

**Planning Committee 14 February 2022
Report of the Planning Manager (Development Management)**

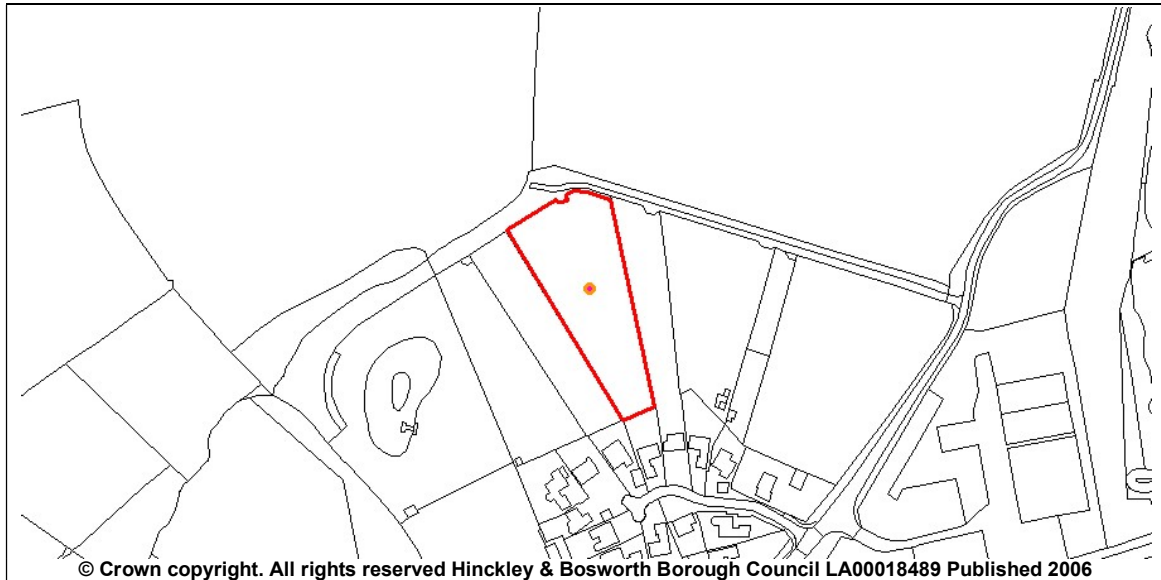


Hinckley & Bosworth
Borough Council

**Planning Ref: 22/00499/FUL
Applicant: Mr R Walker
Ward: Newbold Verdon with Desford and Peckleton**

Site: Land to the Rear of 10 Hill Close, Peckleton

Proposal: Construction of stables and change of use of land to equestrian use (re-submission of 22/00092/FUL)



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report
- That the Planning Manager be given power to determine the final detail of planning conditions

2. Planning Application Description

2.1. The application seeks the change of the use of the land from agricultural to equestrian use and permission for an 'L' shaped stable block comprising two stables, an open area for the storage of fodder and an enclosed storage area. The building sits in the north-west corner of the site, which covers an area of half a hectare, and is set in by 1.5m from the common boundary. On its longest elevations the building measures 7.8m by 13m. The building has a ridge height of 3.2m. The proposed stables sit on a larger concrete pad and are faced in timber cladding with a dark green corrugated metal roof. The application has been revised since it was first submitted to reduce the size of the building, revise its siting, improve the facing materials and remove parking spaces. The plans also indicate tree/hedge planting to the south of the building to provide screening. It has also been clarified that an electric fencing would be placed around the boundary to minimise horses damaging the existing fencing.

2.2. The application is supported by the following reports and documents:

- Design and Access Statement
- Great Crested Newt Habitat Assessment

3. Description of the Site and Surrounding Area

- 3.1. The site is located to the rear of 10 Hill Close within the countryside. When Hill Close was built the dwellings were provided with small gardens. Since then the owner of the land has sold plots to the occupiers of the properties on Hill Close and in at least two cases gardens have been extended to include the land beyond the original curtilages. In one case, that of land to rear of 7 Hill Close, the use of the land as garden has been regularised through the grant of a certificate of lawfulness. In the case of the application site the previous occupier of 10 Hill Close chose not to purchase the land to the rear and it was purchased by the applicant who lives at one of the neighbouring dwellings on Hill Close.
- 3.2. The proposed building is located at least 100m away from the nearest dwelling and sits at a lower level than land to south which rises gently to the dwellings on Hill Close. The plots to both sides of the application site have been changed to gardens and while neither benefits from a formal permission for that use given the planning history on land to the rear of 7 Hill Close it is considered the same certificates of lawfulness would be likely to be granted should such applications be submitted.
- 3.3. Beyond the grassed track is a small watercourse and a hedgerow and agricultural fields that gently rise to the north. To the west is a pond that is a known Great Crested Newt habitat.
- 3.4. The closest Public Right of Way (T70) runs approximately north/south between Peckleton and Desford and is over 200 metres from the proposed building at its closest point.
- 3.5. Access to the site is via a grassed track to the north of the site off Desford Lane. This grassed track provides access to other parcels of land as well as those neighbouring plots to the rear of dwellings on Hill Close.
- 3.6. There are no heritage assets within the vicinity of the site with the Grade II Listed Elms Farmhouse lies to the west of numbers 4 and 5 Hill Close.

4. Relevant Planning History

22/00092/FUL

- Proposed stables, fodder and equipment building and use of land for grazing and exercising horses for personal use.
- Withdrawn
- 12.04.2022

Officer comment: This application related to an industrial looking building measuring 12m by 9m that provided two stables and a large storage area.

5. Publicity

- 5.1. The occupiers of 5 neighbouring properties were notified of the application and of the revised plans. In addition the occupiers of two other properties who had objected to the original plans were notified of the amended plans.
- 5.2. Objections have been received from seven properties. The following comments have been made:
- Concern regarding how waste and manure will be managed
 - Light pollution will be caused

- The proposed building is too big and it is inappropriate in this countryside location – there will be a significant detrimental effect on the countryside and so fails to compliment or enhance it as required by Policy DM10
- The paddock is too small to keep two horses on – the British Horse Society advises one horse per 0.4 to 0.6 hectares on permanent grazing
- Drainage problems may be increased given the proximity of the building to the nearby stream
- The existing fencing is inadequate to contain horses
- How are plants in adjacent gardens to be protected
- There will be noise and disturbance from horses being ridden and possibly jumping fences directly adjacent to gardens and from neighbours dogs barking as a result of the horses
- There would be a loss of privacy as a result of riders being able to see directly into neighbouring gardens
- At least one neighbouring occupier has severe allergies and is allergic to horsehair
- Horse manure will smell and there will be horseflies making it unpleasant for neighbours to sit out in their gardens
- There is a loud bird-scarer close to the site and this would be very frightening to the horses causing them and others possible harm
- The proposal is a direct contravention of Policies DM4, DM6, DM10, the NPPF and of Article 1, Protocol 1 of the Human Rights Act regarding the protection of property which entitles people to the peaceful enjoyment of their possessions
- Storing the tractor in the same building will be a fire hazard
- The scheme would be better if there was no storage element and the riding of horses was not allowed
- This will have a detrimental effect on wildlife, especially Great Crested Newts, as well as birds and bats
- The building could be converted to a factory unit or a dwelling
- What measures will be put in place to ensure that our dog is safe
- The building will have a detrimental effect on adjacent trees
- The building is outside of the settlement boundary and will set a precedent for further development
- No biodiversity enhancement of the site has been demonstrated
- Safety concerns regarding the water and power supplies that are proposed

6. Consultation

- 6.1. Peckleton Parish Council – no response to date.
- 6.2. LCC Highway Authority (LHA) – There would appear to be no material impact on the public highway and therefore the LHA has no comments to make.
- 6.3. LCC Ecology – Additional information is needed. There is a pond close by, to the west and the building is sited close to habitats that could be used by great crested newts. It is recommended that the building is moved away from the nearby tree and that some on-site biodiversity enhancement will be needed.
- Officer comment: A Great Crested Newt Habitat Assessment has been submitted and the County Ecologist has been asked to provide further comments.*
- 6.4. HBBC Drainage – No objection on sustainable drainage grounds.

7. Policy

7.1. Core Strategy (2009)

- Policy 13: Rural Hamlets

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4. Other relevant guidance

- Good Design Guide (2020)
- Landscape Character Assessment (2017)

8. Appraisal

8.1. It is considered that the key issues in the determination of this application are:

- Principle of Development
- Design and Impact upon the Character of the Area
- Residential Amenity
- Ecology, Biodiversity and Trees
- Flood Risk and Drainage

Principle of Development

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).

8.4. Peckleton is a rural hamlet and the site lies beyond but adjacent to the settlement boundary which runs along the rear boundary of the dwellings on Hill Close. The site therefore lies within the countryside where Policy DM4 is relevant. This states

that in order to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside is then considered sustainable in a limited set of circumstances. These are:

- a) it is for outdoor sport and recreation purposes
- b) it involves the change of use, re-use or extension of existing buildings
- c) it significantly contributes to economic growth, job creation and/or diversification of rural businesses
- d) it relates to the provision of stand-alone renewable energy developments
- e) it relates to provision of accommodation for a rural worker.

- 8.5. The provision of shelter for horses is not considered a recreational use that complies with Policy DM4. The keeping of horses is a sui generis use that does not fall within any specific Use Class. Nevertheless, Paragraph 174(a) of the NPPF states that planning policies and decisions should protect and enhance valued landscapes, sites of biodiversity value in a manner commensurate with their statutory status and should recognise the intrinsic character and beauty of the countryside. Paragraph 176 relates to National Parks and Areas of Outstanding Natural Beauty but establishes the principle that the scale and extent of development within the countryside should be limited in terms of its scale and extent and that any development should be sensitively located and designed to avoid or minimise adverse impacts.
- 8.6. The principle of stables being a typical rural building generally seen within the countryside is acknowledged and desire for horse owners to provide shelter and a secure storage and fodder area is similarly understood. Stables are not though in principle considered to be sustainable development that accords with the requirements of Policy DM4. Whether this should require the refusal of the application though is considered in greater detail below.

Design and Impact upon the Character of the Area

- 8.7. Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.8. The proposed building is not visible from any road and is located over 100 metres from the closest public right of way. It is located at the low point on the paddock and at a low point in the surrounding area. It sits within a mixed backdrop of fields to the north and gardens to the other three directions and it is partially screened in long views by existing trees in neighbouring plots.
- 8.9. The building has been reduced in scale and is clad in materials that lend themselves to a more rural environment – timber cladding and a dark green metal roof. In comparison to the size of the paddock the building is not considered to be overlarge.
- 8.10. It is considered that the detailed design of the building is appropriate and acceptable and that as stables located in a field in which the applicant intends to keep horses it is considered that the proposed development would complement that character of the area as required by Policy DM10. It is considered that the proposed development does not have a significant impact on the character of the area.

Residential Amenity

- 8.11. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.12. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 8.13. The nearest residential properties to the site are those on Hill Close. As set out above they are over 100 metres from the proposed building. The site itself is a paddock and as such is agricultural land. The use of the site for the grazing of animals does not therefore require permission. As the horses are not just grazing on the land though and instead are being stabled and fed this use is not considered agricultural and requires permission. The paddock is 10 metres from the closest dwelling. The gardens to the east and west of the plot do not benefit from planning permission. Even if they did though it is not considered that the use of the paddock by horses or the presence of the stables or the occasional riding of the horses or the jumping of fences amounts to a significant detrimental impact on the amenity of neighbouring residents within their homes or gardens or within their extended gardens.
- 8.14. While it is accepted that some neighbours may not like horses or, worse, that some may have significant allergies, it is not considered that the threshold set out in paragraph 185 of the NPPF, that developments should avoid giving rise to **significant** adverse impacts on health and the quality of life given that grazing of the field by a horse is not development for which permission is required.
- 8.15. Neighbours have raised a great many issues with regard to the proposed development. A condition is attached requiring details for the storage and disposal of waste and manure. Given the distance of the stables from the nearest dwelling it is not considered that light pollution is a concern that requires addressing by condition. The British Horse Society advice relates to horses kept on land where no additional feed or alternative area for exercise is provided. The applicant has confirmed that the horses will be exercised off site and fed regularly. The applicant has also confirmed that the existing boundaries will be supplemented by standard agricultural electric fencing. Noise and disturbance from horses being ridden or from dogs barking is not considered to be such that it would significantly affect neighbours amenity or result in any significant loss of privacy, particularly bearing in mind that the gardens on either side of the site do not benefit from planning permission. The presence of a bird-scarer is not considered to be a material planning consideration. It is not considered that the proposal infringes any parties human rights and it is pointed out that those rights exist for the owners of the application site as well as for neighbours. It is not considered that storing a tractor in the building poses a significant fire hazard and it is not considered that conditions preventing the riding of horses on the site or requiring measures to keep neighbours' dogs safe would pass the tests for a valid condition.

- 8.16. The building could not be converted to a factory or to a dwelling without planning permission and in the event that such an application was submitted neighbours would be notified. Each application is considered on its own merits. Biodiversity enhancement is considered to be addressed via a landscaping condition given that the site comprises poor semi-improved grassland. There are no safety concerns regarding water and power supplies for the building.

Ecology, Biodiversity and Trees

- 8.17. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.18. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity and by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, which includes trees.
- 8.19. As required by the County Ecologist a Great Crested Newt Habitat Assessment has been submitted. This concludes that the proposed development is relatively small scale, impacting a small area of short-mown poor semi-improved grassland. It confirms the recorded presence of newts in ponds less than 250 metres from the site and that the watercourse and hedgerow on the opposite side of the grass track north of the application site and likely to be used by Great Crested Newts. It concludes though that the risk to protected species posed by the proposed development is extremely low, largely as newts are far more likely to use those semi-natural habitats on the other side of the track rather than the mown grassland of the application site.
- 8.20. The proposed building is more than 5m from the closest hedgerow and has been moved further away from the willow tree on the neighbouring site in order to reduce impacts on that tree as advised by the County Ecologist.
- 8.21. Given that the habitat in the application site are of limited biodiversity value it is considered that the intended planting, which is secured via condition, would ensure that in this instance an increase in biodiversity is secured by the development in accordance with the requirements of Policy DM6 and the NPPF.
- 8.22. With regard to trees the proposed building would affect a small part of the root zone of the neighbouring willow tree and as such it is considered that impacts on the tree, which has been planted deliberately close to the common boundary between the two plots, is not unacceptable. As such it is considered that the application does not result in impacts that are contrary to the requirements of Policy DM6 of the SADMP or to the requirements of the NPPF.

Flood Risk and Drainage

- 8.23. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.24. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere.

- 8.25. The site is located within flood zone 1 indicating a low risk of surface water flooding. The public comments have raised concerns regarding drainage issues. A condition is proposed requiring details of how waste from the site will be dealt with. THartley
- 8.26. The HBBC drainage officer has no objections to the proposed development and as such the proposed development is considered to be acceptable with respect to flooding and surface water runoff issues and satisfies Policy DM7 of the SADMP and the NPPF.

Other matters

- 8.27. Highway safety – the parking spaces originally shown have been removed. The Local Highway Authority confirmed though they the proposal has no impact on highway safety.

Planning Balance and Conclusion

- 8.28. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.29. This application relates to the erection of stables on a paddock within the countryside in a location that is not prominent from public views and that is over 100 metres from the closest neighbouring dwellings.
- 8.30. While not falling into any of the categories of development specifically considered to be sustainable development that can be supported in the countryside the proposal does not give rise to any adverse impact on the appearance or character of the area and in a field used by horses the provision of timber clad stables would reasonably be considered to be a typical and acceptable feature within the countryside.
- 8.31. The proposed siting, low single storey nature, together with proposed landscaping, separation distance from dwellings and use of timber cladding and a dark green metal roof mean that the proposal would not have any significant adverse impact on the intrinsic value, beauty, open character or landscape character of the countryside or have an unacceptable impact on the amenity of neighbouring residents.
- 8.32. The proposal is considered acceptable with regard to flood risk and drainage and is acceptable with regard to its impacts on wildlife. A biodiversity net gain will be achieved, and the proposal does not have an unacceptable impact on neighbouring trees.
- 8.33. Conditions are proposed that further mitigate the impact of the proposal.
- 8.34. It is recommended that permission be granted.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Recommendation

- 10.1 **Grant planning permission** subject to the conditions set out below.
- 10.2 That the Planning Manager be given powers to determine the final detail of planning conditions.

11. Conditions and reasons

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
Plans and Elevations – 101-MS-PL-02 Rev B received by the Local Planning Authority 19 August 2022
Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).
3. The stables hereby approved shall not be brought into use until a landscape scheme including boundary treatments and a timetable for implementation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full in accordance with the approved details. The soft landscaping shall be maintained for a period of five years from the date of planting and during this time any trees or shrubs that die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.
Reason: In the visual interests of the site and area in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).

4. The stables hereby approved shall not be brought into use until a scheme for the storage and disposal of both solid and liquid waste has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented thereafter at all times.

Reason: In the visual interests of the amenity of neighbouring residents and to prevent pollution of the nearby watercourse in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).