

APPLICATION REFERENCE: PL/2021/02505/PPFL**Site Address:** Chestnuts Farm Eastcote Lane Hampton In Arden Solihull B92 0AS

Proposal:	Erection of new grain drying shed.
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/

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 Erection of new grain drying shed 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 proposed shed 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 applicant has replied independently to the Council to this 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 – No objection
- SMBC Public Protection – No objection

PUBLICITY

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

A letter of concern has been received from Councillor Alison Rolf detailing;

'Application 02103 is partly for a replacement biomass boiler but I couldn't see any details about this. What are the specific details of the boiler please including size, capacity, design etc.'

8 letters of objection detailing this application number in part have been received detailing the following concerns;

- Please reject the application and enforce the reinstatement of this compound and its access roads back to green belt open farmland;
- We believe the intensity of this development is not appropriate for the green belt;
- The smell from the smoke is a health hazard and also stops us using our garden when the smoke is in our direction;

- We also believe the wood being brought in for the boiler will cause a traffic hazard in Eastcote Lane;
- The increase of industrial activities on the farm will devalue our property;
- The so-called farm is now in an industrial state with no trace of any farming activities that we can see in the Google map;
- The Chestnut owner had last year violated the Air quality Act and used
- a polluting biomass boiler (approved by your inspectors) which affected the health of the residents of Eastcote Lane;
- I personally was affected by the pollution and still seeking medical treatments.
- The above application highlights the further intentions of its owners to continue to increase the capacity of the already massive scale of industrial workings on the site, known as Chestnut Farm, since they took possession in 2014. (Aerial photographs support this statement.);
- A number of sheds have been installed, reworked buildings transformed to offices, tracks and gateways installed all of which have eroded the green belt.
- Such a large eco-burner is a further unnecessary industrial development in such open Green Belt land, it is often seen billowing out black smoke causing pollution to neighbouring properties, whose gardens are within 300 yards of the said development. The long term effect on pulmonary health issues of neighbouring residents needs to be taken into account, as well as the dust and smells emitted from the continual plumes of smoke;
- 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.

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/2021/01631/PPFL - Completion and extension of part constructed general agricultural building for storing farm machinery, equipment and grain and use as temporary shelter for cattle. **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.

Given the farm produces grain, the proposed grain drying shed would be appropriate agricultural development in the Green Belt and would be located on an existing working agricultural farm. The proposal would therefore fall under the provisions of paragraph 149(a) of the NPPF 2020 as detailed above 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 shed used for grain drying would be built of standard agricultural materials and finished with a pitched roof. It's erection is to be within the confines of the farmyard adjacent to existing historic farm buildings and would be designed to an acceptable 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, the grain drying shed would be located at least 290 metres from the closest rear gardens of neighbouring properties and with open fields in-between. Amended plans have removed the proposed replacement wood burning boiler to be installed in this shed too and the existing boiler on site is to remain installed. With regard to neighbour concerns regarding smoke and fumes the existing boiler has been installed on site for a number of years and is not the subject of this planning approval and its continued operation is covered by other environmental legislation.

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 for a grain drying shed 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 proposed development 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.

On this basis the proposed development 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.

It is therefore considered that the proposed 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 proposed development 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.