



## Report to Buckinghamshire Council – (Central Area) Planning Committee

---

<b>Application Number:</b>	23/01216/APP
<b>Proposal:</b>	Temporary Planning Permission (23.11.2023 until 31.12.2023 inclusive ) for Change of Use of part of the existing authorized Glasshouse and Storage Area to facilitate an ice rink and refreshment bar and associated ancillary facilities
<b>Site location:</b>	Chiltern View Nurseries , Wendover Road, Stoke Mandeville, Buckinghamshire, HP22 5GX
<b>Applicant:</b>	Chiltern View Events Ltd
<b>Case Officer:</b>	Kirstie Elliot
<b>Ward affected:</b>	WENDOVER, HALTON & STOKE MANDEVILLE
<b>Parish-Town Council:</b>	STOKE MANDEVILLE
<b>Valid date:</b>	18 April 2023
<b>Determination date:</b>	16 August 2023
<b>Recommendation:</b>	REFUSE

---

### **1.0 Summary & Recommendation/ Reason for Planning Committee Consideration**

- 1.1 The application site forms part of Chiltern View Nurseries, the lawful use of which is a horticultural nursery (agriculture – sui generis use). The application seeks temporary planning permission (from 23.11.2023 to 31.12.2023) for use of part of the building on site as an ice rink with ancillary elements including seating/boot change, skate store and collection point, bar area, virtual reality sleigh ride and Christmas wreath display/sales. The lawful nursery building on site has been extended significantly in breach of planning control, the lawful nursery car park area has been extended significantly in breach of planning control and the wider Chiltern View Nurseries site is in use as garden centre in breach of planning control. The Council has, most recently in November 2022, issued several enforcement notices in respect of the unauthorised uses and development undertaken at the site. The notices have been appealed and as such, have not taken effect.
- 1.2 The temporary ice rink use was undertaken in the wider site in December 2021/January 2022 located within a tent/marquee which was erected at the front of the site, to the north-east of the building. This temporary use benefitted from a 28 day (extended to 56 days due to legislative changes resulting from the covid

pandemic) deemed consent under Class B of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 1.3 The temporary ice rink use was last undertaken December 2022/January 2023 without planning permission within the glasshouse building on site. A planning application was submitted for the temporary use but was subsequently withdrawn by reason the ice rink and associated paraphernalia was partially located within unauthorised extended parts of the building and by reason the use was reliant on the unauthorised extended car park. One of the enforcement notices that has been issued (and appealed) requires the cessation of the ice rink use on the site.
- 1.4 Under the current application, the ice rink and associated paraphernalia is shown to be located within the 'lawful' part of the glasshouse building. However, its use would be reliant on the unauthorised extensions to the buildings due to the displacement of products normally for sale into those areas and the external areas of the site, and the use of the unauthorised car parking area within the wider site. The Council has issued an enforcement notice which requires the cessation of the unauthorised garden centre use, the removal of the extended parts of the building that are unauthorised and the removal of the unauthorised car parking area.
- 1.5 Notwithstanding the proposed location of the ice rink within the 'lawful' part of the building, the grant of planning permission even for a temporary period would mean that, pursuant to section 180 of The Town and Country Planning Act 1990, the enforcement notice that the Council has issued in respect of the use of the site for leisure purposes will cease to have effect, as it would be inconsistent with that permission. Therefore this Notice will entirely fall away. Granting this application would also undermine the Council's position in respect of the enforcement notices pertaining to the unauthorised garden centre use and the unauthorised extensions to the building and car park as part of that unauthorised use. The enforcement notices have been appealed and officers are confident that the appeals will be dismissed. However, in the event planning permission is granted at this juncture for the use as proposed, the appeal in respect of the ice rink use could not proceed as the Enforcement Notice would cease to have effect.
- 1.6 Cllrs Collins, Morgan, Ward and Waite have called in the application to planning committee in the event the officer recommendation is for refusal. The call-ins are made citing the extent of public comment and interest in the application, community benefits (including charitable contributions), lack of harm to neighbour amenity, there being ample provision of a large car park on site, there being no consultee objections, and by reason that the benefits of the application are considered to outweigh any potential for harm.

1.7 Notwithstanding the support that has been generated for the proposal and social benefits afforded, officers recommend that permission be refused by reason the temporary use as proposed is reliant on development that has been undertaken on the site in breach of planning control and against which the Council has issued several enforcement notices, due to harm to the countryside and this out of town location. Due to the temporary nature of the proposal, the social and economic benefits of the proposal are short term and do not outweigh the significant permanent environmental harm arising from the countryside encroachment. Notwithstanding that the enforcement notices have been appealed, officers remain confident that the appeals will be dismissed and the enforcement notices upheld. The grant of planning permission, even for a temporary period would undermine the enforcement action the Council has taken to address multiple and on-going breaches of planning control undertaken at the site.

**1.8 The application is recommended for refusal.**

## **2.0 Description of Site and Proposed Development**

### Site description

2.1 Chiltern View Nurseries is located on the west side of Wendover Road (A413), approximately 1km south of the junction of the A413 with Station Road (Stoke Mandeville), approximately 1.6km south-west of Weston Turville and approximately 3.2km north of the settlement of Wendover. Access to the site is from the A413. There is a waste/recycling facility located to the rear (west) of Chiltern View Nurseries which is understood to be in the ownership of the applicant and uses the same point of access onto Wendover Road. There is a large glass house building on the site.

2.2 Chiltern View Nurseries has a long and complex planning history and is the subject of several enforcement notices (all appealed), the most recent of which were issued in November 2022. The history is provided in Section 3 of this report. This history is pertinent to the consideration of the current application due to the breaches of planning control that have occurred and the enforcement notices that have been issued, notwithstanding their appeal status. In assessing this application, it is the position of officers that (a) the site is currently in unauthorised use as a garden centre (b) the existing glass house on site has been extended without planning permission (c) the unauthorised garden centre use has encroached onto land through operational development comprising the laying of hardstanding to provide additional unauthorised car parking (land to the south that had the original nursery buildings on and was required to be landscaped as part of the moving of the glasshouse nursery building to its current position). The application form submitted

with the application states that authorised use of the site is a nursery but that it is currently operating as a garden centre.

2.3 The site is located:

- in an Amber Great Crested Newt Impact Risk Zone (indicating medium/high predicted presence through habitat suitability)
- within 12.6km Zone of Influence of Chiltern Beechwoods Special Area of Conservation
- within Southern Vale Landscape Character Area (LCA 8.10)

Proposed development

2.4 The current application seeks temporary consent for use (between 23/11/2023 to 31/12/2023) of part of the glasshouse building as an ice rink with refreshment bar, associated ancillary facilities including boot collection area, first aid, skate store, tables and chairs, booths and Christmas displays and decorations (for sale) and virtual reality (VR) sleigh ride. The use would operate from 9am until 9pm everyday of the week during this period (Monday to Sunday).

2.5 The application is accompanied by:

- a) Supporting Cover letter dated 18/04/2023 (West Wady Archadia)
- b) Ecology and Trees Checklist
- c) Site location plan – application site (area of building and point of access to road outlined in red, wider site outlined in blue)
- d) Proposed site layout

2.6 The cover letter states that the ice rink would be located in the part of the glasshouse building that is authorised (i.e. not within parts of the building that comprise unauthorised extensions) and describes that the ice rink would be 30 metres in length (north-east to south-west) by 17.5 metres in width (north-west to south-east) and would be located in the south-west corner of the 'authorised' area of the glass house building. The seating area for boot change would be located immediately to the north-east of the rink. The boot storage and skate hire pick up/return booth is shown to be located adjacent to the boot change area. The proposed bar would be located to the south-east of the rink. The access and exit to the ice rink area would be via the existing building entrance to the front (north-east elevation). The cover letter provides that 100 people can be accommodated on the ice rink at any one time. However, at the time of the case officer site visit, verbal advice provided is that after a skating session, users would be allowed to remain on site e.g. to use the bar. Further, people not participating in skating would be permitted to enter the building to use the bar and purchase Christmas paraphernalia

(wreaths) for sale. More than 100 people could therefore be using the facility at any one time.

- 2.7 The plans submitted with the application and the cover letter are explicit in that it is only the 'lawful' part of the building on site which is proposed to be used for the temporary ice rink use. It is not specified or addressed in the supporting documentation, but included within the ownership of the applicant (as identified by the blue edge on the submitted plans) are extensive areas of car parking, most of which is unauthorised but would be required to support the temporary use for which permission is sought. It is also advised that unsold plant stock would be stored in external areas of the site and the other garden centres goods will remain in the other parts of the building (i.e. those unauthorised extended parts of the building).

### **3.0 Relevant Planning and Enforcement History**

- 3.1 The lawful use of the land of which the application site forms a part is agriculture (horticultural nursery). There is a long planning history for the site and the land surrounding it which is under the same ownership. Of most relevance to the current application are the following (*officer note – further detail of the planning and enforcement history is discussed in Section 6 of this report*):

**Reference: 96/01410/APP**

Development: ERECTION OF AGRICULTURAL STORAGE BUILDING AND POLYTUNNELS

Decision: Permission granted

Decision Date: 3 October 1996

**Reference: 97/00352/APP**

Development: ERECTION OF AGRICULTURAL STORAGE BUILDING AND POLYTUNNELS

Decision: Permission granted

Decision Date: 24 April 1997

**Reference: 99/02457/APP**

Development: Relaxation of condition 5 of planning application number

A/97/0352/APP to allow agricultural retail sales from the site

Decision: Permission refused

Decision Date: 13 January 2000

**Reference: 06/02928/APP**

Development: Use of part of existing barn as farm shop with associated ancillary storage/workshop, use of part of land for siting of four containers for storage and siting of portakabin for office use associated with the nursery, provision of parking and turning, creation of bays for the storage of compost, fertiliser and other similar products

Decision: Conditional permission granted

Decision Date: 1 July 2008

**Reference: 11/00630/APP**

Development: Erection of replacement nursery building and yard and extension to car park (retrospective)

Decision: Conditional permission granted

Decision Date: 3 October 2011

**Reference: 12/01224/APP**

Development: Erection of glasshouse (amendment to glasshouse approved under 11/00630/APP) and canopy over approved nursery display and service yard.

Decision: Conditional permission granted

Decision Date: 7 August 2012

**Reference: 12/02044/APP**

Development: Erection of replacement nursery building and yard extension to car park - Amendment to 12/01224/APP

Decision: Conditional permission granted

Decision Date: 8 November 2012

**Reference: 14/00249/APP**

Development: Replacement of 2.4m palisade fencing and enclosure of display and service yard with glass panels.

Decision: Conditional permission granted

Decision Date: 25 April 2014

**Reference: 14/01626/APP**

Development: Erection of staff, utility and storage building to serve existing nursery sales glasshouse

Decision: Conditional permission granted

Decision Date: 27 July 2015

**Reference: 16/04073/APP**

Development: Revisions to approved security gates (retrospective); extension to nursery car park; covered display area (retrospective) and proposed covered display area; storage area for pots, paving and fencing, proposed glass building; trees and shrubs growing and sales area and garden exhibition area

Decision: Permission refused

Decision Date: 20 July 2018

**Reason(s) for refusal:**

1. The proposed development would fail to comply with the core planning principles of the NPPF in that it would not constitute sustainable development or recognise the intrinsic character and beauty of the countryside, conserve and enhance the natural environment or reuse land that has been previously developed. The development would significantly increase the built form on this site and by virtue of its scale, massing, nature and attendant activity would be both prominent and intrusive resulting in significant adverse impacts on the rural character and appearance of the

area. The failure to comply with the core planning principles of the NPPF of the NPPF and the harm caused significantly outweighs any benefits of the development and no justification has been provided to the contrary. The proposal for this reason would be contrary to the policy GP35 of the Aylesbury Vale District Local Plan and the NPPF.

**Reference: 17/03933/APP**

Development: Erection of tea room building ancillary to the nursery

Decision: Conditional permission granted                      Decision Date: 12 January 2018

**Reference: 20/04347/APP**

Development: Erection of four floodlights on lighting columns (retrospective).

Decision: Conditional permission approved                      Decision Date: 9 February 2021

**Reference: 20/04348/AAD**

Development: Six projecting illuminated rectangular signs each attached to a pole and one non illuminated entrance sign on a concrete plinth (retrospective)

Decision: Consent granted                      Decision Date: 9 February 2021

**Reference: 21/00549/APP**

Development: Change of use of nursery to garden centre

Decision: Permission refused                      Decision Date: 28 September 2022

**Reason(s) for refusal:**

1. The site is located in a rural area outside of any built-up area of a settlement and visually prominent when viewed from the adjacent Wendover Road. The proposed change of use of this horticultural nursery to garden centre and resulting substantial extensions to the existing nursery glasshouse to provide covered retail floorspace along with outdoor display areas would further erode the areas rural character and no proposals have been presented which would mitigate that harm to the appearance and character of the surrounding countryside. The proposed development is contrary to policies S3, BE2 and NE4 of the Vale of Aylesbury Local Plan.
2. The submitted Transport Assessment and Travel Plan are out of date and do not take account of the development contained in this and other applications seeking to regularise the planning position of this garden centre use. The parking included within the application site represents a substantial under provision both of spaces and electric charging points against the requirements set out under Vale of Aylesbury Local Plan policies T6 and T8. These shortfalls are not addressed by additional car park constructed on adjoining land which is the subject of application reference no. 21/00549/APP. The submitted Transport Assessment does not set out any evidence detailing the local circumstances that justify the deviation from the standards contained under policy T6 nor does it make any reference to providing

electric vehicle charging spaces. The proposed development therefore falls contrary to policies T6 and T8 of the Vale of Aylesbury Local Plan.

**Reference: 21/00776/APP**

Development: Extension and rationalisation of the nursery/garden centre/staff car park and realignment of joint access to Garden Centre; Waste Transfer Facility; Garden Centre Warehouse and ancillary facilities and the provision of 104 car parking spaces (retrospective)

Decision: Permission refused

Decision Date: 28 September 2022

**Reason(s) for refusal:**

1. The car park proposed under this application required solely to meet the requirements of the garden centre on adjoining land, a use that which does not benefit from planning permission. This large park which is unconnected with the lawful use of the site as a horticultural nursery would further erode the character of the rural gap between Wendover and Stoke Mandeville contrary to Vale of Aylesbury Local Plan policies S3, BE2 and NE4 of the Vale of Aylesbury Local Plan.

**Reference: 21/00799/APP**

Development: Erection of a two storey building, to be used for as a warehouse storing products associated with the Chiltern View Garden Centre (retrospective)

Decision: Permission refused

Decision Date: 28 September 2022

**Reason(s) for refusal:**

1. The building proposed under this application is required solely to provide storage for the adjacent garden centre which does not benefit from planning permission.  
2. No parking has been provided for the building; the submitted application seeks to justify for the deviation from the standards contained in policy T6 by reliance on parking for the garden centre, that parking does not benefit from planning permission following the refusal of application reference no. 21/00776/APP. The proposed development therefore falls contrary to policies T6 and T8 of the Vale of Aylesbury Local Plan.

**Reference: 22/00731/APP**

Development: Change of use from staff, utility and storage building to serve nursery sales glasshouse to garden centre storage building to serve the adjoining garden centre (retrospective).

Decision: Permission refused

Decision Date: 28 September 2022

**Reason(s) for refusal:**

1. The building proposed under this application is required solely to provide storage for the adjacent garden centre which does not benefit from planning permission.

**Reference: 22/01136/APP**

Development: Single storey extension to existing storage building and its use for storing garden centre products to serve the adjoining garden centre (retrospective)

Decision: Permission refused

Decision Date: 28 September 2022

**Reason(s) for refusal:** 1. The proposed use for the building is storage required by the garden centre on adjoining land, a use which does not benefit from planning permission.

**Reference: 22/01990/APP**

Development: Marquee extension to cafe (retrospective)

Decision: Permission refused

Decision Date: 28 September 2022

**Reason(s) for refusal:**

1. The site is located in a rural area outside of any built-up area of a settlement and visually prominent when viewed from the adjacent Wendover Road. The proposal together with substantial extensions to the existing nursery glasshouse would further erode the areas rural character and no proposals have been presented which would mitigate that harm to the appearance and character of the surrounding countryside. The proposed development is contrary policies S3, BE2 and NE4 of the Vale of Aylesbury Local Plan.
2. The submitted Transport Assessment and Travel Plan are out of date and do not take account of the development contained in this and other applications seeking to regularise the planning position of this garden centre use. The parking included within the application site represents a substantial under provision both of spaces and electric charging points against the requirements set out under Vale of Aylesbury Local Plan policies T6 and T8. These shortfalls are not addressed by additional car park constructed on adjoining land which was the subject of refused application reference no. 21/00549/APP.

**Reference: 22/01991/APP**

Development: Erection of extension to garden centre buildings (retrospective)

Decision: Permission refused

Decision Date: 28 September 2022

**Reason(s) for refusal:**

1. The site is located in a rural area outside of any built-up area of a settlement and visually prominent when viewed from the adjacent Wendover Road. The proposal represents a substantial extension of an existing nursery glasshouse to provide covered retail floorspace to a garden centre which along with outdoor display areas and additional parking required to meet Vale of Aylesbury Local Plan policy T6 would further erode the areas rural character and no proposals have been presented which would mitigate that harm to the appearance and character of the surrounding countryside. The proposed development is contrary policies S3, BE2 and NE4 of the Vale of Aylesbury Local Plan.
2. The submitted Transport Assessment and Travel Plan are out of date and do not take account of the development contained in this and other applications seeking to regularise the planning position of this garden centre use. The proposed parking included within the application site represents a substantial under provision both of spaces and electric charging points against the requirements set out under Vale of Aylesbury Local Plan policies T6 and T8. These shortfalls are not addressed by additional car park constructed on adjoining land which is the subject of application

reference no. 21/00549/APP. The submitted Transport Assessment does not set out any evidence detailing the local circumstances that justify the deviation from the standards contained under policy T6 nor does it make any reference to providing electric vehicle charging spaces. The proposed development therefore falls contrary to policies T6 and T8 of the Vale of Aylesbury Local Plan.

**Reference: 21/04294/APP**

Development: Application for temporary permission for change of use to D2 to accommodate an ice rink /marquee.

Decision: Application withdrawn

Decision Date: 5 January 2022

**Reference: 22/03095/APP**

Development: Application for temporary permission for change of use of part of the glasshouse at Chiltern View Nursery to accommodate an ice rink and refreshment bar

Decision: Application withdrawn

Decision Date: 18 October 2022

**ENFORCEMENT NOTICES:**

- **NC/22/00429/COU** – Enforcement Notice – Without planning permission, the material change of use of Land and buildings from nursery (agriculture) to garden centre (Class E) and operational development consisting of: erection of buildings for storage, extensions to glass house, extensions to buildings, expansion of car park and marquee to extend café  
**Notice issued: 29/11/2022**                      **Status: appeal in progress**
- **NC/22/00549** – Enforcement Notice – Without planning permission, the material change of use of the land from nursery to leisure (Class E(d))  
**Notice issued: 29/11/2022**                      **Status: appeal in progress**

**Areas around the nursery site (under same ownership):**

Officer note: until April 2020, the planning controls relating to the waste/recycling transfer use were exercised by the then Buckinghamshire County Council. The planning application history relating to the waste/recycling transfer use is not included in this report as it is not considered relevant to the current application. However, the enforcement notices relating to the land around the application site are considered relevant:

**ENFORCEMENT NOTICES:**

- **21/00555/CONB** – Breach of condition enforcement notice – Planning permission concerned 10/00047/APP for the ‘change of use of adjacent field to car park’. Condition 6 stated The car park hereby permitted shall not be used (or) for any other

purpose other than as a car parking area used in association with the units at Triangle Business Park.

**Notice issued: 31/10/2022**

**Status: appeal in progress**

- **NC/22/00064/BOC** – Enforcement Notice - Without planning permission, the material change of use of agricultural land to a mixed use of agriculture and external storage, including laying of hard standing and parking of vehicles.

**Notice issued: 28/04/2022**

**Status: appeal in progress**

- **NC/22/00429/COU** – Enforcement Notice – Unauthorised erection of a building, hatched black on the attached plan

**Notice issued: 28/11/2022**

**Status: appeal in progress**

*Officer note – this building is alleged to be in use for storage associated with the unauthorised garden centre use of the site.*

3.2 The above referenced enforcement notices are shown spatially on an aerial image of the site in Section 6 of this report (see para.6.6).

#### **4.0 Representations**

4.1 See Appendix A

#### **5.0 Policy Context**

5.1 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. The relevant Development Plan comprises the following documents:

**Vale of Aylesbury Local Plan** (Adopted September 2021) 'VALP' Policies:

S1 Sustainable development for Aylesbury Vale

S2 Spatial Strategy for Growth

S3 Settlement hierarchy and cohesive development

E5 Development outside town centres

E7 Tourism development

T1 Delivering the sustainable transport vision

T4 Capacity of the transport network to deliver development

T5 Delivering transport in new development

T6 Vehicle Parking

T8 Electric Vehicle Parking

I2 Sports and recreation

BE3 Protection of the amenity of residents

NE4 Landscape Character and locally important landscape

**Buckinghamshire Minerals and Waste Local Plan (July 2019) 'BMWLP' Policies:**

Application site is not within a minerals safeguarding area for the purposes of Policy

1. No other policies are relevant to the proposed development.

**Neighbourhood Plan:**

5.2 The application site is located within the parish of Stoke Mandeville. There is an emerging Neighbourhood Plan for Stoke Mandeville. However, given the stage the plan it is at, it currently carries no weight relative to the assessment of this application.

5.3 Also material to the assessment of the application are the following documents:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
  - Enforcement and post-permission matters
  - Use of planning conditions

**6.0 Policy Consideration and Evaluation**

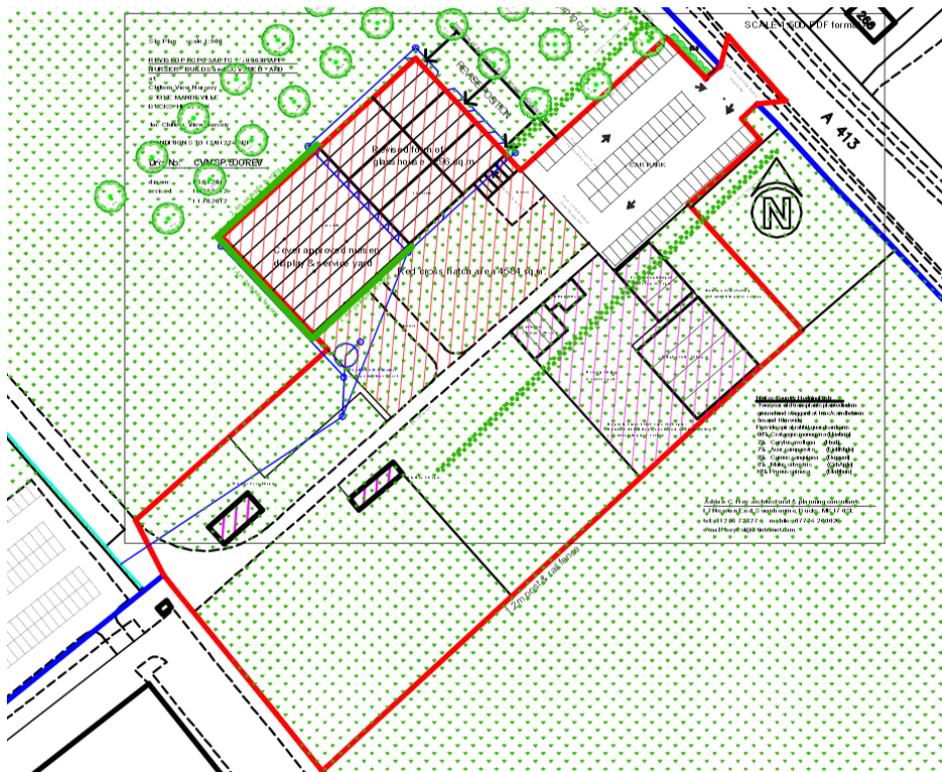
6.1 The main planning considerations are (i) principle of development - including planning enforcement implications (ii) impact on landscape (iii) impact on highway safety and parking (iv) impact on residential amenity (v) impact on employment and community

**Principle of development**

**Background and history of continued breaches of planning control**

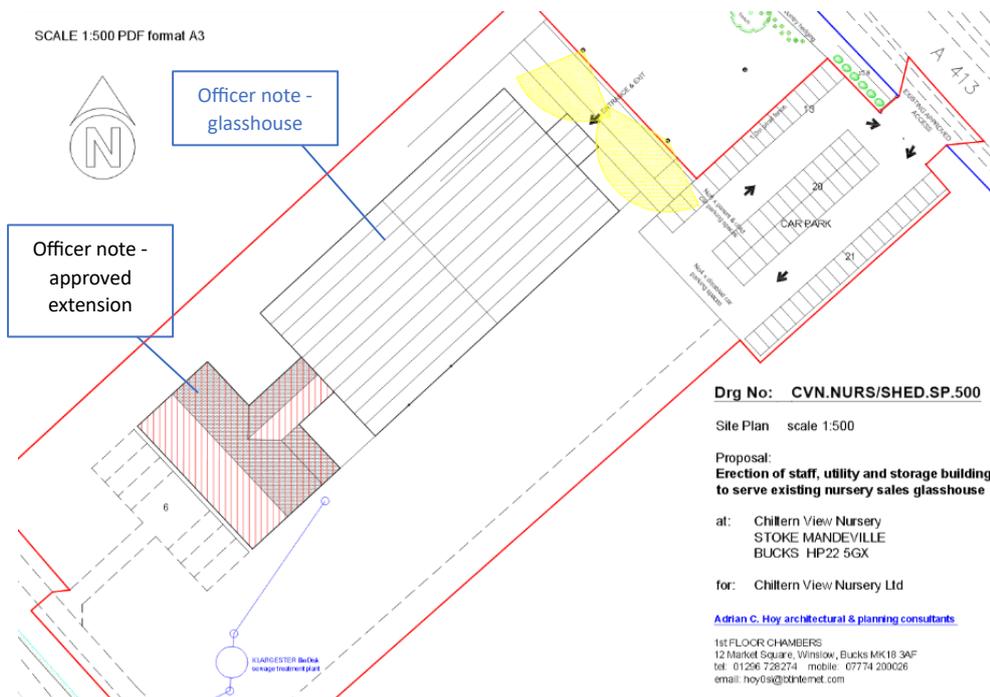
6.2 In November 2012 planning permission was granted for a repositioned nursery building (glasshouse), located further north-west within the site, and the removal of the existing buildings and the re-seeding of the land following their removal. The car park as approved comprises an area to the south-east of the repositioned building, as shown in the approved plan below (permission ref: 12/02044/APP):

Approved Site Plan – 12/02044/APP and shown on the aerial image from 2015:

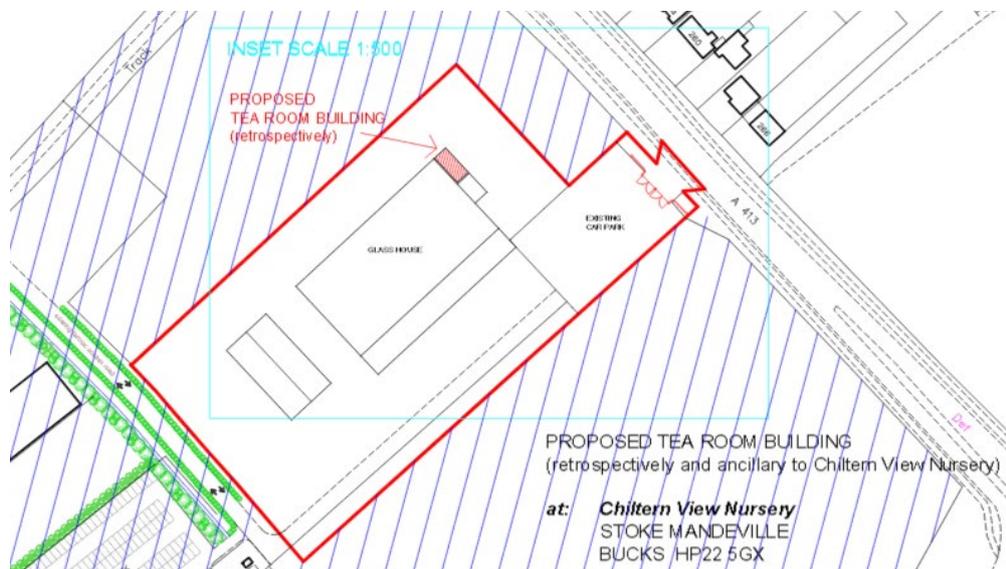


6.3 In April 2015 planning permission was subsequently granted for an extension to the rear of the nursery building (glasshouse) for 'Erection of staff, utility and storage

building to serve existing nursery sales glasshouse' (permission reference 14/01626/APP), the position of which is shown on the approved plan below:



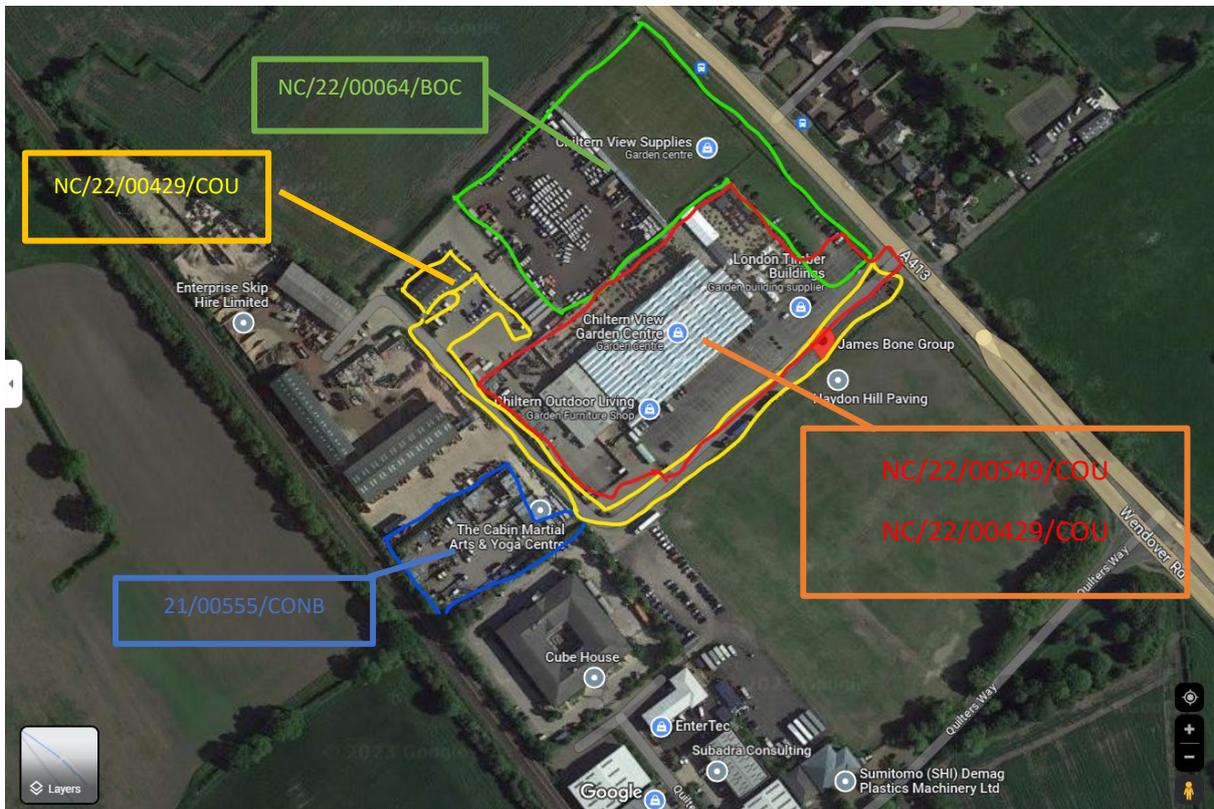
6.4 In January 2018 retrospective planning permission was subsequently granted (reference 17/03933/APP) for 'Erection of tea room building ancillary to the nursery', the position of which is shown on the approved plan below:



6.5 Aerial images from 2020 show, notwithstanding the earlier permissions, the unauthorised works that have been undertaken on the site to enlarge the building, use external areas for storage displays (contrary to conditions) and the laying of hardstanding to create additional car parking, all facilitating the current unauthorised garden centre use:



6.6 The enforcement notices issued in respect of the breaches of planning control at the site are spatially shown on the aerial image produced below:



### **Evaluation of principle of development**

- 6.7 Section 3 of the VALP sets out how sustainable growth will be delivered spatially across Aylesbury Vale. The policies in this respect follow the principles of sustainable development as set out in the NPPF in that positive growth makes economic, environmental and social progress and that these three arms are mutually dependent. To this end, Policy S1 requires that all development must comply with the principles of sustainable development and fit with the intentions and policies of the VALP. Where there are no policies relevant to an application Policy S1 provides that permission will be granted unless material considerations indicate otherwise – taking into account whether:
- any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework (2012) taken as a whole, or
  - specific policies in the NPPF indicate that development should be restricted.
- 6.8 The VALP seeks to ensure that development is located in the most sustainable locations. Policy S2 sets out the locations in which the primary focus for growth and investment will be, these locations having been identified as the most sustainable locations wherein sustainable modes of travel can be optimised and the need for travel minimised. The policy continues that growth in these strategic settlements will be supported by growth at larger, medium and smaller villages. The policy essentially sets out a hierarchy of settlements over the area based on the settlements' sustainability. Table 2 of Policy S2 names the larger, medium and smaller villages. Within Table 2, Stoke Mandeville is identified as a 'larger village' that is a settlement with reasonable access to key services and facilities making it a sustainable location for development. Weston Turville is identified as a medium village, that is a settlement with 'some provision of key services and facilities' and therefore moderately sustainable. The application site is located outside of a settlement and is therefore not a sustainable location for development.
- 6.9 Policy S3 of the VALP requires that the scale and distribution of development should accord with the settlement hierarchy set out in Table 2 and that new development in the countryside should be avoided except where the proposal would accord with the policies of the VALP that support thriving rural communities. Policy S3 continues that new development in the countryside should be avoided, especially where it would:
- a. compromise the character of the countryside between settlements, and
  - b. result in negative impact on the identities of neighbouring settlements or communities leading to their coalescence.
- 6.10 The proposed temporary use would fall to be considered a main town centre use as defined in the Glossary to the NPPF (leisure/sport/recreation/tourism). In accordance with the NPPF, the VALP seeks to avoid harm to the viability and vitality of town

centres through avoiding the location of such main town centres uses in edge and out of town sites. In this respect, VALP Policy E5 seeks to apply a sequential test when assessing such proposals. In addition, Policy E5 states that proposals for leisure located on land outside defined town centres will be granted if the proposal would not have a significant adverse impact on the vitality and viability of the defined town centres. The application site is located in an out of town location and as a starting point the proposed change of use to leisure/recreation is unacceptable and sequential testing would be required to justify the location as proposed. No evidence of any sequential testing has been submitted, with the applicant's argument resting on the community/social benefits and economic benefits of the site being used in winter months during quiet trading periods. It is unclear whether the economic argument is based on the lawful use of the site as a horticultural nursery or the current unauthorised use of the site as a garden centre. Notwithstanding this, given the nature of the use proposed, it is considered that the harm to the town centres resulting from the diversion of trade away from them in this instance would be limited and temporary nature.

- 6.11 The VALP recognises that tourism plays an important role in generating income for local residents. Tourism and leisure development is generally welcomed. However, it can have negative impacts on the surrounding area if located insensitively, is out of scale with its context or if it fails to take proper account of local character and appearance. In this respect VALP Policy E7 offers support for new leisure facilities in areas outside of settlements subject to compliance with 7 criteria (a to g). Paragraph 84 of the NPPF supports leisure developments in a rural location provided they *'respect the character of the countryside.'* It is recognised that the proposed use is temporary in nature, however, no justification has been provided for the countryside location and means by which environmental impacts would be minimised (criteria b of Policy E7). Criteria E7(d) requires that such development respects the character and appearance of the location and E7(e) avoids unacceptable traffic impact on the local road network and (g) that the benefits outweigh the harm.
- 6.12 The VALP recognises that participation in sport and recreation has physical and health benefits while promoting community cohesion. In this respect, VALP Policy I2 supports development proposals involving the provision of new sport and recreation facilities that are accessible by pedestrians and cyclists and public transport and which have no unacceptable impact on 5 set criteria (a to e) which includes (b) the highway network. Proposals must also have a long-term management and maintenance strategy.
- 6.13 The ice rink would be contained entirely within an existing building and in itself would not give rise to any visual impact on the character of this rural location. The supporting cover letter and plans emphasise the proposed ice rink would be located within the 'lawful' part of the glasshouse building on site. However, the proposal includes more than just the rink itself, there are also areas for people to collect and return their skates, change their skates, a bar area and also seating and waiting areas, the VR sleigh ride and in addition to the Christmas wreaths, trees etc that are on display for sale (conditions of the nursery use permission require that these must be kept inside the building or the permitted covered yard areas). The details provided are

that up to 100 people can be on the ice at any one time. Persons booked on to skate or accompanying people with bookings to skate would be permitted into the site. As referenced, the site is not operating as a nursery but rather an unauthorised garden centre. Given the appeal status of the enforcement notice requiring, inter alia, the cessation of the garden centre use and removal of unauthorised extensions and expanded car park, the requirements of the notice cannot currently be enforced. The unauthorised extended glasshouse building is full of items for sale and the external areas around the building are also in unauthorised use for the display of items for sale all as part of the unauthorised garden centre use. The unauthorised car park area to the south of the extended glass house is also in use associated with the unauthorised garden centre use.

- 6.14 The applicant has submitted additional information highlighting that the plant stock in the area to be used for the proposed temporary rink is to be sold off at half price in the period before the installation. This will apparently remove 90% of plant stock with any plants remaining to be stored in the display area outside of the glass house. The pots and compost remain in the outside display area and other internal garden centre products remain in the areas of the glasshouse not used for the ice rink as indicated on application drawing 918 - WW - B1 - 00 -DR - A - 0010. It is stated that the rink would not therefore lead to displacement of products in the glasshouse.
- 6.15 Notwithstanding the assertions that it is only the 'lawful' part of the building for which the temporary use is sought, the continued use of the unauthorised extended parts of the building for storage as well as the external areas around the lawful building will continue. It is not considered realistic, given the numbers of people visiting and the paraphernalia required in association with the temporary change of use, that this can be solely accommodated within the 'lawful' part of the building – this is evidenced in the enforcement notice issued (NC/22/00549/COU) and the details provided with the withdrawn planning application for the ice rink (22/03095/APP). Further, while it is noted that the applicant is to make best efforts at minimising stock, this cannot be guaranteed. It is not explicit in the supporting information, but from the previous applications made, the parking required to support the ice rink would comprise the existing authorised nursery car park and the unauthorised car park area, the removal of which is required under enforcement notice NC/22/00429/COU. Therefore, to accommodate the proposed temporary change of use, the Council would, by default, be accepting the continued use of those unauthorised elements of the site (i.e. the building as extended, the use of external areas for display/storage and the unauthorised car park) that it has found to be unacceptable and contrary to planning policy and has issued enforcement notices in respect of, during this period. This would undermine the Council's position in respect of these matters relative to the refusals of planning permission it has issued, the issue of the enforcement notices requiring the removal of these elements due to the harm they are causing and in respect of the appeals that have been made in respect of the enforcement notices.

Enforcement notice and appeal implications

- 6.16 Section 180 'Effect of planning permission etc, on enforcement or breach of condition notice' of the Town and Country Planning Act 1990 (as amended) provides that:

*(1)Where, after the service of—*

*(a)a copy of an enforcement notice; or*

*(b)a breach of condition notice,*

*planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.*

*Enforcement notice NC/22/00549/COU*

- 6.17 The implications of granting permission for the proposed use, even on a temporary basis, would be that enforcement notice NC/22/00549/COU would permanently cease to have effect and could not be enforced and the current appeal therefore would not proceed. There have been no significant changes to policy or the site circumstances since the enforcement notice was issued such that it is considered the development as proposed is acceptable in planning terms to justify a deviation from the assessment that was made when reaching the decision to take enforcement action against the ice rink (leisure) use.

*Enforcement Notice NC/22/00429/COU*

- 6.18 This enforcement notice targets, inter alia, the unauthorised erection of buildings on the site, unauthorised extensions made to the glasshouse building and the unauthorised expansion of the car park. As referred, the proposed ice rink use is reliant upon the continued use of the unauthorised parts of the building and car park. In the event planning permission were granted, even on a temporary basis for the ice rink, parking provision would be required, if this is accommodated on the current unauthorised parking area the Council would by default be accepting the continued existence and use of this unauthorised development. There have been no significant changes to policy or site circumstances since the enforcement notice was issued such that it is considered the development as proposed is acceptable in planning terms to justify a deviation from the assessment that was made to take enforcement action against these elements. A grant of planning permission would therefore be inconsistent with the Council's position that the unauthorised operational development that has occurred on the site is harmful and contrary to the policies of the development plan.

Conclusions on the principle of development

- 6.19 The application site is located in a rural area outside of any built-up area of a settlement, wherein developments comprising main town centre uses and leisure uses

are not normally supported unless it can be demonstrated that they will not result harm to the vitality and viability of the town centre, or to the character and appearance of the location and highway safety. Whilst sports and recreation facilities can be supported in such locations, this is on the basis that they do not result in harm to highway safety and have long-term management and maintenance strategies. As a temporary use, it is recognised that the use would be unlikely to result in long-term harm to town centre viability or that it would require management and maintenance strategies as a sports/recreation use. However, the use is dependent on the continued presence and use of unauthorised development on the land comprising (i) extensions to the building within which the ice rink would be located and (ii) the unauthorised car park which are the subject of (appealed) enforcement notices. These unauthorised developments are integral to the operation of the use as proposed and are considered to cause harm to the visual character and appearance of the locality and erode the rural gap between the settlements of Wendover and Stoke Mandeville. Consequently, the principle of a use on the site which is dependent on development which does not benefit from planning permission and is in itself detrimental to this countryside location, and which directly conflicts with an enforcement notice so as to render it ineffective cannot be accepted. The development is contrary to Policies S3 and E7 of the Vale of Aylesbury Local Plan. This matter is afforded significant weight against the proposal in the planning balance.

### **Impact on landscape**

- 6.20 As referenced in this report, notwithstanding the application red edge area only including what is described as the 'lawful' part of the glasshouse building on the site, the temporary ice rink and ancillary uses would be dependent for its functioning on the unauthorised extended parts of the building, external areas and unauthorised car park which are within the ownership or control of the applicant. Retrospective planning permission has been refused for these elements and enforcement notices issued by reason that their presence on the land is harmful to the rural character of the site and its setting and that they result in the erosion of the rural gap between the settlements of Wendover and Stoke Mandeville. There have been no policy changes and no changes to the site circumstances since the refusal of planning permission and issuing of the notices.
- 6.21 The site is located in the Southern Vale Landscape Character Area (LCA). The LCA provides that one of the key characteristics of the area is its flat landscape in the north rising gently to a rolling land form on the southern edge. The LCA also recognises that the area is more densely settled than other areas adjoining Aylesbury. The pockets of grazing land and smaller field parcels associated with the Southern Vale LCA settlements are another key characteristic. The LCA notes that the existing commercial/ribbon development along the main highway corridors is one of the intrusive features. The application site is considered to comprise part of one of those valuable open spaces between the settlements and has amenity value.
- 6.22 As referred, the proposed use is dependent on the continued presence on the land of those physical elements that are harmful, have been refused planning permission and

are the subject of enforcement action. In addition to this, given the site's rural location, it is considered that the increase in activity for 12 hours every day, in terms of vehicle and pedestrian movements and noise and light spillage from within the building and the surrounding land associated with the use is not in keeping with the character of the rural, open space location when compared with the lawful nursery (agricultural) use. Criteria (e) and (g) of Policy NE4 include that development should minimise the use of lighting to avoid blurring the distinction between urban and rural areas (NE4e) and should not generate an unacceptable level and/or frequency of noise in areas valued for their amenity value (NE4g). Accordingly, it is maintained that the use as proposed, notwithstanding its temporary nature, would result in the same harm by reason of its reliance on these unauthorised developments against which the Council has instigated enforcement proceedings and activity that is uncharacteristic of this countryside location. Accordingly, the use as proposed is contrary to policy NE4 of the VALP. This matter is afforded significant weight against the proposal in the planning balance.

#### **Impact on highway safety and parking**

- 6.23 The form submitted with the application states that there are no existing vehicle/cycle parking spaces or that the proposed development will add/remove parking spaces. The plans submitted show a red edge drawn tightly around the 'authorised' part of the glasshouse building extending up to the access point onto the highway. In the cover letter, the applicant states that 'pedestrian access to the ice rink will be provided by the existing pedestrian route into the glasshouse from the Chiltern View Nursery Car Park' and that 'as there is an existing footway/cycleway and buses along Wendover Road the site is also easily accessible by sustainable modes of transport'. Aside from these two sentences, the applicant has provided no supporting information relative to access to the site, transport and parking and from the submissions made, there is no parking provision associated with the proposed development.
- 6.24 However, based on the submissions made with the previously withdrawn application and on the applicant's website, and comments made in support of the application, reference is made to the 'ample parking' on site and that use would be made of the unauthorised car park against which the Council has instigated enforcement proceedings to require the cessation of that use and removal of the hardstanding. In the acknowledgement of there being a lawful parking area associated with the lawful nursery located on land within the ownership of the applicant, the baseline for assessment in respect of the current application has to be the parking provision that is lawful.
- 6.25 The VALP seeks to deliver sustainable transport in Aylesbury Vale based on encouraging a modal shift to greater use of more sustainable forms of transport and improving the safety of all road users (Policy T1). Car parking and its location has an impact on safety and all development is expected to provide an appropriate level of

car parking (Policy T6). It is clear from the comments of the Highway Authority that the lawful number of spaces on site is insufficient to support the use proposed and this could lead to highway safety implications. For the reasons outlined in this report, officers do not accept the provision on site of the extended area of parking for use by the proposed temporary ice rink would be appropriate. Accordingly, it is concluded that the development as proposed fails to provide sufficient parking provision to support the use which could force parking on the adjacent highway to the detriment of users of the site and the highway. Furthermore, given the intensification of use, the proposal also fails to demonstrate how it would contribute to a modal shift to more sustainable modes of travel, including lack of provision for electric vehicles. In this respect the proposal is contrary to VALP policies T1, T4 , T5, T6 and T8. This matter is afforded significant weight against the proposal in the planning balance.

### **Impact on residential amenity**

- 6.26 The nearest residential properties to the site are located on the opposite side of Wendover Road (to the north-east). It is recognised that the proposed leisure use would likely result in more comings and goings to/from the site and more intensive activity with associated noise than the lawful horticultural nursery use. However, given the temporary nature of the use as proposed, the distance between the site and subject residential properties and the activity from the A413 (main trunk road) it is not considered that this would be so intrusive as to result in significant harm to amenity. Accordingly, no objections are therefore raised relative to policy BE3 of the VALP. The absence of harm in this respect is afforded neutral weight in the planning balance.

### **Impact on employment and community**

- 6.27 The VALP provides in-principle support for economic and social growth as part of the achieving the goal of sustainable development. As stated in Section 3 and VALP Policy S1, for development to be sustainable, it must provide and in balance social, economic and environmental benefits. As referred earlier in this report, policy E7 supports tourism/leisure development in the Aylesbury Vale area and policy I2 supports sports and recreation development.
- 6.28 Officers note the level of public interest and support for the proposed use in the interests of community cohesion. It is recognised that the proposed use has benefitted many members of the community. The supporting cover letter refers to the donations made to local charities and opportunities offered to local community groups to use the rink which in no doubt provides physical and mental health benefits.
- 6.29 It is also recognised (as referred in some of the third-party representations and supporting cover letter) that the use as proposed would/has provide/d employment opportunities and sought to involve local businesses to provide e.g. food and drink refreshments.

6.30 The positive economic and social benefits clearly provide weight in favour of the proposal. However, given its very temporary nature, this is afforded limited positive weight in favour of the proposal in the planning balance.

## **7.0 *Weighing and balancing of issues/Overall Assessment***

7.1 This section brings together the assessment that has so far been set out in order to weigh and balance relevant planning considerations in order to reach a conclusion on the application.

7.2 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:

- a. Provision of the development plan insofar as they are material,
- b. Any local finance considerations, so far as they are material to the application (such as CIL if applicable), and,
- c. Any other material considerations

7.3 As stated at para. 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Para 8 continues that achieving sustainable development means that the planning system has 3 overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives. The three objectives are economic, social and environmental. Para 11 provides a presumption in favour of sustainable development which for decision making means approving development proposals that accord with an up-to-date development plan without delay. In this instance the VALP comprises an up to date development with policies in place designed to deliver sustainable development.

7.4 As referred in this report, it is acknowledged that the proposed development would contribute towards economic and social objectives providing employment opportunities and contributing to the local economy. Social objectives would be provided through a leisure/sport/recreation facility available for use by the public providing health benefits and opportunities for community cohesion. Given the temporary nature of the proposal, these benefits are afforded limited positive weight. However, it is also identified that the development is reliant on the use of unauthorised development which the Council has identified is causing significant environmental harm through the erosion of the countryside and in a location that is

not sustainable. Furthermore, the Council has issued enforcement notices in respect of these unauthorised developments such that the grant of permission, even for a temporary period, would undermine and as regards the notice concerning the ice rink/leisure use defeat the Council's ability to enforce against these breaches of planning control and the requirements of these notices requiring the removal of the unauthorised development. Accordingly, it is not considered that the short term economic and social benefits outweigh this longer term/permanent harm, to justify a grant of planning permission.

#### *Human Rights Act 1998*

- 7.5 Given the nature of the development proposed in this application, is it not considered that the human rights set out in the Articles and Protocol Articles are engaged in this instance. However, in the event they are engaged, it is considered that the negative environmental impacts of the proposed development outweigh such considerations. The right to a fair trial under Article 6 is protected through the established challenge/appeal process.

#### *Equalities Act 2010*

- 7.6 Local Planning Authorities, when making decisions, must have due regard, through the Equalities Act, to reducing the inequalities which may result from socio-economic disadvantage. The applicant, and third parties in response to the consultation process, have drawn attention to the potential benefits of the proposed development to persons with a protected characteristic (i.e. persons with disabilities and children) However, given the nature of this proposed temporary development it is not considered that these persons would be disproportionately disadvantaged by the refusal of planning permission.

### **8.0 Working with the applicant/agent**

- 8.1 In accordance with paragraph 38 of the NPPF (2021) the Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments.
- 8.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.
- 8.3 In this instance, communications were had with the applicant and agent to obtain further information regarding the proposed use. The applicant was subsequently informed/ advised how the proposal did not accord with the development plan and that no material considerations are apparent to outweigh these matters.

### **9.0 Recommendation**

- 9.1 It is recommended that planning permission be refused for the following reason(s):

1. The application site is located in a rural area formally designated as having amenity value, outside of any built-up area of a settlement. Whilst sports and recreation facilities can be supported in such a location, this is on the basis that they do not result in harm to highway safety and have long-term management and maintenance strategies. The activity, in terms of pedestrians and vehicles, noise and light spillage associated with such a town centre use is considered out of keeping with the character of this rural location. Notwithstanding its temporary nature, the use is dependent on the continued presence and use of unauthorised development on the land comprising (i) extensions to the building within which the ice rink would be located and (ii) the unauthorised car park. These unauthorised developments are integral to the operation of the use as proposed and are considered to cause harm to the visual character and appearance of the locality. Consequently, the principle of the use in this location and which is dependent on development which does not benefit from planning permission is contrary to Policies S3, E5, E7 and NE4 of the Vale of Aylesbury Local Plan and Sections 3 and 15 of the NPPF.
2. The applicant has not included adequate provision for space within the site for parking and manoeuvring of vehicles clear of the highway. The development if permitted would therefore be likely to lead to additional on-street parking and to vehicles reversing onto or off of the highway to the detriment of public and highway safety. Furthermore, the proposal fails to demonstrate how it would contribute to a modal shift to more sustainable forms of transport and improving the safety of highway users. In this respect the proposed use is contrary to Policies E5, E7, T1, T4, T5, T6 and T8 of the Vale of Aylesbury Local Plan, Section 9 of the NPPF, Buckinghamshire Council Local Transport Plan 4 (adopted April 2016), the Buckinghamshire Council Buckinghamshire Countywide Parking Guidance Policy (adopted September 2015) and the Buckinghamshire Council Highways Development Management Guidance document (adopted July 2018).

## **Appendix A: Consultation Responses and Representations**

## **Appendix B: Site Location plan**

## **APPENDIX A: Consultation Responses and Representations**

### Councillor Comments

*Cllr Ashley Morgan (Aylesbury Town Council) – I fully support this application, this is an asset for the residents of Aylesbury and beyond and it is hugely popular at such a wonderful time of year.*

*Cllr Steve Bowles – I am in support of the application as the ice rink as well as providing employment for many of the Christmas period also raises monies for charities as well as helping the local economy by employing a significant number of people.*

*Cllr Julie Ward - I would like this application called in for consideration by committee, should officers be minded to refuse permission. In making this request I have considered all of the comments by the statutory consultees, however as of today 11/5/2023, there are no publicly visible comments from Buckinghamshire Highways. I have been waiting to see what these are but have decided to go ahead and now call in anyway based on the comments from the last application. I can only draw the conclusion that the lack of current Highways comments will delay determination at this point now. I had really hoped they would be visible by now. Highways had no objections to the last application and I therefore have no reason to believe that there will be any to this. Environmental Health have no comments or conditions. Ecology and Trees have assessed as no features being present. Economic Development have nothing to add to their comments to the last application which they "welcomed" and previously supported citing numerous policies in the NPPF and VALP. This application presents much that will benefit the local economy in terms of both, growth, jobs and tourism to the area. It is a good use of otherwise redundant space in a seasonal business. I believe that the location is excellent for the proposal. There is an abundance of free on site parking that is easily accessible. The site itself is easily accessible off of a main road. A town centre location would be inappropriate for this proposal. Aside from not currently knowing what regeneration proposals will look like for Aylesbury town centre, the logistics of the current area do not accommodate a proposal such as this. It is also important that satellite areas to Aylesbury see the benefit of seasonal businesses such as this as the town centre is well served by Christmas parades, light switch on etc. There has been extensive public comment and interest in the application and this further supports my view that determination publicly by committee would be for the benefit of both the Council and the applicant. In conclusion, I am in support of the application for which numerous policies from both the NPPF and VALP support. I have seen no objections that would lead me to change this view, despite waiting this time for something visible from Highways, which I must conclude should not vary from comments submitted in relation to last years*

application. I also note that last years application had been requested for call in for committee determination. In balance, it appears to me that the benefits of the application outweigh any potential for harm. Again, if officers are minded to refuse this application, I would like a committee determination for all of the reasons listed above.

Further call-in comments:

*While I agree that the economic benefits in relation to this proposal relate to a relatively short trading window, it cannot be underestimated how beneficial this is. We saw, for example how, during lockdown (particularly that of December), food and beverage and entertainment businesses lost a significant proportion of their annual turnover in just a short trading window. For a business to be able to continue trading year round there is the knock on effect of providing job security to all staff throughout the year via the continuation of trading in some capacity. I would therefore contest that the social and economic benefits are short term. Many businesses can attribute a large portion of their annual sales to the Christmas trading period. It does not equate relatively to the rest of the year... Looking at the application alone on it's own merits, it still appears to be finely balanced and will continue to benefit from the consideration of the committee. I also think that given the significant public interest in this application, it should be determined publicly.*

*Cllr Susan Morgan* - As a Bucks Councillor I fully support this application. This is a hugely beneficial asset to the community. Its great for mental health, it's fully inclusive for disabled and special needs residents, and the nearest ice rink is Milton Keynes which isn't accessible to all our residents. I would like to see it being a permanent feature. There isn't enough youth provision in Bucks, and contributes to the reduction in anti-social behaviour. It's in a covered space which means it's not open to the elements and its availability is not affected by the weather. It's far enough away from residential housing and so they wouldn't be affected by noise or music generated. It has a large car park and although there would be an increase in traffic to the location, it's always well managed by staff working at the Centre. It's my view that it is not overbearing or changes the street scene significantly and the proposals for the structure are sympathetic and in keeping with the surrounding nursery. It doesn't overlook anyone so therefore won't impact anyone's privacy. If the planning officer is minded to refuse this application, I would ask that it goes before the Planning Committee for decision

*Cllr Michael Collins* – I have no doubt that the ice rink last year brought Christmas joy to the old, young and the disabled. I helped several wheelchair users and young people with learning difficulties for an experience of a lifetime. It must go ahead this year.

I understand the ice rink may not go ahead this Christmas if Councillors fail to support the application prior to June 7th.

For the last two years I have taken group of the elderly, the disabled, also children with physical and or mental disability to savour the experience of skating on ice in the build up to

Christmas. I have helped young people in wheelchairs who enjoyed an otherwise unknown experience.

I do understand the many issues you and the planning team have to endure, however, if you are minded to refuse the application I wish to call it in. Please take a pragmatic view on this application as in troubling times we as a council can at least help our residents experience a true Christmas experience.

Further call-in comments:

*My personal experience is the help I was able to give to my residents, especially those with mental and physical health problems. I believe it would have a positive effect on the relationship between the council and our residents. My view is a pragmatic view where our residents best interest are best served. The enforcement/non-compliance issues are concerning and need to be addressed but surely we have the knowledge and expertise to address those issues without the need to ban a Christmas event that has been enjoyed by so many in the past and could be enjoyed by many over the Christmas period.*

*Cllr Ashley Waite - As a Buckinghamshire councillor could I request a call in on this application please.*

Further call-in comments:

- While this application does not sit in my ward, I believe it offers a wide benefit for the whole of north bucks. The closest Ice rinks are MK, Hemel and Oxford which is a significant distance to families on low income who wish to experience this.*
- Post covid with cost-of-living issues all over the place, opportunities like this should be encouraged with the right regulation in place.*
- It is therefore a unique temporary facility for the area*
- Offering community, social, welfare and employment benefits to both a local and wider area*
- limited impact to local traffic and parking as I believe all is off site*
- I do appreciate the potential planning issues with a waste transfer site, I have had planning issues with two in the past. but, my understanding of the site is composed of waste transfer, garden centre and other retail, I am unsure as to why enforcement on one part of the business and the site would affect the whole site and different parts of the operation.*

#### Parish/Town Council Comments

**Weston Turville PC** – no objections raised to this application

#### Consultation Responses (Summaries)

**Environmental Health Team** – no comments or conditions

**Economic Development Team** – no additional comments as this application is similar to 22/03095/APP

(Summary and Recommendations of EDT re. 22/03095/APP: *Economic Development welcomes the opportunity to create a temporary ice rink during the festive period and provide 20 full-time and 10 part-time jobs as well as support local charities.*)

**Highways Team -**

01/05/23:

*The proposed development is for the temporary change of use to accommodate an ice rink, refreshment bar, and associated ancillary facilities. I note that the Highway Authority raised no highway objections to prior application references 21/04294/APP and 22/03095/APP for similar proposals.*

*Wendover Road is an A-class road, and the proposed development site lies on a part of the road which is a subject to a 50mph speed limit. Parking / waiting restrictions are not present and footways run either side of Wendover Road in the vicinity of the site.*

*Due to the likely peak operating times of this development, the net additional traffic generation, access arrangements, and parking provision would not have a material impact on the safety and operation of the adjoining public highway. However, this should not be seen as tacit approval for a permanent development of this, or any other for a similar proposal.*

16/06/23:

*Following the submission of these comments (01/05/2023) further detail relating to the parking situation and the lawful permitted development on the site has been requested:*

*I understand that the site has lawful permission for a nursery at a size of 1296sqm. Following parking guidance at the time the nursery building would have an acceptable level of parking. Should we be basing our comments on the permitted consent only, and discounting the current layout on site, this is the only parking area that the proposed ice rink could use.*

*Based on the lawful permitted layout only, we would have concerns that the proposed ice rink would potentially give rise to an issue regarding parking and over spill in the site, restricting manoeuvring within the site and even spilling out onto the local highway network. Should the Planning Authority wish to take these concerns further we would expect the applicant to provide further evidence to support the case that parking overspill, or any other issue related to parking shortfall, would not have an impact on the local highway network.*

*However, we are aware that there has been a substantial amount of development on the site, including a large area of additional parking that is currently in situ. Based on the quantum of parking currently on the site we believe that any parking from the proposed ice rink can be accommodated within the wider site.*

04/08/2023:

Following previous comments dated 16<sup>th</sup> June 2023, the Planning Officer has requested further comments from the Highway Authority.

In our previous comments we stated that:

*“Based on the lawful permitted layout only, we would have concerns that the proposed ice rink would potentially give rise to an issue regarding parking and over spill in the site, restricting manoeuvring within the site and even spilling out onto the local highway network. Should the Planning Authority wish to take these concerns further we would expect the applicant to provide further evidence to support the case that parking overspill, or any other issue related to parking shortfall, would not have an impact on the local highway network.*

*However, we are aware that there has been a substantial amount of development on the site, including a large area of additional parking that is currently in situ. Based on the quantum of parking currently on the site we believe that any parking from the proposed ice rink can be accommodated within the wider site.”*

*Following further discussions with the Planning Officer we have been advised that the in-situ parking should not be considered as viable, lawful parking for the site as proposed. No further documentation has been provided by the applicant to show that there is additional lawful parking. As this is the case there is a clear shortfall of parking as no further parking has been allocated for this use.*

*Therefore, mindful of the above I must object from a Highway perspective, for the following reason:*

**Reason 1:** *The applicant has not included adequate provision for space within the site for parking and manoeuvring of vehicles clear of the highway. The development if permitted would therefore be likely to lead to additional on-street parking and to vehicles reversing onto or off of the highway to the detriment of public and highway safety. The development is therefore contrary to the National Planning Policy Framework, Buckinghamshire Council Local Transport Plan 4 (adopted April 2016), the Buckinghamshire Council Buckinghamshire Countywide Parking Guidance Policy (adopted September 2015) and the Buckinghamshire Council Highways Development Management Guidance document (adopted July 2018).*

#### Representations (Summaries)

- 1086 third party representations have been received. The majority of these have been made via the Council’s online form and simply register ‘support’ the proposal. It is also noted that some individuals have submitted more than one representation. Of those which have made additional comments, these comments are summarised as follows:
  - A welcome local facility

- Used by local adults with disabilities charity and provides vital life line for clients and their families
- Used by local families/the community and brings people together
- Brings jobs and celebrities to the village/town/community
- Inexpensive/affordable and therefore accessible
- A fun and festive experience, well organised
- Offers kids/adults opportunity to learn how to skate
- Nothing else like this nearby, no need to travel
- Providing exercise for people, a healthy activity
- It has a large car park and does not cause problems for residents
- Parking is easy and free
- This is a much-respected business being innovative
- Have attended before and look forward to it returning this Christmas
- Wish the ice rink were there all year round as no other facility like this locally
- Keeps children out of trouble in a safe environment
- Supports local schools for children with special needs
- So few places like this nearby, we have visited more than once
- Accommodates everybody – children in wheelchairs can go on the ice and enjoy
- Good use of an existing building which would not be used in winter otherwise
- This should be supported and encouraged by the Council no made difficult to do and it should be advertised properly this time
- Provides an invaluable experience for children in care
- Facilities for younger generation are never wasted/inconvenient
- Visiting the ice rink is becoming a tradition for families
- Provides great boost to commerce of the area
- Supports local schools to fundraise by giving them tickets
- Beavers/scouts have trips to the ice rink
- The event holds SEN sessions
- Aylesbury needs more places like this
- There should be more local events like this for the benefit of the community
- I visit with the Autism Society socially
- As birthplace of the Paralympic Games we should support an ice rink facility for disabled people to have fun and develop skills to take up the sport for fun or professionally
- the community supports and needs this
- we visit the ice rink and then also other shops and cafes, therefore further supporting local businesses
- A great local event held by respectable local company
- Nearest rinks are otherwise at Hemel and Milton Keynes
- Run well with timed slots and well thought out parking
- Would prefer if the ice rink was accessible for longer than proposed

- Travelling further away (to another ice rink) would be bad for the environment
  - Good security, parking and consideration to neighbours – noise is not disturbing
  - Puts Aylesbury on the map
  - Helps raise with charity fundraising
  - Safe access from the A413
  - Gives people opportunity to experience new activity and locally
  - Good use of the nursery that would otherwise be quieter due to the Winter months
  - Good example of business diversification
  - Aylesbury needs more facilities like this as the town has grown
  - It's all on his own land, it's hurting nobody
  - Working within existing site infrastructure I can see it having little to no differential impact to that of a normal operating day on the site
  - Facility for local youth groups to visit
  - Is not funded by the local authority budget, what will they put on as an alternative?
  - This is a vendetta against the proprietors
- 
- PACE Centre (Wendover Road) – visited last year with children and would like to visit again
  - 1 representation of objection was received making the following comments:
    - Small skates, busy
  - 4 bogus objection comments were also received – contents therefore not reported

## APPENDIX B: Site Location Plan



Do not scale – this map is indicative only

Reproduced from the Ordnance Survey map with permission of the Controller of Her Majesty's Stationary Office © Crown Copyright 2020. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Buckinghamshire Council, PSMA Licence Number 0100062456