



Appeal Decision

Inquiry held on 12-14 March 2008

Site visit made on 14 March 2008

by **Philip Crookes** BSc (Hons) DipTP
MRTPI

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

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Decision date:
10 April 2008

Appeal Ref: APP/N4720/A/07/2038997

Saville Brothers Garden Centre, Selby Road, Garforth, Leeds LS25 2AQ

- 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 Klondyke Garden Centres Ltd against the decision of Leeds City Council.
- The application Ref P/33/379/04/FU, dated 25 June 2004, was refused by notice dated 15 February 2007.
- The development proposed is the demolition of 3,756sq.m. of buildings/structures, the erection of 3,008sq.m. of buildings/structures, extension to car park, erection of 2.4m high fence, landscaping to site and for the use of the site as a garden centre.

Decision

1. The appeal is allowed and planning permission granted in the terms set out in the Formal Decision below.

Main issues

2. The appeal site lies within the Green Belt. Government policy towards development in Green Belts is set out in Planning Policy Guidance Note 2: *Green Belts* (PPG2). Paragraph 3.1 of PPG2 states that there is a general presumption against inappropriate development which should not be approved except in very special circumstances. Paragraph 3.4 states that the construction of new buildings inside a Green Belt is inappropriate unless it is for certain specified purposes. None of the latter applies to the appeal development and there is common ground between the parties that the development amounts to inappropriate development. I agree with this.
3. Having regard to the above, and from what I heard at the inquiry, I consider the main issues in the appeal are:-

First Issue

- (i) the effect upon the openness of the Green Belt;
- (i) the effect upon the character and appearance of the area; and
- (ii) whether the harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

Second Issue

Whether the development would be in accordance with national and local policy regarding the location of retail development.

Planning Policy

4. The development plan includes the Leeds Unitary Development Plan Review (UDPR) (July 2006) within which relevant policies are to be found. UDPR Policy GB9 advises that any redevelopment of a building used for a purpose that is inappropriate in the Green Belt will not be permitted, except in the case of dwellings where certain criteria have to be met, or at major developed sites listed in Policy GB7. Neither circumstance applies. Policy N33 lists the types of development for which approval will be given in the Leeds Green Belt. Very special circumstances are required if other forms of development are to be approved. Policy N37A requires development in the countryside to have regard to the character of the landscape in which it is set and maintain features which contribute to this. In addition development is required to contribute positively to restoration or enhancement objectives by the incorporation of suitable landscape works. Policy N13 requires the design of new buildings to be of a high quality and have regard to the character and appearance of their surroundings. Policy E1 lends support to the diversification of the rural economy through redevelopment, where compatible with environmental considerations and the maintenance of the openness of the Green Belt.
5. Policies S5 and S9 are concerned with major retail development and retail development respectively. "Major" retail has been defined as 2,500 sq.m. or larger, applicable to the gross floorspace of the development. Both policies indicate that retail development outside defined centres will not normally be permitted unless a number of criteria are met. These include the inability to locate the type of development in an existing defined S1 or S2 centre; protection of vitality and viability of existing centres; that qualitative and/or quantitative deficiencies are addressed; that the development would be readily accessible to those without private transport as well as those with cars; and that the proposal does not involve the use of land designated for housing or key employment sites or is in the Green Belt or the open countryside. The main difference between policies S5 and S9 relates to the extent to which it is necessary to provide a study of impact on nearby centres.
6. I record that UDPR Policy GB1 that was referred to in the first reason for refusal has not been 'saved' under the provisions of paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004. However the provisions of the policy do not materially depart from extant national guidance to be found in PPG2. Other relevant national guidance is provided by Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1); Planning Policy Statement 6: *Planning for Town Centres* (PPS6) and PPS7: *Sustainable Development in Rural Areas*.

Reasons

The Appeal Site and Proposal

7. The appeal site lies to the north of the A63 Selby Road, some 12km to the east of Leeds City Centre and some 850m to the east of Garforth. It comprises an

established garden centre that has developed from its origins as a horticultural business with a succession of planning permissions over the last 25 years or thereabouts. Overall the site runs to some 5.3 hectares that includes car parking, an area of overspill car parking, a nursery yard and a woodland area in excess of 2 hectares.

8. Adjoining the boundary of the appeal site, where it runs to the north of the garden centre, is a retail camping outlet comprising a substantial shop building and outdoor display area. A 148 space car park lies to the west of the garden centre and separates it from an area of open land which occupies the south western portion of the appeal site. This 'finger' of car park is used jointly by the camping operation and by the appellants, who have a legal right to use it at all times. The garden centre operation also has the benefit of a smaller car park between the building and the A63 with a facility to use a grassed area alongside the boundary for overspill parking. To the north of the developed area lies open countryside. Open countryside also lies to the west and east of the appeal site, and on the opposite side of the A63 to the south.
9. The main garden centre building comprises a linked series of former glasshouses with smaller additions to the front, mainly to provide an entrance area. Behind the glasshouses and wrapping around the side of them is a hard surfaced open plant sales area or planteria. There are also several smaller buildings, comprising variously a conservatory display, a number of stores, a hebe display and a collection of garden buildings in a display area to the front of the main garden centre building. A miniature railway runs around much of the site and passes through the garden centre building.
10. The glasshouses, in particular, have a run down appearance with low valleys that make the interior somewhat oppressive and require padding to protect customers and staff from banging into them. The frontage glasshouses extend to the east where they are used for ancillary storage with a further series of redundant structures extending along much of the eastern boundary.
11. The main garden centre glasshouse building is proposed to be demolished and a new building of lesser footprint but greater height erected. Compared to the existing glasshouse building it would be located further way from the site frontage and toward the west of the main site. An enlarged car park would be provided between the building and the A63 with additional planting along the site frontage.
12. It seems to me that, although the appeal site as a whole constitutes a mixed use, including a substantial area of woodland, the core garden centre activity takes place from a clearly defined part of the site fronting onto Selby Road and extending back for some depth towards its boundary with agricultural land to the north. I am satisfied that this constitutes a use falling within Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The confirmation of a garden centre as a Class A1 use is found in the judgement of *Wiggins v Arun DC* [1997].

Harm to the Green Belt

13. Inappropriate development is, by definition, harmful to the Green Belt. As paragraph 3.2 of PPG2 advises this should be given substantial weight. In addition the Council considers that additional harm would be caused as a result

of a loss in the openness of the Green Belt and by way of visual intrusion and the impact this would have upon the character and appearance of the surrounding countryside.

Impact on Openness

14. The appeal proposals would result in a 26% reduction in the amount of the site covered by buildings. There would also be a reduction of 22% in the overall coverage of the site with buildings and hard surfaced area, including car parking areas, open sales areas, service yard and the former nursery area. I saw the latter to comprise a hard surfaced but largely overgrown and unsightly area that it is proposed to soft surface. On this basis alone the site would be more open than it is at present. Moreover, the site as viewed from Selby Road is already quite urbanised with much of the frontage length being marked by built structures, albeit mainly low profile glasshouses.
15. I acknowledge that the presence of the café on the frontage adds to the spread of development along this frontage. However, the proposed building would have a frontage length considerably less than the glasshouses, 84m compared with 126m, (33% reduction). Combined with the proposed building being set back a further 20m the reduction in frontage of approximately 42m would represent a significant gain in openness with a greater appreciation of the freedom from development in the newly created gaps along the eastern and southern sides of the site.
16. My view on this matter is not changed by the fact that the proposed building, although occupying a smaller footprint than the existing structures, is taller and of greater bulk. Whilst the overall volume would not be significantly different from that of the current buildings, the new sales building would sit further back into the site so that it would be less obvious when approaching from either direction along Selby Road and from the open countryside that falls away on the opposite (south) side of the highway. Consequently what would be seen of the proposed new building would be in the context of the higher camping shop towards the rear and a more open car park and landscaped area to the front.
17. Despite the increase in the height of the new building over that existing, and its more substantial appearance, I consider that the overall effect of this development would be to increase the openness of the Green Belt in this locality. The proposal would thus contribute toward achieving the most important attribute of Green Belts and is a positive consideration that must be afforded substantial weight.
18. There is no dispute that the proposal would not offend 4 of the 5 purposes of including land in the Green Belt as set out in paragraph 1.5 of PPG2. Of the other purpose, that of *"safeguarding the countryside from encroachment"*, the containment of the development within the area of the existing development and the significant reduction in both the coverage by buildings and overall site coverage by hardstandings signals quite clearly, in my opinion, that no such encroachment would occur. I therefore find no conflict with any of the 5 purposes of including land within the Green Belt.

Visual Amenity

19. Glasshouses are not uncommon in rural areas, reflecting, as they often do, horticultural uses that are prevalent in many countryside locations. The existing buildings are, to varying degrees, 'run-down' and unsightly. The main building is also marred by a series of unattractive additions, typically of blockwork construction and by the somewhat incongruous blockwork wall that runs along a lengthy section of the frontage to the A63. The car park in front of the building is poorly landscaped and prominent. Even more so, the substantial row of redundant greenhouses projecting along the eastern boundary are prominent and unsightly features when viewed over significant distances from the east. However these shortcomings alone do not in themselves justify the replacement of what are fundamentally rural buildings in a countryside area and Green Belt. Their replacement needs to be through a building that sits appropriately in its surroundings if it is to be seen as a positive attribute to the Green Belt.
20. I have already concluded that the scheme would result in an increased impression of openness and, notwithstanding its greater height and bulk, the proposed building would be less obvious than the current glasshouses. I consider the design of the proposed building is well thought out and would not, as the Council submits, appear as a 'retail shed'. To my mind the use of vertical glazing panels to the front elevation would take appropriate reference from the rural location and the horticultural origins of the site development. The curved form of the roof structure would also add interest and variety and move the design further way from connotations with 'retail shed' type buildings. Moreover, whilst the car park at the front of the building would be enlarged, it would be no nearer to the site frontage than at present. Visually, the proposed car park benefits from the opportunity to introduce perimeter and internal landscaping. The proposed planting to the south east corner of the site would also help blend the new structure into its surroundings and filter long distance views into much of the interior of the site. The removal of the existing overflow car parking arrangement would be a further benefit to the surroundings. I consider these measures together with the design of the proposed building would result in an overall improvement to the visual amenities of the Green Belt in comparison to the existing situation. This would enhance the character and appearance of the area and is a positive benefit to which I attach significant weight. In this respect therefore the proposal would not be in conflict with Policies N37A and N13 of the UDPR.
21. Given that the proposal would have positive Green Belt benefits in terms of an increase in openness and the visual amenity of the Green Belt, I conclude that the Green Belt harm is that which results from inappropriateness. Paragraph 3.2 of PPG2 explains that the Secretary of State attaches substantial weight to the harm to the Green Belt. I now turn to consider whether there are other considerations which constitute very special circumstances that clearly outweigh that harm.

Very Special Circumstances

22. The appellant puts forward several considerations which are considered to amount to very special circumstances. These are (i) and improvement in openness; (ii) improvement in visual amenity; (iii) the proposals would allow

- the retention of an existing successful business; (iv) an improvement in energy efficiency; and (v) the opportunity to bring the range of goods which can be sold from the site under planning control. In respect of (i) and (ii) I have already come to the conclusion that the proposal would bring about benefits in terms of openness and visual amenity.
23. With regard to (iii), the redevelopment scheme would provide for approximately 27 full-time equivalent jobs. This represents an increase of 9 above the current operation, although there is no evidence to indicate that existing or future employees would necessarily reside in the rural area. There is no evidence of a significant level of local unemployment. However, the provision of additional jobs would be a welcome addition to the opportunities available to those living in the rural area. It would be in accordance with the advice in PPS7 that encourages planning authorities to support a wide range of economic activity in rural areas and with Policy E1 of the UDPR that supports the diversification of the rural economy. Some weight in favour of the redevelopment must therefore be attached to this consideration.
24. The existing glasshouse building is old and energy inefficient. PPS1 encourages more sustainable forms of development which include increased energy efficiency in building design. The Planning and Climate Change Supplement to PPS1 provides advice on how this may be achieved and what the planning system expects of local authorities and developers alike. The proposed building has been designed with this in mind and I have no doubt that it will significantly reduce the carbon footprint of the site when compared to the current building. Amongst other provisions, this would be achieved by maximising heat gain, including passive solar gain in winter, and by maximising water recycling. With regard to the advice in the policy statement, the appeal proposals would reduce fuel consumption by up to 72% and show an improvement of 44% on the BER (Building CO2 Emissions Rating). In my view this factor adds a limited amount of additional weight to the consideration of whether very special circumstances exist.
25. With regard to the final consideration (v) the appellants submit that the appeal proposal provides the opportunity to bring the range of goods sold from the garden centre under planning control by the imposition of an appropriate condition. At present the lawful Class A1 use of the majority of the appeal site is unrestricted and could be used for other forms of retail sales. The appellant claims this would be a benefit compared to the existing situation and refers to a 'fallback' position of increasing dereliction of the site or the possibility that the site may fall into use as a market type operation possibly selling, for example, low cost clothes or shoes.
26. In my opinion, the nature, arrangement and physical limitations of the existing buildings mean that it is unlikely to be attractive to other forms of retailing. However, I have no reason to believe that the current business does not trade successfully or that would continue to be the case in the foreseeable future should the appeal proposal not come to fruition. The appellant merely refers to a possibility of the enterprise falling behind competing businesses should redevelopment not take place. I saw no compelling evidence that this would be the case. Moreover, the possibility of lower-end retail uses occupying the premises only arose late in the appeal process and, in my view, was not evidentially based. The conjectured 'fallback' position therefore carried little

weight and, from that point of view, I see no advantage to be gained by controlling the range of goods sold from the appeal site.

27. On the other hand, I can find no reason why such a condition should not be imposed on the basis that it is both necessary and reasonable. Indeed Policies S5 and S9 of the UDPR envisage that such conditions are likely to be imposed. I see no reason why such a condition would fail to meet the tests set out in Circular 11/95: *The Use of Conditions in Planning Permissions* including that of enforcement. In this respect, it seems to me that significant breaches of such a condition could be effectively monitored and the Council would have appropriate legal remedies, including the serving of a breach of condition notice. Moreover such a restriction would be appropriate, for instance, where assessment of retail impact is based on the sale of a particular class of goods. (This matter is dealt with more fully later in this decision). However, the fact that the opportunity to control the range of goods may arise, for the reasons explained in the preceding paragraph, does not add weight to the appellant's case.

Balancing Exercise

28. I have reached the following conclusions: firstly, that the proposal would be inappropriate development in the Green Belt. This represents substantial harm to the Green Belt in policy terms. Secondly, the proposal would bring significant gains to the Green Belt in terms of an increase in openness and visual amenity. The latter would enhance the character and appearance of the surrounding countryside. Together, my findings regarding openness and visual amenity are strong considerations in favour of the proposal that weigh against the policy harm. In addition there would be more limited benefits in terms of the support to the rural economy and local employment and in respect of energy efficiency. The cumulative effect of these benefits amount to very special circumstances that clearly outweigh the harm to the Green Belt due to the inappropriate nature of the proposed development.

Retail Considerations

29. In policy terms there was debate at the inquiry as to whether the proposal falls to be considered under Policy S5 or Policy S9 of the UDPR. Irrespective of the replacement of existing floor space, the development to which the appeal relates exceeds 2,500 sq.m. and, in my opinion, falls to be considered under Policy S5. It is therefore subject to the requirement, under Policy S5, that the developer should normally be required to carry out a formal study of the impact on nearby centres and an assessment in the changes in travel patterns. Equally, having regard to paragraph 3.29 of PPS6, although the gross floor space of the proposed scheme would not exceed that existing by more than 200 sq.m. the proposal cannot be regarded as an extension of the existing operation. The proposal is for redevelopment. It therefore follows that a sequential approach to site selection should be adopted.
30. PPS6 sets out, in paragraph 3.4, that applicants should demonstrate (a) the need for development; (b) that the scale of development is appropriate (c) that more central sites are not available; (d) that there are no unacceptable impacts on existing centres; and (e) that the location is accessible.

Retail Need

31. The appellants have defined a 20 min drive time catchment area for the assessment of expenditure. The Council considers that a 30/35 minute drive time isochrone would be more appropriate but have failed to provide any supporting justification. The appellants submit that some 80%, or greater, of the garden centre's customers fall within a 20 minute drive time based on the post codes of members of their gardening club. Whilst the latter only provides a limited corroboration, I consider that a 20 minute drive time catchment area, which would extend to the more urbanised areas of Central/East Leeds, Wakefield, Pontefract and Wetherby, is reasonable.
32. For all comparison goods the growth in forecast expenditure between 2007 and 2009 is £245.67m or 17%. For garden centre expenditure, (core gardening goods being defined by The Horticultural Trades Association's Garden Industry Monitor (GIM) the growth in forecast expenditure is predicted to increase by £5.87m to £47m in 2009. Against this, the appellant projects turnover derived from increased customer spend and the attraction of new customers, to increase by £1.0m in the opening year of 2009. This would represent approximately 0.6% of the projected expenditure on comparison goods and just 0.47% of the proposed increase in expenditure between 2007 and 2009. Similarly it amounts to approximately 0.02% of the overall pool of relevant gardening goods expenditure arising in the catchment area. This amounts to approximately 17% of the increase in expenditure on core gardening goods.
33. I accept that the garden centre, like many other of its kind, sells a greater range of goods than those defined in the GIM. However, bearing in mind that the proposal would only account for a tiny amount of the total increase in expenditure on all comparison goods to 2009, the totality of spend on goods stocked by the garden centre would still be very small.
34. Whilst there have been some variations in national garden goods retail spend over recent years, the trend is one of significant growth with no evidence that this is likely to be reversed. There can therefore be confidence that the catchment area will generate sufficient growth in expenditure to support the proposed garden centre floor space in the foreseeable future. This establishes the existence of a quantitative need.
35. In terms of qualitative need, I consider the correct comparison is with other garden centres selling a similar range of products. There are several such garden centres within the catchment but most lie to the outskirts of the area. I agree with the appellants that, by and large, they serve a different albeit overlapping catchment population. Whilst other outlets may exist in the catchment for example those that are part of a DIY store or independent businesses such as florists, hardware shops and supermarkets they do not offer the same wide range of integrated gardening product lines or provide the same tailored service to the public that a garden centre selling a wide range of products can provide. I therefore consider that the extent of gardening goods, offered for sale from a purpose built attractive building demonstrates that a qualitative need would also be addressed by the appeal proposal. The scale of the development would also be appropriate in this context.

Alternative Sites

36. In terms of the sequential approach to site selection, PPS6 advises that developers should be flexible in terms of their business model and, amongst other things, examine the scope for disaggregation. In principle, I see no reason why flexibility of format and design should not be explored for garden centres as with other retail types. Against this however, is that the appeal proposal represents the redevelopment of a site to enable the continuation of an established business model on the same site. In this context the justification and scope for disaggregation, in my view, is limited. The scale proposed reflects the nature of the retail operation and the extent of the catchment area. The amount of car parking also reflects that operation as well as the nature of many goods sold which tend to be both perishable and heavy/cumbersome. They are most likely therefore to be transported by private car.
37. However, the appeal site lies in a rural out of centre location and, in policy terms, is not a location where retail development is to be encouraged. It is therefore appropriate that an assessment of alternative sequentially preferable sites should be undertaken. The Council has identified a significant number of sites ranging in size between 0.2ha and 10ha in the main towns in the catchment area. The Council considers these may be suitable to accommodate the proposal either akin to the current business model or through disaggregation. Notwithstanding my comments about the scope for the latter, it seems to me that all can be ruled out on grounds of size, topography, availability and other factors even when the area required to accommodate the existing business model is pared down to its absolute limits. My conclusion is that, in the circumstances of this case, it would be unreasonable to assume that elements of the use could be disaggregated for location on other more sequentially preferred sites. Even so there are no alternative sites, available, suitable or viable for this purpose.

Impact on Vitality and Viability

38. Heath checks and impact assessments have been made for 12 main centres within the catchment area of the site. Even if all of the available spend on 'garden goods' within the catchment area was attribute to any one of these centres, trade diversion would be of such a low level as to be of no concern. That scenario is of course unlikely and, in reality, trade diversion spread across several centres would be at an even lower level for any one centre.
39. There are 6 DIY outlets within the catchment area that retail garden goods, albeit that it occurs from a relatively limited proportion of their floorspace. There is no evidence that trade diversion from these outlets would have anything other than a very limited impact or, even so, that such outlets underpin the vitality and viability of any town or local centre. The main impact of the proposal is likely to be on other similar garden centres that serve a similar catchment area albeit that they tend to be located towards its edges. Like the appeal site these outlets enjoy no policy protection in retail terms and there is no reason to anticipate that, in terms of local and national policy, there would be any unacceptable impact on them.

Accessibility

40. A sequential search for sites has not shown the existence of any more sustainable located site. The site is within walking distance of parts of Garforth and within cycling distance of local residential areas. Additionally an hourly bus service runs along the A63 Selby Road linking Leeds and Selby and several intermediate settlements and residential areas. These include the East and South East Leeds Area (EASEL) where the City Council is embarking on major regeneration through an Action Plan. Bus stops are located 195m and 215m west of the appeal site. There are also train services from Leeds and Selby to Garforth with nearby bus stops linking to these bus services. Staff would be able to arrive and leave at reasonable working hours by these means. Given the rural location of the appeal site, I consider it to be reasonably accessible to employees by non-car modes of transport including the residents of the EASEL Action Area to the west. The Travel Plan proposed by the appellant could assist further in reducing the number of employee journeys by car.
41. The same travel opportunities would be available to customers resident in the same areas. However given the bulky, heavy and cumbersome nature of many of the goods to be sold it would be naïve to expect that any, but a few, customers would journey by public transport. It can be anticipated that the vast majority of customer journeys will be undertaken by the private car. Consideration thus turns on whether the appeal proposal is likely to encourage people to travel further than that which currently occurs.
42. On this question, I fully accept that the appellant has not carried out a survey of existing trips to the garden centre. The appellant projects that the anticipated increase in turnover following redevelopment would largely be generated by existing customers who would spend more at each visit given the more attractive purpose built outlet provided. Whilst I have no reason to doubt this, a more attractive retail experience is also likely to attract new customers. However, given the distribution of other similar garden centres towards the edge of the 20 minute catchment area I would anticipate that most new customers would be drawn from those outlets. Given that the other centres lie outside any recognised town or local centre and, like the appeal site, they too enjoy no special retail policy protection. It is not the purpose of planning policy to restrict competition. Given possible trade diversion of this nature it seems to me that whilst the appeal proposal is likely to lead to the redistribution of trips it is unlikely to add materially to an overall increase in journey miles.
43. In summary, although the use is very much car-dependant, it offers some opportunity for the use of other modes of transport, especially for employees. For customers, I anticipate the creation of new single purpose trips would be low with most new trips to the appeal site replacing those that are already destined for existing garden centres.
44. in conclusion on the second issue, given the above identified quantitative and qualitative need, the absence of sequentially preferable sites and the lack of significant impact on the vitality and viability of existing centres I do not find that the proposal would be inconsistent with the advice in PPS6 and Policy S5 of the UDPR about the location of new retail development and sustainability.

Conditions

45. I have considered the matter of conditions in the light of the advice in Circular 11/95 and discussions at the inquiry. In addition to the statutory time limit condition I consider it necessary in the interest of the visual amenity of the area to impose conditions relating to materials; identification and approval of the area for the display of garden buildings, greenhouses and conservatories; external lighting; the removal of the overflow car parking area; and for landscaping of the site. The latter needs a period of maintenance to ensure that it is properly established. In the interest of highway safety and convenience I shall impose conditions relating to the surfacing, sealing, draining and maintenance of the areas to be used by vehicles and for the avoidance of detritus on the highway. In order to encourage more sustainable modes of travel, conditions regarding a Travel Plan and the provision of cycle storage facilities are both reasonable and necessary. There are concerns that much of the local area has been quarried and because of this, and the existing commercial use of the site, I shall impose a condition regarding soil contamination in the interests of public health. Conditions regarding surface water drainage and sewage disposal are also reasonable and necessary to protect the water environment.
46. I fully acknowledge the Council's concerns about the need and legal practicality of restricting the range of goods to be sold. This matter has been discussed earlier and I have explained why I consider such a condition to be appropriate and enforceable. Notwithstanding its arguments in respect of very special circumstances, the Council nevertheless indicated that a condition restricting the sale of goods should be imposed if the appeal is allowed. Guidance in PPS6 and Policy S5 of the UDPR supports the principle of restricting the range of goods to be sold and assessment of retail impact has focussed on the particular class of goods to be sold. For this purpose, I propose to impose a series of conditions that combine to achieve this purpose. These will restrict the maximum areas of retail floorspace in the new garden centre building, in open-sided accommodation, and in external open areas and confirming that the existing store towards the rear of the site is to be used for ancillary storage purposes only. Given this, it would be logical to prevent internal enlargement of the retail area by the provision of a mezzanine floor without the Council's consent and the avoidance of retail sales (i.e. Class A1) from the coffee shop. In terms of specifically restricting the range of goods to be sold, my approach is to support a condition that allows only for the sale of plants and other garden related products and goes on to specify, for the avoidance of doubt, a lengthy list of items that are not to be sold. A further condition will prevent the subdivision of the building into separate retail units to avoid the potential for the use to have a materially different retail impact.

Conclusion

47. On the first issue, I have come to the conclusion that the harm to the Green Belt by reason of the inappropriate nature of the development is clearly outweighed by very special circumstances. On the second issue, the proposal would accord with national and local policy in respect of the location of retail development and would not be inconsistent with policy advice to locate development in sustainable locations. I shall therefore allow the appeal.

Formal Decision

48. I allow the appeal, and grant planning permission for the demolition of 3,756sq.m. of buildings/structures, the erection of 3,008sq.m. of buildings/structures, extension to car park, erection of 2.4m high fence, landscaping to site and for the use of the site as a garden centre at Saville Brothers Garden Centre, Selby Road, Garforth, Leeds LS25 2AQ in accordance with the terms of the application, Ref P/33/379/04/FU, dated 25 June 2004, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall take place until full details of both hard and soft landscape works, including boundary treatments, have been submitted to and approved in writing by the local planning authority. The hard landscape works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 4) No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The approved scheme shall thereafter be implemented in full.
- 5) The development shall not be occupied or brought into use until that part of the site shown to be used by vehicles, on the approved plans, has been laid out, drained, surfaced and sealed, as approved, and that area shall not be used thereafter for any purpose other than the vehicle related use approved.
- 6) Before the development hereby approved is brought into use a Green Travel Plan which shall demonstrate measures to encourage alternative modes of transport for staff other than single occupancy of vehicles and include timescales for when those measures shall be put into place, shall be submitted to and approved in writing by the local planning authority. The provisions of the Plan, which shall also include procedures for monitoring the uptake of alternative modes of travel and providing evidence of compliance to the local planning authority shall be put into place and thereafter operated in accordance with the approved timescales.

- 7) The development shall not be brought into use until details of cycle parking facilities and staff changing and showering facilities have been submitted to and approved in writing by the local planning authority. The building shall not be occupied until the approved facilities have been provided as indicated on the approved plans. The facilities shall thereafter be retained and maintained as such.
- 8) No external storage of plants, materials and/or other products, other than those displayed for sale and displayed in the identified plant sales area, shall take place in any landscaped area or service yard.
- 9) Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of any contamination and the measures to be taken to avoid risk to the public when the site is developed. Development shall not begin until the measures approved in the scheme have been implemented.
- 10) No works shall begin at the site until full details of the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved, have been submitted to and approved in writing by the local planning authority. The methods thereby approved shall be implemented at the commencement of work on site, and shall thereafter be retained and employed until completion of works on site.
- 11) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before any building is occupied. Development shall be carried out in accordance with the approved details.
- 12) The replacement garden centre building hereby approved shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.
- 13) Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority.
- 14) The retail floor space hereby permitted shall be restricted to a maximum of 8514m² comprising
 - a) 2,327m² in the new garden centre building;
 - b) 682.5m² in the covered, open-sided accommodation;
 - c) 5,160m² in the external open areas; and
 - d) 184m² in the existing store which shall be used for ancillary storage onlyas shown on drawing no C0227-12C.

- 15) There shall be no mezzanine floors or other internal alterations which would increase the gross retail floor space above that permitted, without prior approval in writing from the local planning authority.
- 16) Notwithstanding the details shown on the approved drawings, the development hereby permitted is for a garden centre selling only goods normally sold in a garden centre. The floor space permitted for each of the following categories of goods shall not exceed the maximum floor area indicated below, unless the local planning authority has given prior written approval to any variation.

A The new garden centre building:

	Maximum Floor Area
a) Composts, peats, chemicals and other goods associated with plant/garden care, tools, watering equipment and garden machinery	2,327m ²
b) Plants and houseplants, seeds and bulbs, dried, artificial and cut flowers and goods associated with their care and maintenance	225m ²
c) Garden and conservatory furniture and furnishings, garden lighting and heating, barbeques and barbeque accessories, Christmas decorations, trees, lights and accessories (the sale of Christmas goods described shall be taken as a seasonal use occurring primarily between October and mid January ancillary to the main use of the site as a garden centre).	450m ²
d) Pets, pet foods, pet cages, fish and accessories including ponds, pet care advice and care products	175m ²
e) Other goods falling within class A1, including an exhibition area for crafts	300m ²
f) Ancillary coffee shop	270m ²

B The open-sided covered area and the external open area:

	Maximum Floor Area
a) Trees and plants of all kinds, rockery and statuary, ponds, pools, fountains and accessories including cold water fish, compost, peat and other garden care products. Garden and conservatory furniture and furnishings, garden lighting and heating, barbeques and barbeque accessories	5,590.5m ²
b) Pets, birds, fish and accessories including aviaries, cages and ponds	85m ²

c) garden buildings, greenhouses, conservatories	252m ²
d) landscape and building materials, fencing and timber products	1,000m ²

Notwithstanding the above, no part of the site shall be used for the sale of the following goods or services; clothing and footwear (other than gardening workwear and footwear), furniture and furnishings (other than outdoor and conservatory furniture), carpets and other floor coverings, and soft furnishings, electrical goods (other than electric garden tools and machinery and electrical products for garden features), equestrian products, chemists, medical and beauty products, books (other than gardening books), newspapers and magazines (other than gardening magazines), food and drink (other than food and drink sold in the coffee shop for consumption on the premises, and food and drink which is sourced from within a 30 mile radius of the site), toys, jewellery, watches and clocks, CDs, DVDs and videos (other than those relating to gardening), camping equipment, caravans. Vehicles and cycles and parts and accessories, photographic goods, musical instruments, luggage, leather goods, DIY goods and decorators supplies and hardware (other than products for garden construction, improvement and maintenance) and Post Office services.

- 17) Notwithstanding the provisions of Class A of Part 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, the coffee shop hereby permitted shall not be utilised for retail sales.
- 18) Notwithstanding anything shown on the approved plans and drawings, car parking shall only take place within the Area 5 "Car park and Access Road" as shown on drawing No CO227-10A. For the avoidance of doubt, notwithstanding the notation for Area 6 on that plan, no overflow parking shall take place within that area.
- 19) Notwithstanding the details shown on the approved plans and drawings, the location of the area for the display and sale of garden buildings, greenhouses and conservatories shall be submitted to and agreed in writing by the local planning authority prior to the erection of display of any garden building, greenhouse or conservatory.
- 20) The development hereby permitted shall not be subdivided into separate retail planning units.

Philip Crookes

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Easton	of Counsel, instructed by Legal Services Dept., Leeds City Council
He called	
Mr A Taylor DipTP	Planning Policy Team, Leeds City Council
Mr P Eggleton BSc(Hons) MRTPI	Consultant, Eggleton Planning and Design Limited

FOR THE APPELLANT:

Mr P Brown	Of Counsel, instructed by Malcolm Scott Consultants Ltd., Grove House, 1 Loves Grove, Worcester WR1 3BU
He called	
Mrs H Scott BA(Hons) DipTP MRTPI	Malcolm Scott Consultants Ltd
Ms T Hubbard BSc(Hons) Ma MRTPI	Malcolm Scott Consultants
Mr E Appleton B Eng DMS C.Eng MICE	Sanderson Associates, Consulting Engineers Ltd, Resolution House, Crusader Road, off Tritton Road, Lincoln LN6 7AS

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Attendance Lists
- 2 Council's letter of notification of the inquiry and persons notified
- 3 Mr Brown's opening statement
- 4 Assessment of the Effect on Openness
- 5 e-mail from Mr Eggleton to Ms Hubbard 12 February 2008
- 6 e-mail from Mr Taylor to Malcolm Scott Consultants dated
06/03/2008
- 7 Appendices to Mr Taylor's proof of evidence
- 8 Extract of UDPR Policies regarding development in the Green Belt
and the countryside
- 9 Ms Hubbard's note on the schedule of sequential approach sites
identified by the City Council
- 10 Trip rate calculation selection parameters
- 11 Application form for Klondyke Garden Centres Gardening Club
- 12 Draft restrictive sales condition
- 13 Amended draft restrictive sales condition
- 14 Decision ref APP/P0810/V/05/1173836 – Probus Gardens, Probus,
Truro, Cornwall
- 15 Dilieto v Ealing London Borough Council [2000] Q.B. 381
- 16 Surrey Homes Limited v Secretary of State for the Environment,
Transport and The Regions, Mole Valley District Council
CO/1273/2000 QBD 2000 WL 1421150
- 17 Mr Easton's closing statement
- 18 Mr Brown's closing statement
- 19 Statement of Common Ground

PLANS SUBMITTED AT THE INQUIRY

- A Plan showing postcode sectors and 20 minute drive-time catchment area and EASEL Action Plan area

PHOTOGRAPHS

- P1 Aerial photograph of the appeal site