

Recommendation Report for Planning Permission

REF NO: FG/52/18/PL

LOCATION: Quercus Nursery
Littlehampton Road
Ferring
BN12 6PH

PROPOSAL: Amendments to design approved under FG/95/16/PL, polytunnels, outdoor growing beds, tree nursery, storage & welfare facilities for a horticultural enterprise.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal includes amendments to 2 approved poly tunnels and an additional poly tunnel. The orientation of the poly tunnels has been altered. They are 30.8m long with a combined width of 24m and a height of 3.9m. The fenestration of the welfare office has altered and the storage unit has been reduced and enclosed to provide secure storage of equipment for use on the nursery. A pergola has been constructed to facilitate loading and unloading of stock and materials. Wind breaks have been constructed around the protected outdoor beds to provide shelter and visual screening to the poly tunnels. The application is supported by a Noise Impact Assessment Report which measured delivery/unloading noise levels and the impact on the nearest noise sensitive receivers in accordance with relevant national standards.
SITE AREA	1.4 hectares.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Fencing/hedging to approx. 1-2m height.
SITE CHARACTERISTICS	Established nursery site used for tree growing with single storey poly tunnels and outbuildings within the site.
CHARACTER OF LOCALITY	Predominantly rural. Equestrian Centre to north, Vineyard to east and nursery to west.

RELEVANT SITE HISTORY

FG/95/16/PL	Polytunnels, outdoor growing beds, tree nursery, storage & welfare facilities for a horticultural enterprise	ApproveConditionally 10-08-16
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REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Ferring Parish Council

Objection - Whilst Ferring Parish Council recognises that this is agricultural land and supports local businesses of this nature in the designated location the proposed size of the polytunnels will fundamentally affect the landscape and impact on the surrounding area. At 3.9 metres in height, the proposed polytunnels will alter the visual impact of the site.

Concerns are also raised in relation to the operating hours. Whilst the opening hours are Monday to Saturday from 9.00am. to 5.00pm, the Parish Council is aware that lorries arrive to deliver and collect from the site at unsociable hours producing noise and lighting disruption to local residents. If the application is approved, we urge that conditions in relation to operating hours are considered to respect and not to cause a disturbance to the local residents.

8 Objections, including a petition with 8 signatures:

- Already endure disturbances from the Nursery.
- We were woken 2-3 times a week when large pots are unloaded by fork lifts.
- Bright lights shine into properties when deliveries and unloading occurs 2-3 times per week between 1.30 - 5am when there is no background noise.
- The hours proposed 9am to 5pm are not objected to.
- The description of the application does not reflect what is actually proposed.
- The reality is that the proposal practically doubles the size of the poly tunnels that were previously approved, albeit the proposal is retrospective.
- The applicants built a much larger facility than was originally permitted and have not operated in the way they said they would.
- The scale of the facility and the way it operates is already causing significant harm to local residents.
- At present there is no hours of use condition on the operation.
- On the basis that the current operation is giving rise to harm it is clear that the proposed retrospective application and "amendments", cannot be satisfactorily accommodated without harm arising.
- It is clear that this is contrary to policies CSP1, EMP DM1 (6) (h), HOR DM1 (h).
- We expect the Council to work on the basis of a test of "demonstrable harm".
- A large number of the plants/trees that are delivered to the site are of a size where they are clearly intended to be sold straight on rather than grown on site.
- Request a formal enforcement investigation, including inspection of delivery and sales tickets to determine whether the use taking place is a nursery use or is indeed in large part nothing more than a retail use.
- Would the Council have granted a consent on the basis of a "Garden Centre" use? We do not consider such a use to be acceptable.
- The use would be intensified resulting in more traffic.

COMMENTS ON REPRESENTATIONS RECEIVED:

This proposal relates to use of the land for tree growing and includes amendments to the associated single storey buildings and poly tunnels. The poly tunnels have been increased in height from 3.65m to 3.9m which does not significantly impact on the visual prominence of the structures. It is a rural business and use of the land for this purpose in this position accords with policy 7 of the Ferring Neighbourhood Plan. The proposal minimises its impact on the landscape with the tree planting/landscaping to site boundaries proposed.

The buildings are located on the lower slope of Highdown where their impact is minimised. Glasshouses are present at Lansdowne Nursery to the west. A Landscape appraisal has been submitted with this application and was included in the original application which concluded that while the proposals will be visible they are seen in the context of similar horticultural development and are well assimilated into their surroundings and do not significantly alter the landscape character. The original landscape appraisal was reassessed in light of the amendments to the design and while the existing poly tunnels differ from those proposed in 2016 the difference in their impact on the wider landscape is not significant.

The hours of operation and times of deliveries are proposed to be controlled by condition to reduce noise and disturbance to neighbouring residents in relation to background noise levels and traffic times and vehicle type.

The site is already subject to an enforcement investigation and it is agreed that an unrestricted expanded use would cause unacceptable disturbance to nearby neighbours.

CONSULTATIONS

Engineering Services Manager

Engineers (Drainage)

South Downs National Park

Environmental Health

Environmental Health

Engineering Services Manager

Engineers (Drainage)

CONSULTATION RESPONSES RECEIVED:

South Downs National Park - Lighting should still be considered in relation to any impacts upon the landscape character of the National Park which includes dark night skies as one of its special qualities. Appropriate lighting should be considered which accords with the guidance of the Institute of Lighting Professionals.

Drainage Engineer - Request imposition of standard condition.

Environmental Health - (3rd response) No Objection.

On site monitoring has been carried out by our out of hours service between the hours of 03:00 - 06:00 on Friday 16th, Saturday 17th, Monday 19th and Tuesday 20th November at Pine Lodge, 146 Littlehampton Road.

It is established that:-

- Low background noise levels between the hours of 03:00 to 04:00 mean that any part of the delivery operation occurring at this time would constitute a statutory nuisance and should not be permitted.
- Road noise increases after 04.45 hours so that deliveries occurring at or after this time, are unlikely to be to the detriment of the local amenity and should be permitted.
- Between 03:00 and 04:45 hours it is considered that delivery noise would be to the detriment of sensitive receptors on the south side of the A259, but that this could be satisfactorily dealt with if vehicles immediately turned off their engines having arrived on site, with no unloading/loading to occur until 04.45 hours.

Condition that early morning deliveries shall not occur before 04:00 hours. The delivery operation to be

limited to arrival of lorries on site and parking up alone, with engines turned off immediately, between the hours of 04:00 and 04.45. The remaining period 04.45 to 06:00 hours shall be suitable for delivery operations to occur. Deliveries outside of normal working hours to be on those days Tuesday to Saturday alone, with no more than 5 deliveries per week.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. The requested conditions have been included in the officer recommendation.

POLICY CONTEXT

Designation applicable to site:
Outside Built Up Area Boundary
Gaps between Settlements

DEVELOPMENT PLAN POLICES

HORDM1	HOR DM1 Horticulture
CSP1	C SP1 Countryside
LANDM1	LAN DM1 Protection of landscape character
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
SDSP3	SD SP3 Gaps Between Settlements
DDM1	D DM1 Aspects of form and design quality
QEDM1	QE DM1 Noise Pollution
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development
DSP1	D SP1 Design

[Ferring Neighbourhood Plan 2014 Policy 1A](#)

Ferring Neighbourhood Plan 2014 Policy 7

A Spatial Plan for the Parish

Land north of Littlehampton Road, encouraging of existing rural businesses

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011-2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining

planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan.

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

The relevant Ferring Neighbourhood Plan policies have been taken account of in considering this application.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would not have a materially adverse effect on visual or residential amenity.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE

The site lies outside the built up area boundary where development which meets the operational needs of agriculture/horticulture is considered acceptable in principle as per policy C SP1 of the Arun Local Plan and policy 1A of the Ferring Neighbourhood Plan which, in this location, supports the encouragement of existing rural business. The site is located between an established nursery and an established vineyard.

Furthermore, paragraph 83 of the NPPF states that local planning authorities should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings and promote the development and diversification of agricultural and other land-based rural businesses.

BACKGROUND AND JUSTIFICATION FOR THE PROPOSAL

Planning permission was granted for the use of the site as a nursery under FG/95/16/PL. This proposal amends that permission by altering 2 of the approved poly tunnels and providing an additional poly tunnel. The orientation of the poly tunnels has also changed. They are 30.8m long with a combined width of 24m and a height of 3.9m. The fenestration of the welfare office has altered and the storage unit has been reduced and enclosed to provide secure storage of equipment for use on the nursery. A pergola has been constructed to facilitate loading and unloading of stock and materials. Wind breaks have been constructed around the protected outdoor beds to provide shelter and visual screening to the poly tunnels.

The applicants have been supplying plants for 4 years. Following a number of successful projects demand for the the applicant's ornamental plants and trees has grown to a turnover in excess of £800,000 per year and they have a need to consolidate and expand their business. The site meets the current and future needs of the applicants and is close to their homes and those of their employees.

IMPACT ON VISUAL AMENITY AND THE CHARACTER OF THE AREA

The site lies in the countryside and within an area defined as Settlement Gap in the Local Plan policy SDSP3 and as an area of encouragement for existing rural businesses within the Neighbourhood Plan Policy 7. Policy 7 of the FNP seeks to ensure that development in these areas encourages all new buildings to be located as part of the existing clusters to ensure existing patterns of development are maintained and to avoid significant incursions into open countryside. Policy SD SP3 seeks to ensure development in these locations does not undermine the physical or visual separation of settlements, that the integrity of the gap is not compromised, there is no opportunity to locate elsewhere, the character of the undeveloped coastline is maintained and green infrastructure functions of the gap are maintained.

Whilst buildings have been introduced into an undeveloped open agricultural area they are similarly located to buildings on adjoining sites and their coverage does not undermine the visual separation of the gap or compromise its integrity. They have a low profile and over half of the site remains open. The rising area to the north, furthest from the A259 is the most apparent visually and this area is devoid of structures. It is used for the onward growth of larger plants and specimen trees similar to that on the North side between the vineyard and stables. The proposal retains and utilises existing hedging and supplements and increases screening. The design of the buildings and poly tunnels are typical of buildings associated with modern nursery practices. The identity of the Gap is not compromised in accordance with policy SD SP3 of the Arun Local Plan.

Policy LAN DM1 of Arun Local Plan requires development within the setting of the South Downs National Park to have special regard to the conservation of that setting, including views into and out of the Park and will not permit development that would be harmful to these considerations. The proposal does not significantly increase the visual presence of the nursery or discernibly extend the height or footprint of the development. There would be no adverse impact on the landscape or views into or out of the Park. The increased use of the approved development which includes an additional poly tunnels is not materially different from that already approved under planning permission FG/95/16/PL.

Policies D SP1 and D DM1 state that development needs to reflect the characteristics of the site and local area and make the best possible use of the available land. The proposal is considered to accord with these criteria. The buildings are of an acceptable height and would be located close to others in the wider landscape and would benefit from tree/hedge screening. The development would not therefore appear as a prominent or isolated feature in the locality and the size and design of the buildings would be appropriate for its use and visually in keeping with its rural location.

With regard to lighting impacts, generally very little artificial lighting is required. No growing lights are proposed and the plants will be reliant on sun light. Staff use hand held lighting for most tasks on the growing beds. Additional external lighting will be controlled by condition.

IMPACT ON HIGHWAY SAFETY

The access onto the A259 is existing and used by the nursery to the west and the equestrian centre to the north. There are no changes proposed to the access and there would be no significant increase in the volume of traffic using this access. County Highways previously had no objection to the proposal in terms of highway safety. The proposal is therefore considered compliant with policy TSP1 of the Arun Local Plan.

RESIDENTIAL AMENITY

There are no residential properties immediately adjoining the site, but the expanded use which is the subject of this application is already operating and is causing noise disturbance to nearby properties to the south and east as evidenced by the Council's Environmental Health team and investigated by the planning enforcement team.

Quercus Nurseries grow the majority of their own plants on site, however there is a need to 'import' specialist plants from other nurseries. The imported plants are delivered in wheeled trolleys/cages on lorries from 04:00 hours in the morning (the early delivery can be received between 04:00 - 06:00 hours).

A Noise Impact Assessment Report which measures delivery/unloading noise levels and the impact on the nearest noise sensitive receivers in accordance with relevant national standards has been submitted with the application.

The agents have advised that the opening hours of the business are 07.00 to 18.00 and the majority of the deliveries are received in this time. Some early morning deliveries are made before opening, the business receives an early morning delivery 5 days a week (Tuesday to Saturday).

As a result of discussions with the Environmental Health team the business has changed its operations so that empty trolleys are no longer loaded onto lorries during the early morning delivery and these are loaded onto a later regular delivery lorry in the afternoon. The applicant's would also be happy with a condition restricting early morning deliveries to no more than 5 deliveries per week before 6am and no deliveries before 4am.

The Environmental Health officer has considered the submitted acoustic report and has undertaken independent noise testing and is satisfied that with the imposition of appropriate conditions the noise generated can be controlled to an acceptable level and is satisfied that it can operate without causing a nuisance to neighbouring properties on south of the site on the other side of the A259. Whilst it could be argued that during daylight hours the noise of the traffic on this busy road would not make any noise from the site discernible, the use of the road for early hours deliveries would be a source of nuisance when the road is not in regular use. This is when incidents of noise are being reported. The conditions suggested would adequately control the noise generated.

In relation to delivery times the restrictive condition suggested by the Environmental Health officer would not be easily enforceable and not clear. By inviting vehicles onto the site at 4am it is very likely that deliveries will take place. Proposed conditions 2 and 3 include the recommendations of the environmental health officer, but they have been amended to simply restrict vehicles arriving before 5am.

Policy HOR DM1 (i) states that Noise levels resulting from machinery usage, vehicle movement or other activity on the site, when measured against the existing ambient noise levels in the locality should not unacceptably disturb occupants of nearby residential properties'. Given the representations received and the comments of the Environmental Health officer such disturbance is being caused, but could be adequately controlled by condition. The site currently operates with no restrictions on delivery times. With approval of this application controls can be applied by the imposition of conditions and the impact on neighbours will then be controlled and deliveries restricted.

CONCLUSION

Subject to the imposition of appropriate conditions noise generation would not adversely impact on residential amenity and the proposal would be in compliance with policies HOR DM1 (i), DDM1, QE SP1 and QE DM1 of Arun Local Plan. It is therefore recommended that the application is approved subject to the following conditions.

HUMAN RIGHTS ACT

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby approved shall be carried out in accordance with the following approved plans:

Proposed Site Plan 3b
 Proposed Polytunnel Plans 4a
 Proposed Polytunnel Plans 5b
 Proposed Fences and Banks 6.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy DDM1 of the Arun Local Plan.

- 2 There shall be no deliveries undertaken between 1900 hours and 0600 hours.

Reason: In the interests of amenity in accordance with Arun Local Plan policies QE SP1 and QE DM1.

- 3 External lighting in association with this development shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations.

Reason: To control the residential amenities of the local environment in accordance with Arun District Local Plan policies GEN7, GEN33.

- 4 Within 3 months of the date of this permission full details of the proposed surface water drainage scheme shall be submitted to and approved in writing by the Local Planning

Authority.

The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, the recommendations of the SUDS Manual produced by CIRIA.

Winter groundwater monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage.

The agreed details shall be maintained in good working order in perpetuity.

Reason : To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan.

- 5 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.