

DELEGATED REPORT

Report by Claire Booth	Date of report: 25/07/2023	Ref: 69840/AG
Registration: 30/06/2023	LDFC:	Expiry Date: 28/07/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area:	Adv Type: N/A
Reason for Delay:		EIA: NA
N/A		Dec Level:
		Stat Class: NREQ

Proposal: Agricultural Notification for proposed agricultural building

Location: Arthur Lane Nurseries, 1 Arthur Lane, Radcliffe, Bolton, BL2 5PW

Description

The application site relates to the site of Arthur Lane Nurseries, Radcliffe which is located within the defined Green Belt on a parcel of land to the west side of Arthur Lane and to the south of no. 1 Arthur Lane, opposite Davenport Farm.

This application is for Prior Approval under Part 6, Class A of the General Permitted Development Order 2015- agricultural development on agricultural units of 5 hectares or more - for the siting of a 4-bay mono-pitched agricultural building measuring 20 metres in length, by 8.0 metres in breadth/ width. The eaves height would be approximately 2.8m with the highest point of the roof proposed to be 5.0 metres. The proposed development would be faced and roofed with green corrugated steel cladding

The application site itself covers an area of approximately 1.60 hectares and is a Nursery selling to the retail and wholesale markets plants and crops that are grown on site. A second larger parcel of land exists to the north of the site and is accessed further up Arthur Lane from the application site. The two land parcels combined equate to approximately 6.1 hectares.

Within the adopted Local Plan, the Bury Unitary Development Plan, the land to which this application relates is allocated as Green Belt, a Special Landscape Area, and as being within a Minerals Safeguarding Area.

The proposed building would be sited on land utilised by dilapidated polytunnel and on the site of a former polytunnel. The dilapidated polytunnel would be removed to make way for the proposed building.

Relevant Planning History

33298/96 - Horticultural storage building - Prior Approval Not Required - 14/08/1996

52148 - Prior notification of agricultural development - Proposed multispan polythene tunnel - Prior Approval Required and Refused, 05/02/2010

53102 - Erection of a multispan polythene tunnel for the propagation and cultivation of hardy plants. - Approved with Conditions, 06/10/2010

54475 - Erection of single storey building for use as tea room/shop - Approved with Conditions, 02/11/2011

56009 - Erection of single storey detached toilet block - Approved with Conditions 27/03/2013

58926 - Prior Notification for the proposed extension to existing shed for the storage of horticultural products - Prior Approval Required and Refused, 21/07/2015

69737 - Extension of car park for 12 additional spaces for customers - Under consideration.

Publicity

Class A of Part 6, of Schedule 2 of the General Permitted Development Order 2015 (as amended) sets out that if prior approval is required regarding the proposal, the applicant must erect a site notice for a period of 21 days alerting the public to the application.

The Local Planning Authority has not given the applicant notice that prior approval is required.

Statutory/Non-Statutory Consultations

Not applicable.

Pre-start Conditions - Not applicable.

Relevant Legislation

Schedule 2, Part 6, Class A of the Planning (General Permitted Development) Order 2015 (as amended)

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

- The elimination of discrimination, harassment and victimisation;
- The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;
- The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in

accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

ASSESSMENT

This application for an agricultural building was submitted under the prior notification procedure as set out in Class A of Part 6, of Schedule 2 of the General Permitted Development Order 2015 (as amended) and it must therefore comply with the criteria set out in this part of the regulations.

An application made under this procedure is for a determination as to whether the prior approval of the Local Planning Authority would be required for the siting, design and external appearance of the building and the Authority must notify the applicant within 28 days if prior approval is required or not.

In order to qualify for permitted development rights set out within Class A of Part 6, Schedule 2 of the Town and County Planning (General Permitted Development) (England) Order 2015 (as amended) there are a number of criteria/conditions of development which should be satisfied.

Development is permitted by Class A for agricultural developments on units of 5 hectares or more for the purposes of an agricultural trade or business.

The agricultural unit associated with the development is stated on the application form as being 6.1 hectares, with additional plans being provided to show the extent of the other land parcel located further up Arthur Lane that makes up the holding.

In terms of whether the building would be for the purposes of an agricultural trade or business, 'Agriculture' is defined within Section 336 of the Town and Country Planning Act 1990 (as amended) is defined as including "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".

The site is a horticultural nursery and as the land holding exceeds 5 hectares, the applicant can benefit from development allowed by Part 6, Class A of the Order.

The Order states Development is not permitted by Class A if:

(a.) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area;

The parcel of land to which the application relates is noted as being greater than 1 hectare with the nursery site and accompanying land equating to approximately 1.6 hectares.

b.) it would consist of the erection or extension of any agricultural building on an

established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins;

There is no evidence to indicate that the site has ever been used other than for agricultural purposes.

(c). it would consist of, or include, the erection, extension or alteration of a dwelling;

The proposal does not include residential elements.

(e) it would involve the provision of a building, structure or works not designed for agricultural purposes;

The building proposed has been suitably designed for agricultural purposes only.

(f) the ground area which would be covered by:

(i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or

(ii) any building erected or extended or altered by virtue of Class A, would exceed 1000 square metres, calculated as described in paragraph D.1(2)(a) of this Part;

The proposed building would have a footprint of 160m² and details provided in the submission clearly state the purpose of the building is to be used for horticultural storage purposes.

(g.) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;

The site is not located within 3km of an aerodrome.

(h) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;

The maximum height of the building would be 5m. In addition, the site is not within 3 kilometers of an aerodrome

(h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;

The Proposed Site Plan shows that the development would not be located within the stipulated distance of a trunk or classified road, namely Arthur Lane.

(i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building;

Details provided in support of the application clearly set out the intended purpose of the building which is to be a storage to serve the needs of the holding.

(j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming; or

None of the works would be associated with fish farming.

(k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system—

(i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or

(ii) is or would be within 400 metres of the curtilage of a protected building.

The building would not be used for storing fuel or waste from a biomass boiler or an anaerobic digestion system.

Having regard for all of the above it is considered that the development complies with the requirements of Class A of Part 6, Schedule 2 of the Town and County Planning (General Permitted Development) (England) Order 2015 (as amended) therefore only details of siting design and external appearance can be considered.

Siting and Design

Paragraph A.2 (2)(i) requires that an application for prior approval for a determination by the Local Planning Authority (LPA) in relation to the siting, design and external appearance of the building which falls under the definition of Class A development as set out within Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) is submitted.

Paragraph A.2 (2)(ii) requires that the application is accompanied by a written description of the development. The details within 'The proposal' section of this report set out the detail submitted in accordance with this requirement.

The proposed building would be of a typical mono-pitched design featuring green steel sheet cladding for the walls and for the roof. The building would be sited close to the existing nursery area on an area of hardstanding immediately adjacent to an existing line of polytunnels and the site of two former polytunnels - a dilapidated polytunnel is to be removed as part of this proposal.

It is considered that the general design of the building is acceptable and is typical of agricultural buildings of this type. In this regard the design and external appearance of the building would not be harmful to landscape character, or the character of the wider application site. Screening of the building is not considered necessary in this instance as the building would be mostly screened from the highway by a lean-to structure in front of it and in front of the lean-to structure is another building that is located within the existing yard area, the gable of which is in close proximity to the boundary of the site with the adopted highway, Arthur Lane.

It is noted that the proposal is to use juniper green cladding to the walls and roof which is a different colour to that on the existing lean-to building immediately to the south of the proposed building, however this lean-to roof would not be seen in context with the proposed building. The proposed building would be easily assimilated into the existing context of the area and it is not considered that the siting of the building would be harmful to landscape character or the character of the wider application site

The site is an existing hardstanding which is currently used for the placement of polytunnels associated with the horticultural use of the land and there is a vegetated boundary to the area separating the farmyard from the fields beyond and from both the applicant's and neighbouring property. From the information available it is not considered that the plans would impact directly on the existing screen planting which does not contain any significant trees / shrubs or vegetation. As a result, it is not considered that the proposed development would have a harmful impact upon a protected species and the LPA has adequately fulfilled its legal duty in assessing this matter. In addition, the presence of

the boundary planting will also help to minimise the impact of the building on the property occupied by the applicant or the property attached. The siting and design of the proposed building is therefore considered acceptable.

The proposal is considered to be reasonably justified for the purposes of agriculture and is appropriate in design and siting terms. As such, it is considered to comply with the provisions of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Prior approval is therefore not required.

Planning conditions securing appropriate materials and securing the use of the building for agricultural purposes only are recommended.

Recommendation: Prior Approval Not Required

Conditions and Reasons:

- 1 The development must be carried out within a period of 5 years from the date on which the Council received your Application for Determination which was .

Reason: In accordance with Part 6 of the Town and Country Planning General Permitted Development Order 2015 (as amended).

- 2 The applicant's attention is drawn to the condition in Schedule 2, Part 6, Class A, Condition A.2, Paragraph (2) (v) (bb) of the Town and Country Planning (General Permitted Development) (England) Order 2015 which requires that the development must be carried out in accordance with the details submitted with the application. The details submitted were:

Location Plan @ Scale 1:2500 @ A4 showing the extent of the agricultural holding;
Land Registry Plan for Nursery;
Land Registry Plan for Farm land;
Proposed Site Plan by ReQuestaPlan, date produced: 28 June 2023; and,
Floor Plan and Elevations, received 03 July 2023

Reason: For the avoidance of doubt and to ensure the development accords with Schedule 2, Part 6, Class A, Condition A.2, Paragraph (2) (v) (bb) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 3 The building hereby permitted shall be used for agricultural purposes only (as defined in Section 336(1) of the Town and Country Planning Act 1990); in conjunction with the remainder of the holding as identified in the supporting information submitted with the application. It shall be removed and the site reinstated to its original condition by a scheme to be agreed with the Local Planning Authority if at any time it ceases to be used for this purpose.

Reason: To ensure that the building is used solely for agricultural purposes connected with the working of the holding, and in accordance with Part 6 of the Town and Country (General Permitted Development Order) 2015 (as amended).

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	5/07/2023	DM	26/07/23