

Agenda Item 96.

| Application Number | Expiry Date | Parish | Ward |
|--------------------|---------------------------|---------------|---------------------------------|
| 192018 | Extended to 12 March 2020 | Wargrave East | Remenham, Wargrave and Ruscombe |

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| Applicant | Hare Hatch Sheeplands |
| Site Address | Hare Hatch Sheeplands Nursery, London Road, Twyford RG10 9HW |
| Proposal | Full application for the change of use of three existing nursery glasshouses into events area relating to the existing nursery |
| Type | Full |
| Officer | Simon Taylor |
| Reason for determination by committee | Major application (change of use of >1000m ² floor space) |

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| FOR CONSIDERATION BY | Planning Committee on Wednesday 11 March 2020 |
| REPORT PREPARED BY | Assistant Director – Place |

| SUMMARY |
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| <p>Hare Hatch Sheeplands lies on a prominent corner location at the intersection of Bath and London Roads, Hare Hatch and is situated amongst several garden centres that have historically been known as the Floral Mile. It comprises a large collection of greenhouses and buildings that originally comprised a horticultural nursery but also now include a retail nursery (granted temporary permission on appeal), farm shop and café. A gravel car park and service yard dominate the centre of the site and a residential dwelling with an occupancy condition tied the horticultural use is located in the south western corner. The site is within the Green Belt and Countryside.</p> <p>The application seeks to utilise 1,490m² or about 12% of the existing greenhouses at the eastern end of the site for events including flower shows, children’s entertainment, wild animal visits, fundraising events, art installations, food and drink tastings and other seasonal events. Depending upon the type of event, it would involve a change of use of the site from the lawful horticultural use to a mixed use including Class A1 retail or Class D1 community use. No building works are proposed.</p> <p>There is an extensive and complicated planning, appeal and enforcement history for the site that has most recently culminated in a 2019 appeal decision allowing a retail nursery use within part of the greenhouses, albeit via a temporary approval ending 14 March 2022. This application seeks to supplement this approved retail space.</p> <p>There were no objections raised by Wargrave Parish Council, the ward member or internal consultees. As part of the neighbour notification to six surrounding properties, a total of 29 submissions were received in support of the application.</p> <p>In terms of Green Belt policy in the NPPF, the proposal is defined as inappropriate development because it represents an expansion of the retail use within an existing horticultural nursery but on balance has been recommended for temporary approval due to very special circumstances and subject to Conditions 1 and 3 curtailing the activities. This includes a limit of 24 days per year and a temporary period to coincide with the conclusion of the temporary period associated with the approved retail space. There are also no objections in terms of impacts upon neighbour amenity or in relation to traffic or parking grounds.</p> |

PLANNING STATUS

- Green Belt
- Green Route (Bath Road)
- Landfill gas consultation zone
- Potentially contaminated land consultation zone
- Radon affected area
- Groundwater zone 3
- Nitrate vulnerable zone (surface water)
- Bat consultation zone
- Non-classified road
- Heathrow Aerodrome consultation zone

RECOMMENDATION

That the committee authorise the GRANT OF PLANNING PERMISSION subject to the following conditions and informatives:

Conditions

1) Temporary permission

The events use hereby permitted shall be discontinued, all events associated with this permission shall cease and equipment associated with the events removed from the site on or before 14 March 2022.

Reason: In granting this permission, the local planning authority has had regard to the very special circumstances of the case, being its location within a horticultural nursery and within the Green Belt and in the interest of the amenity of the area.

Relevant policy: National Planning Policy Framework Section 13, Core Strategy policies CP1, CP3 and CP12 and Managing Development Delivery Local Plan Policy TB01.

2) Approved details

This permission is in respect of the site plan numbered SK-005, Rev A, dated 15 August 2019. The events use shall be carried out in accordance with the approved plans unless other minor variations are agreed in writing after the date of this permission and before implementation with the Local Planning Authority.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the application form and associated details hereby approved.

3) Limitations of use

The events use, hereby approved, is limited by the following:

- a) A maximum of 24 (consecutive or non-consecutive) days in any 12 month period
- b) Events shall take place only between the hours of 8:30am and 5:30pm on any Monday to Saturday and between the hours of 10:30am and 4:30pm on Sundays

- c) Except where events are proposed over two or more consecutive days, preparation is not to commence earlier than 90 minutes before opening and all items are to be removed no later than 90 minutes after closing
- d) It shall be carried out only in the red hatched area outlined in the approved site plan SK-005 Rev A
- e) No retail nursery sales associated with the existing nursery use are permitted within the red hatched area in the approved site plan SK-005 Rev A
- f) The types of events are limited to the following:
 - i) Flower Shows including: Haworthias and Gasterias National Collection; Cacti Thames Valley Orchid Show; Ottershaw Cacti; Reading Fuchsia Society Show
 - ii) Children's Activities including: Supervised planting and gardening activities for children as part of National Children's Gardening Week; Welly Planting; Children's Entertainments (story telling etc), Wild animal visits
 - iii) Community Events including: RG10 Front Garden Competition event; Twyford in Bloom event; Twyford Treasure Trail; Twyford Fun Run event; Henley Arts Trail event and art installation; Pumpkin event; Community Tea Party; Food and Drink Fair/Tastings; other seasonal events

Reason: In granting this permission, the local planning authority has had regard to the very special circumstances of the case, being its location within a horticultural nursery and within the Green Belt and in the interest of the amenity of the area.

Relevant policy: National Planning Policy Framework Section 13, Core Strategy policies CP1, CP3 and CP12 and Managing Development Delivery Local Plan Policy TB01.

4) No change of use

The part of the building hereby permitted shall be used only for community events specified in Condition 3 and for no other purpose, including any other purpose in Classes A1 or D1 of the Schedule to the Town and Country Planning [Use Classes] Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order [with or without modification].

Reason: In granting this permission, the local planning authority has had regard to the very special circumstances of the case, being its location within a horticultural nursery and within the Green Belt and in the interest of the amenity of the area.

Relevant policy: National Planning Policy Framework Section 13, Core Strategy policies CP1, CP3 and CP12 and Managing Development Delivery Local Plan Policy TB01.

Informatives

1) Advertisement consent

This permission does not convey or imply any approval or consent that may be required for the display of advertisements on the site for which a separate Advertisement Consent application may be required. You should be aware that

the display of advertisements without the necessary consent is a criminal offence liable to criminal prosecution proceedings through the courts.

2) Discussion

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. This planning application has been the subject of positive and proactive discussions with the applicant in terms of reaching a mutually agreed outcome.

The decision to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the NPPF is considered to be a positive outcome of these discussions.

PLANNING HISTORY

| App No. | Description | Decision/Date |
|----------------|--|--|
| 39618 | Demolition of glasshouses and replacement with polytunnels and barn | Approved 2 September 1993 |
| F/1995/63187 | Erection of barn for horticultural use | Approved 27 September 1996 |
| F/1997/66297 | Erection of several greenhouses for horticultural use | Approved 3 November 1997 |
| F/2001/5225 | Erection of glasshouses and toilet block with office and staff room | Approved 9 January 2002 |
| F/2002/7504 | Erection of one detached dwelling | Approved 22 January 2003 |
| F/2003/0195 | Construction of basement below the detached dwelling | Refused 5 November 2003 |
| A/04/1136843 | Appeal against refusal of F/2003/0195 | Upheld 23 July 2004 |
| F/2003/8706 | Erection of building for Class A1 use (retail) with a floor area of 195m ² | Refused 28 April 2003 |
| F/2004/2238 | Erection of building of 180m ² for retailing of pet foods and accessories | Refused 27 August 2004 |
| F/2007/0225 | Change of use of barn to farm shop (retail) | Approved 25 May 2007 |
| A/07/2054755 | Appeal against Condition 5 of F/2007/0225 (produce is to be within a 10 mile radius) | Upheld 23 April 2008 |
| F/2007/0226 | Change of use of display area to a restaurant (156m ²) with 80 covers | Approved 23 April 2007 |
| F/2007/1428 | Change of use of display area to café/coffee shop with dry goods storage. | Refused 27 July 2007 |
| A/07/2054755 | Appeal against refusal of F/2007/1428 | Upheld 23 April 2008 |
| A/2007/2038 | Retrospective approval for four free standing advertisement signs | Part approved/ refused 17 October 2007 |
| F/2008/0038 | Change of use from 2200m ² floor area of the glasshouses to retail sales and display (A1) | Refused 20 March 2008 |
| F/2008/2295 | Extension to farm shop to provide butchery (part retail) | Approved 2 February 2009 |
| A/2008/0444 | Two freestanding sign boards (one double sided) | Approved 24 April 2008 |

| PLANNING HISTORY | | |
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| App No. | Description | Decision/Date |
| F/2008/2766 | Conversion of basement in bungalow to one unit of residential accommodation. | Refused 10 March 2009 |
| A/09/2104930 | Appeal against refusal of F/2008/2766 | Dismissed 2 September 2009 |
| F/2011/0648 | Redevelopment of horticultural site including increase in retail space, replacement buildings, revised parking and landscaping | Refused 19 December 2011 |
| A/12/2171958 | Appeal against refusal of F/2011/0648 | Withdrawn 7 November 2012 |
| F/2011/2117 | Two display conservatories | Refused on 28 November 2011 |
| CLE/2014/1462 | Certificate of existing lawful development for sale of retail goods | Refused 31 March 2015 |
| 152747 | Change of land and building to play area and recreational farm | Declined to determine |
| 152748 | Change of use of part of existing building to retail | Declined to determine |
| 160677 | Certificate of existing lawful development for sale of retail goods | Refused 13 May 2016 |
| 171478 | Four non-illuminated free standing boards | Approved 7 July 2017 |
| 173316 | Temporary CoU of part glasshouse and outdoor area to retail sales | Declined to determine |
| W/18/3193969 | Appeal against non-determination of 173316 | Upheld 14 March 2019 |
| 172850 | CoU of part glasshouse and outdoor area to retail sales | Declined to determine |
| 172161 | Variation of F/2008/2295 for use of farmshop as fishmongery as well as butchery | Approved 4 September 2017 |
| 191517 | Canopy and support struts to farm shop | Refused 5 September 2019 |
| 191518 | Expansion of café floor area | Refused 10 September 2019 |
| 191520 | Extension of car park, use of service yard for all uses and mobile dinosaur | Approved 10 September 2019 |
| 191519 | Use of a greenhouse as a residential timber store | Approved 17 September 2019 |
| 192841 | Replacement advertising signage | Approved 21 November 2019 |
| 192912 | Change of use of land for storage of cars | Withdrawn 15 January 2020 |

| SUMMARY INFORMATION | |
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| Site Area | 3.1 hectares (Sheeplands Hare Hatch site) |
| Existing land uses | Horticultural, with ancillary retail uses including farm shop, café and nursery |
| Proposed land uses | Inclusion of community events use (Class A1/D1) |
| Existing floorspace | Existing greenhouses total 12,400m ² (estimated) and includes retail nursery (499m ²), farm shop (413m ²) and café (140m ²) |
| Proposed floorspace | 1,490m ² of existing greenhouses for events use |

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| Number of jobs | No new jobs created |
| Existing parking spaces | 201 spaces |
| Proposed parking spaces | 201 spaces |

| CONSULTATION RESPONSES | |
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| WBC Environmental Health | No objection. |
| WBC Highways | |
| WBC Cleaner and Greener | No comment received. |
| WBC Ecology | |

| REPRESENTATIONS | |
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| Wargrave Parish Council | No objection. |
| Ward Member | No comments received. |
| Neighbours | <p>The application was consulted to neighbours from 10 September to 1 October 2019, a site notice was installed from 3-25 October 2019 and a newspaper advertisement was posed from 11 October to 1 November 2019. There were no letters objecting to the application but letters in support were received from the following properties:</p> <ol style="list-style-type: none"> 1) 11 Kibblewhite Crescent, Twyford RG10 9AX 2) Magnolia, 9 Springfield Park, Twyford RG10 9JG 3) 33 Brook Street, Twyford RG10 9NX 4) 66 Wargrave Road, Twyford RG10 9PH 5) 15 Orpington Close, Twyford RG10 0AD 6) 29 Paddock Heights, Twyford RG10 0AP 7) 45 Hurst Park Road, Twyford RG10 0EZ 8) 3 Mulberry Close, Twyford RG10 0GJ 9) 19 Thornbers Way, Charvil RG10 9DW 10) 5 Wenlock Edge, Charvil RG10 9QG 11) 27 Strathmore Drive, Charvil RG10 9QT 12) 11 Farriers Close, Woodley RG5 3DD 13) 45 Walmer Road, Woodley RG5 4PN 14) 17 Spruce Road, Woodley RG5 4BB 15) 79 Victoria Road, Wargrave RG10 8AG 16) 79 Victoria Road, Wargrave RG10 8AG 17) Bath Road, Maidenhead SL6 4JX (no number supplied) 18) 4 Furze Dale, Bix Lane, Maidenhead SL6 6NY 19) 30 Great Hill Crescent, Maidenhead SL6 4RF 20) 6 Wood Green Close, Reading RG30 2AW 21) 4 Treeton Close, Reading RG6 4HT 22) The Manse, 119 Emmer Green, Reading RG4 8TR 23) Linden Cottage, Linden Hill Lane, Kiln Green RG10 9XP 24) 1 Highgrove Place, Ruscombe RG10 9LF 25) Foxes Folly, Fox Hungerford Lane, Shurlock Row RG10 0PB 26) 6 Ouzel Chase, Bracknell RG12 8DU 27) 16 Sandhills Way, Calcot RG31 7PQ 28) 148 London Road, Wokingham RG40 1SU 29) 78 Bousley Rise, Ottershaw KT16 0LB (Surrey) <p>The submissions raised the following comments:</p> |

- Supporter of community events and it should be supported
- Supportive of charities and local employment
- Allows for educational shows and encouragement for children
- Provides a social hub
- Will encourage more eco-friendly activities
- Will fill a local need
- Space is provided free of charge

Officer comment: The above aspects are noted as benefits and would require consideration as very special circumstances in the assessment of any impact upon the Green Belt. This assessment is undertaken in 'Principle of Development'.

- Will provide revenue for charities

Officer comment: The space would be made available free of charge and it is apparent that stallholders would be able to offer goods and services for sale. In this respect, there is some avenue for revenue for charities and the benefits of free stallholder space and other indirect economic benefits are noted. This forms part of the assessment in 'Principle of Development'.

- Will allow for business growth of the nursery
- The nursery will not directly benefit

Officer comment: As noted above, the space is for community use only and would utilise existing space used for plant growing. The agent suggests that the activities are aimed at existing Sheeplands Hare Hatch customers and that there would be little to no additional foot traffic thereby suggesting that there would be no additional economic benefit to the retail aspects of the nursery. However, it would still be unreasonable to conclude that there would not be some indirect or even direct benefits to the nursery, farm shop and café as a result of existing and new customers. This is noted in 'Principle of Development'.

- Existing buildings and parking will be put back into use
- There is sufficient parking on site

Officer comment: The existing greenhouses are approved and used for plant growing and the application seeks to adopt a flexible combination of uses, particularly during the winter months when plant growing is reduced. In this respect, the buildings have an existing use, as further elaborated in 'Principle of Development'.

It is noted that the existing car park will allow for sufficient on-site car parking, as noted in 'Highway Access and Parking Provision'.

- There is no impact upon the green belt
- Support is subject to it not contravening green belt rules
- Will not contravene planning rules

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| | <p><u>Officer comment:</u> The proposal is inappropriate development by definition and is therefore a departure from Green Belt policy. It is, however, acceptable due to very special circumstances, as noted in 'Principle of Development'.</p> <ul style="list-style-type: none"> • Council is being heavy handed <p><u>Officer comment:</u> This is not a relevant planning consideration.</p> |
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| APPLICANTS POINTS (SELECTION ONLY) | |
| <ul style="list-style-type: none"> • Part 4 Class B of the GDPO allows for the erection of moveable structures such as marquees for 28 days provided that they are moveable structures (and subject to the specific 14 day restrictions). While the Injunction Order prohibits the use of marquees for the purpose of furniture or other sales, this is with the exception of where such a proposal is in compliance with the GDPO (i.e. outside the curtilage of a building and for not more than 28 days within a calendar year). <p><u>Officer comment:</u> This is irrelevant as the events use is inside the buildings.</p> <ul style="list-style-type: none"> • The proposals are incidental and ancillary to the existing nursery use and therefore are not 'inappropriate development' in the Green Belt. As the proposed development is appropriate in the Green Belt, it is therefore in accordance with Policy CP12 of the Core Strategy. The ancillary event to the plant nursery use will also accord with Policy CP11 of the Core Strategy which supports proposals that contribute to diverse and sustainable rural enterprises. Furthermore, paragraph 83 of the NPPF (2019) advises that decisions should enable the sustainable growth and expansion of all types of business in rural areas. Events ancillary to the nursery use will help to increase and sustain the business through targeted events associated with the nursery activities on site, particularly during the winter season. <p><u>Officer comment:</u> The suggestion that the use is incidental is disagreed, as discussed in Paragraphs 9-18.</p> <ul style="list-style-type: none"> • As the events will be held in the existing greenhouses on site and will not require any new structures there will be no spatial or visual impact on the openness of the Green Belt. • The horticultural and community events proposed in this application, are considered as being able to offer a significant community value to its visitors. It is anticipated that the local community will be writing in support of these application proposals. • In terms of accessibility, the proposed events are directly related to the plant nursery use, which of necessity is located in a rural area outside of a settlement. Given that those attending the events will also be visiting the plant nursery, necessitates the majority of customers to travel by car in order to take home their purchases. | |

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| PLANNING POLICY | | |
| National Policy | NPPF | National Planning Policy Framework |
| | NPPG | National Planning Policy Guidance |
| Core Strategy 2010 | CP1 | Sustainable Development |
| | CP2 | Inclusive Communities |

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| | CP3 | General Principles for Development |
| | CP6 | Managing Travel Demand |
| | CP9 | Scale and Location of Development Proposals |
| | CP11 | Proposals Outside Development Limits |
| | CP12 | Green Belt |
| Managing Development Delivery Local Plan 2014 | CC01 | Presumption in Favour of Sustainable Development |
| | CC02 | Development Limits |
| | CC06 | Noise |
| | CC07 | Parking |
| | CC09 | Development and Flood Risk |
| | TB01 | Development within the Green Belt |
| | TB18 | Garden Centres and Other Small Rural Units outside Development Limits |
| | TB20 | Service Arrangements and Deliveries for Employment and Retail Use |
| Supplementary Planning Documents | BDG | Borough Design Guide |

PLANNING ISSUES

Description of Development

- The proposal involves the use of three existing horticultural greenhouses with a total area of 1,490m² at the eastern end of the existing Sheeplands Hare Hatch premises for events including flower shows, children's activities and community events, including.
 - Flower Shows including: Haworthias and Gasterias National Collection; Cacti Thames Valley Orchid Show; Ottershaw Cacti; Reading Fuchsia Society Show
 - Children's Activities including: Supervised planting and gardening activities for children as part of National Children's Gardening Week; Welly Planting; Children's Entertainments (story telling etc), Wild animal visits
 - Community Events including: RG10 Front Garden Competition event; Twyford in Bloom event; Twyford Treasure Trail; Twyford Fun Run event; Henley Arts Trail event and art installation; Pumpkin event; Community Tea Party; Food and Drink Fair/Tastings; other seasonal events
- It is not indicated anywhere within the documentation whether the stallholder space is to be used for the sale of goods and services. However, it does note the following:

'The events will take place in the three existing greenhouses, as they relate directly to the nursery activities and promoting the plant nursery/horticultural activities and associated community activities. Some of these events will occur during the winter when the greenhouses are not in full growing use, making good use of the existing facilities to support a rural enterprise during the off season.'

Description of Site

3. The wider site appears to have changed its name from Hare Hatch Sheeplands to Sheeplands Nursery and an advertisement application has been received for replacement signs. It is a prominent corner location at the intersection of Bath and London Roads. It comprises a large collection of greenhouses and buildings that comprise a horticultural nursery, farm shop and café but otherwise appears open and rural. There is also a residential dwelling in the south western corner which has an agricultural/horticultural occupancy condition, and a car park and service yard within the centre of the site.

Principle of Development

4. The National Planning Policy Framework has an underlying presumption in favour of sustainable development which is carried through to the local Development Plan. Policy CC01 of the MDD Local Plan states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay, unless material considerations indicate otherwise.

Existing use

5. The site originally formed part of the Twyford Fruit Farms holding. There have been glasshouses on the site for several decades. In 1989, a Section 64 Determination was issued for use of the site as a containerised tree nursery for sale by wholesale and retail. An earlier legal agreement relating to this site and land to the south and west restricted sales from this current application site to natural produce 'picked' from the land with sales to be from a mobile kiosk.
6. Planning application 39618 was approved in 1993, which represented the recommencement of existing horticultural operations on the site and granted approval for a barn for the storage of materials for the nursery business, subject to there being no retail sales from the barn. More recently, the general sequence of applications relevant to this application are:
 - F/1995/63187 was approved in 1996 and granted approval for a barn for horticultural use
 - F/1997/66297 was approved in 1997 and granted approval for the erection of eight greenhouse buildings measuring 5,128m² of greenhouses and walkways/links for horticultural use, with a condition ensuring that the only trees and shrubs grown on the farm were to be sold
 - F/2001/5225 was approved in 2002 and included the erection of two additional glasshouses and a toilet block. It included a condition limiting the use of the horticultural buildings to ancillary to horticultural or agricultural.
7. The areas proposed to be used within this application is within glasshouses approved by F/1997/66297 and F/2001/5225. There is not and never has been any planning permission for a garden centre.

Proposed use

8. Whilst there are lawful retail uses (temporary consent for 499m² of retail floor space, a café and farm shop) within the collection of buildings at the site, there is

an existing horticultural use within the subject greenhouses, with limitations ensuring that no retail sales are to occur. The proposal seeks to use of 1,490m² of existing greenhouses for events including flower shows, children's activities and community events. It is not intended to be permanent (ie continuously maintained) as the horticulture use will be continued alongside the events at varying scales depending upon the growing season.

9. The agent has argued that the proposed use is ancillary to the existing horticultural use (and not the existing retail use, farm shop or café) and that because of this, it does not require planning permission. The reasons why have not been detailed in the supporting documentation (or in a subsequent letter from the applicant's solicitor) but it may be that it is because it is argued that it is temporary in nature, does not (permanently) remove the existing horticultural activities and it is intermittent, that it only relates to a proportion of the site or that it does not contribute significantly to the overall income of the nursery (because the money for goods sold would be retained by stall holders).
10. The Council does not share this view. As is stated in the supporting documentation, it is intended to 're-implement the previous events' and these previous events had a retail element with the sale of goods occurring. For clarity, there has never been any planning permission for community uses, events or markets and the enforcement notice sought the cessation of this use. It is difficult to understand how such events as food and drink fair/tastings would be operated on a not-for-profit or non-commercial basis. Even if retail sales were not occurring, the assembly of community stalls and related activities with a variety of non-horticultural items represents a Class D1 use as a community hall or the like. In either case, it cannot be ancillary to the existing horticultural use, particularly when stallholders and their wares would be coming from outside. The Council's view is consistent with the appeal decision for a garden centre expansion at Garden Centre, 9 Lees Lane, Newton, Macclesfield (APP/R0660/X/09/2115961) and in the case law for *Bye Williams v MHLG and Another* [1967] 18 P&CR 514.
11. Assessing whether a material change of use would/has taken place is a matter of fact and degree. In terms of the sale of items that is proposed, the type of activities and the scale of the change of use of existing greenhouse space, the proposal cannot be considered as ancillary. The proposed use, on its own and in combination with other non-horticultural activities proposed would fundamentally change the character of the (horticultural) use on the site and is thereby a material change of use. It is feasible that at certain times of the year, no horticulture would be taking place at all.
12. The agent has cited the most recent appeal decision for the change of use of part of the greenhouses and outdoor space to retail in 173316 (PINS reference: APP/X0360/W/18/3193969) in arguing that the use is ancillary and implying that the Inspector concluded the same. At Paragraph 10 of that decision, the Inspector noted that *'If the sales from the proposed sales area were ancillary to the horticultural use at Hare Hatch Sheeplands Nursery, or de minimis, then the proposal would not constitute a material change of use and so could not be inappropriate development.'* However, the Inspector is merely establishing the groundwork in the argument that continues in the following paragraphs that the retail use is not ancillary and the agent has quoted the inspector out of context. At

paragraph 11, it is noted that:

‘Three considerations have been referred to by the parties to determine whether this would be the case: whether the range of products proposed sold would be ancillary; the size of the sales floor area in relation to the horticultural area; and, the proportion of sales made up of imported products.’

13. The goods and products and activities being offered includes tea parties, food and drink fair tastings, seasonal events, art installations, children’s activities and storytelling in addition to flower shows. Most of these activities are beyond what could be remotely connected to horticulture and instead, they have a clear connection to the existing retail activities of the shop, which the Inspector noted to include fencing, garden arts, ornaments, amongst other items and which ‘*goes beyond what can reasonably be considered to be ancillary to horticultural use which typically includes items such as growing media, bulbs, containers, fertilisers and chemicals.*’ The same conclusion is reached here. Indeed, the agent argues elsewhere that no new customers would be expected as part of this “ancillary” proposal. If this were the case, the activities such as storytelling and wild animal visits that appear targeted towards existing customers would represent an expansion of the existing 499m² of retail space.
14. In terms of overall size, the proposed space is significant and is much greater than that proposed in 173316 for the retail nursery. Indeed, in the appeal decision for 173316, there is no reference to the existing farm shop and café, and this suggests that these areas have not been considered in reaching the conclusion that it represents a small area of space currently devoted to horticultural use. As a contrary approach, the Council considers that the entire site should be considered as one planning unit with single ownership, access and parking.
15. Quantitatively, the total area of greenhouses and other related buildings and inclusive of all uses, is estimated at 12,400m². Horticultural uses make up about 11,115m² or 90% of this space, of which the existing nursery retail shop accounts for 499m², the farm shop measures 413m² and the café measures 140m².
16. The total proposed floor area of the retail/community use measures 1490m². This is a 298% increase above approved nursery retail space to which it is attached, a 142% increase when also accounting for the other retail elements on the site (farm shop and café) and it also reduces the non-horticultural elements within the site (albeit not permanently) from 90% to 78%. The scale of the change is not ancillary and as a matter of fact and degree is material.
17. In relation to the third consideration (the proportion of sales made up of imported goods), it is reasonable to conclude that the vast majority of the items and wares being offered (and other community activities) would be imported onto the site. This is obviously greater than the 20% of total sales being imported that were concluded as not being de minimis in paragraph 15 of the appeal decision.
18. Given that the proposal fails all three of the considerations offered in the previous appeal decision, the proposal is not viewed as ancillary. Instead, it represents a material change of use of existing horticultural greenhouses within a wider planning mixed use unit that includes non-horticultural uses that have already

been approved as non-ancillary. It therefore falls to be considered as a material change of use and is to be assessed under the relevant Green Belt policies.

Location with the Green Belt and Countryside

19. The site is located outside settlement limits within the Green Belt and the countryside. As such, development is ordinarily resisted or restricted by Paragraphs 143-146 of the NPPF, which states that new development in the Green Belt is inappropriate, unless it meets specific exceptions. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
20. Similarly, Policy CP12 of the Core Strategy and Policy TB01 of the MDD Local Plan state that planning permission will not be granted for inappropriate development and where it is not inappropriate, it must maintain the openness of and not conflict with or harm the purposes of the Green Belt. There is consistency in these policies with the NPPF (and the Inspector found so in the previous appeal decision) and so these policies have considerable weight.
21. Policy CP11 of the Core Strategy also does not permit development outside of development limits except if in the case of diverse and sustainable rural enterprises or in the case of other countryside based enterprises and activities, it contributes and/or promotes recreation in, and enjoyment of, the countryside and does not lead to excessive encroachment or expansion of development away from the original buildings; and is contained within suitably located buildings which are appropriate for conversion.
22. The relevant considerations for development in the Green Belt are outlined in Paragraphs 143-146 of the NPPF:

Whether the proposal would be inappropriate development for the purposes of Section 13 of the NPPF and Development Plan policy

23. The NPPF states that new buildings/development in the Green Belt are inappropriate by their nature unless they fit into certain exception criteria. In this case, the proposal would need to satisfy part (d) of paragraph 146 and involve the re-use of buildings provided that the buildings are of permanent and substantial construction and provided that they preserve its openness and do not conflict with the purposes of including land within it.
24. The existing business first operated as a horticultural enterprise growing trees and shrubs on site. This was then expanded with the erection of additional greenhouses and buildings to allow expansion of the business and then trees and shrubs were brought from off site. This eventually also included the sale of non-horticultural items (items usually found in garden centres) and over time, a farm shop and café were included. A retail nursery was granted approval and this application seeks to expand the non-horticultural aspects to 22% of the site.
25. The agent suggests that the proposal satisfies part (d). However, this cannot be the case. The greenhouses are permanent but they are not substantial in construction. The Inspector concluded the same at paragraph 19 of the previous

appeal decision. It would not, however, involve any increase in overall floor area or additional built form to the existing greenhouse.

26. There is also a suggestion that the proposal would meet part (e) because it involves the '*material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)*'. However, this would contradict the previous suggestions by the agent that proposed use is only ancillary in nature. Rather, because it is indeed not ancillary in nature, the proposal involves the change of use of the horticultural greenhouses for retail (Class A1) or community (Class D1) use. But, even then, it is clearly not to be used for anything remotely similar to the sport, recreation, cemetery and burial ground uses included within the sub paragraph.
27. On the basis of the above, the proposal is deemed to be defined as inappropriate development.

The effect of the proposal on the openness of the Green Belt and Countryside

28. The NPPF highlights that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
29. The agent notes in her statement that (i) there will be no remediability to return the land to its original state of openness and (ii) there will be little if any additional customers and the existing car park will be used.
30. As noted above, there is no additional change to the built form and no additional harm from this aspect of the development to the openness of the Green Belt arising from the change of use and there is no in-principle objection to the grounds of (i). However, in terms of (ii), the additional types of activities (including food and wine tastings, specialised flower shows and community events that extend beyond the horticultural scope of the existing business) is such that the change of use would undoubtedly result in additional traffic movements, deliveries and parking of vehicles, including larger vehicles. Whilst it is true that these vehicles could be accommodated within the existing lawful carpark, the carpark is open nature and excessively sized for its current levels of patronage, with a large proportion of the car park remaining unused through any trading day. Increased use of the car park arising from the nursery events would lead to additional harm to the openness of the Green Belt and countryside. In addition, there could be further urbanising paraphernalia such as, trolleys, signage and litter bins. Furthermore, horticultural activity presumably only takes place during daylight hours but the proposed activities could go on well into the evening. Indeed the Council has received an application to amend the premises licence to enable selling of alcohol until 10.30pm, which is in conflict with and cannot be accommodated within the operating hours in Condition 3. Any additional applications to accommodate the events (eg for additional lighting) that would contribute further to this urbanisation.

If it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development

31. The temporary retail shop was approved at appeal on the grounds of very special circumstances. The inspector only granted a three year temporary permission because of the harm that the retail use causes to the Green Belt. The Inspector noted that it would enable the horticultural business to generate income whilst it sought to re-establish itself and allow the business to compete with other nearby businesses (which are broadly in accordance with the intent and wording of paragraph 83 of the NPPF), as it attained significant public support and because it offered localised employment opportunities.
32. This application is couched as offering floorspace for community events free of charge. The increase in footfall to the site is almost certain, however, to increase sales within the existing farm shop, nursery and café. In this respect, it could be seen as complementing the existing business, which is consistent with the intent of paragraph 83 of the NPPF by allowing for sustainable growth and expansion of the business. Indeed, on this point, the supporting documentation from the agent notes that *'events ancillary to the nursery use will help to increase and sustain the business though targeted events associated with the nursery activities on site, particularly during the winter season.'* Yet, it also argues that *'there would be little if any additional customers over and above what there could otherwise be to the nursery.'*
33. The previous refused application and subsequent appeal for the temporary retail space relied heavily upon the importance upon economic stability of the horticultural business in justifying the need for 499m² of retail floorspace. The Inspector appears to accept this reasoning at paragraph 29 where it is stated that *'on the basis of the submitted financial information, it is apparent that a sales area selling these items would help safeguard the existence of the nursery and help the business grow by increasing turnover and profitability.'*
34. It therefore cannot be argued that the proposal is intended to allow for the business to compete with other nearby business as the consideration of very special circumstances in the appeal for the retail nursery use from March 2019 accepted this argument and this was less than one year ago. Nor can it be argued that the proposed uses are needed for viability or to raise income to reinvest in the business because it was not mentioned in the appeal that further non horticultural uses would not be necessary.
35. There is, however, an argument that the additional community floorspace allows for other businesses to expand and grow. However, these are predominantly off site enterprises and activities that could be accommodated at other more accessible locations such as town and local centres where there is improved public transport. It also remains unclear what proportion of the site would be set aside for retail related businesses. There is likely to be minimal additional employment generation (both within the site and outside the other businesses which would operate from the site) in the short term but it would, in theory, allow for longer term business expansion and increased awareness of horticultural and other similar events. On this latter point, there is a degree of reasonableness to this justification. Furthermore, whilst it presents some difficulties with enforcement, it is worth recognising that the application intends to utilise the existing greenhouses when not in use for horticulture, thereby establishing a dual use.

36. There is also public support for this application (29 submissions for and none against) just as there was for the previous application that was upheld at appeal. In that decision, the Inspector gave notable weight to what was referred to as '*popularity and value to the community*'. At paragraph 31, the weight given is based on the fact that the '*proposed sales area would help the nursery to survive and develop*'. In this case, the submissions are primarily in relation to the community service and educational opportunities that are being provided. However, the scope of the activities also includes aspects that appear to supplement the existing business and other stalls would have a retail element. Whilst the community benefits may not be as significant as suggested by the agent or in the submissions, it does still garner some weight.
37. The agent offers two additional arguments as part of this application, referring firstly to what would amount to a fallback option because permitted development rights allow for temporary structures to be installed for this exact purpose for 28 days in any calendar year under Part 4 of Class B of the GDPO. This would contribute to a much greater harm to the openness of the area from a marquee as opposed to the contained nature of the use within the existing greenhouses. It is also suggested that it satisfies Policy CP11 of the Core Strategy by contributing to a diverse and sustainable rural enterprise.
38. In response, the Council does not accept that a fallback option exists. It has not been demonstrated that the erection of a marquee is permitted development. No information has been provided about where on the site it would be located – the temporary permitted development rights are not available to land within the curtilage of a building. Moreover, it is limited to 28 days in one calendar year and outside of the curtilage of the building, which would require continual erection and dismantling across the year and this appears unlikely. The rights for a market are limited to 14 days. Furthermore, the activities being undertaken within the community space do not constitute a rural enterprise (unless the argument is being put forward that it is to supplement the existing horticultural businesses, which would then be viewed as an expansion of the existing business).
39. On balance, there are some very limited special circumstances relevant to the application but they are not sufficient to warrant a permanent and unrestricted planning permission being granted in its current form ie in an uncontrolled and permanent way. On one side, the findings of the previous Inspector are to be noted and the community service provided and community support for the proposal is recognised. This is to be weighed against the substantial increase in floorspace, lack of clarity relating to the retail use, the fact that there is no limitation on the number of days per year and the increase in vehicle movements and associated carbon emissions. It is also important to note that the original use of the site was as a horticultural farm (as opposed to the lawful garden centres elsewhere on Bath Road and there has been a gradual evolution of the site to incorporate an extensive retail aspect which must be restricted).
40. The imposition of Conditions 1 and 3 are therefore imperative. Condition 1 provides a temporary permission to 14 March 2022, which coincides with the temporary permission for the adjacent retail use approved at appeal in 2019. Condition 3 limits the number of events to 24 days per year and limits the operating hours, amongst other aspects. As way of an explanation, the agent had initially suggested a condition limiting the number of days per year to a maximum

of 73, this being 20% of 365 days. The figure of 20% has been used in previous case law when considering whether a proposal would remain ancillary to its main use and was used in the previous appeal when considering the likely turnover. The Council has preferred to apply a limitation of 24 days per year, which is 20% of 52 weekends (10.4 weekends), rounded up to 12 weekends, or 24 days. This allows for sufficient flexibility for weekend community activities, including extended bank holiday weekends whilst maintaining that the proposal as a whole does not dominate the horticultural use at Sheeplands Hare Hatch.

41. By virtue of these specific very special, albeit limited, circumstances, and when subject to the aforementioned limitations in Conditions 1 and 3, the proposal could, on balance, be considered to outweigh harm.

Sustainability

42. Policies CP1, CP6 and CP11 of the Core Strategy permit development where it is based on sustainable credentials in terms of access to local facilities and services and the promotion of sustainable transport. Expanding on this, paragraph 4.57 in the Core Strategy aims to prevent the proliferation of development in areas away from existing development limits as they are not generally well located for facilities and services and would lead to the increase in use of the private car.

43. Being in the Green Belt, the site lacks any ready access to facilities and services and the site is located in an area with very poor sustainability credentials. Public transport is almost non-existent, with the services provided not meeting the Council's standard for a good bus service. Cycling on Bath Road is also unattractive because of high traffic levels, significant speeds and a lack of lighting and infrastructure. Most, if not all, customers would need to drive to the premises.

44. However, in the appeal decision for 173316, the Inspector noted that:

'Nurseries are of necessity located in rural areas. Moreover, by the nature of what they sell the majority of customers have to travel by car in order to take home the plants and related items they have bought. Therefore whilst policy CP6 of the Core Strategy supports granting planning permission where a choice of sustainable transport options is available, given the nature of a horticultural nursery, such provision is not appropriate in this instance.'

45. Whilst the proposal would maintain the heavy reliance upon private car travel in an area that is poorly serviced by public transport, Condition 3 limits the number of days per year to 24 which would limit harm from carbon emissions. The Inspector found the proposal to be acceptable in that instance and whilst customers will not be collecting bulky goods, there is insufficient reason for the Council to depart from this conclusion in this application. On this basis, no objection is raised.

Rural Retail

46. Policy TB18 of the MDD Local Plan states that proposals for the expansion of retail development outside development limits may be permitted where it is demonstrated that it is connected to or adjacent to the primary holding, it is economically related to the primary holding and is ancillary to the primary existing

use and that there would be no adverse impact on the vitality or viability of retail centres, neighbourhood or village shops within the locality.

47. Despite some perceived contradictions, the agent has argued that the proposal is ancillary and that there is no retail expansion. On this basis, Policy TB18 would not apply. However, the Council's argument is that the proposal in its unconditioned form involves the change of use of a greenhouse, which has a horticultural use, to retail use. It would represent an increase in the retail floorspace from 1052m² to 2542m², a sizeable increase. On this basis, the proposal would not be ancillary to the existing use and in the absence of any assessment of the expansion on surrounding businesses, the proposal would be unacceptable.
48. Notwithstanding, paragraph 3.87 of the MDD Local Plan states that appropriate forms of retail uses (those required to support the primary use) can support the rural economy. Paragraph 3.88 also states that '*The range of goods, services and facilities on offer at garden centres has diversified to include those not directly related to the primary purpose of garden centres. While uses that remain ancillary to the primary business of the site as a garden centre may be acceptable, it is important to ensure that the main garden centre use remains and that a separate commercial use is not established on site.*
49. The subject site does not operated as a garden centre as it retains a horticultural use. However, the planning assessment undertaken in the preceding paragraphs has concluded that the proposal, when conditioned, would not detrimentally alter the existing use. Moreover, given the limitations imposed and the community aspect, it is not envisaged that there would be unacceptable adverse economic harm to surrounding businesses. On this basis, no objection is raised.

Character of the Area

50. Policy CP3 of the Core Strategy states that development must be appropriate in terms of its scale, mass, layout, built form, height and character of the area and must be of high quality design and NR1 of the Borough Design Guide states that development should respond to key characteristics and features of the site and area. The proposed events would be internal, temporary and reversible in nature and as such, there is no foreseeable adverse impact upon the character of the wider area.
51. However, as noted above in 'Principle of Development, there are other external side effects, including additional traffic movements (particularly through Twyford Crossroads – an area of poor air quality), deliveries and parking of vehicles, including larger vehicles and other urbanising paraphernalia such as, trolleys, signage, litter bins. As already noted, it is likely that this will extend beyond normal trading hours. It is only because of the very special circumstances and limitations in Conditions 1 and 3 that this harm is acceptable.

Disabled Access (including The Public Sector Equality Duty (Equality Act 2010))

52. Policy CP2 of the Core Strategy seeks to ensure that new development contributes to the provision of sustainable and inclusive communities.

53. In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.
54. In this case, level access is ensured and disabled parking is maintained within the existing car park and on this basis, the proposal is acceptable.

Access and Movement

55. Policy CC07 and Appendix 2 of the MDD Local Plan stipulates minimum off street parking standards.
56. The existing car park has 161 car spaces and this has been more recently confirmed to be increased to 201 spaces under planning application 191520. This satisfactorily accommodates the parking generation rates arising from the existing nursery retail shop (25 spaces), farm shop (21 spaces) and café (28 spaces) or a total of 74 spaces.
57. There is no specific parking requirement for the horticultural buildings (classed as a sui generis use) and this is appropriate given they are not accessible to the public. The proposed Class A1 use would generate the requirement for an additional 85 spaces, which can still be accommodated within the existing car park.
58. Viewed more holistically, existing customers are often likely to visit the farm shop, café and nursery shop in one visit, reducing demand for parking. The same conclusion is relevant in relation to the nursery event space, albeit probably not to the same extent as stallholders will be specifically visiting the site and many of the other events are specifically tailored to activities that are outside of the current operations of Sheeplands Hare Hatch. Nonetheless, the proposal represents a satisfactory outcome on parking availability grounds and the Council's Highways Officer raises no objection. Furthermore, it is also unlikely that the proposal would have an adverse impact on the highway network.

Residential Amenities

59. Policy CP3 of the Core Strategy aims to protect neighbouring amenity and Policy CC06 and Appendix 1 of the MDD Local Plan requires that development protect noise sensitive receptors from noise impact. There is an existing residential dwelling attached to the site that has an agricultural occupancy condition and there are several dwellings adjoining to the east although, indicative of the Green Belt location, they are well removed from the greenhouses.
60. In terms of any impact, the floorspace to be used for events is internal and centrally located within the Sheeplands farm site. Furthermore, the operating hours are limited in Condition 3 to be consistent with the operating hours of the

nursery (and other local businesses) and it is therefore envisaged that traffic movements and activities will be broadly in alignment with the existing arrangements. Further still, Bath Road is subject to a high level of traffic noise, whereby there is unlikely to be any noticeable noise disturbance from the community use and on this basis, no objection is raised.

Waste Storage

61. Policy CC04 of the MDD Local Plan requires adequate internal and external storage for the segregation of waste and recycling as well as provision for green waste and composting. The existing storage facilities are likely to be sufficient for the generation of additional waste from the proposed community uses. As such, no objection is raised.

Flooding

62. Policy CC09 of the MDD Local Plan requires consideration of flood risk from historic flooding. The site and access thereto is located within Flood Zone 1 and the proposal represents no additional flood risk or vulnerability.

Employment Skills

63. Policy TB12 of the MDD Local Plan requires an employment skills plan (ESP) for major development, which accords opportunities for training, apprenticeship or other vocational initiatives to develop local employability skills. The application is a major development with a change in use of more than 1000m² in floorspace. However, given that no construction works are proposed and the permission is temporary, the requirement for an ESP is considered unwarranted.

Community Infrastructure Levy

64. Whilst there is a change of use to retail (which attracts a CIL rate of £50/m²), CIL is not applied where the permission is temporary.

CONCLUSION

65. By definition, the proposal represents inappropriate development in the Green Belt. However, taking account of the reasoning of the Inspector in the previous appeal for the site, there is a sufficient argument that sufficient very special circumstances exist to outweigh harm. On this basis and when subject to the specific limitations in Conditions 1 and 3, including limiting the number of events to 24 in any one year, the proposal is acceptable.