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Your Ref: EPF/1181/11  
Our Ref: APP/J1535/A/12/2170274/NWF  
Date: 6 June 2012

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Dear Ms Parker

**Town and Country Planning Act 1990  
Appeal by Valley Grown Nurseries  
Site at Valley Grown Nurseries, Paynes Lane, Nazeing, Waltham Abbey, EN9  
2EX**

I enclose a copy of our Inspector's decision on the above appeal together with a copy of the decision on an application for an award of costs.

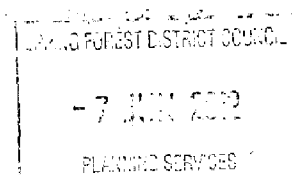
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You should also note that there is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for judicial review. This must be done promptly. Please contact the Administrative Court for further information.

Yours sincerely



*Jackie Whitworth*

Jackie Whitworth

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## Appeal Decision

Site visit made on 2 May 2012

by **G D Grindey MSc MRTPI Tech.Cert.Arb**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 June 2012

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**Appeal Ref: APP/J1535/A/12/2170274**

**Paynes Lane, Nazeing, Waltham Abbey, EN9 2EX.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Valley Grown Nurseries against the decision of Epping Forest District Council.
  - The application Ref PL/EPF/1181/11, dated 6 June 2011, was refused by notice dated 24 August 2011.
  - The development proposed is 87,119 sq m glasshouse; 4514 sq m ancillary warehouse area to adjoin the northern elevation of the glasshouse; 238 sq m of associated office space and 194 sq m of welfare facility space.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by the appellants against the Council. This application is the subject of a separate decision.

### Main Issues

3. From my inspection of the site and surroundings and the representations made I find that the decision on this appeal turns on 4 main issues. These are (i) whether the proposal would be 'inappropriate development' for the purposes of the National Planning Policy Framework (NPPF) and development plan policy (ii) the effect of the development upon the openness of the green belt and the purposes of including land within it (iii) whether the appeal site would be an appropriate location for the development bearing in mind the policy objectives for the Lee Valley Regional Park (LVRP) and (iv) the effect of the vehicle movements that would be generated by the scheme on the living conditions of nearby residents in terms of noise and disturbance.

### Reasons

#### *Policy background and the business requirements*

4. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise<sup>1</sup>, so my starting point must be the relevant policies.

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<sup>1</sup> National Planning Policy Framework, paragraph 2

5. The application sites lies entirely within the LVRP, the Authority for which has a statutory responsibility to provide facilities for sport, recreation, leisure, entertainment and nature conservation throughout the Park. Policy RST24 of the Epping Forest District Adopted Local Plan (LP) seeks to ensure that all development within the Park should have regard to the importance of the Park for the uses described above; should safeguard the amenity of the Park and conserve and where possible enhance the landscape of the Park.
6. LP policy E13A is permissive of new and replacement glasshouses within the areas identified for this on the Alterations Proposals Map. The appeal site is not within such an area so identified. Glasshouses will not be permitted outside the areas except in a small number of specified circumstances, none of which apply here. While 'modest' expansion of an existing undertaking on a site at the edge of a designated area may be considered favourably, the appellants acknowledge that the appeal scheme cannot be considered as such.<sup>2</sup>
7. I think it would be fair to say that there is a general acceptance by both main parties that LP E13A is an aged policy which, when drafted, did not really foresee the current circumstances of the glass house sector. With this in mind the Council has begun a review of the policy and has published a draft discussion document for consultation. This contains a useful summary of the differing elements which will need to be balanced: "significantly larger glasshouse units"; "current policy will not support significant expansion"; "EFDC needs to make a clear strategic decision on the future of the sector"; "the sector makes a significant economic and employment contribution to the area"; "large scale expansion will most likely require new sites"; "there will always be conflict between the sector and greenbelt policy"<sup>3</sup>. I find that many of these elements also flow through this appeal decision.
8. In terms of the last quote from the draft discussion document above, as the National Planning Policy Framework (NPPF) states: 'the essential characteristics of green belts are their openness and permanence.'<sup>4</sup> Paragraph 89 of the NPPF continues that the construction of new buildings is inappropriate in the green belt. "Exceptions to this are buildings for agriculture....". LP policy GB7A gives further guidance and seeks to restrict development conspicuous from within or beyond the green belt which would have an excessive adverse impact upon the openness, rural character or visual amenities of the green belt.
9. I appreciate that the appellant has put a great deal of effort into formulating a scheme which takes account of the problematic location of his site, within the LVRP and the green belt. I have read with interest the business case statement and alternative site assessment carried out. It is forecast that demand for some salad lines is likely to increase by over 50% in the next 5 years and, if it is not grown here, supplies will be bought probably from outside the UK. Glasshouse technology has improved with larger glass panes, thermal screens, irrigation recycling, management controls and combined heat and power (CHP) systems; together the best systems can produce 20% higher yields.
10. These economies of scale lead the requirements for a site large enough to accommodate a 9ha glasshouse because a CHP unit needs to be capable of

<sup>2</sup> Planning Statement, paragraph 5.56

<sup>3</sup> RPS Appeal statement, appendix VI the DRAFT Lee Valley Glasshouse Industry :Planning for the Future January 2012

<sup>4</sup> NPPF, paragraph 79

generating about 4MgW of power. Based on its heating requirements, a modern insulated glasshouse generates about 0.45MgW/ha, so 9ha are required to generate 4MgW. The site would also need to accommodate a 35,000 cubic m reservoir and have suitable power connections. Clearly, if sited close to the existing glasshouses and the packing depot this would be efficient too. The appellant conducted a well documented search for such a site within the LP designated glasshouse sites; none were satisfactory.

*Issue (i) whether the proposal would be 'inappropriate development' for the purposes of the NPPF and development plan policy.*

11. 87,119 sq m of glasshouse would be for agriculture, one of the very limited exceptions to the construction of new buildings referred to in paragraph 89 of the NPPF. In addition, of course, there would be the associated warehouse area, office space, welfare facilities, large hard-surfaced areas for parking for HGVs and the irrigation tanks. It seems to me that, with the scale of agricultural production envisaged within the glasshouses, these uses, although large floor spaces in their own right, would be essential to the functioning of the agricultural use, and might be regarded as ancillary to the main use. I conclude the proposals would not be inappropriate development for the purposes of national and local planning policy.

*Issue (ii) the effect of the development upon the openness of the green belt and the purposes of including land within it.*

12. While not inappropriate development, the effect of the development on the *openness* of the green belt is still a material consideration and a potential harm factor to be weighed in the balance. The fact that a development is not inappropriate does not set aside the fundamental green belt aim of 'keeping land permanently open'<sup>5</sup>.
13. The appellant argues that through the implementation of the habitat enhancement and landscaping, supported by the findings of the Landscape & Visual Impact Assessment the proposals are demonstrated not to have an excessive adverse impact upon the openness, rural character or visual amenities of the green belt<sup>6</sup>.
14. But this cannot be correct; the scheme would involve the construction of 8.7ha – huge on any scale – of new building that is not there at present. Regardless of whether the building would have some landscaping associated with it and/or enhanced habitat creation, the area where the glasshouse would be located would not, any longer, be open; the ground would not be free of solid, tangible development; it would not be being kept 'permanently open'. Such huge additional volume and bulk *must* diminish the openness of the green belt and the purpose of including land within it, such as safeguarding the countryside from encroachment. 'Openness' is referred to in the new NPPF; where it is noted that one of the essential characteristics of green belts is their openness;<sup>7</sup> I repeat that a policy objective is *keeping land permanently open* [my emphasis]. The proposal must conflict with national policy as expressed in the NPPF and LP policy; I accord this harm significant weight.

*Issue (iii) whether the appeal site would be an appropriate location for the*

<sup>5</sup> NPPF, paragraph 79

<sup>6</sup> RPS Planning Statement, paragraph 5.57

<sup>7</sup> NPPF, paragraph 79

*development bearing in mind the policy objectives for the LVRP.*

15. The site is within a currently open area; the Park authority argues that "the development of such a large glasshouse within the Park boundary significantly affects the ability of the Park to function as a place of recreation and reserves for nature and would undermine the purpose of the Act."<sup>8</sup> While I would not go this far, (in terms of the ability of the whole Park to function)-I find that it would be a massive structure for walkers on the adjacent footpaths (north-south Paynes lane footpath and the east-west to-be-diverted one) to experience and walk alongside.
16. I am aware that, from these shorter-range views from these footpaths, there is already glasshouse development as part of the wider scene. Nevertheless, there would be this new unit here - on a grand scale - which must, inevitably result in some additional diminution of the experience of the existing open rural landscape character. We walked some of these lengths at my site inspection and the change would be from open farmland to built form. When adjacent to them, on foot, these would be tall and very large buildings, and a total contrast to the experience of walking in the open with space around. I note that a landscaped bund is proposed on the western side but these often look contrived and it would, in any event, be an unnatural feature in the landscape.
17. I accept that the appellant has sought to include enhanced habitat provision around the re-modelled lake, interpretation boards, a picnic area and an outdoor classroom<sup>9</sup> and to increase footfall. This would quite probably provide a destination for school visits and the like but, for the majority of the public just out for a walk, I cannot find any great advantage. To my mind these elements would simply be a *different* experience, neither better nor worse.
18. At present, the east-west walk is through open fields with views of the existing water body to the south and the glasshouses away to the north. This would change to a rather more 'managed' appearance; even looking south across the re-modelled water body from the diverted footpath I think one would be aware that the huge glasshouse development was directly behind your back<sup>10</sup>. Heading eastward the walker would then pass the storage reservoir which would have a distinctly utilitarian appearance with the necessary bunding and pipework similar to that illustrated in the letter from Steve McVickers of 23 August 2011.<sup>11</sup>
19. I agree that the timber boardwalk, viewing platform and nesting island, outdoor classroom, picnic area, new planting and so forth would all provide added interest for some but, I repeat, the experience would be different; some will enjoy it, some will prefer a less managed, more semi-wild trip.
20. I find that the visual impact conclusions of the LVIA to be fair; the viewpoints examined immediately adjacent to the site will be most affected due to the closer proximity of the development. The Assessment continues that 'even with a sensitive landscaping scheme it is unavoidable that the glasshouse building will be more noticeable within the landscape than the current arable field and woodland backdrop'.<sup>12</sup> I agree. Where I differ from the view of the

<sup>8</sup> Appeal Statement, LVRP March 2012

<sup>9</sup> All secured by the S106

<sup>10</sup> Habitat Enhancement & Landscaping plan

<sup>11</sup> Sent with initial appeal documents

<sup>12</sup> L&VIA, paragraph 5.9

LVIA is the statement that the 'glasshouse building will create a fundamentally agricultural scene'. While that would be their use internally, and some may perceive them as such, I think most viewers would recognise these simply as giant, industrial scale buildings in the landscape, wholly different from an open arable field.

21. Viewing the appeal site from further away, I agree with the LVIA that longer distance views from the west would be shielded, as would those from the east, including from the path along Clayton Hill. However, the site would be seen from the viewpoint at the LVRP's Holyfield Hall Farm which we viewed at my site inspection. This has been created and promoted as a public viewpoint destination and, looking north-west, the new glasshouse would be a significant element in the landscape and rather more so than shown in the indicative photomontage (view 16).<sup>13</sup> There would be serious harm to the character and appearance of the LVRP.
22. Objectively bearing in mind the Park Authority's straightforward responsibility to provide facilities for sport, recreation, leisure, entertainment and nature conservation throughout the Park, the erection of 8.7ha of building over open arable land does not seem to me to further those objectives. I accord this harm significant weight. The scheme would conflict with LP policy RST24.

*Issue (iv) the effect of the vehicle movements that would be generated by the scheme on the living conditions of nearby residents in terms of noise and disturbance.*

23. Paynes Lane is a narrow, single track privately owned lane; it is in poor surface condition with no proper passing places or pavements; it is also a public footpath. The appellant company has produced a Transport Statement and a Framework Travel Plan. I saw an HGV being loaded at the existing site and also saw another in the lane. I saw the packing and distribution depot at Sedge Green Roydon nearby where all the existing produce is taken and where the produce from the proposed glasshouse would be taken to be packed.
24. I consider that there would be every incentive for the appellant Company to operate at peak efficiency in transport terms because of the sheer imperative to minimise unit costs. It would simply make more economic sense to fully load 3 HGVs than despatch 6 half-full ones to the packing depot. I would not be surprised if the appellant could achieve the limited increase of, on average, just 3 HGV movements per day predicted. Staff and other callers are more difficult to control, but I understand the appellant already facilitates staff mini-bus journeys to work and I have no reason to doubt the suggestions in the Framework Travel Plan could be implemented.
25. Clearly a mix of pedestrians on the footpath and HGVs is not an ideal one; there are no refuges; pedestrians simply have to move into a gateway or push into the hedgerow when any vehicle passes. Large vehicles passing close will be intimidating and unpleasant. But I bear in mind that the present operation of Valley Grown Nurseries, at the end of Paynes Lane, is entirely unrestricted. A different agricultural operation here could result in any amount of additional traffic. Additionally, by far the majority of vehicle movements in Paynes Lane are not associated with the appellant's company.<sup>14</sup> This situation would not

<sup>13</sup> RPS appeal statement, Appendix VII

<sup>14</sup> See the Transport Statement, paragraph 4.4

change significantly with the appeal proposal. The fact that the highway authority raised no objection to the scheme adds weight to my conclusion on this issue that the minor increase in traffic generation here would not significantly impact on the living conditions of residents along the access road.

*Finding the balance*

26. I acknowledge the contribution to home-grown food that would result from the scheme and the apparent lack of alternative sites which would meet the appellant's criteria for his business. I realise there would be improvements to public access to a small area at the south of the site. But there is nothing out of the ordinary with these factors and I accord them minimal weight. In contrast, the harm to the openness of the greenbelt and the purposes of including land within it, and the harm to the character and appearance of the LVRP and the objectives of the LVRP Authority should be accorded considerable weight in my decision. I conclude that the proposals would be contrary to national green belt policy as set out in the NPPF together with LP policies RST24, E13A and GB7A.

*Other matters*

27. While the existing lake on the site is not part of the Lee Valley Special Protection Area (SPA) and Ramsar site, the ecological report states that during the course of the scoping survey there were 30 gadwall and 5 shoveler noted. The RSPB is of the opinion that the lake is functionally linked to the SPA since species for which the SPA has been designated are dependant on this habitat. It is therefore necessary to consider the ecological importance of the lake habitat in supporting a proportion of these species.
28. I understand that this lake has only been created in very recent times following the termination of gravel extraction and is part of the restoration work. It is interesting therefore that these species have taken so readily to the lake and indicates that, all other circumstances being similar, they might take readily to the re-modelled lake. However, the proposals aim to bring greater numbers of people right up to the water edge and over it on timber walkways. The public footpath would be rerouted immediate adjacent to it, the picnic area and glasshouses would be within a few metres. The re-modelled lake would not be the relatively secluded and distant body of water it is at present and the species associated with the SPA may not use it to the same extent. While I note that Natural England raise no objection I am not satisfied, on the basis of the evidence I have, that the scheme would not adversely affect the integrity of the European site.
29. The Council refused the application, among other reasons, because the proposals would set an undesirable precedent for other similar developments within the greenbelt and on areas outside the designated glasshouse areas. It seems to me inevitable that the cumulative effect of like proposals would soon undermine the objectives of the NPPF and local planning policy. It is common sense that if permission is granted in breach of greenbelt and glasshouse area policies then other applications equally devoid of justification will follow and will be difficult to resist.
30. If allowed, this development would be so large it could have a significant impact upon the land use policies concerned. As I mentioned in my paragraph 7 above, the Council has begun the preparation of a new glasshouse policy



document. They are, therefore demonstrating their compliance with the government's new agenda of locally based decision making. In the interests of ensuring that decisions are made locally where possible, it is important that the Council concludes this speedily and resolves the difficult balance locally. Allowing the appeal could undermine the Council's and the local community's deliberations and, while this is not a determining issue, this adds weight to my findings on the main issues.

31. I have taken account of all other matters raised, including the planning officer's favourable recommendation to committee, but find nothing that changes my decision on this appeal. Regarding the report to committee, it is evident that the recommendation was an 'on balance', finely judged one and could easily have tipped the other way.

32. For the reasons given above I conclude that the appeal should be dismissed.

*Gyllian D Grindey*

Inspector