

Reference: 15/00529/FUL

Applicant: Mr Darren Price

Location: Land East Of Heath Road Bagworth

Proposal: Proposed livestock building with associated access and landscaping

RECOMMENDATION:- Grant subject to conditions

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it comprises an application that the Chief Planning & Development Officer in discussion with the Chair of the Planning Committee considers necessary to be determined by the Planning Committee.

Application Proposal

This is a revised application for the siting of a livestock building for the housing of horses at Heath Lane Bagworth. Members may recall the previous application which was refused by planning committee on the 21st April 2015. This scheme was refused on two grounds. The first related to highway safety, in that the proposed use would intensify the use of the existing access, which had insufficient visibility and the second related to the prominence of the development and the consequential adverse impacts on the character of the countryside.

The applicant has sought to address these reasons for refusal in the current submission.

This application proposes to erect a livestock building on the same footprint (15 metres in width x 10 metres in depth (150 square metres of floor space)) and of a similar design (steel portal framed infilled by concrete panels and timber boarding) to the previous scheme, but seeks a reduction in height from 5.8 metres to 5 metres.

In further detail, the building would be constructed of a steel frame with external walls of low level (1.5 metres high) concrete panels with spaced timber boarding above and green steel sheet roof panels. The building would be predominantly open to the southern elevation, with low level feed troughs spanning the width. There would be sheeted steel access gates within the western and eastern elevations.

An alternative point of access and associated track is proposed to serve the building. This would be taken from an existing agricultural access sited approximately 65 metres south of the existing access. Upgrading is proposed to this access in terms of visibility splays, surfacing and setting back of the gates. No details (in terms of surfacing) have been provided for the internal track leading to the building.

The previous scheme also sought approval from Members to authorise an enforcement notice requiring removal of all works associated with the enlargement of the primary point of access. Without planning permission, this access has been significantly widened, re-surfaced with tarmac and enclosed by double solid gates.

The current scheme proposes to close this access and reinstate the land and the boundary hedgerow to its former condition.

In addition, there is an existing lean-to type building of timber frame and profiled cladding construction situated in the north eastern corner of the site. The application proposes to paint this green with the intent of further assimilating it into the countryside setting.

Site and Surrounding Area

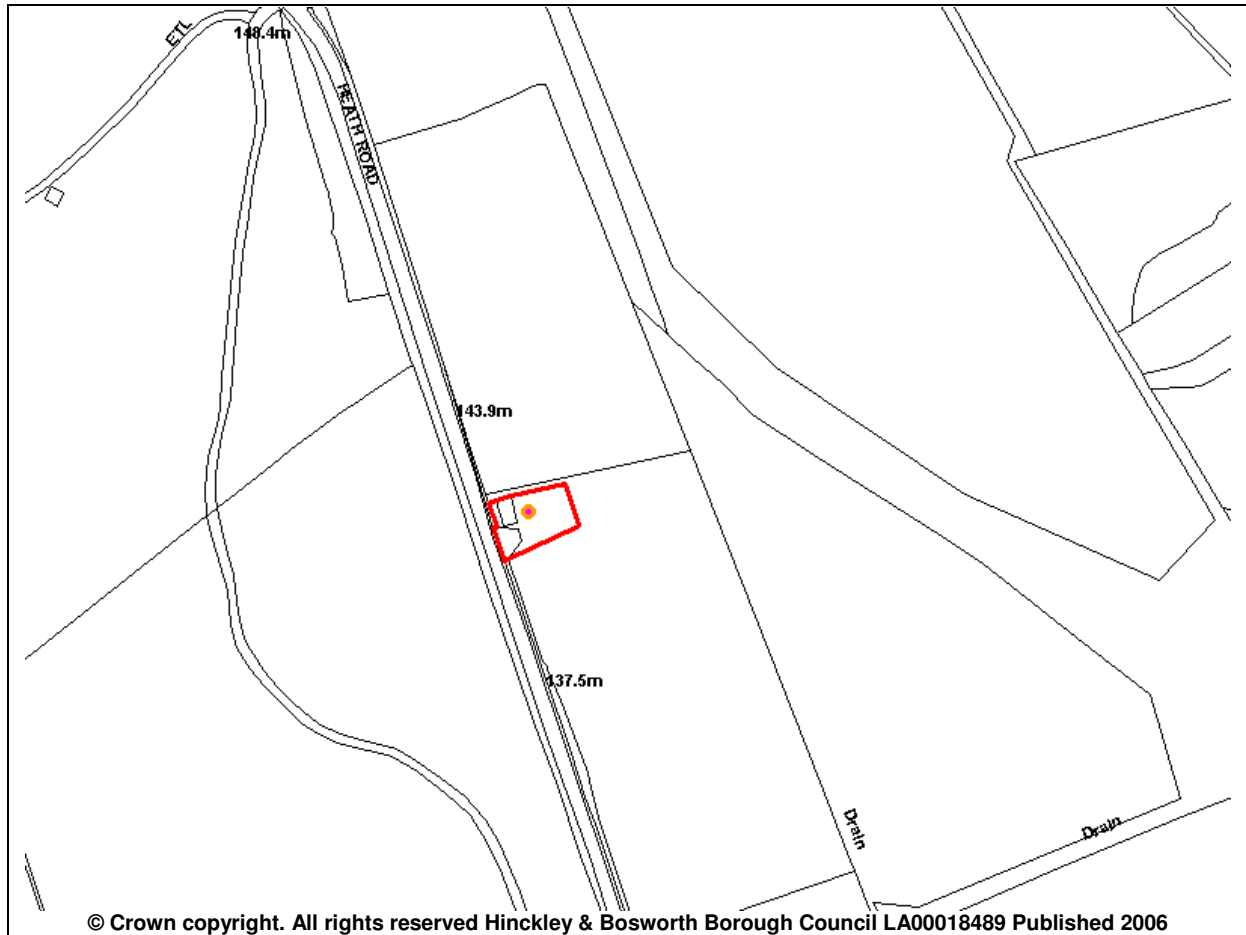
The application site is located in the countryside to the south west of Bagworth. The land holding extends to approximately 4.04 hectares and slopes from north to south. It consists of two fields divided internally by a post and wire fence. The land holding is bounded by a hedgerow of varying heights to the west fronting Heath Road and by Heath Woods to the north and east. To the south of the site lies a small lake and wetland habitat. There is a hard surfaced (loose cinders/ash) area in the north western corner of the land holding enclosed by post and rail fencing and gates.

Technical Documents submitted with application

Design and Access Statement
 Planning Statement
 Details of business turnover and workings
 Letter from agent
 Photomontage images

Relevant Planning History:-

14/00295/FUL	Proposed livestock building with associated landscaping	Refused	01.05.15
13/00827/FUL	Proposed livestock building with associated landscaping	Withdrawn	13.12.13
13/00048/FUL	Proposed Livestock Building with Associated Landscaping	Withdrawn	12.04.13
11/00635/FUL	Proposed Agricultural Building	Refused Appeal Dismissed	13.10.11 15.05.12
11/00166/FUL	Agricultural Building for Livestock and Storage of Hay	Withdrawn	19.05.11
10/00770/FUL	Erection of Agricultural Building	Refused	05.01.11
10/00650/FUL	Erection of Agricultural Building	Withdrawn	15.09.10
10/00448/GDO	Erection of Barn for the Purpose of Storing Hay	Refused	23.07.10
10/00308/GDO	Erection of an Agricultural Building	Refused	20.05.10



Consultations:-

No objection has been received from:-

Environment Agency
Environmental Health (Pollution)
Environmental Health (Land Drainage)

No objection subject to Standing Advice has been received from Leicestershire County Council (Highways).

Bagworth and Thornton Parish Council objects to the application on the following grounds:-

- a) That the proposed development would result in unjustified intrusion into the open and undeveloped countryside
- b) No consultation response has been received from the National Forest
- c) The boundary hedgerow has undergone severe damage which the works have been undertaken in a grossly untidy manner.
- d) The access has inadequate visibility and its use will intensify as a result of the proposal
- e) The applicant is known as acting on behalf of the Gypsy community.

Policy:-

National Policy Guidance

National Planning Policy Guidance (NPPG) 2014
National Planning Policy Framework (NPPF) 2012

Hinckley & Bosworth Core Strategy 2009

Policy 21: National Forest

Hinckley & Bosworth Local Plan 2001

Policy NE5: Development in the Countryside
Policy BE1: Design and Siting of Development
Policy T5: Highway Design and Vehicle Parking Standards

Supplementary Planning Guidance/Documents

Design of Farm Buildings (SPG)

Appraisal:-

The main considerations in the determination of this application are whether the issues that resulted in the dismissal of the earlier appeal and the refusal of the previous planning application have been overcome. The issues are:-

- a) Principle of Development and need
- b) Highway Safety
- c) Impact on the Character and Appearance of the Countryside
- d) Other issues

a) Principle of Development and Need

The site is located within the countryside on the outskirts of the village of Bagworth. Policy NE5 of the Local Plan is supportive of development that is important to the local economy and cannot be provided within or adjacent to an existing settlement, or for sport or recreation purposes. The National Planning Policy Framework (NPPF) seeks to protect the countryside whilst allowing for sustainable development where appropriate. Paragraph 28 of the NPPF supports the development of agricultural business in order to promote a strong rural economy.

The relevant planning history illustrates that a number of applications by the same applicant for similar buildings have been submitted. In each case the function of the building has changed (hay storage, cattle housing and equine housing). Accordingly, 'need' for the building in terms of its association with a rural land-based enterprise or recreational activity has been questioned.

Within the supporting statement, the applicant has provided further details confirming the purpose of the building. The building is required to shelter horses belonging to the applicant and his brother that are currently grazed across the borough of Hinckley and Bosworth and districts of Blaby and North West Leicestershire. A statement summarising the associated business operations between the years of 2012 and 2014 has also been provided. This indicates the numbers of horses that are within the applicant's ownership and categorises them into brood mares, stallions, yearling colts, yearling fillies, filly foals and colt foal. The

statement provides information relating to the number of mares in foal, numbers of young-stock sold (including details of the markets used) and the stallions retained for stud.

The applicant has stated that the building would enable the horses to maintain a healthy condition throughout the winter months, would provide shade in the summer and would simplify breeding processes. The applicant has explained that he breeds and deals in horses, keeping the mares and fillies and selling off the colts/geldings. The applicant has stated that this is the only field that he owns and that much of the land he formally rented has been sold, or is in the process of being sold for large scale housing development. It has been explained that the horses would be sheltered in a similar way to how a farmer shelters cattle and that the modern agricultural buildings make cleaning, feeding and watering duties far simpler. Further, similar to cattle, it is common place for horses of this type to live in herds. Details have been provided illustrating that the applicants business is profitable.

Based on the information provided in support of the application, including that provided during the site inspection, it is considered that the applicant has adequately justified the need for a building. Therefore in accordance with Policy NE5 and the NPPF, developments such as this within the countryside that are related to a justified land based business are considered acceptable in principle.

b) Highway Safety

Policy BE1 (criterion g) seeks to ensure that there is adequate highway visibility for road users and adequate provision of parking and manoeuvring facilities. Policy T5 applies highway design and vehicle parking standards. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The previous application was refused on the following grounds:-

The proposed development will intensify the use of an existing access that has insufficient visibility in order to leave the site in a safe manner. As such the proposal would result in a detrimental harm to highway safety. It is therefore considered contrary to Policies BE1, T5 and NE5 of the adopted Hinckley and Bosworth Local Plan.

To overcome the concerns raised, an alternative means of access is proposed by this scheme. There is an existing agricultural access sited part way along the western boundary of the site, this is to be improved in terms of its geometry, width and surfacing to ensure it adheres to the relevant highway standards. Leicestershire County Council (Highways) has considered the proposed access and has raised no objections, subject to the access design conforming with their Standing Advice. As it is unclear from the plans what the specific dimensions and surfacing of the access would be, it is considered necessary to impose a condition requiring full details of the access to be submitted for approval prior to commencement of the development.

Subject to the recommended condition the access proposed is considered to be acceptable in terms of highway safety and will therefore be in accordance with Policies T5, BE1(g) and NE5 (iv) of the Local Plan.

c) Impact on Character and Appearance of the Countryside

In considering the impact upon the countryside as part of the previous appeal, the Inspector found that the proposal would be harmful, contrary to Policy BE1 (criterion a) of the adopted Local Plan. The Inspector considered that the proposed building would, by reason of its siting and size, erode the openness of this part of the countryside, and so would harm the

landscape. The Inspector also considered that there was insufficient evidence submitted to provide a convincing case that the likely benefits of the proposal to the enterprise and to the rural economy would outweigh the harm to the rural landscape.

The previous refusal maintained that the building was too large and would have a detrimental impact on the open character of the landscape.

In addition to the siting of the building, the impact of the existing unauthorised access and the proposed access track on the character of the countryside must also be considered.

Policy NE5 (criteria i, ii and iii) require that development in the countryside does not have an adverse impact on the appearance or character of the landscape, is in keeping with the scale and character of existing buildings and is effectively screened by landscaping.

Since the appeal decision and the former refusal, the size and height of the proposed building has been reduced and further justification has been received (as appraised above) in relation to the intended purpose of the building. The building would now measure 15 metres in width x 10 metres in depth (150 square metres of floor space) with a ridge height of 5 metres. The building originally proposed would have measured 17.9 metres in width x 12.2 metres in depth (234 square metres of floor space) with a ridge height of 5.8 metres. The revised building has therefore been reduced in both footprint and height.

Despite reductions in the size of the building, it would continue to be a large structure of modern construction and materials and would be visible within the landscape. Notwithstanding this, the siting of the building has been carefully considered to capitalise on the existing area of hard surfacing and its proximity to the existing building, which is preferable to a more isolated position.

The applicant has stated that a planting belt could be provided within the site to mitigate against the impact of the building on the countryside when viewed from the south. No details of the type of planting to be implemented have been submitted and there is concern that this could appear as an unnatural feature within the landscape. The site is located within the National Forest where Policy 21 of the adopted Core Strategy applies. No comments have been received from The National Forest Company. However, in providing comments upon an earlier application they stated that a narrow planting belt would be unlikely to be sufficient to provide effective screening. More substantial planting is unlikely to be possible given the potential conflict with visibility along the highway boundary.

Based on the above, notwithstanding that the building has been reduced in height, it would form a prominent feature in the landscape and would be further visible during the winter months when the roadside hedge would be thinner. This said, when considering the buildings reduction in height alongside the additional justification received in respect of the 'need' of the building and the fact the previous highway safety issues have been overcome, the benefits associated with the scheme in respect of the associated rural enterprise are considered to outweigh the harm caused in respect of the character of the surrounding countryside.

The works that have taken place to alter the existing site access are substantial and were carried out to try and overcome highway safety concerns formally raised by the Council and the Planning Inspector in 2012. Before these works took place, the site's frontage had a rural feel, with a high hedge (3 metres - 6 metres high) running alongside the site's entire Heath Road frontage and a narrow entrance gate amongst the hedge, (approximately 1.2 metres high and 3 metres wide) adjacent to the road. The character and feel of the site has been fundamentally altered by these works. Whilst the pruning to the hedgerow did not require planning permission, the alterations to the access, including the new 2 metre high fencing

(vertical boarding), the surfacing of a substantial splayed entrance area with a loose material and the dropping of the kerb should not have been carried out without planning permission first being obtained.

The changes that have been made have resulted in this access having a more urban feel that would be suited to an access in a built up area, or one that serves a commercial operation. The consequence of these works is an erosion of the character of the countryside, contrary to Policies NE5 and BE1 of the Local Plan.

This application proposes to close off the existing access and reinstate it to its former condition. This is considered necessary in terms of both highway safety and impact on the character of the countryside. As such a condition will be imposed on this application which requires full details, including an implementation plan illustrating the closure of the former access and the reinstatement of the land and the boundaries to their former condition.

An access track is also illustrated on the plans, leading from the proposed new access to the buildings. This would have a length of roughly 60 metres. Given the extent of this track, dependent upon its surfacing, it could have a urbanising and so detrimental impact on the character of the countryside. As no specific details have been provided, a condition will be imposed requiring details of the surfacing and construction of this to be approved prior to commencement. For the avoidance of doubt, acceptable surfacing will need to be low impact and have the ability to assimilate within the landscape.

The proposal is therefore in accordance with Policies NE5 (criteria i, ii and iii) and BE1 (criteria a) of the Local Plan.

Other Issues

In response to the concerns raised by the Parish Council, the works undertaken to the boundary hedgerow were not subject to planning control and thus the Local Planning Authority are unable to enforce against them and the allegations made in respect of the agent cannot be taken into consideration the determination of this scheme and as such will have no bearing on the recommendation made.

Conclusion

The applicant has sought to demonstrate that the proposed building will be used in association with a rural enterprise and as such the principle of the development within this countryside location is considered acceptable. As a result of this demonstration of need, along with the reduced height of the building the associated impacts on the character of the countryside are not considered so detrimental as to warrant refusal of the application. In relation to highway safety, a new access has been proposed and subject to specific details being provided and accepted, there are no outstanding highway safety concerns. Furthermore, the scheme would result in additional benefits in respect of the rural character of the area through reinstating the land surrounding the original access to its former condition. The proposal is therefore considered to be in accordance with Policies NE5, BE1 and T5 of the Local Plan, Policy 21 of the Core Strategy and the overarching intentions of the NPPF.

RECOMMENDATION:- Grant subject to conditions

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Conditions:-

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details as follows: Site Location Plan Drawing Scale 1:12500, Critical Dimensions Plan Scale 1:500, 'Proposed Livestock Building' received by the Local Planning Authority on the 1 May 2015.
- 3 Prior to commencement full details of the proposed access shall be submitted to and approved in writing by the Local Planning Authority, these shall include details of the surfacing, geometry, width and any means of enclosure. The approved details shall be implemented prior to the building hereby approved being brought into use.
- 4 Prior to commencement full details of the surfacing and construction of the internal access track shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved prior to first use of the building hereby approved.
- 5 Prior to commencement full details shall be submitted to and approved in writing by the Local Planning Authority to illustrate the means by which the original access and the surrounding land shall be reinstated to its former condition. Details shall include surfacing, landscaping, means of enclosure and an implementation plan. The access shall be reinstated to its former condition within one month of first use of the proposed new access being made available for use.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interest of proper planning.
- 3 To ensure that the site has a safe means of access in accordance with Policy T5 of the adopted Hinckley & Bosworth Local Plan 2001.
- 4 To ensure that the proposal is acceptable in terms of its impact on the character of the surrounding countryside.
- 5 In the interest of the character of the surrounding landscape and in terms of highway safety to accord with Policies T5 and NE5 of the adopted Hinckley & Bosworth Local Plan 2001.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.

- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

Contact Officer:- Eleanor Overton Ext 5680