

ITEM NUMBER: 5d

4/00670/19/FUL	Construction of stables. Refurbishment of existing building for use as store. Upgrading of land for use as Paddock.	
Site Address:	Land Adjoining Reservoir Upper Bourne End Lane Bourne End Hemel Hempstead HP1 2RR	
Agent:	Mr B Bilbey	
Case Officer:	Elspeth Palmer	
Parish/Ward:	Bovingdon Parish Council	Bovingdon/ Flaunden/ Chipperfield
Referral to Committee:	Called in by Councillor Riddick	

1. **RECOMMENDATION** - That the planning permission be **GRANTED**.

2. **SUMMARY**

- 2.1 The site is located within the Green Belt wherein the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it, are not inappropriate in the Green Belt (Para 145 of the NPPF).
- 2.2 The facilities and change of use would preserve the openness of the Green Belt by nature of the siting, scale and design of the building, the modest area of hard stand around the stables and the access to the hay store.
- 2.3 The contaminated land issues have been assessed by the preparation of a Contaminated Land Assessment report and the Contaminated Land Officer is satisfied that the proposal can be granted subject to relevant conditions.

3. **SITE DESCRIPTION**

3.1 The site is located on the south-eastern side of Upper Bourne End Lane, Bourne End and comprises part of the Bovingdon Airfield. The site is generally flat and situated next to a covered reservoir. The area is rural in character with a mixture of residential and commercial uses located nearby. The site is located within the Green Belt.

4. **PROPOSAL**

4.1 The proposal includes:

- Construction of 4 stables within an L shaped building;
- Hedge and tree planting;
- Access and parking for the stables;
- Access track and turning area to the existing building which is to be retained as a Hay store.

5. **PLANNING HISTORY**

4/00357/18/FUL CONVERSION AND EXTENSION TO EXISTING BUILDING FOR
USE AS STABLES
Withdrawn
29/10/2018

4/01275/04/ENA APPEAL AGAINST ENFORCEMENT NOTICE - OPERATIONAL DEVELOPMENT
Delegated

4/01276/04/ENA APPEAL AGAINST ENFORCEMENT NOTICE - MATERIAL CHANGE OF USE
Delegated

6. CONSTRAINTS

Air Dir Limit 10.7
Area of Special Control for Adverts
CIL2
Green Belt
LHR Wind Turbine

7. REPRESENTATIONS

Consultation responses

7.1 These are reproduced in full at Appendix A.

Neighbour notification/site notice responses

7.2 These are reproduced in full at Appendix B.

8. PLANNING POLICIES

Main Documents:

National Planning Policy Framework (February 2019)
Dacorum Borough Core Strategy 2006-2031 (adopted September 2013)
Dacorum Borough Local Plan 1999-2011 (adopted April 2004)

Relevant Policies:

NP1 - Supporting Development
CS1 - Distribution of Development
CS5 – Green Belt
CS12 - Quality of Site Design
CS32 – Air, Soil and Water Quality

Supplementary Planning Guidance/Documents:

Planning Obligations (2011)

9. CONSIDERATIONS

Main Issues

9.1 The main issues to consider are:

The policy and principle justification for the proposal;
The impact on the openness of the Green Belt;
The quality of design and impact on visual amenity;
The impact on residential amenity; and
The impact on air, soil and water quality

Principle of Development

9.2 Para 145 of the NPPF states that “A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.”

9.3 Core Strategy Policy 5 states that “within the Green Belt, small scale development will be permitted: (a) building for the uses defined as appropriate in national policy ... provided that (i) it has no significant impact on the character and appearance of the countryside; and (ii) it supports the rural economy and maintenance of the wider countryside.”

9.4 The land is currently vacant and has been so for many years.

9.5 The construction of a stable building which is a facility for outdoor sport/recreation on this site is considered to not be inappropriate development in the Green Belt so therefore the primary concern is whether the development preserves the openness of the Green Belt.

Impact on the openness of the Green Belt

9.6 The stables are modest in scale being approximately 2.3 metres in height to the eaves and approximately 3 metres to the ridge. The length of the longest part of the stables is 14 metres and the depth 3.6 metres. The design and materials are considered to be appropriate for this kind of building in an area of rural character. The stables will be set back from the frontage of the site and screened by hedge and tree planting.

9.7 The hard stand area for the stables is modest in size to allow for transfer of horses from trailers to the stables etc and the access track to the hay store is also considered of a modest scale for this kind of stabling use.

9.8 Based on this information it is not considered that the proposal will have a detrimental impact on the openness of the green belt.

Impact on visual amenity

9.9 Due to the siting, scale and design of the proposal it is not considered that there will be a detrimental impact on the visual amenity of the area.

Impact on residential amenity

9.10 The nearest dwelling is some distance away on the opposite side of Bourne End Lane so will not suffer from any loss of residential amenity.

Impact on air, soil and water quality

9.11 The possibility of the site being contaminated by a previous land use was raised by a number of objectors and the Parish Council.

9.12 The Contaminated Land Officer stated:

“It is apparent that the historical land use of the site as part of a former airfield (during and since World War 2) and the current land use which is vacant but has been subject to dumping and stockpiling of various materials is such that land contamination might be expected. There is, however, no objection to the proposed development because it is considered that the proposed end use, stables and paddock (amenity land open to the public), would not be highly vulnerable to the presence of land contamination.”

9.13 A Due to the level of objection a Contamination Investigation Report was requested and submitted by the applicant.

9.14 The Contaminated Land Officer considered the report and recommended that permission be granted subject to the inclusion of certain conditions and informatives.

9.15 As a result of the above the Parish Council removed their objection to the proposal.

9.16 This application has been brought to the Development Management Committee due to a call in by Councillor Riddick.

Impact on Trees and Landscaping

9.17 No significant trees are affected by the proposal. The applicant has offered to provide hedge and tree planting along the site boundary and within the site.

Response to Neighbour Comments

9.18 These points have been addressed above.

10. CONCLUSION

10.1 The impacts of the proposal have been taken into consideration, along with representations received from consultees and the neighbouring properties. The proposal is considered acceptable in terms of impact on openness of the Green Belt, neighbours and air, soil and water quality.

11. RECOMMENDATION

11.1 That planning permission be **GRANTED** subject to the following conditions:

Conditions:

1. The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990, as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

2. No development, or works associated to the development that are likely to disturb the ground, approved by this permission shall be commenced until a Remediation Method Statement report, including a remedial options appraisal, has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

3. This site shall not be occupied, or brought into use, until:

(i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition 1 above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.

(ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

4. Any contamination, other than that reported by the ST Consult Contamination Investigation Report (September 2019 - ref: JT0264) encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site. Works shall be temporarily suspended, unless otherwise agreed in writing during this process because the safe development and secure occupancy of the site lies with the developer.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

INFORMATIVES

The above conditions are considered to be in line with paragraphs 170 (e) & (f) and 178 and 179 of the NPPF 2019.

(I) The Environmental Health Team has a web-page that aims to provide advice to potential developers, which includes a copy of a Planning Advice Note on "Development on Potentially Contaminated Land and/or for a Sensitive Land Use" in use across Hertfordshire and Bedfordshire. This can be found on www.dacorum.gov.uk by searching for contaminated land.

(II) for the attention of the developer's environmental consultant in relation to the preparation of the Remediation Method Statement:

- To date there has been no consideration of a maximum permissible or advisable concentration for the presence of asbestos in relation to the proposed end use. This is something that will need to be directly addressed within the Remediation Method Statement.
- The Remediation Method Statement must demonstrate due regard to the health and safety of site workers and the prevention of the migration of contamination within the site and off-site during its implementation.
- The Remediation Method Statement must specify how it will comply with waste management duty of care and if necessary waste management license requirements. Additionally if the CL:AIRE Code of Practice is to be utilised the Remediation Method Statement must be explicit about its applicability in the circumstances specific to this site. It is recognised that these issues are mentioned in the submitted Contamination Investigation Report, but they are not applied directly to the outline remediation that has been provisionally proposed.

5. No construction of the superstructure shall take place until full details of both hard and soft landscape works has been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- o all external hard surfaces within the site;
 - o other surfacing materials;
 - o means of enclosure;
 - o soft landscape works including a planting scheme with the number, size, species and position of trees, plants and shrubs;

The planting must be carried out within one planting season of completing the development.

Any tree or shrub which forms part of the approved landscaping scheme which within a period of 3 years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity.

Reason: To improve the appearance of the development and its contribution to biodiversity and the local environment, as required by saved Policy 99 of the Dacorum Borough Local Plan (2004) and Policy CS12 (e) of the Dacorum Borough Council Core Strategy (2013).

6. The development hereby permitted shall be constructed in accordance with the materials specified on the approved plans.

Reason: To make sure that the appearance of the building is suitable and that it contributes to the character of the area in accordance with Policies CS5, CS11 and CS12 of the Dacorum Borough Core Strategy (2013).

7. The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

Elevations and Floor Plans 1759/4/5909 Rev A
 layout plan - proposed site plan 1759/2/5874 Rev B

Reason: For the avoidance of doubt and in the interests of proper planning.

Article 35 Statement

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.

APPENDIX A: CONSULTEE RESPONSES

Consultee	Comments
Bovingdon Parish Council	<p>We understand that there is a High Court ruling in place concerning the previous contamination of the site. Soil investigation has been inadequate. Concerns over toxic material still on the site.</p> <p>We believe that as the land is contaminated, unless fully remediated the land should remain undisturbed.</p>
Further comments	<p>Our Planning Committee met on 25 November and reviewed their decision based on the additional information you have provided.</p> <p>The Committee have amended their comments to 'No comment and will defer to the specialist advice provided.'</p>
Contaminated Land (DBC)	<p>Having reviewed the documentation submitted with the above planning application and having considered the information held the by Environmental Health Department I have the following advice and recommendations in relation to land contamination.</p> <p>It is apparent that the historical land use of the site as part of a former airfield (during and since World War 2) and the current land use which is vacant but has been subject to dumping and stockpiling of various materials is such that land contamination might be expected. There is, however, no objection to the proposed development because it is considered that the proposed end use, stables and paddock (amenity land open to the public), would not be highly vulnerable to the presence of land contamination. Nonetheless public exposure to any contamination under the proposed land use cannot be ruled out at this stage so it is necessary to request that the following planning condition is placed on the permission should it be granted. The condition is necessary for the applicant to the demonstrate that, relevant to the proposed end use, any contaminated land problems with the application site can be remediated in such as a way as to protect the end users of the development.</p> <p>Contaminated Land Conditions: Condition 1: (a) No development approved by this permission shall be commenced prior to the submission to, and agreement of the Local Planning Authority of a written preliminary environmental risk</p>

assessment (Phase I) report containing a Conceptual Site Model that indicates sources, pathways and receptors. It should identify the current and past land uses of this site (and adjacent sites) with view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.

(b) If the Local Planning Authority is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:

(i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;

(ii) The results from the application of an appropriate risk assessment methodology.

(c) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (b), above; has been submitted to and approved by the Local Planning Authority.

(d) This site shall not be occupied, or brought into use, until:

(i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (c) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.

(ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

Condition 2:

Any contamination, other than that reported by virtue of Condition 1 encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site. Works shall be temporarily suspended, unless otherwise agreed in writing during this process because the safe development and secure occupancy of the site lies with the developer.

	<p>Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.</p> <p>Informative: The above conditions are considered to be in line with paragraphs 170 (e) & (f) and 178 and 179 of the NPPF 2018.</p> <p>The Environmental Health Team has a web-page that aims to provide advice to potential developers, which includes a copy of a Planning Advice Note on "Development on Potentially Contaminated Land and/or for a Sensitive Land Use" in use across Hertfordshire and Bedfordshire. This can be found on www.dacorum.gov.uk by searching for contaminated land and I would be grateful if this fact could be passed on to the developers.</p>
Further Comments	<p>Having reviewed the recently submitted documentation in support of the above planning application, in particular the ST Consult Combined Phase I & II (Contamination Investigation) Report (September 2019) and having considered the information held by the Environmental Health Department it is considered that permission can be granted subject to the inclusion of the following conditions in the event that permission is granted.</p> <p>This recommendation reflects the fact that a land contamination investigation has been undertaken, which has identified the presence of contamination and identified the need for a remediation work in order to ensure that the site is made suitable for its proposed use.</p> <p>Contaminated Land Conditions: Condition 1:</p> <p>(a) No development, or works associated to the development that are likely to disturb the ground, approved by this permission shall be commenced until a Remediation Method Statement report, including a remedial options appraisal, has been submitted to and approved by the Local Planning Authority.</p> <p>(b) This site shall not be occupied, or brought into use, until:</p> <p>(i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (a) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.</p>

(ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

Condition 2:

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Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

Informatives:

The above conditions are considered to be in line with paragraphs 170 (e) & (f) and 178 and 179 of the NPPF 2019.

The Environmental Health Team has a web-page that aims to provide advice to potential developers, which includes a copy of a Planning Advice Note on "Development on Potentially Contaminated Land and/or for a Sensitive Land Use" in use across Hertfordshire and Bedfordshire. This can be found on www.dacorum.gov.uk by searching for contaminated land.

I would also be grateful if the following issues could be forwarded for the attention of the developer's environmental consultant in relation to the preparation of the Remediation Method Statement.

- To date there has been no consideration of a maximum permissible or advisable concentration for the presence of asbestos in relation to the proposed end use. This is something that will need to be directly addressed within the Remediation Method Statement.

- The Remediation Method Statement must demonstrate due regard to the health and safety of site workers and the prevention of the

	<p>migration of contamination within the site and off-site during its implementation.</p> <p>- The Remediation Method Statement must specify how it will comply with waste management duty of care and if necessary waste management license requirements. Additionally if the CL:AIRE Code of Practice is to be utilised the Remediation Method Statement must be explicit about its applicability in the circumstances specific to this site. It is recognised that these issues are mentioned in the submitted Contamination Investigation Report, but they are not applied directly to the outline remediation that has been provisionally proposed.</p>
Environmental And Community Protection (DBC)	No objections on noise or air quality grounds.

APPENDIX B: NEIGHBOUR RESPONSES

Number of Neighbour Comments

Neighbour Consultations	Contributors	Neutral	Objections	Support
5	2	0	2	0

Neighbour Responses

Address	Comments
1.	<p>We wish to object to this planning application. We have lived close to this site for 20 years and for some years the applicant operated an unlawful waste recycling and transfer facility on this site. The council issued him with various stop notices and court injunctions culminating in a High Court case where he was fined a large sum of money and was told that the land was not to be used for any purpose in the future as it was contaminated as asbestos and other toxic materials were probably buried on the site. It would appear that the applicant has obeyed this order up until now when he wishes to landscape the site and use it for grazing and to build stables and upgrade an existing building as a store.</p> <p>We note that the applicant has recently engaged a Soil and Landscape consultancy to evaluate the soil on the site. However, in their report they state that "our investigation was carried out using hand tools (no mechanical excavator was available at the time of our visit), inspection of the soils was limited to the surface soils only (max 1m bgl). Therefore examination of the stockpile core was not possible."</p> <p>In light of this, their report is patently inadequate as they have not managed to examine a representative sample of the imported materials and it therefore cannot be used as a basis to challenge the original contamination instructions from the High Court. If the land is to be used by humans or animals, any investigation must prove beyond doubt that there is no contamination of asbestos or other toxic materials on the</p>

	<p>site. The applicant should therefore not be allowed to clear or extensively rotivate the land as this could be severely injurious to local residents.</p> <p>The land is contaminated as some years ago Mr Badcock ran an unlicensed landfill/waste transfer station on this site for which he taken to court by Herts County Council. He was subsequently given a large fine and was told that the land was not to be used for any purpose in future due to the unknown contaminants in the soil.</p>
2.	<p>On behalf of the village of Bourne End, I write to object to the plan above on the following grounds.</p> <p>While horse stabling and paddocks in a green belt area would seem a laudable aim for restoration of damaged landscape, there are other issues to be taken into account here.</p> <p>May we respectfully draw to your attention the poor land use history of the site which resulted in a high court case in respect of dumping. In light of this a soil survey dating from 2012 which only involves hand dug samples would seem to be woefully inadequate on grounds of safety and sustainability as an environmental assessment. We would expect a proper environmental assessment of soil and other materials to sufficient depth for the safety of residents (people and horses), for the absence of doubt and to avoid pollution.</p> <p>The proposal to mound the dumped materials (and presumably the broken concrete clearance materials from the former runway sections) does not explain sourcing sufficient topsoil for establishing planting and we note there is no traffic plan for accessing the site with heavy machinery for the purpose of ground works. Visibility is poor, passing places few and hedgerows fragile. The carriageway is eroded at the edges by field run off that is poorly managed with loose stones causing a hazard for pedestrians and horses.</p> <p>Please note Upper Bourne End Lane is a rural lane with serious traffic issues because planning has not in the past paid sufficient attention to access for other users eg the fleet of dog day care vans, the high performance, high adrenaline inducing drifting vehicles and paint ballers. Temporary permissions have been granted for film set construction and their vehicles and there are other plans being considered by the planning department. It has always seemed that each plan is taken in isolation from its context which for the few residents of Upper Bourne End Lane renders their quiet lane a hive of activity. At the very least a complete traffic survey of the carrying capacity of the lane should be undertaken before any additional vehicles are allowed on the grounds of safety.</p> <p>We note in the list of details for construction that lighting will be installed and "other materials" which are not specified. Applications for lighting elsewhere on the former airfield are subject to restrictions and we would expect the same to apply on the grounds of environmental conservation.</p> <p>It would also be relevant to know why the previous development plan was regarded as unsuitable at the pre application stage. Non resident land owners tend not to have the benefit of good neighbourly relations</p>

	to provide for local consultation and are therefore subject to a certain amount of suspicion when it comes to development.
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