

ITEM NUMBER: 5b

22/00776/FUL	Construction of a Barn, Polytunnel, Agricultural Track and Entrance Gates (Amended Scheme)	
Site Address:	Plot 1 – Berry Farm, Cupid Green Lane, Hemel Hempstead.	
Applicant/Agent:	Mr Ben Wiggins	
Case Officer:	Robert Freeman	
Parish/Ward:	Great Gaddesden Parish	Watling
Referral to Committee:	The application is referred to the Development Management Committee given the contrary view of Great Gaddesden Parish Council.	

1. RECOMMENDATION – That planning permission be GRANTED.

2. SUMMARY

- 2.1 The provision of agricultural buildings within the Green Belt is acceptable in accordance with the NPPF and Policy CS5 of the Core Strategy and as set out in an extant planning permission for the site (20/03295/FUL) Although the proposed barn building is higher than shown on the approved plans, the increase in height to this building is not considered visually intrusive nor would it be particularly injurious to the visual amenities of the area. The proposals are still considered to be acceptable in terms of the scale, bulk and appearance in accordance with Policies CS11 and CS12 of the Core Strategy.
- 2.2 The proposed buildings would not have a significant adverse impact upon the appearance of the countryside or the Chilterns Area of Outstanding Natural Beauty in accordance with Policies CS12 and CS24 of the Core Strategy. The proposals and in particular the new entrance gates would be acceptable with regards to highway safety in accordance with Policies CS8 and CS12 of the Core Strategy and the Car Parking Standards SPD (2020)

3. SITE DESCRIPTION

- 3.1 The application site comprises part of a wider area of agricultural fields located between the northern edge of Hemel Hempstead and Gaddesden Row and accessed via a track approximately 75m to the south west of the junction of Cupid Green Lane, Gaddesden Lane and Gaddesden Row. Bridleway 44 is located adjacent to the access track and along the north eastern boundary of the application site.
- 3.2 The site is subject to a number of small developments sustaining agricultural and horticultural land uses including parcels of land to the immediate north of the site and to the east of the property. A looped access track serves these plots and other areas of land. To the west of the property there is a further timber building and enclosure beyond which there are open fields. .

4. PROPOSAL

- 4.1 The application is an amendment to planning permission 20/03295/FUL for the construction of a barn, polytunnel, agricultural track and entrance gate at the site

- 4.2 Planning permission was initially granted for the construction of a barn measuring some 12m x 14m. This had a pitched roof with an eaves height of 3.5m and ridge height of 4.55m. The barn, as constructed, measures some 12.1m x 13.79m and whilst the eaves height has been retained at 3.5m the ridge height is some 5.3m in height. A large opening has also been formed in the south eastern elevation to provide access for farm vehicles. The barn is timber clad and will be finished in a dark stain/painted black.
- 4.4 A polytunnel some 7m x 10m is proposed to be located to the rear of the barn and would extend to a height of 3m as set out in the original planning submission. The agricultural yard contains an area of hard standing. The access gates to the property have been set back from the frontage of Cupid Green Lane.

5. PLANNING HISTORY

- 5.1 The site is subject to an Article 4 Direction removing the rights to form enclosures within the site without the specific grant of planning permission.
- 5.2 Planning permission was previously granted for the construction of a barn, polytunnel, access track and entrance gates at the committee meeting of the 27th May 2021 (20/03295/FUL).
- 5.3 A number of other applications are relevant to the consideration of this case as follows:
- Planning applications 4/00143/18/FUL, 4/00144/18/FUL and 4/00145/18/FUL granted planning permission for three polytunnels to the east of the application site.
 - Planning application 20/00213/FUL granted planning permission for the construction of two polytunnel's and an agricultural storage barn on land to the north east of the application site.
 - Planning permission for a polytunnel, an agricultural storage building, a livestock shed, a chicken coop and associated works (21/02331/FUL) on land to the north east of the site was refused planning permission and is subject to an appeal. The Council was not satisfied that the buildings were intended for agricultural use given the location of a carpentry workspace within the barn building and evidence of commercial carpentry being undertaken from the premises.
 - There is currently an undetermined case (20/04061/FUL) for the construction of polytunnels and an agricultural storage building further south on the site. This application needs to be formally disposed of in accordance with Article 40 (13) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
 - There is also an undetermined case (22/02365/FUL) for the construction of an agricultural barn, storage container and water storage tank at land to the south of the site.
- 5.4 The current application is a direct result of enforcement case (E/21/00435/NAP). Two complaints that development had been carried out not in accordance with the approved plans for 20/03295/FUL were received and investigated by the enforcement team.

6. REPRESENTATIONS

Consultation responses

- 6.1 These are reproduced in full at Appendix A.

Neighbour notification/site notice responses

6.2 These are reproduced in full at Appendix B.

7. 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
CS8 – Sustainable Transport
CS10 - Quality of Settlement Design
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design
CS24 – Chilterns Area of Outstanding Natural Beauty
CS25 – Landscape Character
CS26 – Green Infrastructure
CS29 - Sustainable Design and Construction

Supplementary Planning Guidance/Documents:

Parking Standards (2020)
Roads in Hertfordshire, Highway Design Guide 3rd Edition (2011)
Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice (2011)

8. CONSIDERATIONS

Policy and Principle

- 8.1. The application site is located within the Green Belt. The Council will apply national planning policy in relation to the Green Belt in accordance with the National Planning Policy Framework (NPPF) and Policy CS5 of the Core Strategy. The NPPF makes it quite clear that the construction of new buildings within the Green Belt should be considered as inappropriate development. Exceptions to this include the provision of buildings for agriculture and forestry regardless of scale¹.
- 8.2 The proposals involve the construction of buildings for horticulture at the application site. The definition of agriculture at Section 336 of the Town and Country Planning Act 1990 extends to horticulture, fruit growing and seed growing and must be considered to be appropriate under Policy CS5 of the Core Strategy.
- 8.3 The principle of providing the new buildings and access works has already been established via the extant planning permission for the site (20.03295/FUL). The main changes between the approved scheme and that currently under consideration relate to the

¹ As per the decision in *R (Lee Valley Regional Park Authority) v Epping Forest District Council and Valley Grown Nurseries Ltd* [2016]

overall scale and appearance of the barn building which is up to 0.8m higher than previously approved.

- 8.4 There is no overriding planning reason to withhold the grant of planning permission for agricultural buildings within the Green Belt and other areas of countryside.

Design and Visual Impact

- 8.5 Although the impact of development on the open character and appearance of the Green Belt should not be sufficient in its own right to justify the refusal of proposed agricultural buildings within the countryside we should still consider whether the scale and design of the development is still to be appropriate in the context of Policies CS11 and CS12 of the Core Strategy. The Council should also have regard to the impact of development on the Chilterns Area of Outstanding Natural Beauty (AONB) to the north of Cupid Green Lane in accordance with the Countryside and Rights of Way Act 2000 and Policy CS24 of the Core Strategy.
- 8.6 The barn occupies a ridge location and is viewed from some distance from parts of Cupid Green Lane to the north-west and south west of the site and from the AONB and rights of way network. Although historically these views would have been to open fields, the uses and buildings proposed are those which are compatible with countryside locations.
- 8.7 The proposed barn building and polytunnel are considered to be appropriate in terms of their design, bulk, scale and use of materials. These are functional buildings for the use of the site and are constructed from robust and high quality building materials. Although the barn has been increased in height to the previous approved scheme, this does not detract from the overall appearance of the proposals. The steeper roof pitch, gable roof form and timber cladding are appropriate in this location and reflect the traditional Chilterns vernacular.
- 8.8 The polytunnel is subservient to the barn building and reflect a number of similar structures in this locality. This much smaller building would be largely obscured by the barn building to the north and by landscaping and other polytunnels to the south of the site.

Impact on Highway Safety and Parking

- 8.9 The proposed development would utilise an existing access off Cupid Green Lane and a shared access track. A gate has been set back from the highway edge and would allow a vehicle to be clear of the highway prior to opening. The use of the access is not considered to be detrimental to matters of highways safety in accordance with Policies CS8 and CS12 of the Core Strategy. I am satisfied that the site provides an appropriate level of off-street parking in accordance with the Car Parking Standards SPD (2020) for the scale and nature of the proposed use.

Ecological Impact

- 8.10 There are no known ecological constraints to the use of the site for agricultural purposes. Such use should be compatible with the aims and objectives of Policy CS26 of the Core Strategy.

Representations

- 8.11 The Parish Council have expressed concerns with regards to both the retrospective nature of the application and the cumulative impact of this proposal and other developments on the wider site off Cupid Green Lane upon the character and appearance of the Chilterns

AONB. They have requested that the works are carried out in accordance with the initial planning permission for this building.

- 8.12 As indicated above the key consideration is not whether the proposal should be constructed in accordance with the initial planning approval but whether the proposed building per se is harmful to the appearance of the Green Belt and AONB having regard to the extant permission at the site.
- 8.13 It has been established that the impact on the open character and appearance does not form a grounds for objection to the construction of agricultural buildings given their appropriateness in this location in accordance with the NPPF and Policy CS5 of the Core Strategy and as set out in case law. The increase in the height of the ridge of the proposed building by 0.8m and the altering of the roof pitch has a negligible impact on the AONB, given its distance from the AONB, the extant consent and in the context of neighbouring development.
- 8.14 Whilst we can appreciate the concerns with regards to a proliferation of agricultural buildings across the wider site off Cupid Green Lane, each case is acceptable on its own merits and having regard to national and local planning policies. The building is acceptable for the scale and nature of agricultural use at this site.

9 CONCLUSION

- 9.1 The proposed agricultural building would be an appropriate form of development in this countryside location as set out in the National Planning Policy Framework (NPPF) and Policy CS5 of the Core Strategy. The proposed building is considered to be appropriate in scale, siting and design and will not result in significant harm to the character and appearance of the area nor the natural beauty of the Chilterns Area of Outstanding Natural Beauty (AONB) in accordance with Policies CS5, CS12, CS24 and CS25 of the Core Strategy.

10 RECOMMENDATION

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

Condition(s) and Reason(s):

- 1. Within 3 months of the date of this permission, the building hereby approved shall be painted or stained black in accordance with the submitted plans.**

Reason: To ensure a satisfactory appearance to the development in accordance with Policy CS12 of the Core Strategy.

APPENDIX A: CONSULTEE RESPONSES

Consultee	Comments
Great Gaddesden Parish Council	Object This application seeks retrospective approval for a barn approved under 20/03295/FUL at 4.55m high which was then built 5.3m high. When 20/03295/FUL was first submitted the Parish Council objected

primarily on the grounds that the application for a barn 14m x 12m square x 4.55m high to support a poly tunnel 10m x 7m was an over development for the size and location of the plot which would have a significant impact on the character and appearance of the countryside within the Green Belt in a location.

The application was approved on the grounds that 'The development and its cumulative impact with previously approved development on the site, would not have an adverse impact on the countryside and would protect the special qualities of the adjacent Chilterns Area of Outstanding Natural Beauty'. It is not clear to the Parish Council how a development of this nature could in any way 'protect' the AONB.

The previous approved developments referred to in the delegated report for 20/03295/FUL were for 2 x polytunnels (4/00143/18/FUL and 4/00144/18/FUL) and an agricultural building (/00145/18/FUL), all of which were 5m high, together with 20/00213/FUL which was for two 2.6m high polytunnels and a 3m high storage building. These together with other planning applications on the site agreed or under consideration are detailed on the attached site plan. In the opinion of the Parish Council the scale and scope of development on the site does not reflect the 'sensitive rural/Green Belt landscape' referred to in the Article 4 Direction 19/02895/ART.

In December 2021 the Parish Council queried the scale of the development being undertaken under 20/03295/FUL and in January 2022 the Planning Enforcement team confirmed that whilst the footprint of the barn was in line with the agreed plans, at 5.3m high it was 17% higher than approved.

Enforcement have explained to the Parish Council that 'the principle of a large building at the site has been accepted through the granting of planning permission under 20/03295/FUL and it has been agreed, in accordance with enforcement procedures, that an amended planning application can be invited'.

The Parish Council remains strongly opposed to this development and continues to assert that it is clearly both impacting the countryside and is harmful to the special qualities of the adjacent Chilterns Area of Outstanding Natural Beauty.

The development agreed under 20/03295/FUL is only 130m from the edge of the AONB and although at the original height of 4.55m it was lower and of less mass than the 5m high developments agreed under 4/00143-5/18/FUL (which have yet to be built), these are all further from the AONB and on a down slope which negates their impact on the AONB to some degree. The Parish Council believes that less

	<p>weight should be given to these precedents than was accorded them in the original decision.</p> <p>At the built height of 5.3m for which retrospective approval is requested under 22/00776/FUL it will be the tallest building on the site as well as being fully visible from the AONB by virtue of being located at the top of the slope.</p> <p>It has never been clear to the Parish Council why an estimated 210 cubic metre polytunnel required an estimated 764 cubic metre barn to support it as agreed under 20/03295/FUL, and no justification has been submitted either for why it is now necessary to increase the size of the barn to an estimated 890 cubic metres, or to explain why the original planning terms were ignored.</p> <p>22/00776/FUL represents a combination of precedent creep, which allows further development and apparently ever larger development because of previously successful applications, and a failure to adhere to agreed planning permission which is then submitted for retrospective approval when the implications of a refusal are more significant and which in turn then further feeds the precedent creep. On both counts the application gives significant cause for concern.</p> <p>The Parish Council strongly recommends that 22/00776/FUL be declined and the original terms of 20/03295/FUL be enforced</p>
Hertfordshire County Council Highways	<p>Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.</p> <p>Comments</p> <p>No amended details appear to have been submitted in relation to the above planning application. HCC as Highway Authority would therefore not have any additional comments to those submitted as part of its response dated 06/05/2022.</p>
Conservation and Design	No comment.

APPENDIX B: NEIGHBOURS AND INTERESTED PARTIES

The application has been subject to a site notice and advertisement. No comments have been received.