

ITEM NO:	<u>Location:</u>	Cardens Gardens, Danesbury Park Road, Welwyn, AL6 9SN
	<u>Applicant:</u>	Miss S Jones
	<u>Proposal:</u>	Erection of and retention of two yurts for egg packing centre and new staff quarters and dayroom. Erection of five chicken, duck and quail enclosures. Retention of shed for storage of log, straw and feed. Erection of three polytunnel chicken enclosures and one grain silo. Erection of 2 metre high chain link boundary fences and for the division of grazing areas.
	<u>Ref. No:</u>	15/01032/ 1
	<u>Officer:</u>	Mary Caldwell

Date of expiry of statutory period: 18 September 2015

Reason for delay

Not applicable - extension of time agreed until 19th February

Reason for Referral to Committee (if applicable)

The application is considered by the Development and Conservation Manager to be in the wider public interest and the recommendation is contrary to a statutory consultee.

1.0 Relevant History

1.1 Prior to the current applicant and owner acquiring an interest in the land

- Outline application for residential development comprising 4 detached houses and garages. REFUSED 18.07.1977
- Use of land as mobile home park. REFUSED 29.06.1978
- Tipping of builders' waste at disused gravel pit. REFUSED 14.05.1984

1.2 Since the applicant and owner acquired an interest in the land in 2007

- 2007 a general enquiry as to the use of land for horticultural purposes
- In November 2009 an appeal against an enforcement notice was dismissed and the enforcement notice upheld subject to corrections and variations. The enforcement notice related to:-
 - the siting of a mobile home and lean-to porch for residential purposes
 - two domestic sheds
 - open fronted workshop
 - shipping containers
 - mixed use of land business, residential and horticultural
 - engineering operations comprising importation of material to raise the level of the land, creation of earth bunds.

This Inspector varied the notice so as not to require the excavation of the imported material and the remainder of the works to comply with the notice were eventually completed to the satisfaction of the Council in October 2010.

- Erection of horticultural building - Appeal dismissed in 29.06.2011
The Inspector stated:

'Even if the proposed use was not inappropriate within the Green Belt, its harmful impact on the openness of the Green Belt carries substantial weight. I also consider that there are no very special circumstances to justify the proposal and set aside the strong policy principles of the Green Belt.

16. I conclude that the proposal would harm the Green Belt, contrary to the advice in PPG2. It would also harm the rural character and appearance of the area, contrary to North Hertfordshire District Local Plan No. 2 with Alterations (1996) policy 2, which seeks to protect the Green Belt from significant visual impact. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should fail'.

- 2012 a general enquiry concerning the various proposals for the use of the land.
- A lawful development certificate relating to the land at the corner of Danesbury Park Road and Pottersheath Road was granted 16.09.2013 for the existing use of the land and structures for agricultural purposes. This included part of the current application site.

The reason for the determination:-

That sufficient evidence has been presented to satisfy the Local Planning Authority that on the balance of probability the use of the land, and the siting of ancillary moveable chicken coops and ancillary building (mobile home) do not require planning permission for continued uses in connection with agriculture.

- An enforcement notice was served in January 2014 in respect of the erection of fences in excess of 2 metres in height and the construction of buildings without planning permission. No appeal was submitted against the notice. At a site meeting in October 2014 it was found that all the requirements of the notice had been undertaken with the exception of some of the internal fences being reduced to 2 metres and part of the bar building remained which had been converted into a dog kennel. It was determined that the fencing now had an acceptable appearance from the public vantage point and as the remainder was within the site no further action be taken. Whilst the dog kennel was larger than may be anticipated nevertheless its occupant provides some security to the site and it was agreed with the applicant it could remain to serve this purpose.
- A further lawful development certificate for the use of land structures and portable buildings for agricultural purposes as shown on the 29th January 2014 has not been determined to date as the evidence has not been substantiated.
- A general enquiry to discuss the use of the land for residential purposes was discussed at a meeting with the owner and interested parties at the end of 2014. It was advised that as the site is within the green belt and that the proposed use of the site was inappropriate in policy terms and moreover there were no special circumstances put forward any application would be unlikely to succeed. No further formal application has been made.

- 1.3 Whilst only indirectly related to the site, the subject of this application, Members may recall that in March 2013 the Council were successful in obtaining an injunction which forbids the use of the triangular shaped site at the junction of Danesbury Park Road and Pottersheath Road for residential development including the occupation of caravans / mobile homes, storage of vehicles, caravans and residential paraphernalia. This includes the laying of hard core and the creation of hardstanding.

- 1.4 There is another outstanding application for planning permission on the current application site relating to the re-profiling of disused quarry to allow grazing. In addition to a request for further detailed information with regard to the amount of importation of material, the length of time the process would take, traffic routes there is an objection from the Environment Agency which the applicant is seeking to overcome and have agreed an extension of time to determine the application.
- 1.5 During the period of occupancy of the site by the owner and applicant there has been a number of complaints as to the activities on the site which have been investigated both by the Senior Compliance Officer and Officers including myself and colleagues in Environmental Health. As can be seen from the planning history action has been taken where seen to be appropriate and expedient in planning terms. The owner has taken 'advantage' of 'permitted' development rights under the planning legislation and this will be referred to further in the report under the planning considerations.

2.0 Policies

- 2.1 Green Belt
North Hertfordshire District Local Plan No.2 with Alterations

Policy 2 - Green Belt

In the Green Belt, as shown on the Proposals Map, the Council will aim to keep the uses of land open in character. Except for proposals within settlements which accord with Policy 3, or in very special circumstances, planning permission will only be granted for new buildings, extensions, and changes of use of buildings and of land which are appropriate in the Green Belt, and which would not result in significant visual impact.

- 2.2 **National Planning Policy Framework**
3. Supporting a prosperous rural economy
7. Requiring good design
9. Protecting green belt land- paragraph 89

- 2.3 **North Hertfordshire District Local Plan 2011-2031 'Preferred options Consultations Paper' and Proposals Map**
Policy CGB1: Green Belt

3.0 Representations

- 3.1 **Welwyn Hatfield Borough Council:-**The Council does not wish to raise an objection to the erection of two yurts for egg packing centre and new staff quarters and dayroom et al. The proposal seems, in principle, to be an acceptable agricultural use in a rural location subject to the visual impact on the openness of the green belt or residential amenities of nearby residential properties (further to Saved Policy RA18 of the Welwyn Hatfield District Plan 2005).
- 3.2 **Environment Agency:-**
We **object** to the proposed development because the applicant has failed to submit a contamination risk assessment for the development, despite the known land filling that has taken place on the site. This is contrary to the requirements of the National Planning Policy Framework.
- 3.3 **Welwyn Parish Council:-**Welwyn Parish Council wishes to make the following **OBJECTION** to this application: The application site is located within the Green Belt. There should not be any permanent or semi-permanent residential accommodation allowed on this site.

3.4 Codicote Parish Council - to be updated at the meeting

3.5 Knebworth Parish Council- 'The site is in Green Belt and proposes a significant increase in agricultural buildings to house chickens, ducks and quail. The size, scale and density of these buildings alone will have a significant impact on the Green Belt.

A yurt is defined as a round tent used by nomads as a dwelling. One yurt is identified as an office and egg packing centre, the other a dayroom and sleeping quarters. The Council is concerned that approval of this application will ultimately lead to more permanent accommodation being required for this venture and used as a backdoor to housing on the site.

Previously a smallholding in Green Belt, within the parish, was set up to rear rare breeds. This business was used to justify 'on site' accommodation to tend the animals. Permission was granted for a large four bedroom dwelling and the house and land were sold soon after. The rare breed business no longer exists.

If this application is granted then strict conditions should be attached to prevent further development'.

3.6 Environmental Health Officer: - No objection use of the yurts for their requested use as office, egg packing centre and dayroom but would **OBJECT** to their use as residential accommodation. This would not be acceptable as they do not meet the Housing Act 2004 standards for housing.

i) Noise

The application also relates to the erection of permanent enclosures for up to 1000 birds. Also up to a maximum of 20 sows. I have considered whether noise from these birds and the pigs would be an issue to existing residents. The dominant noise source at the site is traffic noise from the adjacent A1M. Whilst the pigs and birds may be audible at times, I consider that the traffic noise would mask noise arising from the introduction of birds and pigs onto the site and therefore noise arising from the proposed development can be discounted as an issue that might affect existing nearby residents

ii) Odour

I have considered the proposed operation of the pens and free running area and area for stockpiling of manure. I consider that odour from the bird manure will not be an issue in this location. Odour and flies from the pig styes (a maximum of 20 sows is proposed) could be an issue in the hot summer months, especially given the location of the pig styes at the closest points to existing nearby residents. However, this can be addressed by good animal husbandry and if necessary enforcement action for statutory nuisance under Environmental Protection Act 1990.

3.7 Local Residents- 12 representations have been received from local residents which make the following comments and can be summarised as follows:-

- Not to be used for overnight accommodation as there is no need or requirement for a holding of this size
- The application is not a front for an alternative use including mobile homes and other accommodation
- Noise, smell and light pollution kept to a minimum
- Animals to be kept within the site unlike at present when they escape on a regular basis
- Suggest it should be a 2 metre feather edged fence around the whole site not

- chain link as this would improve the appalling appearance of the site at present.
- Establish the amount of encroachment onto Danesbury Park Road which is a private road.
- Concern about traffic movements in particular lorries and the impact on the surrounding areas.
- Should not grant planning permission until all other matters are resolved
- Corner entrance, electric fence be removed
- Forgoes his right to hold public events on site such as music concerts.
- All parking should be on site.
- All work done in compliance with the planning permission
- Day room /sleeping quarters seems excessive
- Is sanitation requirements in place?
- Rats a problem at present time
- Never gets planning permission for activities.

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The site is located at the eastern end of Danesbury Park Road, with the A1 (M) bounding the site to the rear and at a considerable distance below the level of the site. Danesbury Park mobile home park is to the south and there are four dwellings on the opposite side of Danesbury Park Road. The site lies within the Green Belt.
- 4.1.2 After the land was used in association with the building of the A1 (M) it was left to nature and over time became covered in trees and scrub. However, due to the various activities described so far in this report, much of the scrub and most of the trees have now been removed.
- 4.1.3 The site which is accessed from Danesbury Park Road is presently occupied by portable buildings used for the hatching of poultry and toilet and washing facilities, the two yurts, temporary structures, chicken coops with specific areas for the chicken runs and fenced off areas for the pigs. The site itself is very unkempt and untidy with the deposit of a large amount of timber and scrap materials.

4.2 Proposal

- 4.2.1 The proposal is to both regularise and to seek permission for further agricultural buildings on the site.
- 4.2.2 In detail and as submitted in the supporting statement:-
- The applicant and the owner advise they are chicken breeders, farmers and agricultural workers.
 - It is proposed to construct the additional agricultural buildings in an approximate line, south east to north west across the site (from Danesbury Park Road to the A1M) with the retention of the yurts in the centre of the site, the store building and grain store adjacent to the agricultural buildings and an additional duck enclosure on the rear boundary adjacent to the A1M. The existing mobile structures identified in the application for a certificate of lawfulness (paragraph 1.2 of this report) are to be retained.
 - Five chicken, duck and quail enclosures - a timber framework with a feather edge finish to sides and rear and a green coroline roofing material. These would be 9 metres wide x 3 metres depth and 1.5 metres in height. These enclosures are used to rear the birds after they have left the hatchery.
 - The larger of the yurts, 6 metres in diameter, is to be used for an egg packing centre and the smaller (3.0metres) is to replace a touring caravan as a dayroom and staff quarters.
 - The grain silo would store 18 tonne of feed and is proposed to be 7 metres tall.
 - Fencing of two metres is proposed to create 3 grazing areas and a 2 metre

chain link fence is proposed as a means of security for the poultry, waterfowl, pigs and farm dog on the boundary adjacent to the highway of Danesbury Park Road.

4.3 Key Issues

4.3.1 The key considerations relate to:-

- i) is the local planning authority satisfied that the land is being used for agricultural purposes?
- ii) the principle of development in the green belt
- iii) the effect of the proposals on the openness of the green belt and on the character and appearance of the surrounding countryside
- v) other planning considerations including any controls that may be considered to be appropriate given the nature of the operation.

4.3.2 **Is the local planning authority satisfied that the land is being used for agricultural purposes?**

Section 336 (i) of the Planning Act defines agriculture as follows:-

agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;

As Members are aware the use of the land for agriculture does not require planning permission and the definition does not require a quantum for the defined uses. In addition, it does not include any requirement that the activity should be carried on in connection with a trade or business or that it should be profitable, viable or sustainable.

4.3.3 Activities on the site have changed a few times as can be seen from the planning history. However in most recent times, for at least the last three years, the applicant and the owner have been involved in agricultural activities which includes the breeding of pigs and the keeping of poultry. I would acknowledge that the level and intensity has varied considerably during this time. The poultry business transferred in 2015 from the triangular area of land at the corner of Danesbury Park Road and Pottersheath Road which has included the ancillary buildings and hen coops referred to. The triangular shaped area of land is not in the ownership or control of the applicant.

4.3.4 **I am satisfied that the present activities on the site constitute an agricultural use of the site.**

4.3.5 **The principle of development in the green belt**

The site lies within the Green Belt. Paragraph 87 of the National Planning Policy Framework (NPPF) advises that;-'inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances.' Paragraph 89 states that the construction of new buildings should be regarded as being are inappropriate in the Green Belt with some exemptions which includes buildings for agriculture and forestry.

The proposals, therefore, would not be inappropriate development and as such there are no objections in principle to the agricultural buildings.

4.3.6 The effect of the proposals on the openness of the green belt and on the character and appearance of the surrounding countryside.

Paragraph 88 of the National Planning Policy Framework advises that 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green belt. This Council's policy no. 2 in the Local Plan allows buildings which are not inappropriate, subject to them not resulting in a 'significant visual impact'. It is appropriate to determine whether the proposed additional buildings of a permanent construction would harm the openness of the green belt and the character of the area.

4.3.7 The proposed buildings as described in paragraph 4.2. are in themselves of a small scale nature both in design and size with the exception of the grain silo which would be 7.0 metres in height. In my opinion the principal consideration is the cumulative impact of the number of buildings on the site of those requiring planning permission and the 'chattels' i.e. moveable buildings which are permissible in association with the agricultural use, and whether or not these would have a significant impact on the openness of the green belt. The additional buildings would be visible to the near occupiers of the caravan park at a distance of 85 metres and through gaps in the remaining scrub and hedging to those residents and users of Danesbury Park road. I do have concerns about the erection of the silo which in my opinion would have an adverse effect on the countryside in this location given its proposed height and consider it to be inappropriate for this reason. I would suggest that the applicant looks alternative ways of storing the grain.

4.3.8 In my judgement, given the use of the site, with the exception of the proposed grain store, the present and proposed buildings would not have such a significant impact in this part of the Green belt and as such would not cause harm to the openness of the green belt nor the character and appearance of the countryside.

4.3.9 Other planning considerations including any controls that may be considered to be appropriate given the nature of the operation.

In my opinion there are other considerations which need to be assessed prior to making a recommendation. These include addressing some of the concerns of the local residents and the comments of the Environmental Health Officer.

4.3.10 Government advice in the NPPF gives support to the rural economy (in paragraph 28) and seeks to promote economic growth in rural areas, including the development and diversification of agriculture and I can see no objection in principle to the applicant and the owner expanding the agricultural activity of the site. However I do consider that in view of the variable scale and nature of the activity undertaken it is considered appropriate to safeguard and restrict both the use of the buildings concerned and to withdraw 'permitted' development rights where appropriate. This includes the removal of buildings if not being used in association with the agricultural use. Any development would be under the control of the authority and a failure to comply with the conditions could result in a breach of condition notice to which there is no right of appeal and is directed to a magistrates' court.

4.3.11 In particular, it will be noted that there is a proposed condition which restricts the use of the yurts to that which was applied for and not for residential use. I would comment it is my firm opinion that the business is such that at the present time it would not justify the siting of temporary or permanent residential accommodation and evidence in this respect would be a breach of the condition. Should further investigation provide sufficient evidence in planning terms that the yurts are being

used for residential accommodation consideration would be given to the expediency of taking the appropriate action.

4.3.12 I fully understand the representations concerning animal husbandry and the operation of the site from a management perspective but this is outside of the planning legislation and can only be referred to the appropriate bodies if the concerns persist. As Officers we have encouraged the applicant and the owner to tidy up the site in order that it can be seen that there is a genuine intention to progress the activity but to no avail and hence the suggested conditions are imposed which limit the erection of further buildings and the use of the site. With regard to noise and odour it will be noted that the Environmental Officer has commented and I would agree that there are no grounds from the application submitted to indicate that these aspects would give rise to any sustainable objection at this time. Other Officers of the Council are looking at other activities including the continuing bonfires which principally are on the adjoining site outside of the control of the applicant.

4.3.13 Members will note the objection raised to the development by the Environment Agency. I am seeking further clarification on this issue in relation the proposals given that the use of land for agriculture does not require planning permission and hence the planning authority can not control the type of agricultural use on the site and whether or not the objection can be upheld with regard to this planning application. My recommendation reflects the need to clarify the situation.

4.4 **Conclusion**

4.4.1 Whilst there is no objection in principle to the development to expand an agricultural concern, in accordance with Government advice, nevertheless given the variable nature and scale of the activities operated on the site it is considered appropriate for the Local Planning Authority to control any development on the site in the interests of the amenities of the local residents and the location of the site within the Green Belt and to resist the grain silo which have an unacceptable impact on the openness of the Greenbelt.

5.0 Legal Implications

5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

6.1 That subject to the resolution of the objection by the Environment Agency, a **SPLIT** decision be made, refusing the proposed grain silo and granting planning permission for the remainder of the proposals, subject to the conditions below:-

1. **A The proposed grain silo**

Reason for Refusal

The application site is within an area that is designated in North Hertfordshire District Local Plan No 2 with Alterations as Green Belt. Although there is no objection in principle to agricultural buildings in the Green Belt, the Local Planning Authority consider that the proposed new grain silo would cause harm to the Green Belt, due to its scale, design, materials and position having a significant visual impact on the character of the area. No very special circumstances exist to clearly outweigh any harm. The development would, therefore be contrary to Policy 2 of the District Local Plan and parts 7 and 9 of

the National Planning Policy Framework.

2. **B. Erection of and retention of two yurts for egg packing centre and new staff quarters and dayroom. Erection of five chicken, duck and quail enclosures. Retention of shed for the storage of logs, straw and feed. Erection of three polytunnel chicken enclosures. Erection of 2 metre high chain link boundary fences and for the division of grazing areas**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes Q,R,S of Part 3 of Schedule 2 to the Order, (or any subsequent Statutory Instrument) which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority

Reason: Given the scale and nature of this development, the Local Planning Authority consider the development which would normally be 'permitted development' should be retained within planning control in the interests of the character and amenities of the area.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Class B Part 6 of Schedule 2 to the Order, (or any subsequent Statutory Instrument) which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Authority

Reason: Given the scale and nature of this development, the Local Planning Authority consider the development which would normally be 'permitted development' should be retained within planning control in the interests of the character and amenities of the area.

6. The yurts shown on drawing numbers P8SP01 and YRT03 shall only be used as a dayroom, egg packing centre and office in association with the agricultural use of the site and shall not be used for any other purpose including residential accommodation. The yurts shall be removed from the site following the cessation of an agricultural use of the site.

Reason: To avoid the creation of a dwelling and the retention of buildings not in association with agriculture contrary to the planning policies applicable to the area.

7. The agricultural buildings hereby granted planning permission together with the chattels used in association with the agricultural activities shall be removed from the site upon cessation of their use for agricultural purposes or the agricultural use of the land.

Reason: The buildings are inappropriate development in the Green belt and the justification for granting planning permission is related to their use for agricultural purposes.

Proactive Statement

A split decision has been made and planning permission has been granted for the main elements of the scheme with the exception of the grain silo. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.