

PLANNING COMMITTEE - Thursday 14th July 2022
Part 1 - DELEGATED

5. 22/0193/RSP: Retrospective: Change of use of two outbuildings and immediately adjacent land from ancillary residential use (Class C3 residential) to a florist use for a temporary period of 12 months at 11 BUCKNALLS LANE GARSTON, HERTFORDSHIRE, WD25 9NE

Parish: Abbots Langley Parish Council
Expiry of Statutory Period: 01.03.2022
Extension of Time: 30.05.2022

Ward: Leavesden
Case Officer: Aaron Roberts

Recommendation: That retrospective planning permission be granted (for a temporary period, see section 8).

Reason for consideration by the Committee: The application was called in by three Members of the Planning Committee, due to concerns about the introduction of a commercial use in a residential area.

1 Relevant Planning and Enforcement History

1.1 Planning History

1.2 13/0250/CLPD - Certificate of Lawfulness Proposed Development: Proposed new detached outbuilding positioned within rear of existing garden - Permitted, not implemented

1.3 14/0005/RSP - Retrospective: Proposed new detached outbuilding with new pitch roof structure in lieu of flat roof - Permitted and implemented.

1.4 15/1383/RSP - Part Retrospective: Part change of use of land (including outbuilding) from residential to a mixed use: residential (class C3) and storage (Use Class B8) and erection of three storage containers - Refused at Planning Committee for the following reason:

R1: The change of use of land (including outbuilding) from residential to a mixed use: residential (Class C3) and storage (Class B8) and erection of three storage containers would by reason of increased activity and coming and goings to and from the site result in demonstrable harm to neighbouring residential amenity, contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

The above application was subject to a successful appeal under reference APP/P1940/W/16/3145723 which granted temporary planning permission from 27 July 2016 for one year.

1.5 17/1576/RSP - Retrospective: Change of use of land (including outbuilding) from residential to a mixed use: residential (Class C3) and storage (Class B8) and erection of three storage containers - Refused (delegated) on 25.09.2017.

The above application was later dismissed at appeal under reference APP/P1940/W/17/3191066.

1.6 19/1925/FUL - Construction of detached outbuilding to rear of site – Permitted and implemented.

1.7 21/2764/FUL - Part single part two storey side and rear extensions, loft conversion including increase in ridge height, Dutch hip roof enlargements and front and rear dormer windows – Withdrawn.

1.8 Enforcement History

- 1.9 13/0181/COMP - Enforcement Enquiry: Unauthorised works and change of use. Notice served – Case Closed (see section 7.1 for more details)
- 1.10 21/0056/COMP – Enforcement Enquiry: Breach of Condition 4 of planning permission 19/1925/FUL: Outbuilding used for commercial purposes – Pending Consideration (see section 7.1 for more details)

2 **Description of Application Site**

- 2.1 The application site contains a detached dwelling situated on the northern side of Bucknalls Lane in Garston.
- 2.2 The host dwelling has an 'L' shaped footprint and includes a prominent two storey front projecting gable. To the side there is a single storey extension which has been built up to the boundary with 15 Bucknalls Lane to the east.
- 2.3 The surrounding area is residential in character and predominately comprises detached houses built against the curved nature of the road. Within the immediate vicinity there are a number of semi-detached properties, however, both adjacent properties are detached. The neighbour to the north-west, 9 Bucknalls Lane, is located further back when compared to the siting of the host dwelling.
- 2.4 To the western side of the dwelling there is a close boarded gate which enables vehicular access to the rear garden. The garden comprises a block paved driveway which abuts the neighbouring boundary with 9 Bucknalls Lane and extends up to rear of the garden where a hipped roof outbuilding is located. The hipped roof outbuilding (Outbuilding 1) faces towards the rear of the dwelling and forms part of this application. Directly behind this hipped outbuilding, there is a pitched roof outbuilding (Outbuilding 2), which also forms part of this application.
- 2.5 The rear garden also contains a lawn and is enclosed by close boarded fencing which ranges in height (maximum 2.7m).
- 2.6 To the rear of the site there is a golf course (Penfold Park Golf Club) which is located within the Metropolitan Green Belt.
- 2.7 To the front of the dwelling there is an open frontage which consists of a brick paved carriage driveway. To the immediate west, an electricity substation exists and is built up to the western boundary with the host property.

3 **Description of Proposed Development**

- 3.1 This application seeks retrospective planning permission for change of use of two outbuildings and immediately adjacent land from ancillary residential use (Class C3 residential) to a florist use for a temporary period of 12 months at 11 Bucknalls Lane.
- 3.2 The submitted planning statement states that “the business provides floral displays and bouquets for events such as weddings and funerals as well as selling individual bouquets and flower arrangements to customers”. Prior to the COVID-19 Pandemic, the main premises of the business was located in Courtlands Drive in Watford. However, following this, the applicant has re-located the business to their home address of 11 Bucknalls Lane. The business currently employs 2 members of staff (excluding the applicant).
- 3.3 The red line on the Location Plan incorporates the front drive, access road to the west of the site and two outbuildings to the rear of the site (including associated hardstanding).

- 3.4 The existing hipped roof outbuilding (Outbuilding 1) initially approved under planning permission 14/0005/RSP measures approximately 9m in width, 9m in depth and has a maximum height of 4.8m. The outbuilding is set in from both neighbouring boundaries by approximately 3m. Internally, the outbuilding contains a refrigeration area and areas of storage (predominantly commercial).
- 3.5 The existing outbuilding furthest to the rear of the site (Outbuilding 2) initially approved under planning permission 19/1925/FUL measures approximately 13.8m in width, 5m in depth and as a maximum height of approximately 4m.
- 3.6 During the course of the application, amendments were made to reduce the number of vehicles associated with the business operations of Amie Bone Flowers to two vans (transits) which are parked on site in accordance with the parking areas specified on the submitted Site Plan. It is proposed that the Luton van (with internal refrigeration) referred to within the original planning submission is no longer to be used or be present on the site at 11 Bucknalls Lane.
- 3.7 Further amendments were submitted, including an amended Site Plan (TRDC 002) and additional documentation was provided including financial statements as well as a letter explaining the amended parking arrangements.

4 Consultation

4.1 Statutory Consultation

4.1.1 National Grid: [No comment received. Any comments received will be verbally updated at the Committee meeting]

4.1.2 Hertfordshire County Council Highways: [No Objection]

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

Comments/Analysis

Description of Proposal

Change of use of two outbuildings and immediately adjacent land from ancillary residential use (Class C3 residential) to a florist use (Class E commercial, business and service use) for a temporary period of 12 months.

Site and Surroundings

Bucknalls Lane is an unclassified local access road subject to a 30mph speed limit which is highway maintainable at public expense. The site is located north of Watford and is approximately 80m from the A405 North Orbital Road. The size of the proposed change of use measures 0.1 hectares and consists of two outbuildings within a private garden of a dwelling.

Access and Parking

There are not any proposed changes to the existing access at the site which consists of two dropped kerbs creating a large area of hardstanding and a service alley to the side of the dwelling. According to the Planning Statement, deliveries are not to be made directly to the site but at a predetermined drop off point. This would remove the concerns which were discussed in previous application responses and were ultimately the reasons for refusal, under applications 17/1576/RSP and 15/1383/RSP. The Planning Statement indicates that the only vehicles to enter the site will be privately owned vehicles which belong to the residents of the existing dwelling. Therefore, according to the Planning Statement no additional vehicles will have to access the site in order to fulfil the temporary change of use.

Parking is a matter for the LPA, but HCC would like to comment that the Application Form states that the existing parking provision is not to be altered by the application. The vans which are mentioned in the Planning Statement for collection of deliveries in a location away from the site are already owned and in use by the applicant, therefore it is assumed that the vans have allocated parking within the site already.

Conclusion

HCC as Highway Authority has considered the application and are satisfied that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway and therefore, has no objections on highway grounds to this application.

4.1.3 Environmental Health Officer: [No Objection]

“There is no carrying out industrial or commercial activities and processes. But to avoid potential noise nuisance to neighbouring properties, I would recommend limits on vehicle movements per day, time limits for these movements and restrictions on the type of vehicles permitted on site. Furthermore, the owners should avoid parking refrigeration vans on the side driveway of the property.

Given the above, this temporal proposal poses minimal or no noise impact on neighbouring properties. Therefore, Environmental Health has no objection”.

4.1.4 Abbots Langley Parish Council: [Objection]

“Members object to this application as the proposed use of the outbuildings and adjacent land as a florist is entirely inappropriate for the area. Members are also concerned about the risk of noise and nuisance to neighbouring properties caused by regular deliveries. Members also note potential risk that parents regularly accessing the underpass nearby to / from the school may be impacted”.

4.2 **Public/Neighbour Consultation**

4.2.1 Number consulted: 5

4.2.2 No of responses received: 4 supporting comments and 2 objection comments

4.2.3 Summary of responses:

Supporting comments:

- No noise or disruption caused to myself or local residents.
- By allowing this to progress it is also ensuring employment to local people.
- Also coming out of a pandemic after 2 years surely this is the way to support local businesses.
- The BRE which is located at the bottom of our road has heavy vehicles passing up and down the road at all hours of the day and night and these do wake me up
- I live next door (No.15) and I have never been inconvenienced or disturbed by any noise or activity.
- I could not wish for more pleasant and considerate neighbours and I fully support this application.
- As an elderly person myself I am at home most of the time and I have never found their work to be intrusive
- This is a small family business in a road of mixed usage – many of the houses in this road now have vans and run their business from home, especially since Covid and the governments guidelines encouraging everyone to work safely from home
- In the middle of this mixed usage road is a large Building Research Establishment, which creates havoc on Bucknalls Lane, it is allowed to continue with no measures

in place to stop exceptionally large speeding vehicles, going up and down at speed, all day and through the night

- Diversely, this is a very small + friendly family concern which cannot be seen from the road, I cannot therefore understand any objections especially as they have their own spacious driveway, this then begs the question is this family being victimised'?

Objection comments:

- The Council have already refused planning for business use on this property which the occupants have completely ignored and continued using it for business
- The reason for objecting are still the same and have increased.
- Large lorries arrive early in the morning delivering flowers as early as 7.00 and then there is the noise of the trollies going up and down the garden and refuse lorries to pick up rubbish
- Large vans go up the garden and park outside our side door which is about 3 feet away, blocking the light
- The sheds are used to make structures for weddings which makes it noisy in the summer with the use of electric drills and saws when we want to sit in the garden.
- The side of our house runs along the side of the garden of No 11 where all the traffic for their business goes up and down. This is a residential area.
- There is a refrigerated van which is predominately parked in the rear garden who's noisy cooling unit cuts in and out mainly during the summer period.
- As the vehicles and trolleys come along the side of our house and not the other side it is us that are affected.
- There are plenty of shops which are empty where a business should be

4.2.4 Site Notice: Further consultations required, expired: 28.03.2022

4.2.5 Press notice: Not required.

5 Reason for Delay

5.1 Committee cycle and waiting additional documentation.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

6.1.1 On 20 July 2021 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that "existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework".

6.1.2 The NPPF states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP6, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM6, DM9, DM13 and Appendices 2 and 5.

6.3 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 Planning Analysis

7.1 Overview

- 7.1.1 In 2013 an enforcement case was opened under reference 13/0181/COMP following a complaint to the Local Planning Authority (LPA) regarding the stationing of three shipping containers within the rear garden. Following initial site visits in August 2013, it was established that the shipping containers contained building materials for the construction of an outbuilding.
- 7.1.2 In 2014/2015 the applicant started to utilise the containers and outbuilding to store commercial paraphernalia connected with a florist business located in Watford. As a result, the applicant was made aware that the extent of commercial storage resulted in a mixed use, that being applied for, and that the three shipping containers by virtue of their size and degree of permanency had also resulted in development as defined by Section 55(1) of the Town and Country Planning Act 1990 (as amended).
- 7.1.3 A part retrospective planning application was submitted in 2015 (15/1383/RSP) in an attempt to formalise the use and the presence of the three storage containers. The application was refused by the Planning Committee (overturning an officer recommendation to approve), however, the development was subsequently allowed at appeal, albeit for a temporary period of 12 months and subject to conditions restricting hours of operation of commercial vehicles and deliveries, requiring that no materials or equipment are stored outside on the site, and requiring that only certain vehicles are permitted to access the site for the purposes of the approved development with a further restriction on vehicle numbers. It must be noted that prior to the allowed appeal (APP/P1940/W/16/3145723), an Enforcement Notice was served on 26th October 2015 regarding the change of use. However, the allowed appeal (APP/P1940/W/16/3145723), in granting planning permission, superseded the need to comply with the Notice.

- 7.1.4 Following the grant of planning permission at appeal, the LPA was made aware of various breaches of the conditions imposed by the Planning Inspector. A detailed log sheet/evidence was submitted, highlighting the various breaches including the parking of more than 2 vans on site, the stationing of large lorries exceeding 3.5 tonnes and the placement of external storage within the garden. During the temporary period, the LPA wrote to the applicant outlining the restrictions and also visited numerous times and provided warnings.
- 7.1.5 A subsequent planning application was received on 25 July 2017 and sought permanent planning permission for the mixed use of the site and retention of shipping containers. The application was refused on the 25 September 2017 and was later dismissed at appeal (APP/P1940/W/17/3191066). Following the determination of the appeal, an Enforcement Notice (Breach of Condition) was issued on the 14th November 2017. The Notice was issued enforcing against the fact that the use of the land for commercial purposes had not ceased within 12 months. As such, the Notice was a breach of condition notice, specifically in relation to Condition 2 of planning permission 15/1383/RSP, granted under appeal (APP/P1940/W/16/3145723) The period of compliance was 3 months from the date the Notice came into effect (15 December 2017). For a period of time after, there was compliance with this notice.
- 7.1.6 On 10 December 2019, planning permission was granted for “Construction of detached outbuilding to rear of site” under planning application 19/1925/FUL. This building is Outbuilding 2 as shown on the submitted plans for the pending application. This planning permission contained the following restrictive condition:
- “The outbuilding hereby permitted (labelled as ‘new outbuilding on drawing number No.1’ shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 11 Bucknalls Lane and shall not be used as an independent dwelling or for any commercial use or purpose at any time”.*
- 7.1.7 In March 2021, Enforcement Case 21/0056/COMP was opened in relation to “Breach of Condition 4 of planning permission 19/1925/FUL: Outbuilding used for commercial purposes”. Following a site visit and correspondence with the owner, it was ascertained that two buildings and the wider site were being used for commercial purposes. This planning application has therefore been submitted in response to the enforcement investigation to date but its submission is not conclusive as to its acceptability which will be discussed within the following analysis sections.
- 7.1.8 Previously the application site was used for storage overflow purposes within the existing outbuildings and three storage containers (which are no longer present on site), with the wider site utilised including for external storage. According to the Planning Statement, following COVID-19, the business has downscaled and now operates from two existing outbuildings at the rear of the site, which are used for the preparation of flowers and floristry goods and associated ancillary storage. Whilst the business now operates entirely from 11 Bucknalls Lane, rather than using the site for storage purposes, the commercial activity is now restricted to the outbuildings only.
- 7.2 Impact on amenity of neighbours
- 7.2.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. The Design Criteria as set out in Appendix 2 of the Development Management Policies LDD (adopted July 2013) state that new development should take into consideration impacts on neighbouring properties. Policy DM9 states that the Council will ensure that noise from a commercial use does not cause any significant increase in the background noise level of nearby existing noise sensitive properties such as dwellings.

- 7.2.2 The host property is located within an established residential area with no commercial or industrial uses in operation (excluding the Golf Course to the rear which is currently vacant) within the immediate vicinity. As a result, it is fully acknowledged that commercial activities arising from the existing use can impact on adjoining residential properties. This is emphasised by objections raised prior to the application being submitted, during the application process and within the decision issued by the Planning Inspectorate when granting temporary planning permission. However as previously noted and will be discussed later, there are differences between the nature of the business and how it operates within the site now compared to pre-Covid.
- 7.2.3 Due to the location of the driveway within the rear garden, running alongside the boundary with 9 Bucknalls Lane for a significant distance, and the location of the neighbouring house, sited further back when compared with the host dwelling, there has long been concern that the additional activity associated with the florist use may have a harmful impact upon the living conditions of those occupiers living immediately adjacent through noise and disturbance. It is accepted that the rear driveway could be used for residential purposes throughout the day; however, due the level of commercial activity on site associated with the business additional vehicular movements do occur throughout the week and at weekends, above and beyond what one would normally associate with a residential use.
- 7.2.4 It is acknowledged that the commercial aspect has been occurring in some capacity for at least 12 months, with complaints made to the Council. These complaints primarily related to noise disturbance and loss of outlook from deliveries and the use of a refrigerated van, as well as concerns regarding highway safety. Whilst these complaints are predominantly from one single complainant, this does not necessarily mean that the use is acceptable or would not become worse if not adequately controlled. Notwithstanding this, the Environmental Health Officer has not objected to the scheme, subject to conditions.
- 7.2.5 It must be noted that a refrigeration unit is installed within Outbuilding 1, which is well insulated and therefore mitigates any further noise issues. Additionally, the arranging of floral displays and bouquets within the outbuildings is not considered to result in unacceptable levels of noise or harm to the neighbouring amenity of adjoining neighbours given the relatively low level noise generation from the activity and the separation distances of the outbuildings from the rear of No.9 Bucknalls Lane. Outbuilding 1 is set approximately 17m from the rear elevation of No.9 and Outbuilding 2 is set approximately 26.5m from the rear elevation of No.9. The Case Officer has visited the site on multiple occasions and concerns were not raised as to the level of noise generated from the activity occurring within the outbuildings.
- 7.2.6 Within the allowed appeal (Reference: APP/P1940/W/16/3145723) the Inspector noted that:
- "I appreciate the close proximity of the development to neighbouring residential properties, particularly No.9; however, the storage activity itself is unlikely to generate noise and disturbance other than that resulting from increased comings and goings to and from the outbuilding and storage containers. The development would be associated with a family run business and as such the scale of activity is unlikely to result in significant levels of traffic movements. Nonetheless, the evidence before me does present some uncertainty regarding the effects that may arise. In these circumstances it is appropriate to consider whether conditions could control the development and mitigate the potential harm.*
- In order to allow a period of monitoring by the local planning authority I consider it appropriate to grant planning permission for a temporary period of one year. During this initial period, further conditions restricting hours of operation, size and number of commercial vehicles visiting and being stationing at the site and a restriction on any outdoor storage will safeguard the living conditions of the occupants of nearby residential properties in the short term".*

7.2.7 Within the dismissed appeal (Reference: APP/P1940/W/17/3191066), the Inspector noted that:

"In respect of noise and disturbance, and outlook, the main source of any detrimental effects of the development is from the type and number of vehicles using the driveway, views of the parked vehicles and materials stored on site, and the frequency, length and timing of vehicles' comings and goings. Given that the level of activity on the appeal site can fluctuate considerably through the year dependent on events, it is apparent that neighbouring occupiers experience varying levels of intrusion from the development.

The Council's officer report makes reference to a number of alleged breaches of conditions imposed on the previous appeal decision, which the appellant has not disputed. The Council describes the parking of more than 2 vans on site, the stationing of large lorries exceeding 3.5 tonnes, the placement of external storage within the garden, and employees of the business regularly using the outbuilding as part of the business. At the time of my site visit, the outbuilding was being used by a florist to create floral displays.

In addition, the Council states that the development has been used before 0800. A neighbour confirms that activity has taken place from as early as around 0630 to as late as approximately 2000, and that a large refrigerated van has been parked on the driveway close to No 9 with noise resulting from the van's refrigeration unit. The neighbour at No 9 describes noise that causes a material change in their day to day behaviour such as closing windows and avoiding use of bedrooms during periods when the noise persists.

I consider that the fluctuating nature of the noise and disturbance caused by large vehicles coming and going from the appeal site within a predominantly residential area at different times of day throughout the week, including weekends, and the altered outlook of large vehicles parked on the driveway within a residential garden, causes harm to the living conditions of neighbouring occupiers at No 9, with particular regard to noise and disturbance, and outlook".

7.2.8 It is apparent from both appeal decisions that the main issue is the effect of the development on the living conditions of the occupants of neighbouring properties, in terms of noise and disturbance and outlook associated with increased levels of activity and vehicle movements. Indeed in appeal decision Reference: APP/P1940/W/17/3191066 (which was dismissed), the Inspector noted *"in respect of noise and disturbance, and outlook, the main source of any detrimental effects of the development is from the type and number of vehicles using the driveway, views of the parked vehicles and materials stored on site, and the frequency, length and timing of vehicles' comings and goings"*.

7.2.9 When considering the information submitted (including Planning Statement and Financial Statements), it is felt sensible in the first instance to consider whether granting a temporary permission for one year subject to conditions is reasonable. One of the main issues associated with the florist use is vehicular movements to and from the application site at anti-social times (within a residential area) which has been raised as an issue by the immediate residents. As a result, it is considered that deliveries solely by light commercial vehicles (Transit type vans) within the area enclosed in red on the submitted Location Plan could reasonably be controlled between the hours of 8.00am to 18.00pm Monday to Saturday and 9.00am to 13.00pm Sundays and Bank Holidays. This also includes any commercial activity and processes, such as the arranging of flowers and associated paraphernalia. The imposition of this condition is considered reasonable based on the complaints received and from site observations. Whilst it is understood that the site would still retain its residential use and vehicular movements with it, such movements would generally be consistent with the surrounding residential area. In terms of enforcement, deliveries to and from the site would be clearly distinguishable from residential movements given that the vans would need to drive to the very rear of the garden where the commercial activity is located. Additionally, following correspondence with the agent, the LPA have

been informed that the applicants have installed CCTV to help the LPA when requiring any evidence concerning possible breaches.

- 7.2.10 Whilst the planning statement states that “the applicant does not accept deliveries from other vehicles at the site, instead meeting larger delivery vehicles at a pre-arranged drop-off point to transfer goods to smaller transit vans”, concerns (including photographic evidence) have been raised with regards to lorries (approximately 7.5 tonnes) accessing the site or parking on the pavement adjoining the site, i.e. delivering items (predominantly flowers) for the commercial activity at the site. These deliveries have been alleged to have occurred on weekends and as early as 06:40am. This concern was also noted by the Inspector in appeal decision APP/P1940/W/17/3191066. Whilst it is acknowledged that it appears that large lorries are semi-frequently stationed immediately adjoining the site, a suitably worded condition would be added to any permission to ensure that no vehicles other than cars, or light goods vehicles (vehicles with a gross vehicle weight of no more than 3.5 tonnes) shall be permitted to access the application site for the purposes of the development hereby permitted. A condition can be added to any permission ensuring that no unloading or loading of products associated with the florist from vehicles of any kind shall occur on Bucknalls Lane which are under the control of the applicant, however, this cannot be extended to vehicles outside of the control of the applicant, such as larger lorries. Additionally, a delivery management plan could be requested by condition, providing further details regarding delivery schedules, including those by vehicles outside the control of the applicant.
- 7.2.11 Concerns have also been raised with regards to the parking of a Luton van with an internal refrigeration system, parked on the access driveway adjoining the boundary with No.9 Bucknalls Lane. Again, this concern was noted by the Inspector in appeal decision (APP/P1940/W/17/3191066). It is acknowledged that the parking of this Luton van close to the boundary with No.9 Bucknalls Lane would likely have a detrimental impact on the neighbouring amenity of the occupiers of No.9. During a site visit, Officers requested that the refrigeration unit in the van was switched on, so that they could listen to the noise generated. It was evident that given the location of the van close to the shared boundary with No.9 Bucknalls Lane, the noise generated from the refrigeration unit within the van was unacceptable and would detrimentally impact upon the amenity of the occupiers of No.9 Bucknalls Lane, particularly when running for a substantial period of time. However, following correspondence with the agent, the Luton van (with internal refrigeration) referred to within the original planning submission is no longer to be used or present on the site at 11 Bucknalls Lane. Suitably worded conditions would ensure that no more than two light goods vehicles shall be stationed at any one time within the application site and that commercial vehicles with an in-built refrigeration system shall not be stationed within the site at any time. It is considered that these conditions mitigate against the concerns raised with regards to the Luton van.
- 7.2.12 In the dismissed appeal decision APP/P1940/W/17/3191066 the Inspector cited the placement of external storage within the garden and general loss of outlook. In order to protect neighbouring outlook, a condition would be added to ensure that no materials or equipment (including temporary structures) associated with the commercial business shall be stored outside on land within the application site and control of the applicant (i.e front and rear gardens).
- 7.3 Impact on Character and Street Scene
- 7.3.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'.

- 7.3.2 The use of the site for commercial purposes utilises the existing outbuildings and no additional hardstanding or structures is required above the existing situation. It is accepted that there may be some temporary external storage and paraphernalia (including trolleys etc) when loading and unloading products from the vans into the outbuildings, which may be somewhat out of keeping with the surrounding area. Nevertheless, the commercial activity is sited primarily at the very rear of the garden and cannot be viewed from within the streetscene context.
- 7.3.3 Additionally, whilst commercial vans (transits) are generally parked on the front and rear driveway, this is the normal arrangement and the refusal of planning permission would not alter this visual impact. A suitably worded condition can be added to ensure that no unloading or loading of products associated with the florist shall occur on Bucknalls Lane, to minimise the potential impact to the streetscene. The parking of two vans, given the size of the plot is unlikely in itself constitute a material change of use and a condition can be added to limit the presence of parked commercial vehicles to two, parked to the front only.
- 7.3.4 The proposed development therefore does not result in unduly prominent additions and is acceptable with regard to its impact on the host dwelling, street scene and wider area. The development complies with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the DMP LDD.

7.4 Amenity Space Provision

- 7.4.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of amenity and garden space. Section 3 (Amenity Space) of Appendix 2 of the Development Management Policies document provides indicative levels of amenity/garden space provision.
- 7.4.2 According to the standards set out in Appendix 2, a three bedroom dwelling would require 84sqm of amenity space. The resultant garden amenity space for the dwelling far exceeds the indicative levels as required by the Local Plan.

7.5 Wildlife and Biodiversity

- 7.5.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.5.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 7.5.3 The application has been submitted with a Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application. The Local Planning Authority is not aware of any records of bats (or other protected species) within the immediate area that would necessitate further surveying work being undertaken.

7.6 Trees and Landscaping

- 7.6.1 Policy DM6 of the Development Management Policies LDD states that development proposals should seek to retain trees and other important landscape and nature conservation features whilst including new trees and other planting to enhance the landscape of the site and its surroundings as appropriate. It also states that development proposals should demonstrate that existing trees, hedgerows and woodlands will be

safeguarded and managed during and after development in accordance with the relevant British Standards and that development should be designed in such a way as to allow trees and hedgerows to grow to maturity without causing undue problems of visibility, shading or damage.

- 7.6.2 The application site is not located within a Conservation Area and no trees on or adjacent to the site are protected by a Tree Preservation Order. No trees of public amenity value have been harmed or removed by virtue of the proposal and the development is considered acceptable in this regard.

7.7 Highways, Access and Parking

- 7.7.1 Policy CP10 of the Core Strategy relates to transport and travel and advises that development proposals will need to provide a safe and adequate means of access.

- 7.7.2 During the course of the application, Hertfordshire Highways were consulted and raised no objections to the scheme, stating that following consideration of the application, they “are satisfied that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway”.

- 7.7.3 The business employs 2 members of staff. Given the extent of the front drive, it is possible for the two members of staff to park on the front drive. Additionally, there are off-site parking spaces along Bucknalls Lane. Given the low number of staff (2), it is not considered that the additional vehicles have an unreasonable impact on the safety and operation of the highway.

- 7.7.4 Due to the nature of the development, the vehicles associated with the use are connected with the family business and thus does not place added strain on parking provision. Nevertheless, sufficient space is achievable within the site. As such, the scheme is considered acceptable in this regard.

7.8 Planning Balance

- 7.8.1 Core Strategy Policy CP6 seeks to support the sustainable growth of the Three Rivers economy and sets out that the Council will support development that provides a range of small, medium and large business premises. Supporting information (in the form of financial statements) has been submitted which states “that the Covid-19 pandemic has had a significant impact on the business”. It is considered that given the current economic climate (including Covid-19), the circumstances in which the applicant’s business is operating within is materially different to that of when appeal APP/P1940/W/17/3191066 was dismissed. Additionally, information has been submitted (Appendix 2 of the Planning Statement) which suggests that the applicant is actively seeking alternative locations away from residential areas. Appendix 2 of the Planning Statement sets out a search criteria, search log and list of properties for consideration. It is considered that the detail of information provided is evidence that the applicant has been legitimately searching for alternative suitable premises.

- 7.8.2 The NPPF seeks that the planning system contributes to achieving sustainable development of which there are three dimensions; an economic role, a social role and an environmental role. As per paragraph 8 of the NPPF these roles should not be undertaken in isolation. As a result, it is clear that any decision will need to be balanced. In accordance with Planning Practice Guidance, a second temporary permission is rarely justifiable and permissions should normally be granted permanently or refused if there is clear justification for doing so. Since the dismissed appeal (APP/P1940/W/17/3191066), it is considered that given the current economic climate (including Covid-19), the circumstances in which the applicant’s business is operating has changed. Furthermore, the business is operating in a different way, focusing on events (which occur less frequently) rather than ‘everyday’ style bouquets, which would result in higher levels of vehicular comings and goings. As a

balanced decision, it is considered reasonable to grant planning permission with appropriate conditions for one year. It is considered that the proposed conditions overcome the concerns raised by the inspector in the dismissed appeal (APP/P1940/W/17/3191066) and the objection comments raised as part of this pending application. Additionally, the applicant has stated both informally and via the planning statement that they do not intend to undertake the commercial activity at the application site for longer than 12 months, it is a temporary measure to allow them to find suitable alternative premises. After this period, it would be open to the LPA to take enforcement action. The submitted financial statement illustrates a decline in profits during (and after) COVID and it must be noted that the consequences of refusing planning permission may include the business ceasing to exist and the loss of jobs.

8 Recommendation

8.1 That RETROSPECTIVE PLANNING PERMISSION BE GRANTED and has effect from the date on which the development is carried out and is subject to the following conditions:

- C1 This permission for change of use of two outbuildings and immediately adjacent land from ancillary residential use (Class C3 residential) to a florist use is granted for a limited period which will expire 12 MONTHS from the date of this permission. On or before that expiry date the florist use of the application site as enclosed in red on the submitted Location Plan (TRDC 001) shall cease with the application site (including outbuildings) returning to its former use (ancillary residential use (Class C3 residential)).

Reason: To allow the Local Planning Authority an opportunity to assess the effect of the use or development hereby permitted on the residential amenities of the surrounding areas in accordance with Policies PSP2, CP1, CP6, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM6, DM9 DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C2 No light goods vehicles shall be operated (unless for personal use in connection with the residential use of the site), no commercial process shall be carried out nor any deliveries taken or dispatched from the area enclosed in red on the submitted Location Plan (TRDC 001) otherwise than between the hours of 8.00am to 18.00pm; Mondays to Saturdays and 9.00am to 13.00pm; on Sundays or National Holidays.

Reason: To safeguard the residential amenities of the occupiers of neighbouring properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C3 No more than two light goods vehicles (specifically the Ford Transit Vans with registration numbers JA5 8ONE and AM18 ONE) shall be stationed/parked at any one time within the application site (area enclosed in red on the submitted Location Plan (TRDC 001)). The light goods vehicles shall be parked in accordance with the parking areas specified on the submitted Site Plan (TRDC 002), unless undertaking a delivery to or from the site.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties and the visual amenities of the area and in the interests of highway safety in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C4 No vehicles other than cars, or light goods vehicles (vehicles with a gross vehicle weight of no more than 3.5 tonnes), specifically the Ford Transit Vans with registration numbers JA5 8ONE and AM18 ONE, shall be permitted to access the application site for the purposes of the development hereby permitted. There shall be no more than ten vehicle movements (five in and five out) per day to and from the application site in connection with the

development shall be permitted.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties and the visual amenities of the area and in the interests of highway safety in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C5 That no unloading or loading of products associated with the florist from vehicles of any kind shall occur on Bucknalls Lane which are under the control of the applicant.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties and the visual amenities of the area and in the interests of highway safety in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C6 No commercial vehicles of any kind with an in-built refrigeration system shall be stationed within the application site (area enclosed in red on the submitted Location Plan (TRDC 001)) at any time or land under the control of the applicant.

Reason: To safeguard the residential amenities of the occupiers of neighbouring properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C7 No materials or equipment (including temporary structures) associated with the florist business shall be stored externally on land within the application site or land under the control of the applicant.

Reason: To safeguard the residential amenities of the occupiers of neighbouring properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C8 No customers or members of the public shall attend the site at any time for purposes relating to the florist use hereby permitted.

Reason: To safeguard the residential amenities of the occupiers of neighbouring properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

8.2 **Informatives**

- 11 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. It is a requirement under Regulation 67 (1), Regulation 42B(6) (in the case of residential annexes or extensions), and Regulation 54B(6) (for self-build housing) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development and requested additional information during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.