

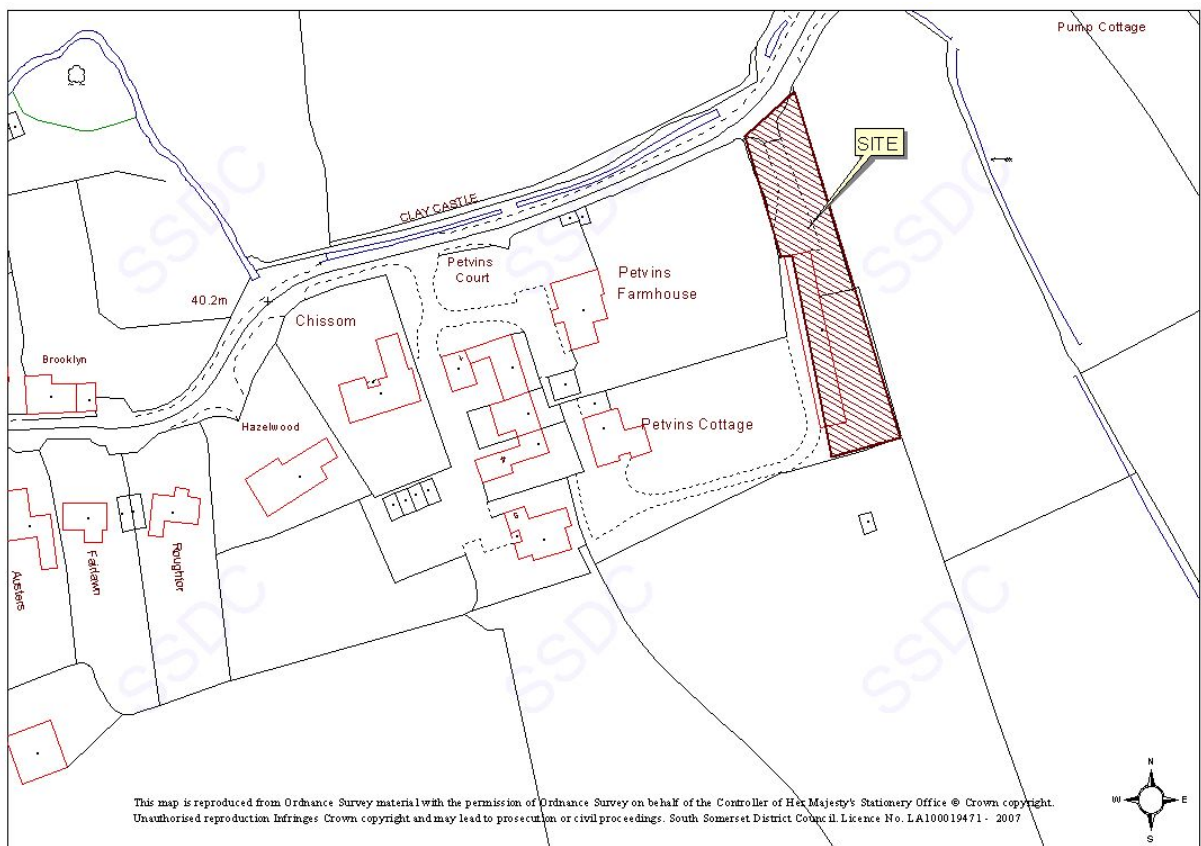
**OFFICER: Chris Pulsford (01935) 462072 [Item 1]**  
**APPL.NO: 07/02210/COU APPLICATION TYPE: Change of Use**  
**PARISH: Haselbury Plucknett WARD: PARRETT**  
**DESCRIPTION: Change of use of wooden barn for use as packing/dispatching of flowers for web based business (renewal of 03/01862/COU) (GR: 347613/110702)**  
**LOCATION: Bay Tree Farm Claycastle Haselbury Plucknett Crewkerne Somerset TA18 7PE**  
**APPLICANT: Eden4flowers.co.uk Ltd**  
**AGENT: Paul Dance Foxgloves 11 North Street Stoke Sub Hamdon Somerset TA14 6QR**  
**DATE ACCEPTED: 10 May 2007**

**REASON FOR REFERRAL TO COMMITTEE:**

At the request of the Ward Member, because the original proposal was highly contentious and the Committee decided to grant only a temporary permission in the first place. It should therefore be for the Committee to consider the application for the renewal of the permission in the light of experiences during that temporary period.

**SITE DESCRIPTION & PROPOSAL:**

Planning permission was granted in October 2003 for the use of this former poultry building, some 450m<sup>2</sup>, for the packing and dispatching of flowers for a web based business. This permission was subject to 18 conditions, in particular one limiting the permission to a 4-year period expiring on 30/9/2007, for the reason that: "This use has the potential to cause nuisance due to noise and general disturbance to adjoining properties and furthermore to be detrimental to highway safety due to delivery and collection vehicles and as such it is considered that permission should be restricted to a limited period to enable the Local Planning Authority to be sure of its character and effect in accordance with Policy ST5 and EH7 of the South Somerset Local Plan."



**Other significant conditions were:**

- 5. No more than 2 deliveries of flowers per week and no more than 1 collection per day.
- 7. No retail sales at the site.

8. Hours of working restricted to 7.30am to 8.00pm Monday to Friday and 7.30am to 1.00pm on Saturdays.
11. No deliveries or collections outside the hours of 8.00am to 8.30pm on any day.
12. Noise level restriction.

An appeal decision in May 2005 inter alia varied the terms of condition 5 to allow no more than 12 deliveries per week.

The present application seeks to renew the 2003 permission, whereby all the previous conditions would still apply. In support of the application the agent states:

"As you know the size of the business and its operation is strictly controlled by Condition 5 which restricts the number of deliveries to 12 per week and no more than one collection of goods per day. My clients work within this without difficulty. Most of the deliveries are via transit type vans up to 7.5 tonne lorries and occasionally there are deliveries by 17.5 tonne lorries.

Whilst it is accepted that on two instances in the spring of this year when larger lorries delivered flowers, this was very much an exception. It was a one-off due to a logistics company in Holland who were not the usual company used and they had not been made aware of the request for smaller vehicles to be used and as a result of their complaint, smaller vehicles have been used ever since and will continue to be used in the future.

We would remind you that highways was not an issue in the first instance and we do not believe the highway authority have a problem with the current application. Please remember we are talking about a very small number of deliveries, some by delivery companies that are in the village in any case. On average there are about two deliveries per day, this is hardly a harmful activity."

#### RELEVANT HISTORY:

- 03/01862/COU Change of use of barn for packing/distributing flowers for web based permission – 4 year temporary permission granted.  
04/01864/FUL Removal of condition 3 and variation of conditions 4, 5 and 11 of permission 03/01862/COU - refused but allowed on appeal.

#### POLICIES:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decisions must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

Structure Plan: Policy 49, Traffic Requirements of New Development

Local Plan: Policy ST5, General Principles of Development  
Policy ST6, Quality of Development  
Policy EH7, Conversion of Buildings in the Countryside

#### CONSULTATIONS:

##### *Parish Council:*

1. The Councillors believed that conditions relating to the existing planning consent have been breached on many occasions regarding vehicle movements and consider this to be an inappropriate business within the village.
2. If the application is considered for approval it should be personal consent to prevent sale to another operator.
3. Due to the contentious nature of the application, it should be considered at a full Area West meeting and not delegated.

4. The majority of the councillors agreed that if further permission is granted, it should be on a temporary basis.

*County Highways:*

The Highway Authority raised no objection to the previous proposal (application 03/01862/COU) on the basis that the information submitted by the applicant stated that the proposal would generate two 7½ ton lorries a week for deliveries.

From the information supplied by the local residents, it appears that the trip generation from the site is in keeping with the original statement. However, the size of the vehicles is exceeding the weight limit outlined. The approach roads to the site are substandard by reason of their restricted width and poor alignment and as such vehicles in excess of 7½ ton would find them problematic to negotiate.

In light of the Inspector's comments relating to the appeal at the site, it must be a matter for the Local Planning Authority to consider whether or not the breaches of condition 11 of the inspector's decision affect the amenity of the local residents. The size of the vehicles is greater than that originally indicated by the applicant and the parking and turning area within the site should be altered to take into account the operation. I would advise that a plan be submitted for approval.

The applicant would appear to be in breach of condition 05 of the Inspector's Decision according to Mr Watkins and as such would add to the conflicting traffic movements on the narrow highway to the detriment of highway safety. The Highway Authority is not in possession of, or has been sent at any time, details of deliveries or sight of the register in condition 03. It must be a matter for the Local Planning Authority enforcement to determine whether or not compliance has occurred.

I have spoken to the local Highway Manager and can confirm that there have been no accidents in the last five years as a direct result of this development.

Therefore, subject to rigid enforcement of the Inspector's decisions and conditions and the provision of suitable parking and turning, the Highway Authority would not raise an objection to the proposal.

**REPRESENTATIONS:**

5 letters objecting to the proposal have been received, the following points being made:

- This residential area is an unsuitable place for the operation of a large business
- Noise from unloading, particularly late in the evening, at busy times. A schedule of alleged deliveries outside the permitted times has been submitted.
- There has been a large increase in the number of large lorries and vans along the narrow road and in their reversing into the site, all to the detriment of road safety. Damage to roadside verges has been caused.

3 letters of support have been received, stating:

- The operation of the business has not resulted in any nuisance noise or traffic problems to the writers
- Roadside damage appears to be the result of farm traffic
- The increase in traffic from the Bay Tree Farm operation is well within the road's capacity

**CONSIDERATIONS:**

The two principal issues in this case are (a) the suitability of the road leading to the site and the access into the site for the type and numbers of vehicles visiting the premises and (b) the impact of the traffic and activities at the site on local residents.

(a) Highways

The terms of the planning permission do not restrict the size of vehicles delivering and collecting at the site, but do restrict their number to a maximum of 12 deliveries a week and 1 collection per day. There is no record of these limits having been breached. The Highway Authority, who have seen the reports submitted by objectors, raise no objection on highway safety grounds to a further permission being granted, subject to compliance with and strict enforcement, if necessary, of the relevant conditions and subject to the provision of suitable parking and turning space within the site. In this respect it is understood that the agent will be submitting a plan to illustrate how this is to be achieved.

(b) Impact on local residents

The balance of evidence and comment available is that this business attracts larger vehicles from time to time and also deliveries in the evenings and that its operation and its traffic are disturbing to some local people.

CONCLUSIONS:

The original permission was granted with a series of conditions designed to maintain strict control so as to achieve a balance between the reasonable needs of the business, which is modest in scale, and its impact on the local environment. This is the approach followed by the Inspector in the 2005 appeal decision, and is one, which can be continued now. Any future breaches of the conditions can be the subject of enforcement action.

RECOMMENDATION:

**Application Permitted with Conditions** and subject to the receipt of satisfactory details of parking and turning facilities.

The proposed use, by reason of its scale and nature, and the regulatory conditions hereby imposed, can take place at this site in a manner which does not have an unacceptable impact on local traffic and amenity, in accordance with the aims and objectives of Policies ST5, ST6 and EH7 of the South Somerset Local Plan.

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

**Reason:** To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the information and details submitted with the application as amended by letter dated 9 September 2003.

**Reason:** To ensure that the business use does not expand or intensify to an extent which would be harmful to the amenity of the area and highway safety in accordance with Policy ST5 of the South Somerset Local Plan.

3. A written register of deliveries to the business, including time of delivery, vehicle registration number, goods delivered and delivery company shall be kept and made available for inspection by an authorised officer of the Local Planning Authority at all reasonable times.

**Reason:** To protect the amenities of the residential residents of the area and in the interests of highway safety in accordance with Policy ST5 of the South Somerset Local Plan.

4. The subject land, including any buildings thereon, shall be used for an internet flower delivery business and for no other purpose (including any other purpose in Class B1 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and no other associated goods other than flowers, floral displays, stuffed toy figures, chocolates, balloons, food or jewellery shall be dispatched from the premises.

**Reason:** To ensure that the business is restricted to the terms and goods defined in the application and that the business does not evolve into a business which would have the potential to cause nuisance by reason of noise, general disturbance and traffic generation to residential residents in the area in accordance with Policy ST5 of the South Somerset Local Plan.

5. There shall be no more than twelve deliveries of the raw materials of flowers and associated goods per calendar week and there shall be no more than one collection of these goods per day.

**Reason:** To ensure that the business use does not expand or intensify to an extent which would be harmful to the amenity of the area and highway safety in accordance with Policy ST5 of the South Somerset Local Plan.

6. There shall be no burning of any produce or waste material whatsoever on the site.

**Reason:** To protect the amenity of residents of the area who could be detrimentally affected by such an activity in accordance with Policy ST5 of the South Somerset Local Plan.

7. No retail sales shall be carried out on any part of the subject land including within any buildings thereon.

**Reason:** To protect the character and amenity of the area, the amenity of residential residents in the area and to protect the integrity and attractiveness of town centres and other central retail locations in the interests of sustainability and ensuring this use does not generate further road movements in this area in accordance with Policies ST5 and EH7 of the South Somerset Local Plan.

8. No raw materials, products of any description, scrap or waste materials whatsoever shall be stored in the open on any part of the subject land without the prior written consent of the Local Planning Authority.

**Reason:** To protect the character and amenity of the area in accordance with Policy ST5 of the South Somerset Local Plan.

9. No part of the development hereby granted consent shall be commenced until details of the means of disposal and storage of all waste and waste materials have been submitted to and approved in writing by the Local Planning Authority. Once approved such details shall be fully implemented and not altered without the prior written permission of the Local Planning Authority.

**Reason:** To protect the character and amenity of the area in accordance with Policy ST5 of the South Somerset Local Plan.

10. The use hereby granted permission shall be operated between the hours of 7.30am to 8.00pm Mondays to Fridays and from 7.30am to 1.00pm on Saturdays only unless the prior written permission of the Local Planning Authority is first obtained.

**Reason:** To protect the character and amenity of the area in accordance with Policy ST5 of the South Somerset Local Plan.

11. There shall be no delivery of goods made to, or collections of goods made from, the application site after 2030 hours and before 0800 hours on any day.

**Reason:** To protect the character and amenity of the area in accordance with Policy ST5 of the South Somerset Local Plan.

12. No part of the development hereby granted permission shall be commenced until full details of any external lighting within the application site have been submitted to and approved in writing by the Local Planning Authority. There shall be no alteration to these details and no additional lighting unless the prior written permission of the Local Planning Authority is first obtained.

**Reason:** To protect the character and amenity of the area and the amenity of residential residents in the area in accordance with Policy ST5 and EP3 of the South Somerset Local Plan.

13. No system of public address, loudspeaker, amplifier, relay or other audio equipment shall be operated in any building or otherwise on any part of the subject land.

**Reason:** To protect the character and amenity of the area in accordance with Policy ST5 of the South Somerset Local Plan.

14. No part of the development hereby granted permission shall be commenced until details indicating the parking and turning arrangements for motor vehicles has been submitted to and approved in writing by the Local Planning Authority. Once approved the parking and turning areas shall be kept clear of all obstruction which would prevent the use and such details shall not be altered without the prior written permission of the Local Planning Authority.

**Reason:** In the interests of highway safety and to protect the amenity of residential occupiers in this area in accordance with Policy ST5 of the South Somerset Local Plan.

15. Before the development hereby permitted is commenced, foul and surface water drainage details to serve the development, shall be submitted to and approved in writing by the Local Planning authority and such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

**Reason:** In the interests of environmental health and to protect the character and amenity of the area in accordance with Policy ST5 of the South Somerset Local Plan.

16. No part of the development hereby granted permission shall be brought into use until details of the design, appearance and position of the external works associated with the construction of a refrigerated cold room have been submitted to and approved in writing by the Local Planning Authority. Such details once approved shall not be altered.

**Reason:** To protect the amenity of the adjacent residential properties in accordance with Policy ST5 of the South Somerset Local Plan.

17. Noise emanating from the refrigerated room and its associated machinery shall not exceed Lacq 40dB(A) as measured at any point within 10 metres of the living areas of any domestic dwelling.

**Reason:** To protect the amenity of the adjacent residential properties in accordance with Policy ST5 of the South Somerset Local Plan.