19-21 Broad Street St Helier Jersey JE2 3RR



Compliance Case Ref: CMP/2022/00192

ENF/2022/00017

ENFORCEMENT NOTICEPlanning & Building (Jersey) Law 2002

THIS NOTICE TAKES IMMEDIATE EFFECT ON THE DATE IT IS ISSUED

- 1 This Notice: is issued pursuant to the powers conferred under Article 40 of the Planning and Building (Jersey) Law 2002 because it appears that a breach of development controls has occurred at the Land stated below. Article 5 of the above Law defines the meaning of development and Article 7 of that Law states that Land shall not be developed without planning permission.
- 2 This Notice relates to land at:
 - 2.1 Field MN770, Le Clos du Fallu, St Martin(edged in RED on the attached Enforcement Notice Location Plan)
- 3 The Matters which appear to constitute the Breach of Development Controls: Without Planning Permission development has occurred at Field MN770, Le Clos du Fallu, St Martin, namely;
 - 3.1 The site of Field MN770, Le Clos du Fallu, St Martin, has materially changed from its use as a storage shed and hardstandings for the purpose of horticulture and agriculture to general commercial use. Specifically for the storing and hiring to the public of plant and machinery by its tenant 4Hire Limited. The change of use amounts to development, as defined in Article 5 of the Planning and Building (Jersey) Law 2002 and has not been granted permission by way of the provisions of the Planning and Building (General Development) (Jersey) Order 2011.

4 Reasons for Issuing this Notice:

4.1 It appears that the breaches of Development Controls have occurred within the

last 8 years.

4.2 The grant of planning permission under Permit P/2002/0890 was to 'Construct

shed and 2 No. polytunnels. AMEDED [sic] PLANS: Amended layout. The

permission may specify the purposes for which it may be used, and if no purpose

is specified, the permission "shall be construed as including permission to use

the building for the purpose for which it was designed." [Art 23(6), the Planning

and Building (Jersey) Law 2002].

The purpose for which the shed was intended is found in Part 8 (Code 3A) of the

applicant's planning application, the applicant's Proposal Statement and in the

Officer's Report for P/2008/0890, neither of which support the assertion that the

building and its hardstandings were to be used for anything other than

agricultural or horticultural storage. The use of the land as a depot for a plant

and equipment hire business is not an agricultural or horticultural use.

5 Steps Required to Rectify the Breach:

Cease the unauthorised development by;

5.1 Ceasing the use of any part of the land known as Field MN770 as a

depot for plant and equipment hire.

5.2 Remove from the land all vehicles, plant and/or equipment brought on

to the land for the purpose of that use.

Returning the use of the land known as Field MN770, Le Clos du Fallu,

St Martin to agriculture and horticulture, as set out in decision notice

P/2008/0890.

6 Time for Compliance: 30 days.

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY OR INTEREST

Date of Issue: 21 August 2023

Signed: Date: 21 August 2023

(Authorising Officer)

For and on behalf of the Chief Officer;

C Jones

Planning Applications Manager Infrastructure and Environment, Development Control, 19-21 Broad Street, St Helier, Jersey, JE2 3RR

Enclosures.

- 1. Enforcement Notice Location Plan (ENF/2023/00017) Plan identifying the site.
- 2. Application P/2008/0890
- 3. Proposal Statement
- 4. Officer's Report

Informative. Any other item or issue not specified in this enforcement notice may be the subject of a separate notice.

ADVISORY NOTES

What will happen if this Notice is not complied with: If you fail to comply with the requirements of this Notice you may be liable to prosecution under the appropriate Article of the Planning and Building (Jersey) Law 2002.

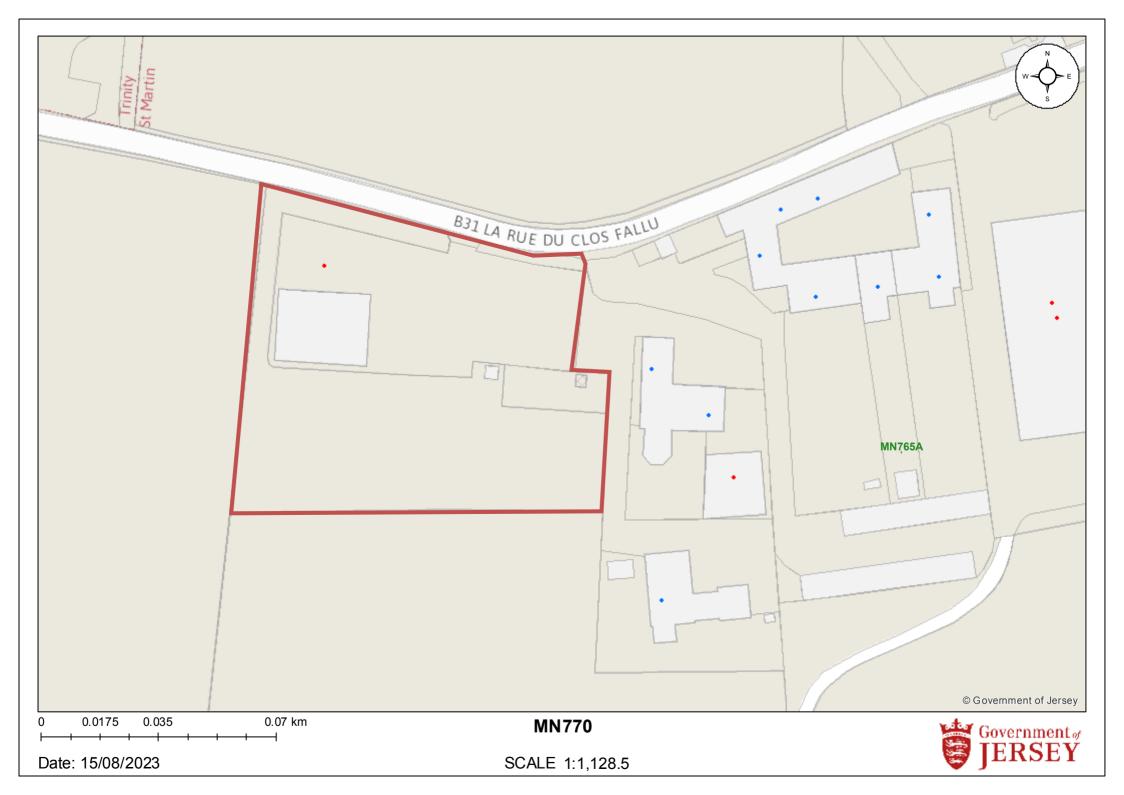
Your Rights of Appeal: In accordance with Article 109 of the above Law, you may appeal against this Notice to the Judicial Greffier by writing to the Planning Tribunal, First Floor, International House, 41 The Parade, St Helier JE2 3QQ no later than 28 days from the date this Notice is issued, enclosing the required fee.

Planning Tribunal:

planningtribunal@courts.je

Appeal Information:

https://www.gov.je/planningbuilding/appealscomplaints/pages/appealplanningbuildingdecision.aspx



Planning and Environment Department FOR OFFICE USE ON States Planning and Building Services South Hill, St Helier, Jersey, JE2 4US Tel: +44 (0) 1534 445508 Fax: +44 (0) 1534 445528 www.gov.je 1 1 APR 2008 Planning and Building (Jersey) Law, 2002 Application for Permission to Develop Land Please read the general guidance notes on the back of this form before answering all the questions. One original and five copies of this form must be provided. Please complete using block letters. Failure to fully complete this form could result in delays. 1. If this is a revised Planning application please state previous permit number 2. Have you received any pre-application advice in relation to this project? (tick) No V If Yes, please state the name of the officer you dealt with Give the full address of the land or property that is the subject of this application, including field number where relevant. ABSACENT. LAND ADYACENT TO FIELD 770. Field No LA RUE DU CLOS MARTIN Postcode: 4. What is the full name and address of the applicant? (See note 4) MA RICHARDSON & SON ETD. 5. What is the full name, address and daytime telephone number of the architect or agent making this application if different to the applicant? PAGE AKCHITECTS MA RICHARDSON & SON LTD

7. Give a clear and concise description of the proposed development, itemising any revisions to a previous application. (IMPORTANT: PLEASE READ NOTE 5)

PROPOSED. STORAGE SMED/BARN & POLYTUNINES.

8. Please give details of all the *types of use* into which the site currently falls and also all the proposed *types of use*. In addition, please show the total amount of existing and proposed floor area given over to those use(s) (see note 6). Where there is more than one use within a site or building, please enter the information about the existing and proposed use in each of the categories provided (see example below). This information will be used in the consideration of the application and in the future monitoring of Island Plan policies.

Code	Type of Use	Existing	Proposed
1	Residential		
1A*	Dwellings	Units	Units
1B	Extensions to existing Dwellings	Sq.m	Sq.m
*If you h	ave completed this section please indicate below which category of residential propert		
	Category (to be completed only if 1A above has been selected)	No of Units to be lost	No of Units proposed
1C	Social rented homes (built by or for the States, a Parish, or a Housing Trust / Association)	Units	Units
1D	Homes for First Time Buyers (built on land zoned for the purpose)	Units	Units
1E	Staff and lodging accommodation	Units	Units
1F	All other private sector homes (eg: owner occupation and private rented)	Units	Units
2	Industrial and Commercial	Existing	Proposed
2A	Office	Sq.m	Sq.m
2B	Retail	Sq.m	Sq.m
2C	Café, restaurant, public house or nightclub	Sq.m	Sq.m
2D	Warehouse (storage or distribution)	Sq.m	Sq.m
2E	Industrial	Sq.m	Sq.m
2F	Other commercial not specified above	Sq.m	Sq.m
3	Agricultural and Fisheries (Please tick)	Existing	Proposed
3A	Use of land for agriculture		
3B	Permanent building for agriculture or fisheries		
3C	Glasshouse, polytunnel or fisheries structure		2/
3D	Other agricultural or fisheries facility not specified above		
4	Tourist Facilities		
4A	Visitor accommodation (hotel, guest house, self catering)		
4B	Visitor attraction (including heritage/culture site)		
4C	Other visitor facility not specified above		
5	Community		
5A	Health facilities		
5B	Education facilities		
5C 5D	Sport and leisure facilities Other community facility not appointed above		
6	Other community facility not specified above Other Development		
6A	Advertisement		
6B	Parking		
6C	Telecommunications (masts, aerials, and satellite dishes)		
6D	Demolition only		
6E	Other development not specified above (please state)		
JL.	Other development not openined above (please state)		

Example - If your application is to demolish an existing building containing a house and a flat and to build 6 new dwellings (for first time buyers), 10 new flats (for social rent) and 4 dwellings (for others), then you would fill out question 8 as follows:

Code	Type of Use	Existing	Proposed
1	Residential		
1A*	Dwellings	2 Units	20 Units
1B	Extensions to Existing Dwellings	Sq.m	Sq.m
f you have (completed this section please indicate below which category of residential property this application re-	ates to:	
力制	Category (to be completed only if 1A above has been selected)	No. of units to be lost	No. of units proposed
10	Social control homos (huill burne for the States of Bariety and Hausian Trust/Acceptation)	Linita	10 Unito

	Category (to be completed only if 1A above has been selected)	to be lost	proposed
1C	Social rented homes (built by or for the States, a Parish, or a Housing Trust/Association)	Units	10 Units
1D	Homes for First Time Buyers (built on land zoned for the purpose)	Units	6 Units
1E	Staff and Lodging accommodation	Units	Units
1F	All other private sector homes (eg: owner occupation and private rented)	2 Units	4 Units

9. What is the area of land (including buildings) to which the application relates? 2100 Sq.m 10. Do the proposals include a new or altered means of vehicular access to a road? (tick) No , Yes 11. What systems are used for the disposal of foul sewage and surface water? Foul Sewage (tick) Foul Sewer Surface Water (tick) Surface Water Sewer Septic Tank / Soakaway Soakaway V Cesspool / Tight tank Storage Tank 12. Could any previous uses of the land have potentially contaminated the site? Yes No (if yes, please provide details such as a desktop study and/or intrusive investigation result - see the department's guidance, 'Development of Potentially Contaminated Land') 13. Give details of plans, drawing, maps and photographs included with this form. (Continue on separate sheet if necessary. IMPORTANT: PLEASE READ NOTE 7) Drawing No. No. of Copies **Description of Drawing** PG296-07 05 MAP 6 EXISTING SIFE PROPOSED SITE P7070840 SWED/BARN 04 STORAGE 05 PROPOSED 14. Fee Calculator Category Category Number of Fee per Item Total £233.00 £699.00 A 3 e.g. A 159 159 Y 2 B 239 239. Total fees due £ Please indicate how you would like to make payment (tick): Cheque ✓ Credit Card* *Credit Card payments can be made by completing a separate form coded: CCNPT Cheque Number 100 905. £ 398 Cheque Value This Application Form Must be Signed by the Applicant and Agent. APPLICANT/AGENT DECLARATION: I am aware that it is an offence to submit false or misleading information with an application. This application is made with my authority and I confirm that I have read and understood the notes section detailed with this form. As part of the application process, I am aware and agree that any of the information supplied in this application may be disclosed to relevant States Departments, other relevant authorities, made accessible to members of the public published in the Data Protection L **Applicant Signat** FULL NAME IN E **Agent** Signature FULL NAME IN E This Application or her knowledge and agreement. OWNER'S DECLARATION: This application is made with my authority and I confirm that I have read and understood the notes section detailed with this form. As part of the application process, I am aware and agree that any of the information supplied in this application may the public and publis of the Department ar is maintained on a b Signature FULL NAME IN BLO

Checklist Please check that you have provided the following information:

- 1 original Application Form fully completed and signed and 5 additional photocopies.
- 2. 6 copies of site plans and floor plans, elevations, specifications and sections. (see note 7)
- 3. 6 copies of the current 1:2500 scale map of the Island showing the site outlined in red. (see note 7)
- 4. Fee calculator section filled out to show how fee has been calculated. (see note 8)
- 5. Payment enclosed and cheque number box completed where payment is made by cheque. (see note 8)

Guidance Notes

- 1. This form is to be used only for obtaining permission to develop land under the Planning and Building (Jersey) Law, 2002, including revisions to a previously approved application. This form may not be used for applications for consent under the Building Bye-Laws, for which separate forms are available. Separate forms are also available for Planning Permission in Principle, Adverts, Replacement Windows, Movable Structures and Sites of Special Interest.
- 2. This form should be completed as fully and as accurately as possible. This will avoid delays in dealing with the application.
- This form may have to be photocopied, so please use black type or black ink when completing. For clarity, use BLOCK LETTERS.
- 4. The Applicant is the person or persons for whom the work is to be carried out. The application form must be signed by the Applicant, or on his behalf by an authorised agent. The form must also be signed by the Owner of the land as being submitted with his or her knowledge and agreement.
- 5. Describe the work in a simple but complete way. For example:- 'Construct new two bedroom house with detached garage. Relocate entrance from road'. Please do not include detailed information in this box such as dimensions, materials and the use of each room; this information must be included on the drawings that you are including in the application.
- 6. Total floor area means the aggregate of the areas of all floors in the building, measured to the inner surfaces of the main enclosing walls.
- 7. Every application must include 6 copies of a Location Plan, which must be an authorised copy of the current digital 1:2500 scale Ordnance Scale Map of the Island. The application site must be outlined in red, not hatched, crossed, or circled. For domestic applications the site should be the house and its garden. Any adjacent land in the same ownership must be outlined in blue. Photocopies of and/or versions of old maps will not be accepted, and all maps have a valid Copyright stamp or state a Copyright Licence Agreement Number.

The application must also include 6 copies of all other plans, drawn to scale, and all documents submitted as part of the application. It is useful, for presentation purposes, if at least one copy of each plan is in colour. Please ensure that all of the scales quoted are correct; where there are any discrepancies, applications will be returned.

Where it is relevant to the application, (including applications for new houses or additional bedrooms), the plans must show all existing and proposed rooms, and their use. Please also indicate the number and size of existing and proposed car parking spaces.

All trees and hedges close to the development must be shown, clearly indicating those to stay, those to be removed, and any which are new.

Where a building is to be demolished or significant excavation is involved, a Waste Management Plan must be included at the time the application is submitted. It is not acceptable to have any document 'to follow', as this will result in duplication of work for the Department and any consultees, and delays all applications.

All applications for new building work, or any alteration to existing land levels, must include existing and proposed levels. All new buildings must specify a finished ground floor level relative to a fixed datum point.

8. Please complete the appropriate fee calculated in accordance with the Department's Schedule of Fees for Planning Applications. Cheques should be made payable to the 'Treasurer of the States'. Payment may also be made by credit card using a separate form coded: CCNPT. A charge of 1% will be added to all credit card transactions to cover costs. There will be no charge for using debit cards. We are unable to accept American Express, Diners Club or JCB cards.

Planning and Environment Department Planning and Building Services

South Hill

St Helier, Jersey, JE2 4US Tel: +44 (0)1534 445508 Fax: +44 (0)1534 445528



Planning and Environment Department Report

Report updated 8 October following Panel decision on 12 June that it would support approval (contrary to Departmental advice) but wished to see the shed and poly tunnels relocated on the site

See insertions in this report for updated information

Application Number P/2008/0890

Site Address Field 770, La Rue du Clos Fallu, St. Martin.

Applicant M A Richardson & Son Ltd

Description Construct shed and 2 No. polytunnels.

Type Planning

Date Validated 17/04/2008

Zones Green Zone ☐ Water Pollution Safeguard Area

Policies C5 Green Zone

C16 New Agricultural Buildings

Reason for Referral Size and scale of development proposal.

Summary/ Conclusion

The application proposes the erection of a new agricultural shed and 2 poly tunnels in Field 770. This site lies in the Green Zone and as such there is a presumption against all development for whatever purposes. The policy states that development proposals will only be permitted where they do no unreasonably detract from the scenic quality of the area.

The Rural Economic Strategy Group state that the applicant has proved to their satisfaction, that the shed is essential to the needs of the business and will give rise to significant impact in this case.

However the shed and tunnels **will be** visible from the surrounding area. The support of the RES Groups does not outweigh the overriding Island Plan policy considerations.

The Panel has already visited the site.

Officer The revised plans are in accordance with the Panels

Recommendation instructions to relocate the shed away from the road. Site Description

Field 770 is to the south of La Rue du Clos Fallu. The site is partially screened by existing planting along the roadside boundary. About half of the site is used for the display of domestic scale garden type sheds and chalets and car parking.

Relevant Planning History

The site has been used for the last 20 years as an authorised base for a landscaping business and for the display of garden sheds

Existing use of Land/Buildings

As above

Proposed use of Land/Buildings

Landscaping business to include the growing of bedding plants

Consultations

T & TS (Highways) have not yet responded but it is anticipated that they will require adjustments to the existing access including the removal of some of the planting along the roadside.

UPDATE T & TS (Highways) are satisfied with the amended visibility splays.

LC &ADS have submitted a comprehensive document supporting the enterprise advising that the landscaping business has operated from an area of hardstanding in field 770 since the late 80's and a shed to the rear of Mevanna (the house to the east of the field). The applicant took over the business from his father approximately 2 years ago and the areas have not been adequate for his needs for some time and have restricted the growth of this business and therefore he is applying to erect a new shed and 2 poly tunnels. The applicant has sought the advice of the LC & ADS section at the early stages of the applicant and was invited to submit a business plan.

So far the applicant has bought bedding plants from local garden centres who invariably import them. This cost can be reduced significantly by growing plants in the proposed tunnels to supply his customers. This part of the enterprise is viewed under the Rural Economic Strategy as primary production based on agricultural land and also sits well within the policy for diversification of the Rural Economy.

The applicant was also invited to produce a business plan to show the growing side of the business can reach a target income set under the RES to attain smallholder status. He was then requested to produce a more detailed business plan to show that the business is viable and sustainable with the cost of the shed and the tunnels incorporated. This procedure is now required under the RES top gain support for built infrastructure. The business plan was scrutinised by the RES Group and it was decided that although the business is primarily a landscaping business, there is a primary production component which achieves a target income that can be

sustained.

The report goes on to say that the applicant has proved that the shed is essential to the needs of the business in order to minimise the depreciation of expensive equipment and machinery.

A list of equipment and machinery was produced to determine that the proposed size of the shed was suitable for his needs; storing machinery etc under cover will also have the effect of keeping the area tidy and this is imperative as this area will be a showcase for his stock and landscaping skills; staff require an under cover area to pot up bare root stock and perform other tasks.

It is proposed to site the tunnels to the east of the shed for working efficiency. The tunnels are an essential part of the application as it will enable the production of bedding plants to supply the customers of the landscaping business. It is not proposed to retail from the site.

The RES Group believes that this is a well thought out scheme which will improve the profit margin of the business by producing bedding plants grown from plug plants and this will reduce imports into the Island to help regenerate the rural economy. The applicant has a well established business...

The RES Group is fully supportive of the proposals and recommends this application for approval.

All consultations are attached with the background papers

Summary of Representations

There have been no letters of representation.

Planning Issues

Policy Considerations

C5 and C16 refer to essential development for agricultural purposes being allowed where it can be demonstrated to the satisfaction of Minister that the proposals are essential to the needs of agriculture (horticulture is regarded as an agriculturally related activity); cannot be met in existing buildings elsewhere.

The RES strongly support the proposals but there are no existing buildings on or near the site that could be used. However, the sheds to the east of Mevanna and North Lynn Farm were used, until a few years ago, for cattle and potato storage. When advertised there was no interest from the agricultural industry and subsequently a 3 year temporary permission was given. A joinery workshop has been installed in the potato store, initially without consent, but a permit was issued for a retrospective application in 2005. An unresolved noise issue exists.

The opportunity appears to have been lost for that shed to be used

4

for the current business but the business would still require the tunnels. No evidence has been submitted to indicate that the applicant has tried to find a shed and/or tunnels in another location.

The Island Plan policies go on to state that the development must not unreasonably affect the character and amenity of the area; not have unreasonable impact on neighbouring uses and the local environment by reason of visual intrusion or other amenity consideration.

Currently the site is screened with established planting along the road side but if the Highways Authority requires adjustments to the access then this will inevitably involve the loss of some screening. However it is intended to lower the site by 800mm and use the material either on site to reinforce banks or in connection with the landscaping business.

Even so it is clear that the new shed and tunnels will be visible from the surrounding road system and will have a visual impact on the landscape.

Land Use Implications

This is an existing horticultural business and the land would be retained in this use.

Size, Scale & Siting

The shed measures $18m \times 14m \times 5.6m$ to the ridge. The tunnels measure $27m \times 4m \times 2.2m$ high. The western part of the site would house the tunnels and the shed would be sited to the east of those and the hard standing and car parking would be sited at the eastern end of the site.

Design & Use of Materials

Timber close boarded exterior to a standard agricultural shed of a type seen throughout the countryside. The use of this material will help minimise the impact of the shed in the landscape.

Impact on Neighbours

The uses would be unlikely to have an adverse impact on neighbours as they are across the road to the north.

Access, Car parking and Highway Considerations

The revised layout and visibility splays meet the Department's requirements

Foul Sewage Disposal

To foul sewer

5

Landscaping issues

Site is partially screened at the moment to just under 2m above road level and it is intended to reinforce the planting with hawthorn, laurel and beech to a minimum height of 2m cover around the site.

Other Material Considerations

The Island Plan policies seek to protect the countryside from visually harmful development.

The crux of the matter is that, notwithstanding the support of the RES Group, it is considered that the proposed structures would be visually harmful in countryside terms. Having taken into account the views submitted, the Department is of the view that the proposals **do not** meet the criteria of Policies C5 and C16 and that the application should be refused

Officer Recommendation Refuse but Panel minded to approve subject to resiting of the structures in order to minimise the visual impact in the landscape.

Conditions/ Reasons The proposed development by reason of its size, siting and prominent position in the countryside would result in visual harm to the scenic quality and character of the area and as such fails to satisfy the criteria of Policies C5 and C16.

UPDATE Conditions

Disuse and disrepair condition on poly tunnels No retailing from the site Additional landscaping to be undertaken

Background Papers

1:2500 Location Plan Report of LC & ADS Business Report Statement from architect

UPDATE

Revised plans submitted show the main shed turned through 90 degrees and relocted to the rear of the site and the 2 poly tunnels have been relocated adjacent to the road.

Endorsed by:

Date:

29 May 2008 and 8

October 2008



MA RICHARDSON & SON LIMITED PROPOSAL

States of Jersey
Planning & Environment Department
APPROVED

Date:

3 1 OCT 2008

Application Type:

Planning Permission

SUBJECT TO CONDITIONS ENDORSED ON THE PERMIT

States of Jersey

Introduction

Please find enclosed an application for the possibilities of expanding M.A. Richardson & Son Ltd.

M.A. Richardson & Son Ltd. commenced in 1988 by my father, who at that time employed one member of staff. Two years later I was employed and I now run the business since my father retired two years ago. We employ eight full time staff to cover all aspects of the business which includes landscaping, paving, driveways, hedgecutting and regular garden contracts. We also employ a full time office assistant to cover all aspects of office work and customer liaison. What started out as a small family run business has been expanding very successfully over the years and remains to this day family run. However, we now find ourselves victims of our own success and desperately need more space for expansion to enable the requirements of our customers to be fulfilled as well as the progression of our business.

We have had regular customers for many of these years during which time we have purchased bedding plants and trees from local garden centres and have now agreed that it would be beneficial to the business if we grew and supplied these ourselves so that we can be more self sufficient and provide a better and more personal service to out customers. This would enable us to become more viable and profitable in our landscaping business, but to achieve this we would need to erect a polytunnel.

We have a current location sited to the west of our premises which could be transformed to allow polytunnels and a small housing for equipment etc to be built. Currently, this site is concealed from the road by hedging and should the Committee require it, we are willing to lower the floor level to endeavour this discretion to remain.

To enable us to expand successfully we require more machinery and equipment, and as it has always been the companys policy to keep all our vehicles and equipment undercover to prolong their condition and life, we would require additional housing for this purpose. In our current location there is neither the room not facilities to cope with additional equipment etc.

Marcus M Richardson
Director, M.A. Richardson & Son Ltd.

MA RICHARDSON & SON LIMITED

Summer Bedding Plants

		Trade	Retail	Total
6,000	Geranium plants	7.5p each	£1.20 each	£7,200
5,000	Impatiens (busy lizzies)	6.25p	65p	£ 3,250
5,000	Pansy's	6.4p	60p	£ 3,000
Winter Bedd	ling Plants			
4,000	Pansy's	6.4p	40p	£1,600
4,000	Polyanthus	7p	60p	£2,400
8-10,000	Wall Flowers	£65	14p	£1,400
8-10,000	Stock	£65	12p	£1,200

MA RICHARDSON & SON LIMITED

TURNOVER

Plant sales £20,350.00

LESS:

 Plug Plants
 £1748.50

 Compost
 £ 360.00

 Feed
 £ 110.00

 Trays & Pots
 £ 858.40

 Labour
 £3174.00

OPERATING PROFIT £14,099.10

SETTING UP COSTS

Polytunnel (22ft x 70ft)	£1606.00
Prestige twinline irrigation	£ 297.00
Staging	£ 623.00

POTTING MACHINE

Javo Combi Machine	£13,118.00	
Freight	£ 368.00	

WORK SHOP

To store potting machine/flail/tractor/rotovator/trailer/compost/fork lift

Supply deliver and erect: 14m x 18m steel framed building
Tanalised timber cladding
12° roof pitch

£49,192.00

TOTAL £65,204.00