

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Whiting Landscape Ltd 'B'	Extend existing tree nursery to adjacent land - Whiting Landscape, Wildmoor Lane, Catshill, Bromsgrove	Green Belt	10/0629-MT 05.10.2010

Councillor Lewis has requested that this application be considered by the Committee, rather than being determined under delegated powers.

RECOMMENDATION: that planning permission is **REFUSED**.

Consultations

WH	Consulted 18.08.2010: No comments received to date.
Bournheath PC	No objections 13.09.2010.
WWT	Comments received 02.09.2010: Request that a Phase I Habitat Survey is submitted.
ENG	Comments received 10.09.2010: No objection.
Tree Officer	Consulted 18.08.2010: No comments received to date.
Highways Agency	Comments received 06.09.2010: <i>'The Highways Agency is concerned that the proximity of the nursery could cause drainage issues on the M5. Therefore, the Highways Agency requests that the applicant provides suitable means of draining surface water from the site. This should be agreed with the Highways Agency and implemented in full prior to any development.'</i>
	It is recommended that a condition is placed on any planning permission granted to secure this.
PROW	Consulted 18.08.2010: No comments received to date
Ramblers	Consulted 18.08.2010: No comments received to date
Publicity	No adjoining occupiers. Site Notice Posted 02.09.2010, expired 23.09.2010. Press Notice published 26.08.2010, expires 16.09.2010. No representations made.

The site and its surroundings

The application site relates to a field adjoining the north eastern boundary of Whiting Landscapes; an established landscape construction business. It is understood that the site was last used for fruit and vegetable growing and ancillary storage. There are remnants of this previous use on the site including a number of small sheds and greenhouses. The site is otherwise undeveloped comprising of litter and dead vegetation. The site is surrounded by trees to its northern, eastern and western boundaries. There is a Public Right of Way running along the southern boundary of the site and the M5 motorway lies to the east. The adjoining business premises comprises of a number of buildings, ancillary parking and servicing areas and vast areas of hardstanding used for the storage of trees and plants. The site is located in the Green Belt as defined in the BDLP.

Proposal

The application proposes to extend the existing tree nursery at the premises into the adjoining land. There are various facets to the proposal and I find it necessary to define these before an assessment of the case can be made. Firstly it is important to consider if the proposed use of the site by Whiting Landscapes would involve a material change of use. Secondly it is important to consider the extent of any operational development associated with the proposed use. I will consider each of these matters under separate headings below.

The Use

As noted above, the site was last used for the cultivation of fruit and vegetables. Such horticultural uses would fall within the definition of Agriculture set out at Section 336 of the Town and Country Planning Act 1990. The present use of the land is therefore considered to be agriculture.

The submitted application form indicates that the land would be used as a tree nursery. The Section 336 definition of agriculture includes 'nursery grounds' but there is no further interpretation of this term in the legislation. Nonetheless, having regard to common definitions of the term 'nursery' from the Oxford and Collins dictionaries, this is taken to be a place where young plants and trees are grown for sale or for planting elsewhere. The growing of trees in a tree nursery would therefore constitute an agricultural use and thus, on face value, no material change of use would occur through the proposal.

However, it is considered that the term 'tree nursery' in the description of the proposal on the application is actually a misnomer. The proposal would involve the importation of trees to the site aged between 3 and 6 years old. The trees will then be stored at the site until they are required for use in the applicant's landscaping business. Trees are normally stored for between 1 and 5 years. During this period irrigation, feeding and pruning operations are carried out.

I am not of the view that the above operations would qualify the proposal as a tree nursery. To substantiate this view I would refer Members to two conjoined appeals against an alleged breach of planning control and the refusal of an associated application for planning permission (Planning Inspectorate refs. APP/U1105/C/06/2023407 and APP/U1105/A/06/2024911 - Appeal Decision attached at Appendix A). Here a garden centre business in Surrey had used adjoining agricultural land for the storage of imported trees until their sale. Public access to the area was restricted and stored trees were sold via the garden centre. Trees were stored on average for between 12 and 18 months, but in some cases for up to 4 years. During this time the trees were tended to as required. This usually involved pruning, top dressing, watering and feeding, and possibly re-potting.

Here the Inspector observed that the trees were kept on the site for two reasons. *'First, to ensure that they are healthy and can be guaranteed, and secondly, until they are sold. Any cultivation which takes place in the interim serves the purpose of keeping the trees healthy and saleable. I consider this to be distinct from bringing up saplings, or cultivating plants from seeds or plugs to a developed state where the primary need for the cultivation is to obtain the finished plants for sale.....For the above reasons I find that the*

use of the appeal site is not agriculture. Therefore, a material change of use has taken place.'

The appeal development described above bears very close similarities with the application proposal. The cultivation operations (irrigation, feeding and pruning) that will take place at the application site are considered to be incidental to the main tree storage use. These operations would merely be for the maintenance of stock until it is required for landscaping operations. Tree cultivation would not form the primary use of the site and I am not therefore of the view that the proposal would amount to agriculture.

The use of the site would be for the storage of stock in connection with Whiting landscapes. The proposal would therefore involve a material change of use from agriculture to ancillary storage in connection with a B1 business use.

Physical Development

The proposal would involve various operational developments and engineering works. Firstly the whole site would be surfaced with permeable gravel to a depth of 40mm. Secondly a chain link security fence would be erected around the perimeter of the site. No details have been provided on the height of this enclosure but it is noted that the existing perimeter fence to the site is at around 2 metres above ground level. Thirdly a wire frame would be erected for each row of trees. This would be suspended on timber posts located at each end of each row. The proposed Site Plan indicates that there will be 24 rows of trees on the site. Each row would, on average, be 45 metres long. The application does not indicate how high each timber post would be, but it is noted that the posts at the existing nursery would be around 3 metres high above ground level. Finally, the proposal would involve the creation of an 8 metre wide 2 metre high soil bund along the eastern boundary of the site.

Relevant Policies

WCSP CTC.1, CTC.8, D.28, D.38, D.39, RST.3
BDLP DS2, DS13, ES2, RAT12
Others PPS1, PPG2, PPS4

Relevant Planning History

B/2005/0613 Removal of top surface to form a bund, area stoned and posts inserted for use as tree supports. Area will be used for storage of potted trees. Overground irrigation system installed but not fixed - Agricultural Notification - Planning permission required.
B/2005/0815 Creation of tree nursery, creation of bund - Granted 31.10.2005

Notes

I consider that the main issues to address in the determination of this application are those relating to Green Belt policy. It is necessary to establish if the proposal would represent an appropriate form of development and, if not, are there are very special circumstances to justify its approval. Further to this, the proposal would represent a

business use thus the policies within Planning Policy Statement 4 (PPS4) would apply. I will deal with each of these matters under a separate heading below.

The Green Belt

As noted above, the proposal would involve a material change of use and various operational developments and engineering works. The advice contained at paragraph 3.12 of PPG2 states that engineering and other operations, and the making of any material change in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.

It is considered that the semi mature trees, the associated timer posts and wire frames, the security fence enclosing the site and the soil bund adjacent to the site boundary would all conflict with the openness of the Green Belt. The proposal would involve the encroachment of a business premises into the countryside contrary to the purposes of including land within the Green Belt. Taking these points into consideration I consider the proposed change of use to represent an inappropriate form of development in the Green Belt.

As noted above the proposal would cause harm to the openness of the Green Belt and the purposes of including land within it. It is also considered that the proposed hardstanding would have an urbanising effect and the neat rows of pots and wire frames would formalise the appearance of the site. Such effects would in my view detract from the visual amenity of the Green Belt.

The proposal would represent an inappropriate form of development that would cause clear harm to the Green Belt. PPG2 and its associated BDLP Policy DS2 provide that there should be a general presumption against inappropriate development within the Green Belt. Such development should not be approved except in very special circumstances.

No very special circumstances have been put forward by the applicant. Nonetheless, I feel that Members should take the following matters into account when considering the harm resulting from proposal. Firstly, it is generally considered that the harm caused to the openness of the Green Belt by the proposed trees is acceptable. Trees represent an appropriate landscape feature in the Green Belt and I am not of the view that any detrimental harm would result. Although I am of the view that the regular pattern and supported nature of the trees would take on a very formalised appearance, this would be akin to a tree nursery which is generally accepted as an appropriate entity in the Green Belt. The tree aspect of the proposal would not therefore present me with any material concerns.

Secondly it is noted that the proposed bund would be planted with a native woodland mix and I am of the view that this would naturalise this feature and negate any resulting harm to the Green Belt.

Thirdly it is considered that the majority of the proposed perimeter fence would benefit from permitted development rights under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). I feel

therefore that it would be difficult to substantiate an objection to this part of the proposal. This statement is, however, based on the assumption that the fence would not be above 2 metres high above ground level.

Notwithstanding the above I would maintain my concerns over the proposal's harm to the Green Belt as a result of the proposed hardstanding, and the harm resulting from the encroachment of a business premises into the open countryside.

I am mindful of the fact that planning permission was granted at the site in 2005 (B/2005/0815) for a new tree nursery. It is however considered that the development resulting from that permission has had a much lesser impact on the Green Belt than the application proposal. The 2005 application site was sandwiched between the service yard to the business premises and the M5 motorway. This created a more enclosed context in which the development represented infill rather than encroachment. The 2005 application was approved under circumstances that would not apply to this proposal

Members should also be aware of the potential future implications of approving this application. If planning permission is granted, the Council would have accepted a large extension to a business use, and the creation of a large area of hardstanding, in an undeveloped Green Belt location. In the event that Whiting Landscapes withdraw from the site in future it is considered that it would be difficult for the Council to resist the instatement of other uses involving expanses of hardstanding i.e. ancillary car parking, and other external storage uses i.e. the storage of shipping containers or plant and machinery. Such uses would be significantly more detrimental to the Green Belt than the application proposal. Given the site's strategic location close to the M5 and M42 motorways it is considered that it would be attractive to other business users and it is considered highly likely that such alternative scenarios could occur in future.

The applicant has advised that one of the conditions of their 10 year lease with the owner of the site is that the land to which the application relates will be reinstated to its current state at the end of the lease. Member's should not rely on this as a measure to prevent the proposal causing long term harm to the Green Belt as the Council cannot control future changes in ownership and renewals of the lease.

Taking the above matters into consideration and, on balance, it is considered that the proposal would represent an inappropriate form of development in the Green Belt that would cause clear harm to the openness and visual amenities of the Green Belt. The proposal would also conflict with the purposes of including land within the Green Belt. It is considered that very special circumstances exist to outweigh the proposal's harm to the openness of the Green Belt, but no such circumstances exist in respect of the visual harm resulting from the proposed hardstanding, and the harm associated with urban encroachment. On this basis the proposal is found to be in contravention of policies D.38 and D.39 of the WCSP, Policy DS2 of the BDLP and the advice contained within PPG2.

Economic Development

Policy EC11 requires that, in determining planning applications for economic development other than for main town centre uses, which are not in accordance with the development plan, local planning authorities should:

- a. weigh market and other economic information alongside environmental and social information;
- b. take full account of any longer term benefits, as well as the costs, of development, such as job creation or improved productivity including any wider benefits to national, regional or local economies; and
- c. consider whether those proposals help to meet the wider objectives of the development plan.

The proposed development would represent an economic development proposal by virtue of it being an extension to the business use that is Whiting Landscapes. The proposal would not be in accordance with the Development Plan by virtue of it conflicting with the Green Belt policies set out above. Policy EC11 requires that, in such situations, the harm resulting from the development is considered alongside any economic benefits that the proposal would bring.

In this case the proposed development would cause demonstrable harm to the Green Belt. In terms of economic benefits, the applicant has indicated in his letter to the Council dated 3rd August that the proposal will allow the business to expand and this will present employment opportunities. No detailed economic information has however been put forward to substantiate this statement and the submitted application form provides no details of any additional employment that would be attributed to the development. It is appreciated that creating employment opportunities may be a 'cat and mouse' situation whereby expansion comes first and employment comes next. Exact employment figures may therefore be difficult to quantify at this stage. I would however expect the provision of forecasts or business plans to demonstrate the economic benefits and employment opportunities that would result from the proposal.

Without such information only crude assumptions can be made over the proposal's economic benefits. It must therefore be concluded that there are no demonstrable economic benefits resulting from the proposal and, given the proposal's clear harm to the Green Belt, I am of the view that it would be contrary to Policy EC11.

Other matters

I note the comments of WWT and the request for the applicant to provide a Phase I Habitat Survey. The rationale for this requirement is based on the condition of the site as seen from aerial photographs. The site is shown to contain numerous trees which could provide a habitat for various protected species. However, having visited the site it is apparent that all vegetation has now been cleared and I am not of the view that there is a reasonable likelihood of protected species being present.

Conclusion

The proposal would represent an inappropriate form of development in the Green Belt that would cause clear harm to the openness and visual amenities of the Green Belt. The proposal would also conflict with the purposes of including land within the Green Belt. It is considered that very special circumstances exist to outweigh the proposal's harm to the openness of the Green Belt, but no such circumstances exist in respect of the visual harm resulting from the proposed hardstanding, and the harm associated with urban

encroachment. On this basis the proposal is found to be in contravention of policies D.38 and D.39 of the WCSP, Policy DS2 of the BDLP and the advice contained within PPG2.

The proposal would have no demonstrable economic benefits that would outweigh its harm to the Green Belt. The proposal would therefore be contrary to Policy EC11 within PPS4.

Taking the above matters into consideration the proposal is not found to be in accordance with the relevant policies of the adopted Development Plan and national planning policy guidance. I therefore recommend that planning permission is refused.

RECOMMENDATION: that permission be refused for the following reasons:-

The proposal would represent an inappropriate form of development in the Green Belt contrary to policies D.38 and D.39 of the Worcestershire County Structure Plan 2001, Policy DS2 of the Bromsgrove District Local Plan 2004 and the advice contained within PPG2: Green Belts. No very special circumstances exist or have been put forward to outweigh the proposal's harm to the Green Belt.

There is no demonstrable economic benefit resulting from the proposal that would outweigh its environmental harm to the Green Belt. The proposal would therefore be contrary to Policy EC11 within Planning Policy Statement 4.