

APPLICATION REFERENCE: PL/2021/01631/PPFL**Site Address:** Chestnuts Farm Eastcote Lane Hampton In Arden Solihull B92 0AS

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| Proposal: | Completion and extension of part constructed general agricultural building for storing farm machinery, equipment and grain and use as temporary shelter for cattle. |
| Web link to Plans: | Full details of the proposal and statutory consultee responses can be found by using the above planning application reference number at: https://publicaccess.solihull.gov.uk/online-applications/ |

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| Reason for Referral to Planning Committee: | The proposal has given rise to substantial weight of public concern. |
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| Recommendation: | APPROVAL |
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EXECUTIVE SUMMARY

The completion and extension of part constructed general agricultural building for storing farm machinery, equipment and grain and use as temporary shelter for cattle would be located in an existing farmyard on an existing 110 acre farm in the Green Belt and where Green Belt policy applies.

Provisions in paragraph 149 (a) of the NPPF 2020 and policy P17 of the Solihull Local Plan detail that new buildings for agricultural use to be erected in the Green Belt are appropriate development.

The barn would be built in an acceptable location, scale, design and appearance and would not be detrimental to neighbour amenity of highway safety.

On this basis the recommendation is for approval.

MAIN ISSUES

The key main issues in this application are;

1. Whether the proposed development would constitute inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and relevant development plan policies;
2. The effect of the proposal on the character and appearance of the area;
3. The effect of the proposal on neighbouring residential amenities;
4. What effects would the development have on highway safety and the free flow of the road network;
5. Other Material Considerations (Landscape, Ecology, Drainage, Climate Change).

CONSULTATION RESPONSES

Statutory Consultees

- Parish Council - Objection. An appointed Planning Agent has provided a comprehensive 13 page objection letter, objecting for the following summarised reasons:

60. It is considered that the non-agricultural development under planning application PL/2021/01632/PPFL is inappropriate development in the Green Belt. It is considered that the effects on Green Belt Green Belt openness are and will be significant and, therefore, harmful to the character and appearance of the predominantly rural setting. There are also other potential harms, although further information should be requested, e.g. relating to highways, residential amenity (noise, dust, lighting), contamination and any impact on heritage assets.

61. It is fully acknowledged that farm diversification accords with planning policy, in order to support farm enterprises and the management of land, providing it is in an appropriate location, of a scale appropriate to its location, and does not harm the Green Belt, conservation or enhancement policies. In this particular instance, however, the extent of the non-agricultural operation at Chestnuts Farm is considered to be significant, notwithstanding the future intention to expand the farming capabilities. Albeit there are some doubts about the compatibility of operating the intended farming business as set out in the agricultural applications in the midst of the non-agricultural uses.

62. Unfortunately, it is not considered that the arguments advanced in the planning application PL/2021/01632/PPFL clearly outweigh the totality of the harm to the Green Belt that has been identified. As presently submitted, it is not considered very special circumstances necessary to justify the approval of the planning application have been presented.

An aerial photo is also submitted detailing the extent of development on site regarding the non-agricultural activities of the resident non-agricultural companies on site.



The applicants have replied independently to the Council with regards to the Planning Agents report detailing 'To conclude, we would suggest that this report is not fit for purpose, being neither impartial not accurate, and as such should be ignored'.

Non Statutory Consultees

- SMBC Drainage - No objection
- SMBC Highways – No Objection
- SMBC Planning Policy – No Objection
- SMBC Ecology – No objection
- SMBC Landscape – Further information required
- SMBC Public Protection – No objection subject to conditions

PUBLICITY

The application was advertised in accordance with the provisions set down in the Town and Country Planning (General Development Procedure) Order 2015.

Letters of objection have been received from Councillor Alison Rolf detailing;

'I have already made comments but do so again as there are now additional documents on the portal. The statement from the Applicant is not particularly helpful as it repeats information already given. However, what I would like to know is why the Applicant had continued to erect the building for which permission is sought, when permission has not been granted? Does the Applicant believe that he already knows the outcome of the application? This seems to me to show a lack of respect for the process in assuming that permission will be granted when we are talking about green belt land.'

Also..

'Whilst I appreciate that this application relates to an agricultural building, the case

worker should be aware that this site has many issues which are impacting on the neighbours. The site is greenbelt and the application should only be allowed if you are satisfied that the need is to serve the agricultural purpose. The building is very large for the size of herd of cattle and sheep which we are told in the information that are currently there. I question the long term usage of the building and whether it is needed for this enterprise. It is also very close to the boundary of the property and is therefore going to impact on the visual enjoyment of surrounding properties. I have issues with the Agricultural Vision document that states that there is a permit for a 75000 tonne waste transfer station. Is this per annum or over a longer period. When was the permit granted and how long does it last? Who monitors whether it is complied with? Why was there no notice to the neighbours regarding the granting of the permit?’

33 letters of objection detailing this application number in part have been received detailing the following summarised concerns (Members have access to the full copies):

- Inappropriate development in the Green Belt with no compelling VSCs to outweigh the harm;
- My objection stems from the amount of visual and audible blight that has occurred in the last 12 months or so while they have been operating without permission;
- I suggest that had consent been sought in the first place it would have been refused for many reasons including its inappropriate location;
- There are many abuses of planning laws by the establishment of businesses and retrospective planning consent. I and my fellow villagers look to people like yourself to take heed of the serious environmental impact waste processing in the countryside has;
- We are already being subjected to major works around the village (HS2, Bickenhill Lane, proposed motorway service area). If these applications are bogus, they are totally unacceptable and we strongly oppose them;
- Air pollution from thick noxious looking smoke belching from the chimney stack;
- Heavy goods and van traffic on the residential element of Eastcote Lane;
- Air and noise pollution from heavy goods traffic along the residential element of Eastcote Lane ;
- Damage to the road and verges of the lane from excessive heavy weight usage;
- Risk to pedestrians on the narrow lane;
- Noise pollution of HGVs, skip, tractors vans etc., especially when reversing (warning beep) from the early hours of the morning with on-site activity
- The farm is very close to a residential area and a Public Footpath runs along the driveway entrance.
- There is already regular smoke coming from the farm, which is assumed to be incineration of waste products that drifts over the surrounding fields, including Public Footpaths, and local residences depending on the direction of the wind;
- This will also have a disastrous effect on property prices in the area;
- I strongly object to the use of an agricultural farm within a conservation area being used for industrial use;

- In short Chestnuts farm's principle activity is now waste management and not agriculture. It has become a waste processing location. The development is in full view of Fentham Hall, which has public access including parking and public footpaths. Such development is not allowed on agricultural sites;
- The site is clearly not being used solely for farming work, as there are huge piles of waste materials which now dominate the land surrounding the farm. There are regular bonfires where waste is burned. This is done in an uncontrolled way and releases large volumes of smoke and whatever else is released during the burning process;
- Disruption and danger in the residential lane due to increased traffic movement skip Lorries and commercial HGV traffic. Road traffic incidents are already occurring at the site entrance on the public highway;
- Danger to walkers from vehicles on the new section of road built over the public footpath near the site between Hampton and Walsall End;
- Light pollution in the countryside at the site;
- The farm track will become 'muddy' and be churned up by these HGV vehicles, the mud is likely to get deposited onto the & heighten the risk of an incident & an accident waiting to happen;
- Inappropriate industrial development in the green belt;
- Loss of rural aspect;
- Degradation of adopted rural views;
- Regarding SLP policy P12 ,the applicants have not offered any evidence that Chestnuts Farm is a suitable location for waste recycling.
- The prevailing wind is from SW so every time I step out of my door when the burner is operating I get kippered, which is bad for my health, & the smoke clings to my nose hairs & clothes so I continue to smell it for a long time after I come indoors;
- There is considerable light pollution as they work from 7am to 10pm, & there are often lights on after that;
- There are no special circumstances offered in the planning statement;
- The application site is located in an unsustainable location with employees reliant on travel by car;

With regard to neighbour concerns, this application was submitted at the same time as other applications as detailed in the planning history detailed below in this report. Public consultation was carried out approximately at the same time for all 4 applications to be considered at planning committee on 7-9-22 and many residents have replied with one response regarding all of the 4 applications. With this regard to this application many of the concerns raised relate to the other 3 applications submitted.

RELEVANT PLANNING HISTORY

- PL/2021/01632/PPFL - Continued use of existing agricultural building for offices and workshops for Dovetail Group with associated vehicle parking and storage in 4 containers and screen fencing. Continued use of existing yard and building for waste recycling and ancillary skip hire - C& R Lewis -

part of Dovetail Group. **Pending Consideration at planning committee on 7-9-22 Officer recommendation of refusal.**

- PL/2021/02505/PPFL- Erection of new grain drying shed. **Pending Consideration at planning committee on 7-9-22 Officer recommendation of approval.**
- PL/2021/01633/PPFL - Retention of agricultural hardstanding and farm access tracks around farm yard area with associated bunds, fencing and landscaping. **Pending Consideration at planning committee on 7-9-22 Officer recommendation of refusal.**

PLANNING ASSESSMENT

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that: -

'Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise'.

The National Planning Policy Framework at paragraph 2 states that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

On the 13th of May 2021 the Local Plan Review was submitted (via the Planning Inspectorate) to the Secretary of State for independent examination.

This marks the next stage in the preparation and adoption of the plan. The advice in the NPPF at paragraph 48 states "Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)".

Greater weight, but not full weight, can therefore be given to the submitted plan, but this may still be dependent on the circumstances of each case and the potential relevance of individual policies. In many cases there are policies in the new plan which are similar to policies in the adopted plan which seek the same objectives, although they may be expressed slightly differently.

It is considered that relevant policies pertinent to this application have limited weight in the planning balance, and as a result do not alter the recommendation of approval reached in this report.

This report also considers the proposal against the Development Plan (Solihull Local Plan), the relevant policies of the National Planning Policy Framework (“NPPF”) 2021, the National Planning Practice Guidance.

Whether the proposed development would constitute inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant development plan policies;

The site is located within the designated Green Belt where Chapter 13 of the NPPF (2021) - Protecting Green Belt Land applies and is an appropriate policy context for assessing the application.

Paragraph 137 of the NPPF details the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Paragraph 138 details Green Belt serves five purposes including :

c) to assist in safeguarding the countryside from encroachment;

The NPPF 2021 details in ‘Proposals affecting the Green Belt’ the following paragraphs;

147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land (PDL) and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Policy P17 of the Solihull Local Plan 2013 - Countryside and Green Belt advises that the Council will not permit inappropriate development in the Green Belt, except in very special circumstances.

The proposal is required for agricultural purposes, as explained by the applicant as follows:

Moss Kirkham Farms runs an arable and cattle enterprise on the farm as follows:

-Land

110 acres of land, 2021 cropping is as follows:

24 acres of winter wheat

24 acres of temporary grassland

45 acres of maize

The remaining land is permanent pasture.

The straw and grain is stored on site. Maize and silage is bagged (wrapped in plastic) and stored outdoors as there are currently no suitable sheds.

-Cattle

Suckler Herd - 30 head of cattle

The cattle come in at 6 months and leave at around 24 months of age. The cattle are predominantly grass based with concentrate on top. The cattle come in for the worst of the winter and are bedded on straw. The manure is spread back on the land each spring.

The cattle were housed over winter in the building that is described as a 'general purpose building' (currently part built and being submitted as a retrospective application). It is not the long-term aim for this building to have cattle in as the applicants wish to construct a purpose-built cattle shed once they have formalised the outstanding planning issues on site. The purpose-built cattle shed will enable the herd to expand.

-Sheep

There are currently 25 breeding ewes on the farm. The applicant does not have any plans to expand the flock but wishes to sustain this number.

There are future plans for additional buildings to support the growing numbers of cattle, with the applicants continuing to look for additional grazing and arable land in the area to take on when available.

Predicted future growth at Chestnuts Farm

The applicants are actively looking to expand the agricultural enterprise at Chestnuts Farm. Their aim is for the farming element to become self-sufficient and not to have to rely on alternative income at the farm.

Their plans for growth are as follows:

1. To grow the suckler herd by 25 to 50 head of cattle per year until they get to around 200 cattle on the farm.
2. Erect new purpose built cattle sheds and general farm buildings.
3. To take on more arable land by either buying or renting land on Farm Business Tenancies. The applicants would like to get to 500 acres.
4. To employ an agricultural worker on the farm once the above expansion has happened.

The proposed completion and extension of part constructed general agricultural building for storing farm machinery, equipment and grain and use as temporary shelter for cattle would be appropriate development in the Green Belt and would be located on an existing working agricultural farm.

Given the above the proposal in this application for completion and extension of part constructed general agricultural building for storing farm machinery, equipment and grain and use as temporary shelter for cattle would fall under provisions of paragraph 149(a) of the NPPF 2020 and would be appropriate development in the Green Belt.

The effect of the proposal on the character and appearance of the area;

Policy P15 of the Solihull Local Plan advises that the Council will seek to achieve good quality design which conserves and enhances local character, distinctiveness and streetscape quality.

The proposed agricultural building would be built of standard agricultural materials for a large barn and finished with a pitched roof. Its erection is to be completed within the confines of the farmyard adjacent to existing historic farm buildings and would be designed to an acceptable design, scale and appearance within this existing rural landscape.

On this basis the proposal would comply with the requirements of Local Plan Policy P15, which requires development to conserve and enhance the natural environment.

Neutral weight should be attributed to this in the planning balance.

The effect of the proposal on neighbouring residential amenities:

Policy P14 advises that the Council will seek to protect and enhance the amenity of existing and potential occupiers of houses and only allow development if it will be a good neighbour.

With regard to potential noise and smells, while livestock could be kept in this barn the barn would be located at least 290 metres from the closest rear gardens of neighbouring properties and with open fields in-between..

Having regard to the separation distances between the application site and other dwellings in the wider landscape and the above conditions, it is not considered that the proposal will result in detriment to the amenities currently enjoyed by these occupiers and would be compliant with Policy P14 of the SLP.

Neutral weight should be attributed to this in the decision making process.

What effects does the development have on highway safety and the free flow of the road network?

The SMBC Highway officer has no objection detailing;

It is unlikely that the development proposals will generate a significant increase in vehicle trips to have a severe impact on public highway safety, or on the operation or capacity of the local highway network.

The existing development requiring part retrospective approval is therefore compliant with Policy P7 and P8 of the Local Plan and neutral weight should be attributed to this in the planning balance.

Other Material Considerations (Landscape, Ecology, Drainage, Climate Change).

Landscape.

The SMBC Landscape Officer has no objection to this agricultural building.

The existing development requiring retrospective approval would accord with Policies P10.

On this basis neutral weight should be attached to this in the decision making process.

Ecology

SMBC Ecology has no objection detailing;

There is a pond located c. 160m from the proposed agricultural building. If the pond is used by great crested newts, the species could use the site for shelter and/or hibernation. To ensure that amphibians and reptiles are not killed or injured, I strongly recommend the following measures are adhered to during the works:

- Any vegetation clearance to be carried out carefully by hand and without the use of a strimmer.
- All building materials to be stored on wooden pallets.
- The removal of any stored material/equipment should be undertaken carefully by hand.
- Any trenches or excavations should be covered overnight, or a wooden plank should be placed in all open trenches/excavations so animals can escape.
- If a slow-worm, grass snake, common lizard or great crested newt is found the works must cease immediately and Natural England or a suitably qualified ecologist is contacted. The workers on site should be made aware that these animals can be encountered at any stage of the works

It is therefore considered that the existing development subject to retrospective approval would accord with policy P10 of the SLP 2013 and neutral weight should be attached to this in the decision making process.

Drainage

The SMBC Drainage Officer has no objection and on this basis the existing development subject to retrospective approval is compliant with Policy P11 of the Solihull Local Plan 2013 and neutral weight should be attributed to this in the balancing exercise.

Climate Change

In October 2019 the Council made a climate emergency declaration and a statement of intent to protect the environment. This was unanimously approved by the Council and has led to the development of the Council's Net Zero Action Plan and supported the evidence base to deliver new policies within the Solihull Local Plan Review (SLPR). As explained earlier in this report, the SLPR is currently going through the examination process and hearings have taken place with the Planning Inspectors. Once adopted, the plan will replace the Solihull Local Plan 2013 and will have full weight. Until that time, policies within the SLPR hold limited weight, but not full weight in the decision-making process. Whilst adopted policy P9 sets out measures to help tackle climate change through new development, it does not set clear requirements relating to new technologies and initiatives. As such, the updated policy P9 will provide the Council with greater leverage in requiring new development to meet up to date Climate Change and sustainable policies – responding to the aims and objectives of the Climate Change deceleration.

Nevertheless, existing planning applications such as this, are already required to perform well against wider climate change and sustainable policies. To this end, officers have sought to achieve the best solutions as part of this application within the remits of adopted policy. Matters of sustainable urban drainage are secured, a net gain in biodiversity is achieved and landscaping is maximised, limiting tree loss and requiring landscape mitigation and landscape schemes more generally.

Furthermore, it is important to note that amended Building Regulations are to come into effect from 15th June 2022 and become applicable to new builds. This relates to Part L (conservation of fuel and power), Part F (ventilation) and a new Part O

(overheating) of the Building Regulations. Part S (Infrastructure for the charging of electric vehicles) are also bolstered and become a building regulation requirement. Whilst new measures will not apply to schemes which are already subject to a building notice; full plans application to Building Control; or initial notice to Building control and which commence work for each building before 15 June 2023, it is our understanding that anything subject to such Building Control applications after the 15th June 2022 will need to meet these new regulations as standard. An informative is added to the recommended decision to alert the applicant to this.

Public Sector Equality Duty

In determining this application, Members must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions)

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149, which is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation to grant permission in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In determining this application, Members should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority to act in a manner that is incompatible with the European Convention on Human Rights.

Members are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered a proportionate response to the submitted application based on the considerations set out in this report.

Planning balance and conclusion

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that: -

'Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise'.

The Framework is an important material consideration. It advises that housing applications should be considered in the context of the presumption in favour of

sustainable development which, in the absence of an up-to-date Development Plan (as in Solihull) means granting permission unless adverse impacts of the scheme significantly and demonstrably outweigh the benefits (as assessed against the Framework as a whole), or specific policies in the Framework indicate otherwise. This is often referred to as the 'tilted balance'.

The outcome of this application therefore depends on:

- Whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits; and
- Whether the overall planning balance would be in favour or against the scheme.

In terms of the benefits of the scheme, the development would accord with Policies P7, P8, P10, P11, P14, P15 and P17 of the Local Plan and relevant criteria therein. The purchase of materials and services in connection with the construction of the dwellings, local employment during the construction period are all economic benefits that weigh in favour of the scheme. In terms of scheme's benefits, taken together, significant weight should be given to the economic, environmental and social benefits of the new homes.

In terms of adverse impacts, subject to conditions, the development would not conflict with Policies within the Local Plan or guidance in the Framework. This should be accorded neutral weight in the planning balance.

In conclusion, for the reasons outlined above, the proposed development would benefit from the presumption in favour of sustainable development and the overall planning balance must be in favour for this proposal.

In coming to this recommendation, your officers have also taken into consideration all of the representations made in respect to the proposal. In view of the matters set out above however, they do not alter the overall conclusion.

The proposal is therefore recommended for approval subject to appropriate conditions.

RECOMMENDATION

Approval is recommended and the following précis of conditions a full list of standard conditions is available using the following link:

<http://www.solihull.gov.uk/Resident/Planning/searchplanningapplications:>

1. CS00 – compliance with plans
2. CS05 – commencement within 3 years
3. CS06 – materials to be submitted
4. Should the use of the building for the purposes of agriculture within the unit permanently cease within ten years from the date on which the development was substantially completed; and planning permission has not been granted on an application, or has not been deemed to be granted under Part III of the

Town and Country Planning Act, for development for purposes other than agriculture, within three years from the date on which the use of the building for the purposes of agriculture within the unit permanently ceased, then unless the local planning authority have otherwise agreed in writing, the building shall be removed from the land and the land shall, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.

To avoid the proliferation of buildings in the Green Belt in accordance with policy P17 of the Solihull Local Plan 2013.