevant stating when determining planning applications for economic development in rural areas, local planning authorities should:

- a. support development which enhances the vitality and viability of market towns and other rural service centres
- b. support small-scale economic development where it provides the most sustainable option in villages, or other locations, that are remote from local service centres, recognising that a site may be an acceptable location for development even though it may not be readily accessible by public transport
- c. take account of the impact on the supply of employment sites and premises and the economic, social and environmental sustainability of the area, when considering planning applications involving the loss of economic activity.

## Regional Spatial Strategy

The East Midlands Regional Plan recognises the National Park as a unique asset not only for the local people but also the nation as a whole, saying that National Park designation confers the highest status of protection as far as landscape and scenic beauty are concerned (policies 26 & 31).

Policy 1 sets out the core strategies, which aim to secure the delivery of sustainable development within the East Midlands. These include: the delivery of new housing; protection and enhancement of settlements and the environment; the health and well-being of residents; economic prosperity and employment opportunities; accessibility to jobs, homes and services; increasing biodiversity; reducing the causes and impacts of climate change; and minimising the environmental impacts of new development and promoting optimum social and economic benefits.

Policy 2 urges continuing improvements in the layout, design and construction of new development including in terms of reducing CO2 emissions and providing resilience to future climate change through a number of measures that are set out in the policy.

Policy 18 requires local authorities to encourage and foster the regional economy through implementing the Regional Economic Strategy.

Policy 24 encourages the continued diversification and further development of the rural economy where it is consistent with sustainable patterns of development and the environmentally sound management of the countryside.

### Local Plan:

Policies LC2 and LC3 relate to the designation and identification of the limits of Local Plan Settlements.

Policy LC4 seeks to ensure that where development is permitted its detailed treatment is to a high standard that respects, conserves and where possible enhances the landscape, built environment and other valued characteristics of the area.

Policy LS3 states that, amongst other things, retail development outside Local Plan Settlements will not be permitted unless it is closely associated with farm diversification, tourist or recreational development or is part of on-site sales from an existing factory unit or petrol station. In all cases, the retail element should be ancillary to the main land use of the site.

New garden centres in the open countryside will not be permitted. New development within existing garden centres or nurseries will not be permitted unless it is related to the prime function of the site and would not damage the valued characteristics of the area.

Retail development will not be permitted if it would lead to inappropriate types or volumes of traffic on country roads or lanes, or is of a scale or nature that threatens the viability or potential of nearby settlements.

Policy LR1 states, amongst other things, that recreation and tourism development will be permitted provided that it is appropriate to the recreation zone in which it falls in form, character, location and setting, and will not have an unacceptable impact on the valued characteristics of the area including both the zone itself or an adjoining zone, particularly the Natural Zone.

Policy LT18 requires the provision of safe access facilities as a pre-requisite for any development. Where such access would damage the valued characteristics of the area, the PDNPA will consider refusing planning permission.

Issue 1 - Whether the principle of the change of use to a mixed use garden centre, retail and café complies with national and regional advice and the Authority's Structure and Local Plan policies relating to retail development outside towns and villages.

The above policy framework clearly states that the development of a new garden centre in the open countryside would be contrary to the Authority's Local Plan policies. In this case, this is not a greenfield site and has been the subject of commercial activities since the mid 1950's.

This is a retrospective application for the use of the areas indicated on the submitted plans for a mixed use shop and café, together with the garden centre use. It is implicit in this application that these uses are not ancillary to the nursery or horticultural use. The proposal also includes a toilet, office and store, all ancillary to the main uses.

The background to this application is that the applicants opened the shop and café in May 2008 at the Riverside Herb Centre following an extensive internal refurbishment. In carrying out these internal changes, the applicant's believed that the café and retail uses had been established by the previous owners and submitted an application for a Certificate of Lawful Use (see history section above). This concluded that the retail use was only lawful provided it was ancillary to the horticultural use and that the extent and scale of the café use now amounted to a material change of use requiring the submission of a formal planning application to regularise the existing situation.

The existing shop and café are typical of high quality businesses which operate on many sites in the countryside, including the National Park. The Riverside Herb Centre has been in business for over 30 years with a use that could be described as a nursery with ancillary sales and has more recently expanded into relatively low key garden centre. The Lawful Use application in 2009 acknowledged that light refreshments had been sold previously on the site. In terms of the floor area the scale of use is similar to that carried out over many years. The retail and café uses are within that part of the building previously used for retail sales. The retail area covers about 65 square metres and the café use has 24 covers in a 40 square metre area. Externally there is a paved yard which is used for the display and sale of plants, as previously carried out (approximately 175 square metres). The agent considers that the uses comply with Local Plan policy LS3 as it relates to retail development that is closely associated with tourist or recreational development. Your officers consider, however, that this is a business premises, and therefore policy LS3 would not apply in this instance. It is acknowledged, however, that the development is used by both visitors and local people as a valued facility. The site is adjacent to one of the main roads serving this part of the National Park and is within walking distance of Bamford and Hathersage Stations. The site falls within Recreation Zone 2 which accepts appropriate visitor-orientated uses.

The key consideration is that the site is not a greenfield site, but a nursery which has had a history of use and additional development to accommodate visitors. The current operators have taken the existing uses and developed and improved them, but the site still sells plants and the character of the site is largely unchanged. Additionally, the existing business has been operating in its present form since May 2008 without any significant planning concerns arising. The adjacent dairy distribution and sewing businesses have been recently approved retrospectively, so there are other non-agricultural businesses on the site. In terms of employment, the business operated by the applicants employs 12 people (including the applicants). These jobs would be at risk if the application were refused. The retail use at the Herb centre is relatively small and specialist and is not of a scale or type that would threaten the viability of services in any existing Local Plan settlements.

The EMRP contains policies that foster the regional economy and which encourage rural diversification subject to certain safeguards. It further states that particular consideration should be given to 'economically lagging' rural areas (which include Derbyshire Dales).

It is clear that the present use of the premises is that of a small garden centre with café and retail sales beyond that which could be reasonably associated with a garden centre. If this were on a greenfield site, then the Authority's Local Plan policies would clearly dictate that the application should be refused.

This is not a greenfield site and the use does still contain an element of the previous nursery use through the sale of plants, however, it is not considered that this element is the main element of the use and the majority of the plants for sale are not grown on the site. It is acknowledged, however, that the scale and extent of the use, at its present levels does not present any significant concerns in terms of its impact on the surrounding landscape. Whilst the remainder of the buildings are used in connection with the dairy distribution and sewing businesses, this would ensure that the premises could not expand beyond their present size. However, should these uses cease this could give rise to a situation where the garden centre could expand to a size that would be inappropriate for this location. Adequate controls and safeguards would therefore need to be introduced to cater for this eventuality.

From the letters of support that have been received, it is also acknowledged that the facilities provided at premises seem to be valued by the local community and visitors. There are also other lawful, non-agricultural businesses occupying the site and the premises provide employment, which does contribute to the local rural economy. On balance, given the previous nursery use with associated retail sales and light refreshments, it is considered that the proposed garden centre/café use is acceptable in policy terms provided it is limited to the sale of horticultural produce and the café is ancillary.

However, your officers remain concerned about the general retail sales element as this should be provided within the nearby Local Plan Settlements in accordance with policy. The new PPS 4 does not change the policy presumption against retail uses in situations like the application site which is in the open countryside where economic activity of the extent proposed does not represent sustainable development. The proposed retail use is of an extent which is considered independent of the primary horticultural use carried out on the site. It is considered therefore that any approval should be conditional upon the retail sales being ancillary to the garden centre and confined to goods and items associated with the garden centre use.

Whilst it is considered that the principle of the garden centre/café use is acceptable at its present scale, this is provided that the development does not have any significant adverse impact upon the landscape character of the locality or that the level of use would raise serious highway concerns.

In respect of the former, the buildings are single-storey and recessive in colour and largely screened by the existing roadside vegetation and therefore do not have any significant impact upon the landscape character of the locality. In respect of the latter, the highway authority has raised no objections to the development subject to the provision and retention of an appropriate level of car parking/manoeuvring spaces. The agent has confirmed that there are a minimum of 25 designated spaces available for the garden centre/café/retail use. This level of provision readily conforms to the highway authority's car parking standards for this scale of use (18 spaces). Subject to these spaces being clearly marked, the development is acceptable in highway terms.

There is also an illuminated sign at the premises, which is unauthorised and would be unacceptable in this rural location. The applicants are to be informed that the sign is unauthorised and should be removed and replaced with a non-illuminated sign that complies with the Advertisement Regulations.

### **Conclusion**

It is considered that proposal is acceptable in policy terms provided it is limited by condition such that it does not operate as a fully fledged garden centre use in terms of the goods which can be sold and the café use is ancillary.

It is necessary to require the cessation of the sale of foodstuffs for consumption off the premises and ensure the unauthorised illuminated sign is removed. Authority is required to take enforcement action, if necessary, to require this.

### **Human Rights**

Any human rights issues have been considered and addressed in the preparation of this report.

### **RECOMMENDATION:**

**That the application be APPROVED, subject to the following conditions:**

- 1. Define maximum area of garden centre use.**
- 2. Garden Centre/ ancillary café use with ancillary retail sales restricted to goods limited to horticultural produce and accessories,**
- 3. Retail sales floor area restricted to 65m<sup>2</sup> as shown on submitted plans. External sales and display shall be limited to horticultural produce**
- 4. Café floor area restricted to 40m<sup>2</sup> as shown on the submitted plans with a maximum of 24 covers.**
- 6. Hours of opening of café restricted to between 10.00 am to 6.00pm.**
- 7. Highway conditions, designation and retention of 25 parking spaces and associated manoeuvring areas.**

**Furthermore enforcement action be taken to require the cessation of the sale of all foodstuffs for consumption off the premises and all products other than horticultural produce and accessories.**

Send letter to applicants requiring removal of illuminated sign.

List of Background Papers (not previously published)

Nil