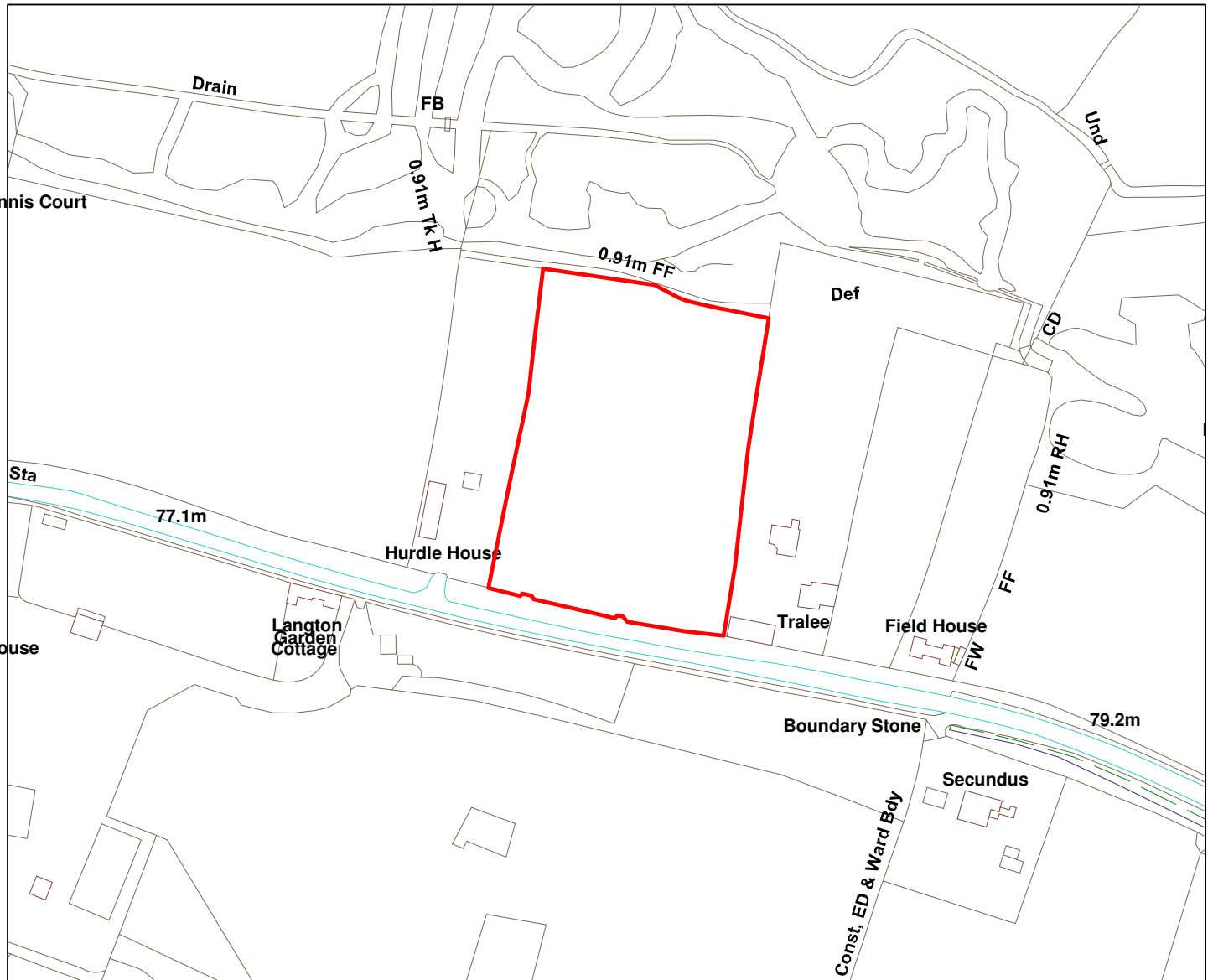


Land adj Hurdle House, Bishops Sutton Rd



Winchester
City Council

09/00899/FUL



Legend

Scale: 1:2500



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Organisation	Winchester City Council
Department	Development Services
Comments	
Date	12 August 2009
SLA Number	00018301

Item No: 2
Case No: 09/00899/FUL / W06446/04
Proposal Description: Variation of condition 5 of planning permission W06446/03 (Design and Access Statement and Appendices updated on WCC website 11/06/2009)
Address: Land Adj Hurdle House Bishops Sutton Road Alresford Hampshire
Parish/Ward: New Alresford
Applicants Name: Ms Jane Marsden
Case Officer: Mrs Julie Pinnock
Date Valid: 18 May 2009
Site Factors: Conservation Area
Within 50m of Listed Building
Site Of Special Scientific Interest

Recommendation: Application Permitted

General Comments

This application is reported to Committee at the request of Councillor Cook, whose request is appended in full to this report.

In support of the application, the applicant has submitted a statement of community engagement and an application supporting statement and a design and access statement. Since the original submission, the applicant has submitted further information to respond to issues raised in the representation letters and to suggest appropriate wording, that would be acceptable to them, for the variation of the condition.

Site Description

The site is situated outside the policy boundary of New Alresford, in designated countryside. The site measures 0.73 ha. in area and is situated on the northern frontage of Bishops Sutton Road (B3047).

There is a difference in levels within the site, with the land sloping down away from the road towards the reed beds of Old Alresford Pond, which is a Site of Special Scientific Interest (SSSI).

To the west and east of the site, and both fronting Bishops Sutton Road, are residential dwellings 'Hurdle House' (a Grade II listed building) and 'Tralee'. To the south, on the opposite side of the road and set further to the west, is Langton Garden Cottage.

There is a footpath set back from the carriageway to the south side of Bishops Sutton Road, which provides a pedestrian link from the site to the centre of New Alresford.

Proposal

The proposal seeks to vary Condition 5 of planning permission 01/02355/FUL, which allows primarily for the display and sale of plants etc, produced on the site, within the areas labelled 'conservatory plants, general produce sales and covered open air sales

areas'. The condition restricts the sale of other items, only allowing for the sale of pots, plant containers, supports, fertilisers and pest control products.

The applicants already operate a lavender farm from their site at Hill View Farm, Hensting Lane, Owslebury, and grow, harvest and distil lavender to create a range of skin care products, soaps, creams and other lavender products.

They also trade from Long Barn Natural Living Store at 11 East Street, Alresford.

The supporting statement explains that the applicant wishes to adopt the following uses at the site:

- “1) Areas for the display and sale of potted lavender and other plants grown on the site;
- 2) Areas for the display and sale of dried and bunched lavender grown on the site and at the Long Barn lavender farm and nursery in Owslebury;
- 3) Areas for the display and sale of skincare products, soaps, creams and other lavender products manufactured from lavender grown on the site;
- 4) Areas for the display and sale of cut flowers, fruit and vegetables grown on the site;
- 5) Areas for the display and sale of seasonal horticultural products produced on the site (i.e. pumpkins and a variety of ‘in-season’ fruit, vegetables and preserves);
- 6) Areas for the display and sale of seasonal horticultural products largely produced off the site (i.e. Christmas trees and watercress);
- 7) Areas for the display and sale of related garden equipment (i.e. secateurs, gloves, trugs, pots and supports);
- 8) A small area for the display and sale of lavender and horticultural related gifts, cards and books (i.e. culinary plantsmanship, medicinal uses etc);
- 9) Customer and staff toilets, office, staff kitchen and ancillary storage”.

No formal plan has been submitted and, in any case, this application could only vary the existing condition, and could not approve a new internal layout. The applicants have been advised that any internal changes which relate to areas of sales may require the submission of a new planning application.

This application seeks to vary the list of products that can be sold from the site in relation to the applicants' lavender enterprises. Initially, the applicant proposed to sell candles, gift boxes, food, books, cards and gift vouchers. However, following discussions with Officers, they now propose to sell only their own range of branded botanical and organic toiletries and an element of lavender related products.

They suggest the following wording to amend Condition 5:

“The areas shown for conservatory plants, general produce sales and covered open air sales on plan D9620.03 shall be used primarily for the display and sales of plants etc. grown by Long Barn and Long Barn bi-products (products made by Long Barn using botanical ingredients, oils and extracts); no goods other than traditional gardening accessories such as pots, seeds, bulbs, plant containers, hand tools, gloves, raffia, twine, baskets, trugs and cloches shall be displayed or sold without the prior written consent of the Local Planning Authority.”

Relevant Planning History

97/00089/FUL – W06446/02 - Market garden for produce, horticulture together with the erection of a facilities building with sales area, 1 no greenhouse and 6 no polytunnels and associated parking - Refused 29/05/1997 - Appeal Allowed 18/11/1997.

01/02355/FUL – W06446/03: Market garden for produce, horticulture, together with the erection of a facilities building with sales area, 1 no. greenhouse and 6 no. polytunnels (renewal of planning permission W06446/02) - Permitted 09/01/2002.

Consultations

Engineers: Highways:

No objection. Comments that the proposal is to substitute a permitted range of products with products of the applicants own requirements. Highway implications of the use of the site for a market garden were considered through the appeal process, and paragraph 10 of the Inspectors decision makes this clear (the Inspectors decision is attached, for reference).

Strategic Planning:

No comment

Representations

New Alresford Parish Council

Supports the application.

6 letters received, including a letter from Cllr Cook, objecting to the application for the following reasons:

- A mixed agricultural/retail use contrary to national and local plan policies;
- The applicant has not specifically advised of the revised wording to vary this condition, it is therefore difficult for local residents to guess as to the precise wording being sought, and therefore local residents cannot comment on whether the wording is reasonable, enforceable, leading to planning creep, or impacts on their interests;
- Original use for market garden within definition of agriculture, condition 5 imposed to ensure site remained agricultural;
- Reference to specific case law regarding when a material change of use occurs from agriculture to retail – percentage of sales of imported stock;
- Reference to whether the processes to create the lavender products remains an agricultural use;
- Condition 5, if challenged, would probably be found invalid;
- If permission granted, sales should restrict imported goods to no more than 10% and prohibit the sale of processed products;
- Questions the list of goods the applicant considers are able to be sold at the site i.e. 'Plants Indoor, gardening livery and tools and outdoor plant nursery';
- Also questions whether the ancillary items listed, i.e. candles, gift boxes, food, cards, gift vouchers, seasonal items, could be sold under Condition 5.
- Current condition preserves a low key agricultural use by controlling the source and nature of products sold and limits the site use to minimal commercial operations;
- Applicant's business is manufacture of range of toiletries, with lavender as the

- anchor product;
- Scale, nature and activity planned for the site are different to those anticipated by the Inspector;
- Future use of the site, as proposed, could only legitimately be dealt with by a full planning application for a change of use, to consider all the planning issues;
- Sets a precedent for future growth at the site, 'planning creep' which would make it difficult to refuse further expansion proposals at the site;
- Retail aspect is in direct competition with established shops in Alresford and may jeopardise on-going viability;
- Café is proposed;
- Will worsen existing traffic congestion;
- Proposal will impact on highway safety / generate additional traffic;
- Impact on amenity of neighbouring properties in terms of privacy and noise;
- No variation to conditions imposed by Inspector should be granted;
- Impact on SSSI to the rear of the site.

14 letters received, including a letter from the Alresford Chamber of Commerce, supporting the application for the following reasons:

- Creates local employment opportunities in Alresford;
- Project is run with honesty and integrity;
- Uses local suppliers;
- Growing of lavender is attractive;
- Barn is built to a high standard using oak and constructed by Hampshire craftsmen;
- Benefit to local ecology and wildlife;
- Range of goods proposed to be sold not much different from those approved;
- Tenant of existing shop in town, lease expires Feb 2010, and they have requested 3 year extension;
- Will attract more visitors to Alresford;
- Offers an outlet for local craftsmen.

Relevant Planning Policy

South East Plan 2009:

CC.6

Winchester District Local Plan Review

DP.3, CE.13, CE.16, paragraphs 8.31 – 8.34 of Town Centre, Shopping and Facilities chapter of the Local Plan, T1 - T4

National Planning Policy Guidance/Statements:

PPS 1 Delivering Sustainable Development

PPS 7 Sustainable Development in Rural Areas

Supplementary Planning Guidance

New Alresford Design Statement - April 2008

Planning Considerations

Principle of development

The site is situated outside the policy boundary of New Alresford, in designated

countryside. In 1997, an appeal Inspector allowed the use of the land for a market garden for produce and horticulture, along with a detached building with a sales area, a green house and 6 polytunnels. This appeal decision is attached for ease of reference. That application was subsequently renewed by the City Council in 2002 and subsequently works have begun to implement the consent.

Condition 5 of the consented development restricts the sale of items as follows:-

“The areas shown for conservatory plants, general produce sales and covered open air sales on plan D9620.03 shall be used primarily for the display and sale of plants, etc produced on the site; no goods other than pots, plant containers, supports, fertilisers and pest control products shall be displayed or sold without the prior written consent of the Local Planning Authority.”

The application seeks to vary this condition to allow the sale of lavender related products at the site. The primary use of the site is to be for lavender grown, harvested and distilled (whether the distilling will take place at the site is not known).

There are no specific policies which deal with the variation of a condition. The considerations must be the Appeal Decision, and whether the proposed variation of the condition would cause harm to the countryside. Policy CE.13 allows for agricultural, horticultural or forestry development, for which a rural location is essential, which will be permitted provided no suitable alternative building or facility is available which could reasonably be used, and Policy CE.16 deals with new rural enterprises which form part of farm diversification, and allows their use, if they are consistent with the characteristics of the holding, re-use existing buildings, accommodate additional traffic without harming the character of the rural roads, and respect the local landscape character. Paragraph 8.31 - 8.34 of the Local Plan refers to new shops in rural areas, commenting that they should be located within the settlements, although it acknowledges that it may be desirable to allow farm shops which principally sell goods produced on the holding. It goes on to further advise that the potential impact on nearby village shops, volume of traffic likely to be generated and access and parking arrangements should be considered.

The principle of selling ancillary lavender products produced at the site is acceptable. The main issue, therefore, is whether the items proposed to be sold at the site are considered ancillary to the primary use of the site for agriculture/horticulture. In addition, it is necessary to consider the impact that the range of goods proposed to be sold would have on New Alresford Town Centre. This is difficult to quantify, although clearly there is some overlap as the applicant has a shop in East Street, from which they advise it is proposed to continue trading for the foreseeable future. Similarly, the majority of the items proposed to be sold could be bought in the town centre.

Officers initially had concern over the list of items that the applicant proposed to sell, which included candles, gift boxes, food, books, cards and gift vouchers. However, following detailed discussions, the applicant has now suggested a modified list of goods that they would wish to sell at the site, which is primarily Long Barn and Long Barn bi-products produced from lavender, and other items grown on the site. They also request a range of ancillary items such as pots, seeds, bulbs, plant containers, hand tools, gloves, raffia, twine, baskets, trugs and cloches. These items are similar to those ancillary items that could be sold from the site in association with the market garden and horticultural use, and the Officers consider this to be a reasonable list of

associated items.

Impact on character of area and neighbouring property

The variation of the condition to allow the sale of Long Barn Products, in relation to the primary use of the land for growing lavender, will not have a visible impact to the character of the area in terms of the building and car parking areas, which are already consented. The proposed variation of items for sale by Condition 5 would have no greater impact to the occupiers of adjoining dwellings than the authorised use of the building as a market garden with ancillary sales.

Highways/Parking

The Highways Engineer has advised that the proposal is unlikely to result in any significant increase in vehicular traffic and could not therefore sustain a highway objection. He comments that the applicant appears to simply be requesting a substitution of a permitted range of products with their own requirements.

Other Matters

The representations received from local residents relate to the fact that the building should not have been permitted, and that to allow a variation of the condition will lead to an intensification of the use at the site, which will make it difficult to resist future applications at the site. However, each application has to be considered on its own merits. The building exists, and its authorised use is controlled by conditions. Varying a condition to a range of specific items associated with lavender sales will not change the essence of what was permitted by the appeal Inspector.

Recommendation

Application Permitted, subject to the following condition:

Condition

1. The areas shown for conservatory plants, general produce sales and covered open air sales on plan D9620.03 shall be used primarily for the display and sales of plants, etc. grown by Long Barn and Long Barn bi-products (products made by Long Barn using botanical ingredients, oils and extracts); no goods other than traditional gardening accessories such as pots, seeds, bulbs, plant containers, hand tools, gloves, raffia, twine, baskets, trugs and cloches shall be displayed or sold without the prior written consent of the Local Planning Authority.

Reason: To define the permission, since the site lies in an area where general retail sales would not be permitted.

Informatives

1. This permission is granted for the following reason:
The development is in accordance with the policies and proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

2. The Local Planning Authority has taken account of the following Development Plan policies and proposals:-

Hampshire County Structure Plan Review: CC.6

Winchester District Local Plan Review 2006: DP.3, CE.13, CE.16, paragraphs 8.31 - 8.34 of Town Centre, Shopping and Facilities chapter of the Local Plan, T1 - T4

3. The applicant is advised that the conditions imposed on planning permission 01/02355/FUL - W06446/03 continue to apply.

The Planning Inspectorate

ALLOWED
Rog



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Bristol BS2 9DJ

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WINCHESTER CITY COUNCIL
Planning Department

David Pantling Consultancy
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The Hundred
ROMSEY
Hants
SO51 8BW

ACTR	20 NOV 1997	GB
PAS		
FILE No.		
CLEAR		

Your Reference:
754/1/1
Our Reference:
T/APP/L1765/A/97/283456/P8

Date: 10 NOV 1997

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY Mr P BARTON
APPLICATION No: - W06446/02

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Winchester City Council to refuse planning permission for market garden for produce, horticulture etc together with the erection of a facilities building and sales area on land adjacent Bishops Sutton Road, Alresford. I have considered the written representations made by you and by the council and also those made by the Parish Council, The Alresford Society, The Alresford Chamber of Trade & Commerce and interested persons. I have also considered those representations made directly by the Environment Agency, English Nature and interested persons to the council which have been forwarded to me. I inspected the site on 5 November 1997.
2. Prior to the decision being issued, there had been agreement that the description of the proposed development should be amended to "Market garden for produce, horticulture together with the erection of a facilities building with sales area, 1 No greenhouse and 6 No polytunnels and associated parking", and I have considered this appeal on that basis.
3. The appeal property consists of open grassland of some 0.73ha in area, situated on the northern frontage of Bishops Sutton Road B3047 to the east of the main built up part of New Alresford. The land generally slopes down away from the road towards the reed beds and Old Alresford Pond which is an SSSI. The surroundings are generally of open countryside although there are residential properties on each side of the appeal site.
4. The appeal proposal is stated to involve the use of the land as a nursery for growing plants for retail sale with a number of propagating tunnels, a facilities building and car parking. There appears to be no dispute that, under the terms of guidance in PPG7, the use of land for market garden/horticultural purposes is included within the definition of agriculture and does not require specific planning permission. Hard areas that are no more than ancillary to the permitted use may also not require formal consent but buildings including, presumably, polythene tunnels do require planning consent. I am not convinced that 2 accesses exist to the road, as you claim, as the westernmost one has no verge crossing and is only evident by a gate hidden within an overgrown hedge; the other access is basically already in position and leads to a metal farm gate.

8 11

5. From my inspection of the site and its surroundings and consideration of the written representations made, I am of the opinion that the main issue concerns the impact that those parts of the proposals before me that require planning permission would be likely to have on the locality with due regard to the relevant planning policies and to environmental and highway considerations.

6. In the reason for refusal, the local planning authority makes reference to the appeal site being within a designated Area of Special Landscape Quality (ASLQ). Whilst this term appears in the Hampshire County Structure Plan (C1), the boundaries are to be defined in the emerging Winchester District Local Plan which, although nearing adoption, is not yet part of the Development Plan in terms of Section 54A. It is relevant that the Inspector's report on objections to the deposit Local Plan refers to the methodology and demarcation of such areas needing further refinement. In the subject case, I have noted that the ASLQ encompasses the immediately adjoining residential properties as well as the appeal site and the markedly different landscape to the north and east.

7. The main thrust of the relevant planning policies is that development in the countryside should, primarily, be for agricultural purposes and should conserve or enhance the countryside; there are also relevant policies about the need to maintain or improve the rural economy and, sometimes, it will be a matter of deciding the weight to be given to policies that appear to be at odds with each other. These policies are broadly compatible with national guidance calling for the need for restraint on, and adequate justification for, development in the countryside in the interests of preserving the countryside environment.

8. However, the starting point for my consideration has to be that the establishment of a plant nursery on this land does not require planning permission. I consider that the proposed greenhouse, polytunnels and cold frames are purely functional buildings of standard format to be expected on a nursery and, as such, acceptable in planning terms. Similarly, the car parking and hard areas flow from the basic use and their visual impact can be minimised by suitable landscaping. So far as the highway access is concerned, it is my opinion that the formation and use of the new access proposed is much more likely to cause disturbance to the residents of Hurdle House than the use of the existing access situated near the centre of the site's frontage, which appears to have equally good sight lines.

9. In these circumstances, the emphasis of my consideration is confined to the proposed facilities building. This is a sizeable structure designed by Chartered Architects to appear rather like a barn with a high pitched roof. Although this has been criticised because of its visual impact, I am not convinced that it is likely to prove so obtrusive as to justify the refusal of planning permission. It will certainly be visually the focal point of the proposed development but that is not necessarily a bad thing; it will be well separated from the residential properties on each side of the appeal site and is, in my opinion, unlikely to be seen as an alien element in the countryside, being relevant to the use of the land and, of itself, not without merit in its functional role as reflected in the design.

10. I have had regard to the material planning points in the representations made by various bodies and by many interested persons, both for and against the appeal proposal. Many are concerned about the establishment of a nursery and its possible impact on existing businesses and on traffic generation but, as I have already stated, the nursery, as such, does not require planning permission and, therefore, my decision has to relate to the perceived impact of those parts of the appeal proposal that do require planning permission.

11. The council have put forward a number of conditions in the event of this appeal being allowed and you have given your views thereon and suggested amendments. I consider that conditions relating to the landscaping of the site, the range of goods/produce to be sold, the hours of operation, security and storage containers, all as put forward by the council or yourselves, should be imposed, some with amended wording. In view of my comments in paragraph 8, I shall also impose a condition requiring further consideration to the point of access.

12. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for market garden for produce, horticulture together with the erection of a facilities building with sales area, 1 No greenhouse and 6 No polytunnels and associated parking on land adjacent Bishops Sutton Road, Alresford in accordance with the terms of the application (No W06446/02) dated 17 January 1997 and the plans submitted therewith subject to the following conditions:-

1. the development hereby permitted shall be begun not later than 5 years from the date of this letter.
2. no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority; those details shall include a programme of the landscaping works which shall be carried out in accordance with the approved details.
3. the areas shown for conservatory plants, general produce sales and covered open air sales on plan D9620.03 shall be used primarily for the display and sale of plants etc produced on the site; no goods other than pots, plant containers, supports, fertilizers and pest control products shall be displayed or sold without the prior written consent of the local planning authority.
4. the site shall not be open for sales or for deliveries to/from the site except between the hours of:
09.00 to 17.30 Mondays to Fridays inclusive
10.00 to 16.30 on Saturdays, Sundays and Bank Holidays.
5. no audible or visual security system outside the building or external security lighting shall be installed without the prior written approval of the local planning authority.
6. any above ground oil/chemical storage tank/container shall be bunded so as to retain at least 110% of its capacity.
7. the development hereby approved shall not commence until further consideration has been given to the point of access to/from the highway and details thereof submitted to, and approved by, the local planning authority. The construction of the access, in accordance with the approved details, shall be completed before any building works commence so as to enable all construction traffic to be contained within the site.

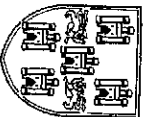
13. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

14. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Yours Faithfully



C F May DPA FRICS
INSPECTOR.



Winchester

City Council

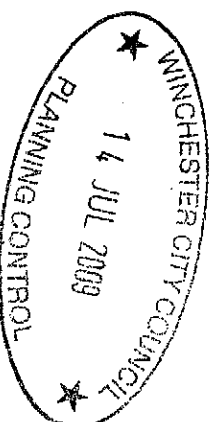
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10th July 2009

Dear Ms Pinnock



**Subject: Planning Application Case No 09/008899/FUL
Land Adjacent, Hurdle House-Bishops Sutton Road, New Alresford**

I write concerning the Planning Application for Variation of Condition 5 of Planning Condition –W06446/O3, which is of considerable concern to the immediate neighbours and to residents in New Alresford, specifically East Street and Sun Lane.

Some weeks ago I requested that this application be referred to the DC Planning Committee for deliberation, rather than be dealt with by officers under delegated powers. I trust that this request will be granted.

This is an unusual application, because it seeks variation of planning conditions that were specifically imposed by the Planning Inspector, following his/her decision to over rule the Council, who had refused the original application. The reason for the condition was clearly to limit the site use to minimal commercial operations. Presumably, the condition recognised that the site access (and exit) was onto Bishops Sutton Road that joins a relatively narrow East Street, which is reduced in width by the on street parking allowed on one side. There is a very well used and potentially dangerous access to East Street from Sun Lane.

It is clear to me that any increase in the commercial operation of the site will generate extra traffic, with the amount depending on the commercial business being carried out. Therefore, before any variation of the permission is granted, there should be an independent and valid traffic survey done on the consequences of the increased commercialisation of the site.

My understanding of the conditions which currently apply to the site are that no manufacturing process should take place on the site to the extent that it is clearly ancillary to the agricultural use. This is a reasonable condition that recognises the sensitive nature of this road and the rural location, on green field land between two private houses. There is a SSI to the immediate North of the site, which might be affected by an increase in commercial activity on the site.



The specific material planning considerations to which I draw your attention are as follows:

- A. **Access** – access is directly fast and narrow road, which is unsuitable for extra traffic generated by over commercialisation of the site. It could be dangerous for cars turning either way onto this road.
- B. **Traffic consideration** –the current traffic flow on the Bishops Sutton Road into the narrow town entrance of East Street is difficult at present with the, existing traffic movements. This road takes all vehicular movements into the town from the rural hinterland along the A31 towards Four Marks and Alton. The cars parked that can be parked on one side of the road have reduced the active use of East Street, which is already the cause of delays. The situation would undoubtedly be exacerbated by over commercialisation of the site
- C. **Impact on Amenity of Neighbouring Properties-** The heavy commercialisation of the site that would undoubtedly follow the removal of the restriction in use imposed by the Planning Inspector, would undoubtedly affect the two neighbouring properties in terms privacy and noise.

Unfortunately, it would appear that under the current operational rules for the Planning Authority there seems to be no consideration by the Council of what seems to be an example of 'planning creep'. This is an example of a relatively modest application being granted permission, when it is clear that the intention was eventually to develop the business. It certainly could be argued that the Council's original rejection of the application recognised the long-term implications of allowing any commercial business on this site with an understanding of the long-term consequences, but the Planning Inspector failed to recognise the issue. However, the Inspector did impose conditions to control any future expansion and these conditions should stand, with no variation granted.

Yours sincerely


Simon Cook
Councillor- The Alresfords