



CONSULTANTS LTD

G1332/TH/th

Mr S Robson
Ryedale District Council
Ryedale House
Malton
North Yorkshire
YO17 7HH

18 June 2014

Dear Mr Robson

RYEDALE DM

19 JUN 2014

DEVELOPMENT
MANAGEMENT

**HOPKINSON AND SONS LTD, STEAM AND MOORLAND GARDEN CENTRE,
MALTON ROAD, PICKERING: APPLICATION FOR VARIATION OF CONDITION 05
ATTACHED TO PLANNING PERMISSION REFERENCE 11/00749/FUL**

* Please find enclosed in connection with the above four copies of the following:

- i) Application forms;
- ii) Notice under Article 12
- iii) Drawing number G1332-03 - Location Plan

* The application fee of £195 is enclosed.

The application seeks variation of condition 05 attached to permission reference 11/00749/73A which reads:

*The **ground floor of the building(s)** hereby approved shall only be used as a garden centre for the display and sale of the following categories of goods:*

- (i) *Pot and bare rooted plants, ornamental fruit bushes and trees, seeds/bulbs, vegetable and bedding plants, ornamental and fruit trees, cut flowers;*
- (ii) *Garden requisites such as composts, fertilisers, weed killers/disinfectants, spray equipment, netting, cloches, plant supports;*
- (iii) *Gardening and greenhouse tools and equipment;*
- (iv) *Gardening protective clothing and footwear;*
- (v) *Garden pond liners, pumps and equipment, pebbles, aquatic plants, fish and fish food;*
- (vi) *Fencing, path and patio construction materials such as gravel, paving slabs, edging materials;*

REGISTERED OFFICE:
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DIRECTORS: MALCOLM W G SCOTT DipTP MA MRTPI CMLI ■ HELEN F SCOTT BA (Hons) Dip TP MRTPI ■ CHRISTOPHER PRIMETT BA (Hons) MTP MRTPI ■ PAUL BARTON BSc (Hons) Dip TP MRTPI ■

- (vii) Garden furniture and ornaments such as seating, umbrellas, barbecue and barbecue fuel, bird tables, feeders and bird feed;
- (viii) Incidentals such as gardening books and videos, cards, artificial flowers, small animal feed (e.g. rabbit food); and
- (ix) Natural and artificial Christmas trees, Christmas decorations, table decorations, Christmas cards.

The **building(s) and land** shall not be used for any other purposes (including any other purposes in Use Class A1 of the Schedule of the Town & Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument re-voking or re-enacting that Order with or without modification).

Reason:- in order to comply with PPS4 – Planning for Sustainable Economic Growth, as the site is in the open countryside where current planning policy would not normally permit general retail uses.' **[our emphasis]**.

The permission relates to the erection of a two storey link structure between the existing garden centre and the existing garden and agricultural machinery store and workshop, as shown hatched on the Location Plan.

It is proposed to amend the condition to read:

'The ground floor of the building hereby approved shall only be used as a garden centre for the display and sale of the following categories of goods:

- (i) Pot and bare rooted plants, ornamental fruit bushes and trees, seeds/bulbs, vegetable and bedding plants, ornamental and fruit trees, cut flowers;
- (ii) Garden requisites such as composts, fertilisers, weed killers/disinfectants, spray equipment, netting, cloches, plant supports;
- (iii) Gardening and greenhouse tools and equipment;
- (iv) Gardening protective clothing and footwear;
- (v) Garden pond liners, pumps and equipment, pebbles, aquatic plants, fish and fish food;
- (vi) Fencing, path and patio construction materials such as gravel, paving slabs, edging materials;
- (vii) Garden furniture and ornaments such as seating, umbrellas, barbecue and barbecue fuel, bird tables, feeders and bird feed;
- (viii) Incidentals such as gardening books and videos, cards, artificial flowers, small animal feed (e.g. rabbit food); and
- (ix) Natural and artificial Christmas trees, Christmas decorations, table decorations, Christmas cards.

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The ground floor of the building shall not be used for any other purposes (including any other purposes in Use Class A1 of the Schedule of the Town & Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument re-voking or re-enacting that Order with or without modification)'.

Reason:- in order to comply with the National Planning Policy Framework, as the site is in the open countryside where current planning policy would not normally permit general retail uses.'

The purpose of the application is to clarify that the restrictions on the range of goods to be sold apply only to the ground floor of proposed structure, as opposed to the other buildings and land at the site. The use of the first floor is controlled by conditions 08 and 10 attached to the permission. The use of the garden and agricultural machinery building is already controlled by condition 06 attached to permission 02/00880/FUL and it is not necessary or reasonable for those limitations to be altered by the 2011 (link building) permission. Similarly, condition 06 attached to permission reference 00/00400/OUT restricts the range of goods which can be sold from the garden centre and associated land. As you are aware the garden centre building and associated land is the subject of an application for a certificate of lawfulness for use in breach of condition 06 attached to permission reference 00/00400/OUT. If that application is unsuccessful, then the use of the garden centre and associated land will continue to be controlled by permission 00/00400/OUT, and the repetition of those controls by the permission for the link building will not be necessary. If the application is successful, then the lawful use of the garden centre and associated land will be as set out in the certificate and it would be inappropriate for the permission for the link building to seek to remove those existing use rights, save to the extent that the application site incorporates the area onto which the link building is to be erected. The revised condition as set out above would restrict the use of the link building in order that the reasons for imposing the condition could be served.

The condition as attached to 11/00749/73A does not meet the tests for conditions as set out at paragraph 206 of the National Planning Policy Framework. The proposed amendment would rectify this in the following ways:

- Necessary. It is not necessary to restrict the use of any area, other than the ground floor, in the manner described in order to make the link building acceptable in planning terms. The amended condition will serve this purpose.
- Relevant to the development to be permitted. The condition as currently worded does not meet this test, in that it would have the effect of limiting or altering the permitted use of other land and buildings already benefitting from specific permissions.
- Precise. The condition as worded is imprecise in that the first provision seeks to control the use of the ground floor, but the final provision refers to building(s) and land. Our proposed revision clarifies the position.

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We look forward to receiving your approval of the application at your earliest convenience.
In the meantime please do not hesitate to contact me with any matters arising.

Yours sincerely
for MALCOLM SCOTT CONSULTANTS LTD

TRACY HUBBARD

cc: Mr C Hopkinson, Hopkinson and Sons Ltd

{180614.ltr.ryedale.th}

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— CONSULTANTS LTD —
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