

DEVELOPMENT MANAGEMENT COMMITTEE – 15 JUNE 2022

Application Number	3/21/1925/FUL
Proposal	Removal of outbuildings and the permanent siting of a caravan to be occupied by an equestrian worker, and associated works.
Location	The Old Turkey Farm, Brookbridge Lane, Datchworth, Hertfordshire
Parish	Datchworth Parish Council
Ward	Datchworth and Aston

Date of Registration of Application	06/08/2021
Target Determination Date	01.10.2021
Reason for Committee Report	Referral by Ward Councillor
Case Officer	Sam Dicocco

RECOMMENDATION

That planning permission is **GRANTED**, subject to the conditions set out at the end of this report.

That delegated Authority is granted to the Head of Planning and Building Control to finalise the detail of the conditions and to issue the permission.

1.0 Summary of Proposal and Main Issues

Summary

- 1.1 The application seeks planning permission for the siting of a caravan for use as a dwelling for a rural worker. The caravan would be utilised by an equestrian worker. The application also seeks permission for the removal of outbuildings at a farm which has been in use for equestrian purposes. The site falls within a rural area and the Green Belt.

- 1.2 Policy HOU5 of the East Herts District Plan 2018 (EHDC) requires that rural dwellings for workers are (a) essential to the needs of the business, (b) that the business is viable and (c) that there is no other accommodation available. A statement has been provided to justify this. Whilst some elements of the argument relating to the essential nature of the accommodation are not agreed with, on balance this element of the policy is met, and the other strands are fully met. A condition is recommended to tie the occupant to being a rural worker to ensure this policy continues to be met.
- 1.3 The building meets the criteria of being a caravan. Caravans are considered, in planning terms, to be movable structures which do not require planning permission, in these circumstances. The siting of a caravan, being a change of use of an element of the site, does require permission, as do other elements of the proposal. The proposal therefore meets the criteria of the National Planning Policy Framework (NPPF) whereby some changes of use are appropriate where they preserve the openness of the Green Belt. A log store and machine shed, existing containers, a pole barn and lean-to as well as a further shed are proposed to be removed. It is recommended that the openness of the Green Belt is preserved, when the structures to be removed are taken into consideration. A condition is recommended to ensure that these demolitions are implemented.
- 1.4 The caravan would count as a dwelling for the purposes of calculating the Councils five-year housing land supply and the support for a rural business, in accordance with policy ED2, weighs positively in the balance. Matters relating to biodiversity, landscaping and sustainability improvements can be controlled by condition.

Main issues

- 1.5 The main considerations for the proposal are:
- Principle of Development
 - Green Belt

- Design
- Neighbour Amenity
- Highways/Parking
- Flood Risk
- Biodiversity and Climate Change

1.6 The main issue for consideration is whether or not the proposal is appropriate at this site; having regard to policies in the East Herts District Plan 2018 (the Local Plan) and the National Planning Policy Framework 2021 (NPPF).

2.0 **Site Description**

2.1 The site comprises part of “Old Turkey Farm” located to the south of Datchworth and has been in use for equestrian purposes since at least 2005. The wider site now comprises of some 6.6 hectares of land which falls within the Green Belt. A Tree Preservation Order is located on part of the site which is not relevant to the current proposal. The area of the site to which this application applies is currently hardstanding.

3.0 **Planning History**

Reference	Proposal	Decision	Date
3/18/1074/FUL	Retention of caravan as an equestrian worker's dwelling for a temporary three year period	Granted with conditions	06/08/2018
3/15/1719/FUL	The erection of six, timber pole mounted, floodlights around horse exercise area	Granted with conditions	20/10/2015
3/12/0741/CL	A Certificate is sought for 2 field shelters, a range of 6 stables with a corner box, a further range of 3 stables also with a corner box and a stand-alone	Certificate Granted	11/07/2012

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4.0 **Main Policy Issues**

4.1 The main policy issues relate to the relevant planning policies in the East Herts District Plan 2018, and the National Planning Policy Framework 2021 (NPPF) as set out below.

Key Issue	NPPF	District Plan
Principle of development	Chapter 5 Chapter 11	DPS2, GBR1, HOU5
Design and layout	Chapters 8, 11 and 12	DES1, DES3, DES4, DES5, HOU5
Energy and Sustainability	Chapter 14	CC1, CC2 WAT4
Highway impacts and parking	Chapter 9	TRA1, TRA2, TRA3
Natural Environment	Chapter 15	DES2, NE1, NE2, NE3
Overall sustainability	Section 2	Chapter 1 INT1

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

5.0 **Summary of Consultee Responses**

5.1 HCC Highways: do not wish to restrict the grant of permission and recommend an informative be added to the decision notice.

5.2 EHDC Environmental Health: No objections relating to noise or contaminated land subject to conditions relating to hours of buildings works and moving of waste material. A condition is also recommended regarding contaminated land, which is further discussed below.

(Note: EHDC, East Herts District Council; HCC, Hertfordshire County Council)

6.0 Town/Parish Council Representations

6.1 Datchworth Parish Council : No comments received

7.0 Summary of Other Representations

7.1 9 neighbouring properties have been consulted by letter. 2 responses have been received from 2 neighbouring properties objecting and supporting. The comments are summarised as follows:

- The proposed caravan is significantly larger than that which has benefitted from temporary permission which has sufficed.
- Application appears to represent the thin end of the wedge of getting a permanent dwelling on the site.
- The removal of existing structures and the likely movement of containers from the proposed site of the caravan would be an improvement.
- We consider the proposed caravan itself to be satisfactory on condition that its colour is in keeping with its context, with a preference for dark brown or dark woodland green.
- Concerns about planning creep. Request specific stipulations in any permission to tie the use to the applicant.
- The caravan to be removed would be an improvement, but presumably it would need to be removed in any instance as its time limit approval expires.
- The livery is a good neighbour.

7.2 Councillor Stowe requested that the application be called to Development Management Committee for decision on the grounds that the proposal represents an inappropriate development in the Green Belt with no very special circumstances. Concern about number of shipping containers without planning permission and siting of a permanent lodge exposing the site to more housing in the future.

8.0 **Consideration of Issues**

Principle

- 8.1 The application site lies within the Green Belt as designated by the East Herts District Plan, and is currently lawfully used for equestrian purposes. The impact and appropriateness of the development within the Green Belt is discussed further below.
- 8.2 The sites access is adjacent to the boundary of the village of Datchworth. The access track is not insubstantial, and as a matter of planning judgement, the site is not considered part of the village.
- 8.3 Given the use of the site, and the presence of permanent structures, it is considered the land would fall within the definition of previously developed, or brownfield, land. That being said, it is not considered that the site's location could be reasonably considered 'sustainable'.
- 8.4 Therefore, the proposed development would fall outside of the hierarchy of sustainable development established within policy DSP2 of the East Herts District Plan 2018 (the Local Plan).
- 8.5 Notwithstanding the above, policy HOU5 sets out specific circumstances in which dwellings for rural workers will be permitted where they do not follow the development hierarchy established by policy DPS2. As established previously, whilst the caravan may not be a building for the purposes of development management, its use as a residential dwellinghouse requires consideration, and therefore, as with the previous consideration of the temporary caravan, application of policy HOU5 is considered reasonable and necessary.

Policy HOU5 I. a (whether the accommodation is essential)

- 8.6 Part I of policy HOU5 sets specific criteria by which new permanent dwellings for other rural businesses will be permitted. The first criteria (a) states that it must be demonstrated that the dwelling is

essential to the needs of the business (i.e. there is a need for one or more workers to be available at most times). In the previous application (3/18/1074/FUL), the applicant argued that the site included the care and rehabilitate of sick and damaged horses and as such, it was accepted that there was an essential need for accommodation at most times.

- 8.7 The justification put forward in this case makes no reference to the site currently being used to rehabilitate sick or damaged horses, but it does confirm that part of the business is a livery stable. As such, at least some care of injured horses is likely to occur on site, with associated needs for care. The justification in the context of criteria (a) can be found within section 4.0 of the original Justification Statement. The statement has subsequently been updated following officer feedback that the original Justification Statement failed to evidence the functional need to provide on-site supervision for an equine business based upon the scale and type of enterprises operated and the systems employed.
- 8.8 The updated Justification Statement, received on 01 November 2021, sets out the site specific rational for the need for on-site supervision in this case. In short, there are 17 stables on the site, with the latest occupancy levels evidencing 16 horses over winter and 14 over summer. With the exception of two of these horses in part-time livery, the rest are in full-time livery which has increased since 2016. The statement also sets out occasions in recent history where the on-site occupancy of an equestrian worker has prevented more serious illness or death of the animals in the care of the applicant due to overnight incidences. These were:
- one instance of cast (stabled horse being stuck on back),
 - three instances of colic requiring overnight care, and
 - two instances of fright resulting in horses charging fences causing harm to the animal and resulting in threat to the safe use of the highway).

In addition, the justification statement makes reference to the monetary value of the horses in the care of the applicant.

- 8.9 Careful consideration has been given to this information and whether this does mean that accommodation is essential to the business. It is acknowledged that use of the site for livery services has increased since the temporary permission from the blend of personal and livery stabling, and the value of the horses under the care of the applicant has also increased. Of the instances, only two could not reasonably be resolved by CCTV with audio, so long as this can be monitored from a residential building in reasonable proximity, so as to be able to respond in a reasonable time.
- 8.10 As set out below, however, officers consider that there is no alternative accommodation available and so this lends weight to the applicant's argument. The statement does not set out a full interrogation of other means of providing this care/supervision without having on-site accommodation and does not expand on the amount of care for injured horses which occurs as a result of the livery element of the business.
- 8.11 However, given that the need for on-site accommodation has been accepted in the previous consent on the basis, at least in part, of care associated with livery and that the livery element has increased and, given the conclusions below that there is no other accommodation available in the area, on balance it is considered that the accommodation is essential to the needs of the business.

Policy HOU 1. b (viability of business)

- 8.12 Policy HOU5 requires applicants to demonstrate that the enterprise has been established for at least three years and is, and should remain, financially viable (b). Given the length in which the business has been operating from the site, and the planning history of the site, there is no reason to doubt that this criterion is met.

Policy HOU 1. c (availability of alternative accommodation)

- 8.13 Criteria (c) requires that there is no other accommodation within the site/holding or in the locality which is currently suitable and

available, or could be made available. There is currently a caravan within the site, subject of the previous temporary permission referenced above. The information submitted in the justification statement sets out the reasoning for the existing caravan being insufficient. It is reasonable to conclude that the existing caravan is insufficient to attract an employee of the calibre required to take the job, given the expanded nature of the business. The applicant, or anyone employed in the future to undertake the job, may reasonably expect accommodation suitable for a family considering the job will require them to stay on site 24/7. As such, the existing accommodation on-site is not sufficient for the needs set out in the justification statement

- 8.14 The information submitted in respect to the availability of other dwellings suitable for the requirement is considered to be satisfactory.
- 8.15 In line with the above appraisal of the supporting information, it is considered that the proposed accommodation is on balance justified in respect of the need to demonstrate that the dwelling is essential to the needs of the business. The submitted evidence satisfies the other criteria of part I. of policy HOU5 in full. Therefore, in this instance it is considered acceptable for a residential dwelling to be located in a rural area, designated as part of the Green Belt, outside of the settlement hierarchy set out in the plan, subject to the conditions recommended which ensure that the caravan is only used in conjunction with the equestrian use and that the land is reinstated should that use cease. Part II. of the policy is considered under the "Design" section later in this report.

Green Belt

- 8.16 Policy GBR1 relies upon an assessment against the Green Belt policies within the National Planning Policy Framework.
- 8.17 As discussed in depth above, the development applied for is a mix of operational development (building works) including the base,

brick skirt, and steps/access to the caravan, and the siting of the caravan.

- 8.18 Paragraphs 149 and 150 of the Framework set out that the construction of new buildings and other development is inappropriate and that substantial weight should be given to this. The paragraphs set out exceptions to this, including the partial or complete redevelopment of previously developed land (part G of para 149) and changes in the use of land (para 150). Both these exceptions are subject to considering the impact on the openness of the area and the purposes of the Green Belt (in the case of changes of use of land).
- 8.19 Consequently, the scheme could be considered to be appropriate development in the Green Belt, subject to an appraisal of the impact of the proposal on the openness and purposes of the Green Belt.
- 8.20 The design and access statement sets out the applicants' case in respect the impact on the openness and purposes of the Green Belt. The table provided sets out the proposed caravan footprint and volume against existing structures to be removed.
- 8.21 There are no concerns with the measurements provided, or the removal of the pole barn, log/machine store and shed to compensate the proposed caravan. The pole barn, store and shed are small, and the pole barn and store are open fronted to some extent. The pole barn, store and shed are also ancillary to the equestrian use, and agrarian in character. That being said, they are buildings of some structural integrity and permanence, thereby their removal will benefit the Green Belt. The existing caravan, although only benefitting from a temporary consent which has expired, is present on the site.
- 8.22 Consequently, in purely arithmetic terms, the proposal would result in a net reduction in footprint and volume of built form on the site. Openness, as the absence of built form, has both a visual and spatial component however.

- 8.23 In visual terms, the proposed caravan would be located on a section of the site whereby existing built form is sited and proposed to be permanently removed. Whilst the proposed caravan would have a greater height than the existing structures, it would be contained to a smaller area of the site, thereby having an equal if not reduced impact on the visual openness of the site.
- 8.24 In spatial terms, the proposal would not increase the spread of the site or the use beyond its existing established parameters. In addition, the proposed mixed use would not materially intensify the level of activity on the site. It is acknowledged that the dwelling use of the caravan would spread the activity of the wider site into the night, however, the spatial impact on the openness of the Green Belt of the site would not be increased.
- 8.25 In respect the purposes of the Green Belt, the built form and use of the site would not be increased in area, and as such, the proposal would not result in sprawl of large built-up areas; result in towns merging into one another, or encroach on the countryside. No harm would result from the proposal to the setting and special character of any historic town, and the development would not discourage the recycling of derelict and other urban land.
- 8.26 In accordance with the above appraisal, the proposal would preserve the openness and purposes of the Green Belt, and so constitutes appropriate development and complies with policy GBR1 of the Local Plan and section 13 of the Framework. A condition is recommended to secure the removal of the structures indicated as being removed prior to the first occupation of the proposed unit.

Design

- 8.27 Policies DES3 and DES4 seek design quality that respects the constraints of a site and integrates landscaping into the design. Policy DES2 expects development proposals to conserve the district's landscape character. Section 15 of the Framework recognises the intrinsic character and beauty of the countryside.

Section 12 of the Framework promotes creation of high quality, beautiful and sustainable buildings and places.

- 8.28 The caravan would be sited towards the west of the site, a significant distance from Brookbridge Lane. In addition to the distance from Brookbridge Lane, the site also has intersecting features and built form which would make the caravan an imperceptible feature from this public vantage.
- 8.29 There is a public right of way just to the west of the site. Mature hedging and vegetation would go some way to screening the caravan, however, it would remain present in outlook from vantage points along the rights of way to the east of the site.
- 8.30 The caravan would not be physically or functionally distinct from the wider site's equestrian use and associated existing built form. Details of the potential finishes of the caravan have been provided, but these do not specify an exact finish and the finishes illustrated would have a different visual impact from each other. As such, a condition is recommended to secure the full details of the external finishes and materials. Given the siting of the caravan, it is clear that no existing soft landscaping would need to be removed as a result of the development.
- 8.31 Accordingly, the proposal would respect the existing contribution of the site to the character of the wider area, the beauty of the countryside, and be integrated into the existing landscape character, complying with policies DES2, DES3, DES4 and HOU5 of the Local Plan and sections 12 and 15 of the Framework.

Neighbour Amenity

- 8.32 The location of the site is set away from other residential dwellings. Therefore no concerns are raised in this respect and the development would be in accordance with policy DES4 of the East Herts District Plan 2018 and policy SP16 in-so-far as it relates to the living conditions of the occupiers of adjoining premises.

Highway Access / Parking

- 8.33 As part of the application the Highway Authority has been consulted on the application and have no objection subject to informatives. Consequently, the proposal would have no impact on the safe use of the highway. The application form states that no additional parking will be required as a result of the proposed development. As the development is closely linked to the use of the entire site, this is considered to be reasonable. In addition, the site's current parking situation and extent of hard surfacing is such that parking provision is not likely to be an issue which would result in any material planning harm.

Flood Risk

- 8.34 The proposal is located in an area which is not defined as being at risk of flooding from the rivers or the sea. Whilst some surface water run off may occur on site due to the presence of hardstanding in the area, the proposal is not considered likely to significantly contribute to this as it does not add to the amount of hardstanding present. Furthermore, as the internal floor level is raised above the existing ground level, the proposal is not at significant risk of itself flooding.

Biodiversity and Climate Change

- 8.35 The proposal will not result in any significant loss of existing landscaping or biodiversity and, through the demolitions and removals, there is the potential to enhance biodiversity in accordance with the Environment Act 2021 and the NPPF. Furthermore, there are opportunities in the wider site to provide additional biodiverse landscaping in order to provide this enhancement if not possible in the areas to be demolished or removed. A condition is recommended to secure details of soft landscaping, including biodiverse planting.

8.36 Regarding climate change mitigation, the proposal would be better insulated and of a more modern construction than the existing caravan. Given the nature of the construction, and that it is an improvement from an existing, albeit temporary building, it is not considered necessary to secure specific measures beyond those inherent in the fabric of the proposal.

Other matters

8.37 The Environmental Health team have recommended that a pre-commencement condition is attached to any planning permission as the agricultural use of the site may give rise to a rise of contaminants from processes previously at the site, such as through the use of fertilisers.

8.38 A condition is also recommended controlling the hours of construction. Due to the form of the proposed development, construction activities would be limited and would be at some distance from surrounding residential properties and it is likely that the amount of traffic that would result from this is similar to the levels of traffic that a similar site would generate in their day to day business. As such, a condition is not considered to be justified in this instance. It is noted that there is other legislation which can control this matter should it reach the level of constituting a statutory Nuisance.

Response to third party comments

8.27 Responses to the majority of the comments received have been addressed within the body of the report. With regard to the remaining points the following applies:

- The proposal needs to be assessed on its own merits, and not on the basis of what applications could be made in the future, which would themselves be subject to consideration as appropriate.

- It is understood that the applicant agrees that the caravan is of the best appearance in a dark brown or green and a condition is recommended to secure the final details.

9.0 Planning Balance and Conclusion

- 9.1 The proposal accords with the policy provision of the up-to-date development plan. The need for rural workers dwellings to be outside of settlements is clearly set out through the Local Plan and the proposal complies with this, albeit one element being on balance.
- 9.2 Uses, in instances such as this, are not inappropriate within the Green Belt providing they preserve their openness and do not cause harm to the purposes of them. The proposal meets these criteria.
- 9.3 The proposal would accord with policies relating to the provision and encouragement of the rural economy and the information submitted suggests that the level of economic activity at the site has increased, which weighs positively in the planning balance.

10.0 RECOMMENDATION

- 10.1 That planning permission is **GRANTED**, subject to the conditions set out at the end of this report.

That delegated Authority is granted to the Head of Planning and Building Control to finalise the detail of the conditions and to issue the permission.

Conditions

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (As Amended).

2. The development hereby approved shall be carried out in accordance with the approved plans, documents and reports listed at the end of this Decision Notice.

Reason: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.

3. The development hereby permitted shall not begin until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
 1. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
 2. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
 3. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.
 4. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to [first occupation of the

development/the development being brought into use]. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with national planning policy guidance set out in section 11 of the National Planning Policy Framework, and in order to protect human health and the environment in accordance with policy EQ1 of the adopted East Herts District Plan 2018.

4. The occupation of the caravan for the purposes of residential accommodation shall be limited to a person solely or mainly working, or last working, within the site for the purposes of equestrian care, and to any such resident's dependants.

Reason: The proposed residential accommodation as part of the mixed use of the site is situated in a location where the Local Planning Authority would not normally grant permission for such a development and this permission is granted solely in order to fulfil an essential agricultural need, in accordance Policy HOU5 of the East Herts District Plan 2018.

5. Following the cessation or change of use of the site from the use approved herein, or the redevelopment of the site, the caravan shall be removed within 2 months and the residential accommodation part of the use ceased.

Reason: The proposed residential accommodation as part of the mixed use of the site is situated in a location where the Local Planning Authority would not normally grant permission for such a development and this permission is granted solely in order to fulfil an essential agricultural need, in accordance Policy HOU5 of the East Herts District Plan 2018.

6. The existing buildings indicated on page 22 of the submitted Design and Access Statement as being to be removed from the site shall be removed prior to the first occupation of the development hereby approved.

Reason: In order to preserve the openness of the Green Belt, in accordance with policy GBR1 of the East Herts District Plan 2018 and the National Planning Policy Framework

7. Prior to any above ground construction works being commenced, the external materials of construction for the development hereby permitted shall submitted to and approved in writing by the Local Planning Authority, and thereafter the development should be implemented in accordance with the approved details.

Reason: In order to ensure a satisfactory appearance of the development, in accordance with policies HOU5 and DES4 of the East Herts District Plan 2018.

8. Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals (including biodiverse planting), finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.

Reason: To ensure the provision of amenity afforded by appropriate landscape design in accordance with Policies DES3 and DES4 of the East Herts District Plan 2018.

Plans

Plan Ref	Version	Received
DPH-6022-0001		06.08.2021
TI-VP011 003		29.07.2021

Design and Access Statement		20.07.2022
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Informatives

1. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.

Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>.

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan and any relevant material considerations. The balance of the considerations is that permission should be granted.