



## **North Devon Council**

### **Title of Decision Requested: Breach of Condition Notice for St Johns Garden Centre 14097**

Decision requested by decision maker: Agreement to issue Breach of Condition Notice for St Johns Garden Centre, Roundswell, Barnstaple, Devon, EX31 3FA

#### **1. BACKGROUND / REASONS FOR THE DECISION REQUEST**

- 1.1.** The development has not been carried out in accordance with the approved condition.
- 1.2.** Works have commenced on site and the following pre-commencement conditions have not been discharged required under application 77276:  
Condition 25 - Save for the installation of the access and estate road (as set out in drawing number 1943 2 REV B) no other development shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
  - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
  - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- 1.3.** This condition has been imposed to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG .The condition should be adequately discharged pre to commencement of works since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.
- 1.4.** It is therefore expedient to proceed to issue the BCN on the basis of the following. The relevant planning permission to which this Notice relates is the planning permission reference ref 77276 granted by the Council on 14 December 2023.
- 1.5.** The requirements of this condition have not been met as detailed proposals for the management of surface water and silt runoff from the site during

construction of the development hereby permitted and proposals for the adoption and maintenance of the permanent surface water drainage system have not been submitted or approved.

**1.6.** The requirements of the Notice will be to submit the following information:

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system within a period of 30 days.

## **2. FINANCIAL IMPLICATIONS:**

**2.1.** There are no immediate financial costs involved with this action. Should the owner not comply with the Notice served, there may be cost involved with taking prosecution action for non-compliance with the Notice or direct action, but this is a decision which can be made at a later time and will only occur if the owner does not comply.

## **3. ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED?**

**3.1.** There are no other actions the Council can take to remedy this breach of planning control. The owner has not willingly complied with requests to remedy the breach which is why a formal Notice is required now.

## **4. ANY CONFLICT OF INTEREST DECLARED?**

**4.1.** None

## **5. DISPENSATION IF GRANTED**

**5.1.** Not applicable

## **6. BACKGROUND PAPERS**

The following background papers were used in the preparation of this request (The background papers are available for inspection and kept by the author):

**6.1.** Condition 26 plans were submitted as part of 77667 it was considered in the officer report:

*Condition 26(a), (d) and (f) details have been provided to discharge this element of the planning condition. However, further information would need to be submitted to the Local Planning Authority to discharge Condition 26(b) and (c) and as such require a further discharge of planning condition 26.*

*Given the above, condition 26 is not fully discharged until the detailed proposals for the management of the surface water and silt runoff from the site during construction of the development shall be submitted to enable condition 26 (b) to be discharged and it is also unclear the currently proposals for the adoption and maintenance of the permanent surface water*

*drainage system. Further information shall be submitted to enable condition 26(c) to be discharged.*

- 6.2. Requests for the receipt of plans dated back to 24 July 2024. Further subsequent requests for plans were requested but were not provided.
- 6.3. The enforcement case was opened on 28 November 2024 due to failed requests for the submission of the outstanding surface water drainage plans.
- 6.4. A site visit was carried out 3 December 2024 which confirmed that works had commenced and were nearing completion.
- 6.5. On 17 December 2024 instructions were received by the Planning Enforcement Officer from the Planning Officer to proceed with securing compliance.
- 6.6. Condition 25 attached to planning permission 77276 states: -
  - “(25) Save for the installation of the access and estate road (as set out in drawing number 1943 2 REV B) no other development shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:*
  - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.*
  - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.*

*Reason:*

*This condition has been imposed to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG .The condition should be adequately discharge pre to commencement of works since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed”*

- 6.7. It has been established that the development has commenced therefore the trigger for this condition is met.
- 6.8. Final warning was sent to the owners, tracked and signed on the 18 December 2024 requiring submission of the outstanding plans by 2 January 2025. To which no response was received by the owner or its representatives.



**6.9.** The Council needs to consider pursuing outstanding breaches of planning control on site by way of a formal Breach of Condition Notice.

**7. CONSULTATION UNDERTAKEN:**

7.1 The Development Manager Tracey Blackmore has instructed the Planning Enforcement Officer to serve a Breach of Condition Notice and drafted the reasons for doing so.

**8. OFFICER REQUESTING DECISION TO BE TAKEN:** Jack Clifford, Senior Planning Officer (Enforcement)

**9. NAME OF DECISION TAKER:** Tracey Blackmore, (Development Management): Head of Planning, Housing and Health

**10. DATE DECISION TAKEN:** 7<sup>th</sup> January 2025

**11. APPROVED BY DECISION TAKER:** Yes

**12. DECISION TAKER'S COMMENTS:**