

Yarnton Nurseries
Sandy Lane
Yarnton
Kidlington
OX5 1PA

17/02207/F

Case Officer: James Kirkham

Recommendation: Refuse

Applicant: Yarnton Nurseries LLP

Proposal: Replacement of existing staff buildings and polytunnel on south western corner of main garden centre building by a new single storey building to provide staff facilities (toilets/canteen/meeting rooms), new concession space/cafe/customer toilets/outdoor space; replacement of existing polytunnel at north of main garden centre building by a new single storey building; replacement of existing toilet block on south eastern corner of main garden centre building by a new single storey building to provide additional retail space; single storey extension of existing customer toilet block in the external central area of the main garden centre building

Ward: Kidlington West

Councillors: Cllr Mackenzie-Wintle, Cllr Sandra Rhodes, Cllr Nigel Simpson

Reason for Referral: Major Development

Expiry Date: 20 April 2018

Committee Date: 12 April 2018

1. APPLICATION SITE AND LOCALITY

- 1.1. Yarnton Nurseries is situated to the north of Yarnton on the east side of the A44 with access from Sandy Lane. The site is bounded by housing fronting onto Sandy Lane to its southern boundary, some limited housing to its western boundary fronting onto the Woodstock Road and the rest of the western, northern and eastern boundaries face onto open countryside.
- 1.2. The main building on the application site ("the site") is centrally sited but off set to the west of the site. It contains plant sales and also contains a number of concessions within it, including a bookshop, a shoe shop and clothes store. An internal open courtyard is centrally sited within the building and this is used for the display of plants for sale.
- 1.3. To the north of the main building is the Adrian White Building Supplies company and to the north of this is open space, which contains some items of unauthorised storage. To the south of the main building are a number of buildings and structures which form the show room for 'Yarnton Leisure Buildings Ltd'. One residential dwelling (17 Sandy Lane) falls within the application site adjacent to the access. The eastern part of the site is laid to car parking.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. The current application seeks permission for a number of works to allow the re-organisation of the building and uses on the site. These can be summarised as follows:

- Construction of a new building to the south west corner of the main building. This would replace a poly tunnel used for retail sales and a grouping of sheds and buildings previously used for storage and staff facilities. This would accommodate a new café, soft play area, party rooms, staff rooms, and new concession. It would be similar in appearance to the remainder of the building however it would be taller and cover a larger floor area than the buildings it replaces.
- Construction of new enlarged toilet block in the existing courtyard to the centre of the building. This would be constructed with a mono-pitched roof approximately the same height as the adjacent building. It would be constructed of corrugated metal similar to the existing building. The would have an overall height of approximately 5 metres compared to the 2.6 metres of the previously existing building. It would also have a larger floor area than the building it replaces.
- Construction of new retail building in the south east corner of the existing building. This would replace the existing pre-fabricated toilet block. It would be constructed in corrugated metal to match the adjacent building and would infill the corner of the site. It would be approximately 1 metre taller than the building it replaces and would have a larger floor print squaring off the corner of the building.
- Replacement of polytunnel to the northern part of the garden centre with new building. This building would be constructed with metal cladding sides to match the other buildings on site. It would have a ridge height approximately 1.8 metres taller than the building it replaces and would have also have a tradition single storey eaves height compared the traditional form of the poly tunnel it replaces. It would also be slightly larger in floor area.
- Widening of the access adjacent to 17 Sandy Lane and creation of coach drop off point to the south of the main building.

2.2. A number of the works outlined above have been commenced on site during the course of the application.

2.3. The applicant has also stated that as part of the application a number of other buildings will be demolished. This includes a number of small ancillary buildings to the south west corner of the site and 3 small office buildings adjacent to the entrance to the site. However it is noted that whilst these buildings appear to have been on the site for a number of years many do not appear to have benefited from formal planning permission. Furthermore some of the buildings have already been demolished and therefore it is questionable whether they should be considered as part of the current application.

3. RELEVANT PLANNING HISTORY

3.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
83/00551/S	Retention of garden centre and existing access	Application Permitted subject to a legal agreement
92/00198/S	Continued use of land as garden centre including use by security firm, swimming pool and conservatory franchise and hard landscaping	Application Permitted subject to a legal agreement
99/02246/F	Site for seasonal storage of compost/soils; overspill car park. (RETROSPECTIVE)	Application Permitted
99/02247/F	Relocation of hard landscape supplies office. Retention of portakabin toilet	Application Permitted
02/00669/F	Proposed Polytunnel to provide covered area to existing sales space	Application Permitted
05/01732/F	Extension to form entrance and covered walkway	Application Permitted
05/01732/F	Extension to form entrance and covered walkway	Application Permitted
08/00131/CLUE	Certificate of Lawfulness Use Existing - Use of part of the covered garden centre area for the sale of antiques, collectables and bric-a-brac	Application Permitted
08/00202/F	Retention of service access road and proposed vehicular turning area	Application Permitted
08/00203/F	Retention of Adrian White's Business Supplies area and new office building; proposed use of south east corner of site for an extension to existing car parking area; retention of staff room and extension to pets department building; retention of external display area in connection with Shirley Aquatics; retention of polytunnel cover in connection with internal display area to Shirley Aquatics; retention of customer toilets; retention of antiques centre (the part additional to the linked	Application Permitted

application for certificate of lawfulness for existing use for the antiques centre); retention of 2 no. oil tanks and 1 no. water tank

The above 3 application were submitted in relation to enforcement issues at the site. In 2008 alongside approval of these applications a new legal agreement was entered into regarding the site. This replaced the earlier agreements and restricted the sale of goods on the site to those which has a direct relationship with a garden centre (as recognised nationally and outlined in the legal agreement). This also included the sale of hard landscaping and garden building materials (with no restriction on area of display, storage or sale) and also included the provision of a restaurant, coffee shop and childrens play area. This is the current legal agreement which controls the site and the earlier legal agreements (1986 and 1993) were revoked.

14/00191/OUT	Outline: Alterations to existing garden centre and development 14 new dwellings including access.	Application Refused
14/01403/F	Removal of 4 No. precast concrete garage show buildings and replacement with a new timber framed display/storage building at the south end of Yarnton Leisure Buildings showsite	Application Permitted
15/00645/F	Extend existing Poly Tunnels to cover open sales space and storage area, together with the replacement of an existing substandard Poly Tunnel and additional parking.	Application Permitted

This application was recommended for refusal by officers however in considering the application the Planning Committee approved the application.

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 04.01.2018, although comments received after this date and before finalising this report have also been taken into account.

- 5.2. The comments raised by third parties are summarised as follows:

- The site is within the Green Belt

- The range of goods and size is significantly beyond a garden nursery. The proposal for additional retail space would consolidate this.
- Traffic and access issues.

5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. YARNTON PARISH COUNCIL: **No objections.**

STATUTORY CONSULTEES

6.3. OCC HIGHWAYS: **Objects** on the bases of the lack of a Transport Assessment and states that application includes conflicting information regarding the amount existing and proposed floor space. This could impact on visitor numbers and whilst the site benefits from a large car park a TA needs to demonstrate that this is adequate. Overflow could impact on the operation of Sandy Lane. Also raises concern regarding the poor pedestrian access to the site. The TA also needs to look at the public transport links and cycle parking. If the Council is minded to approve the application planning condition should require a construction traffic management plan, a travel plan, cycle parking and a safe pedestrian access from Sandy Lane.

6.4. OCC MINERALS AND WASTE: **No objections.** This proposed development would not adversely affect significant mineral resources; and it does not have any strategic waste planning implications.

NON-STATUTORY CONSULTEES

6.5. OCC ECOLOGY: **No objection subject to condition.** The existing buildings were found to be very unlikely to support a bat roost. However, as a precaution, care should be taken during removal of roofing materials and in the unlikely case any bats are found, all works must stop whilst Natural England are contacted for advice. The report finds sound conclusion and recommends that the recommendations contained within the report are followed should planning permission be approved. This includes timing of works for removal of buildings outside of the nesting bird season to avoid disturbance to nesting birds. Opportunities to enhance the site for biodiversity have been recommended in the report, which are agreeable in line with local and national planning policies (page 18). Recommends that the locations and specifications of the habitat boxes are shown on a biodiversity enhancement plan and secured by condition.

7. RELEVANT PLANNING POLICY AND GUIDANCE

7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy

framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1: Presumption in Favour of Sustainable Development
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD14: Oxford Green Belt
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- S27: Garden Centres
- C28: Layout, design and external appearance of new development
- C31: Compatibility of proposals in residential areas
- ENV1: Development likely to cause detrimental levels of pollution

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

8. APPRAISAL

8.1. The key issues for consideration in this case are:

- Planning History
- Principle of the Development in the Green Belt;
- Visual Amenities;
- Residential Amenities;
- Highways Safety;
- Other matters

Planning history and uses on the site

8.2. The application site has an extensive and complicated planning history as outlined in section 3 of this report. Essentially the type of goods that can be sold on the site, the areas where they can be sold from and the overall amount of floor space allowed for sale of each type of good are controlled through a legal agreement signed in 2008.

8.3. The type of goods that can be sold at the site are wide ranging in the legal agreement. The Council’s Planning Enforcement Team is currently investigating whether there are any breaches in this legal agreement as representations have been made and a visual inspection of the site shows that large areas of the site being used for retail uses going beyond what might normally be expected to be found at a garden centre. It is not proposed that the current application would alter the legal agreement in relation to these matters and these issues would need to be investigated separately as ultimately they would come down to the wording of the legal agreement.

8.4. The current application also makes provision for a children's soft play area in the south west corner of the site. The applicant has stated that this would be ancillary to the main functioning of the site and it is noted that the earlier layout of the site included a children's play area, albeit a smaller one, and that a children play area was also specifically reference as an authorised use in the 2008 legal agreement. If the scale of this were to increase and not be ancillary to the existing use of the site then planning permission would be required.

Principle of the development in the Green Belt

8.5. The site is located within the Oxford Green Belt. The site is identified within the Cherwell Local Plan 2011-2031 (Part 1) Partial Review Submission Plan (July 2017) as being released from the Green Belt and as part of a large strategic allocation to deliver 1,950 dwellings, schools and associated infrastructure. The site itself is allocated for a primary school use and residential development. However, this the Part 1 Partial Review Plan is currently still subject to examination and has significant levels of objections. Therefore officers consider it only holds limited weight in the decision making process at the current time.

8.6. The current application is for the alteration/extension to an existing site and use. It would not extend the boundaries of the site and is therefore not considered to prejudice the delivery of the proposed allocation any further than the existing operations on the site.

8.7. However, notwithstanding the above the site currently remains as part of the Green Belt and any proposals on the site needs to be considered in this planning policy context. Both national and Local Plan Policy ESD14 seeks to protect the essential characteristics of the Green Belt which are their openness and their permanence. Green Belt policies also seek to protect the visual amenity of the Green Belt and seek to assist in safeguarding the countryside from encroachment.

8.8. Paragraph 87 of the NPPF advises that 'inappropriate development' in the Green Belt is by definition harmful and should not be approved except in 'very special circumstances'. Paragraph 88 of the NPPF goes onto state that any harm to the Green Belt should be given substantial weight in determining applications. It goes onto state that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

8.9. Paragraph 89 of the NPPF states local planning authorities should regard the construction of new buildings in the Green Belt as 'inappropriate development' apart from in a number of exceptions. The most relevant exceptions to consider for the current application are discussed below.

8.10. The first exception the proposal could be considered under is:

- *The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.*

8.11. There is no adopted local or national planning guidance which outlines how disproportionate additions are to be assessed with differing interpretation being reached by individual councils and Planning Inspectors. However, the policy is clear that the cumulative impact of extensions need to be considered in making this assessment as it is in relation to the 'original building' (i.e. the building as it existed at 1 July 1948 or as originally built if constructed after that date). Many authorities, where a limit is set in either their local plan or in an SPG, suggest a cumulative

increase to the original floor area in the order of around 30-50%. Ultimately, however, it is a matter of planning judgement.

8.12. The floor space of the main garden centre building from viewing the 1983 plans appears to have been approximately 2500 sq m. Since this time, the main garden centre building has been significantly extended and following the approval of the most recent extensions in 2015 the overall floor area appears to be 7,415 sq m (excluding the surrounding outbuildings). The proposed extensions would result in approximately 1000 sq m (gross new floor area (200 sq m net according to the application forms) resulting in an overall floor area of 7,800 sq m. This would equate to an approximately 310% increase in the floor space of the garden centre building since 1983. The proposed development is therefore not considered to be capable of being considered as an exception under this criterion as it would be clearly be a disproportionate addition over and above the size of the original building.

8.13. The second exception the proposal can be considered under is:

- *Limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

8.14. The proposal lies within the curtilage of the existing site which is brownfield land. Therefore the proposal can be considered to constitute a partial redevelopment of a brownfield site. Therefore to meet this exception the proposal must not have a greater impact on the openness of the Green Belt or the purposes of including land within it.

8.15. 'Openness' is essentially 'freedom from operational development' and relates primarily to the quantum and extent of development and its physical effect on the site. The concept of openness is not narrowly limited to a volumetric approach and also relates to how built up the Green Belt appears now and how built up it would appear if redevelopment were to occur. Openness therefore has a visual aspect as well as a spatial aspect; however, this is a distinct from the assessment of the impact of a development on the visual amenity of the area.

8.16. In order to assess the impact on openness the applicants have undertaken an arithmetic comparison between the existing and proposed floor areas and volumes of buildings which would be affected by the proposal. This concludes by stating that there would be a 105 sq m increase in floor space on the site as a result of the proposal. This would equate to a 1.29% increase in floor space across the whole site. The applicants' figures also conclude that the overall volume of buildings on site would be increased by approximately 1,811 cubic metres.

8.17. It is not possible for officers to confirm the volumes and sizes of many of the buildings which previously existed on the site have been removed as works have commenced on the development. It is also not possible to give a full considered opinion on whether or not the building were temporary or permanent which is required as temporary buildings are not to be included in the assessment.

8.18. However, it is noted that the applicant appears to have included a number of buildings which do not benefit from formal planning consent in their existing calculations, albeit from the aerial photograph they do appear to have been there for a number of years. Furthermore given that the existing buildings have been removed it is questionable whether they should be considered as part of the

application. It is therefore considered that the calculations provided are likely to be favourable to the applicant.

- 8.19. In terms of the visual aspects relating to openness it is considered that, whilst the proposed extensions and alterations to the building would all be closely related to the existing built form on the site and in many cases replace existing buildings, the replacement buildings would be significantly more bulky than the buildings they replace. This would largely be due to a combination of their different form, increase in eaves and ridge height to the buildings compared to the buildings they replace and the overall increase in footprint and volume. In officers' view a combination of these factors would result in a further increase to the built up nature of the site, and the visual bulk and massing of the buildings on the site leading to the impression of further development of the site. In light of the above it is considered that the proposal would have a detrimental impact on the openness of the Green Belt due to the increased presence of built development on the site and therefore does not qualify under this exception.
- 8.20. Furthermore officers are concerned regarding the cumulative increase of small extensions and alterations to the site over the years and how this cumulatively has contributed to a detrimental impact on the openness of the site. The current application would further add to this.
- 8.21. Given the nature and scale of the proposals and their close relationship with existing buildings on the site they are not considered to conflict with any of the purposes of the Green Belt outlined at paragraph 80 of the NPPF.
- 8.22. Overall it is concluded that the development would constitute 'inappropriate development' in the Green Belt which is by definition harmful. The proposal is also considered to be harmful to the openness of the Green Belt which is one of its key characteristics as noted in paragraph 79 of the NPPF.
- 8.23. The NPPF states that when considering planning applications substantial weight should be given to any harm to the Green Belt and should not be approved except in very special circumstances. It goes on to note that very special circumstances will not exist unless the potential harm to the Green Belt is clearly outweighed by other considerations.
- 8.24. In the current case the applicants have not advanced a 'very special circumstances' case as they consider the development would not constitute inappropriate development under the above discussed exceptions. However, the Design and Access Statement does point to some of the perceived benefits of the scheme. These include:
- the proposals are minor in relation to the existing scale of buildings on the site
 - the proposal will result in an improvement to the visual amenity of the site by replacing deteriorated buildings
 - the proposal will significantly improve facilities for staff and visitors
 - the site is a local employer and offers a meeting place for the community.
- 8.25. Whilst it is acknowledged that the development to the south east and south west of the site will replace a number of deteriorated buildings many of these have already been removed by the applicant in commencing the works prior to the planning application being determined. Further the visual improvements to the site are

relatively limited given the limited scale of the former buildings not being prominent within the site and the rather functional style and appearance of the proposed buildings.

- 8.26. Whilst the proposal would allow for some increase activities on the site and may potentially lead to some further employment opportunities these benefits are limited. The above benefits of the scheme are not considered to amount to 'very special circumstances' which clearly outweigh the identified harm to the Green Belt.
- 8.27. Therefore the proposal is considered to conflict with Policy ESD14 and advice in the NPPF regarding the protection of the Green Belt.

Visual Amenities

- 8.28. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 8.29. Saved Policy C28 of the adopted Cherwell Local Plan exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 8.30. The proposed extensions would be well screened from the public domain of the highway of Sandy lane to the south of the site and the site is surrounded by mature landscaping on all boundaries. The existing garden centre buildings are of limited architectural value having a functional form and appearance. The proposed extensions would be similar in terms of design, scale and materials and they are considered to be acceptable in this context.
- 8.31. Overall the proposal is considered to comply with the relevant planning policies in this respect.

Residential Amenities

- 8.32. Policy ESD 15 of the CLP 2031 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Furthermore, Paragraph 17 of the Framework states that planning should "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings".
- 8.33. Whilst the Yarnton Nurseries complex adjoins residential properties, the proposed extension are considered to be a sufficient distance from neighbouring properties so as to prevent adverse harm to these properties in terms of loss of light and over domination.
- 8.34. In relation to disturbance or nuisance arising from the proposed development, the proposal would not increase the extent or nature of uses already allowed to take place at the site and it is not considered that it would result in a significant increase in the level of noise compared to what already exists. Officers therefore consider that the proposal would not unduly affect the amenities of any residential properties.

Highway safety

- 8.35. The Local Highways Authority (LHA) has raised concerns that no Transport Assessment has been submitted and have also requested additional information regarding the proposal. A further consultation has been sent to the highway and their comments are awaited.
- 8.36. However, it is noted that the proposal will not increase the overall amount of trading space authorised at the site compared to that allowed under the 2008 legal agreement. It would only mean some of the external space which previously could have been used for sales would now be situated inside. Given the nature of the site with a number of concessions which can be alter significantly over time without planning consent so long as they comply with the legal agreement, the level of activity already generated at the site could vary depending on the layout and balance of uses at any one time. In officers' view given the above the current application is not considered to result in any significant increase in traffic movements over and above that which could already occur from the site within the parameters of the existing legal agreement. Whilst it is noted that the LHA has raised concerns regarding the use of the access and the poor pedestrian access to the site, in light of the above conclusions, this is not considered to be significantly exacerbated by the current proposals.

Other matters

- 8.37. The Ecology Officer has no objections to this proposal and notes that the impacts upon protected species or habitats are unlikely as a result of the proposal. It is therefore considered that the proposal would not cause adverse ecological harm.
- 8.38. A number of other works also appear to be taking place at the site and these have been raised with the applicant and the Council's Enforcement Team who are investigating the matter. These fall outside of the scope of the current planning application and would have to be assessed on their own merits.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The current application seeks consent for a number of extensions to the existing building and the replacement of a number of structures. The nature and type of activity undertaken at the site is controlled through a legal agreement and this would remain unaltered as part of the current proposal so would still be enforceable. The site is located within the Oxford Green Belt where development is strictly controlled and it is considered that the proposal constitutes inappropriate development in the Green Belt and would be harmful to the openness of the Green Belt by virtue of the increased bulk, size and form of the proposed extensions. The NPPF advises that this harm should be given substantial weight in any planning decisions and should not be approved except in very special circumstances. Whilst the proposal would lead to some limited economic, environmental and potential social benefits these are not considered to clearly outweigh the harm to the Green Belt.
- 9.2. The proposal is largely considered to be acceptable in regard to its impact on the character and appearance of the locality, amenity of the neighbouring properties and ecological matters. Based on the information to date the proposal is also considered to be acceptable in respect of highways matters. However, these matters only weigh neutrally in the planning balance.
- 9.3. Overall, it is considered there are no very special circumstances which would outweigh the definitional harm caused by the development constituting inappropriate

development and the physical harm to the openness of the Green Belt. Therefore it is recommended that planning permission should be refused.

10. RECOMMENDATION

That permission is refused, for the following reason(s):

1. The proposed development would constitute inappropriate development in the Oxford Green Belt and would also be harmful to the openness of the Green Belt by virtue of the proposed increased size, floor area, height and bulk of extensions. There are not considered to be any very special circumstances which would clearly outweigh this harm. The proposal therefore conflicts with Policy ESD14 of the Cherwell Local Plan Part 1 and Government advice in the National Planning Policy Framework.

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