



# Appeal Decision

Site visit made on 1 August 2023

**by K Stephens BSc (Hons) MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 August 2023**

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**Appeal Ref: APP/R0660/W/23/3317322**

**Land off Pavement Lane, Mobberley, WA16 7EG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Miss Jane Bennett (of Three Oakes) against the decision of Cheshire East Council.
  - The application Ref 22/2012M, dated 16 May 2022, was refused by notice dated 18 November 2022.
  - The development proposed is agricultural building to be used to house livestock.
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## Decision

1. The appeal is allowed and planning permission is granted for an Agricultural building to be used to house livestock at Land off Pavement Lane, Mobberley, WA16 7EG in accordance with the terms of the application, Ref 22/2012M, dated 16 May 2022, and the plans submitted with it, subject to the conditions set out in the attached schedule.

## Preliminary Matters

2. Since the application was determined, the Cheshire East Site Allocations and Development Plan Document (the 'SADPD') was adopted in December 2022. This replaces the saved policies of the Macclesfield Local Plan, including saved Policy GC1 (Green Belt) cited in the Council's refusal reason.

## Main Issues

3. The main issues in this appeal are:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the 'Framework') and any relevant development plan policies, and the effect on the Openness of the Green Belt, and
  - If the proposed development constitutes inappropriate development in the Green Belt, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

## Reasons

4. The proposal is for the erection of an agricultural building in the countryside and Green Belt to house livestock (Dexter cattle). The building would measure approximately 18.3m long x 12.2m wide x 3.7m high to eaves and 5.2m high to ridge, with a floor area of some 233sqm. It would be constructed of concrete panelling, Yorkshire Boarding and a fibre cement roof, and would be mainly

open on one side. The proposed building would be located in close proximity to an existing metal-clad general purpose agricultural building of a similar size, granted planning permission<sup>1</sup> in March 2020, and used for the storage of hay, machinery and fertilizers. Both buildings would be located close to the roadside hedge along Pavement Lane. The appeal site forms part of a larger 2ha agricultural parcel of land, which was laid to pasture/hay at the time of my visit and there were no livestock on the land. I also saw various non-agricultural related building materials on the appeal site.

5. The Government attaches great importance to Green Belts. Paragraph 137 of the Framework identifies that the fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. It goes on to state that 'inappropriate development' in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework regards the construction of new buildings as inappropriate development in the Green Belt, subject to various exceptions set out in paragraph 149.
6. One of the exceptions in the Framework is 149a) for "buildings for agriculture and forestry". Policy PG3 of the Cheshire East Local Plan Strategy (the 'LPS') seeks to protect Green Belt from urban sprawl and inappropriate development unless the development falls within the exceptions listed in the Framework and includes buildings for agriculture and forestry. I am therefore satisfied that LPS Policy PG3 is broadly consistent with the Framework.
7. As the proposed building would be for agricultural use to house livestock it would fall within Framework exception 149a) and would not be inappropriate development in the Green Belt.
8. The Council refers to the loss of openness to the Green Belt that would arise as a result of the proposal. The Courts<sup>2</sup> have held that where the impact on openness is implicitly taken into account in some of the Framework exceptions, unless there is a specific requirement to consider the actual effects on openness, such development should not be regarded as harmful to the openness of the Green Belt and does not have to be justified by "very special circumstances". Exception 149a) has no such specific requirement as it simply allows for 'buildings for agriculture and forestry'.
9. Therefore, there is no need for me to assess the impact of the proposed development on the openness of the Green Belt or consider whether the development needs to be justified by very special circumstances. Accordingly, the proposal would accord with LPS Policy PG3 and the Framework.
10. However, the Council's development plan contains additional requirements for some agricultural development and the Council questions whether the proposed building is sufficiently justified. This reveals some tension between the Council's countryside and Green Belt Policies with regards agricultural buildings.
11. LPS Policy PG3 and the supporting information to SADPD Policy RUR 1 both recognise that the construction of new buildings for agriculture and forestry in the Green Belt is not inappropriate development.

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<sup>1</sup> Local Planning Authority Ref: 20/0257M

<sup>2</sup> *Lee Valley Regional Park Authority, R v Epping Forest District Council & Anor (Rev 1)* [2016] EWCA Civ 404

12. LPS Policy PG6 permits development essential for the purposes of agriculture and forestry in the open countryside and does not require demonstration of long-term need.
13. SADPD Policy RUR1 starts by referring to development essential for agriculture is permitted in the countryside under LPS Policy PG6. It then goes on to state that proposals that require planning permission will only be permitted where they accord with other development plan policies and meet a number of criteria set out in Policy RUR1. The Council contends that criterion (i) has not been met, namely that it has not been demonstrated that there is a clear long-term need for the development in connection with the agricultural enterprise. It raises no issue with the other criteria of Policy RUR1.
14. The appellant submitted a Business Plan with the planning application. I have found this to be somewhat generic and lacking in specific detail. An updated Business Plan<sup>3</sup> has been submitted to support the appeal. Whilst I have accepted it, as appeals guidance<sup>4</sup> encourages appellants to support their case and respond to the reasons for refusal set out in the LPA's decision notice, I share the Council's view that this information could easily have been provided with the application, particularly considering the series of previous refusals.
15. Nonetheless, the updated Business Plan provides more information as to how the proposed building would fit in with the appellant's expansion and diversion of the agricultural business. The appellant also farms some 4.7ha nearby at Mobberley to the north, and grazes sheep and produces hay. Three Oaks is a partnership with 3 local farmers, including the appellant, whose mission is to become a self-sufficient, zero carbon farm providing the community with organic locally reared produce while also providing a diverse habitat. To expand and diversify the business and help mitigate the risks of poor weather affecting hay quality on the 2ha field, the appellant intends to breed and rear Dexter cattle, chosen for being small but hardy and which can adapt to a range of environments and mature relatively early. The appellant intends to produce "beef boxes" of meat for sale to the local community. The grazing and keeping of livestock will operate alongside the hay production. The cattle would graze on the adjacent 2ha parcel of land, although Dexter's can be grazed on 1 ha of land in the spring before the rest of the field is cut for hay. The building would be used to accommodate the herd, especially over the winter.
16. Even if the existing agricultural building stored less hay (as less hay would be yielded from the adjacent 2ha parcel due to it being used to graze the cattle) additional hay would still need to be imported as cattle feed for the winter. Hence, the remaining area of the existing building would not be big enough to provide basic welfare and husbandry standards that would allow the cattle sufficient room for lying, calving and sick pens. The proposed building would ensure that welfare standards exceed those in the Red Tractor Assurance for Farms and the Agriculture and Horticulture Development Board's 'Better cattle housing design'. The Business Plan also indicates the appellant has the financial means to diversify and cattle are ready to be acquired such that the proposed expansion of the agricultural enterprise would be viable. Build costs would come from other funds.

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<sup>3</sup> Prepared by Harvey Hughes dated December 2022

<sup>4</sup> Procedural Guide: Planning appeals updated June 2023 – Planning Inspectorate

17. Despite some tension between the policies, I am satisfied that on balance and based on the evidence before me, that there is adequate justification for the additional building on the site to house the cattle as part of a longer-term business expansion and diversification of the agricultural enterprise to meet the requirement of Policy RUR1. Accordingly, I find the proposal would not conflict with LPS Policy PG3 and SADPD Policy RUR1, whose aims are already outlined above. It would also comply with LPS Policy PG6 already discussed above, and national Green Belt policy in the Framework, which is a material consideration.

### **Conditions**

18. I have considered the conditions put forward by the Council against the advice in the Framework and Planning Practice Guidance, and to which the appellant has raised no objection. As a result, I have amended some of them for consistency and clarity.
19. In addition to the standard condition that limits the lifespan of the planning permission, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. In the interests of the character and appearance of the area, it is necessary to impose a materials condition.
20. It is also necessary to secure details of drainage and waste management. This needs to be a pre-commencement condition, which the appellant acknowledges in their Final Comments. LPS Policy SE 3(5) requires development to positively contribute to the conservation of biodiversity. The proposal provides an opportunity to incorporate features to increase the site's biodiversity, such as provision for nesting swifts. However, I have altered the trigger for the submission of details to 'above blockwork' rather than the start of any materials. I shall also impose a condition restricting the use of the building to an agricultural use, in light of the site's location within the Green Belt and the appellant's justification for the building.

### **Conclusion**

21. For the reasons given above I conclude that the appeal should be allowed.

*K. Stephens*  
INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby approved shall commence within three years of the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the approved plans, namely: Location Plan; Site Plan; Building Plan/south west Elevation; south east Elevation/north east Elevation/north west Elevation, received by the Local Planning Authority on the 16th May 2022.
- 3) The materials to be used shall be in accordance with those specified in the application. Development shall be carried out in accordance with the approved details.

- 4) No development shall take place until a strategy for waste management and drainage has been submitted to and approved in writing by the local planning authority. The scheme shall be installed in accordance with the approved details and be available for use prior to the building hereby permitted first coming into use.
- 5) Prior to works to install the Yorkshire cladding and roof a strategy for the incorporation of features to enhance the biodiversity value of the proposed development shall be submitted to and approved in writing with the local planning authority. The submitted strategy shall include proposals for the provision of features for nesting swifts. The proposals shall be installed in accordance with approved details, and maintained and retained thereafter.
- 6) The building hereby approved shall be used solely for the purposes of agriculture and for no other purposes whatsoever.

**End of conditions.**