Item: **04**

Reference: **09/00421/TEMP**

Applicant: **Mr C Klenk**

Location: **Stanmaur Farm Breach Lane Earl Shilton Leicestershire LE9 7FB**

Proposal: **TEMPORARY OCCUPATIONAL DWELLING**

Introduction:-

This is a resubmitted scheme similar to a previously refused application.

The proposal is for the siting of a temporary mobile home at Stanmaur Farm in association with the boarding kennels and equestrian enterprise at the farm to the south of the new Earl Shilton Bypass, where it severs Breach Lane, Earl Shilton. The site is surrounded by agricultural land, to the west, south and east, with the Earl Shilton Bypass approximately 180 metres to the north. The land falls gently from north to south.

The mobile home will accommodate 2 bedrooms, a large lounge, separate dining room, kitchen and bathroom. The overall size is 11.78m x 5.80m, with a maximum ridge height of 4.23. The structure will be sited to the front of existing development, approximately 50m from the highway.

The holding comprises approximately 3.2 hectares (8 acres) of owner-occupied land, and 4.8 hectares (12 acres) of grassland, which is rented. The site currently comprises three steel portal framed barns (one with a lean-to) used for stabling, kennels and the storage of machinery, tack and animal feed. A manege is situated to the rear of the stable block and a small lake is located adjacent to the southern perimeter of the site.

The Design and Access Statement submitted with the application states that on-site accommodation for a worker is essential to the economic sustainability of the business. An on-site presence at most times will help to significantly reduce loss of animals through general injuries and theft, which could occur at night time. An on site presence is essential to enable the applicant to successfully apply for a licence to operate the boarding kennels as well as look after the animals in their care.

An appraisal in support of the application, including a business plan has been submitted by the applicant. This concludes that there is an essential functional requirement for the provision of temporary accommodation on the holding and that if the business continues to develop as outlined, the financial test for an eventual permanent dwelling will be met, therefore the business is planned on a sound financial basis.

History:-

09/00246/TEMP	Temporary occupational dwelling at boarding kennels	Refused	06.05.09
08/01053/FUL	Change of use from implement store to boarding kennels	Approved	18.12.08

08/00542/CONDIT	Continued use of land and buildings without compliance with condition 4 of planning permission 06/01048/FUL condition 8 of planning permission 99/00920/FUL and condition 3 of planning permission 98/00544/FUL	Approved	25.07.08
06/01048/FUL	Erection of Implement store and stable block	Approved	13.11.06
03/01102/FUL	Erection of stable block, boarding kennels poly tunnels and disabled toilet extension to stable, to provide store, excavation of pond and temporary siting of mobile home (resubmission)	Refused	03.12.03
03/01081/CONDIT	Variation of condition 3 of application 98/00544/FUL and condition 8 of application 99/00920/FUL to remove the limitations on personal use (re-submitted)	Refused	03.12.03
02/01322/CONDIT	Variation of planning condition 3 of application 98/00544/FUL and condition 8 of 99/00920/FUL resubmission	Withdrawn	06.01.03



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Consultations:-

Borough Council's Agricultural Appraisal Consultant advises that there is no agricultural or equestrian support for the proposed temporary dwelling as the Applicant's existing dwelling in the village of Earl Shilton, complies with paragraphs 1, 3 (iv) & 12 (iv), of Annex A to PPS7.

No objections have been received from:-

Director of Highways, Transportation and Waste Management (Highways)
Director of Community Services (Archaeology)
Environment Agency
Head of Community Services (Pollution).

No objection subject to standard conditions has been received from Head of Community Services (Land Drainage).

No response has been received at the time of writing this report from:-

Earl Shilton Town Council
Site Notice.

Policy:-

Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' sets out the overarching planning policies on the delivery of sustainable development through

the planning system. Paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by protecting and enhancing the natural environment and the quality and character of the countryside. Paragraph 17 states that planning policies should seek to protect and enhance the quality, character and amenity value of the countryside. Paragraph 19 states that planning decisions should be based on the potential impacts on the environment of development proposals. Significant adverse impacts on the environment should be avoided and alternative options which might reduce or eliminate those impacts pursued.

Planning Policy Statement 3 (PPS3): Housing sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to ensure that housing developments are in suitable locations, which offer a good range of community facilities, with good access to jobs, key services and infrastructure. Paragraph 16 outlines matters to consider when assessing design quality and includes the extent to which the proposed development is easily accessible and well-connected to public transport and community facilities and services.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' sets out the Government's planning policies for rural areas. Paragraph 1 advises that new building development in the open countryside outside existing settlements should be strictly controlled in order to protect the countryside for its intrinsic beauty. Paragraph 10 makes it clear that isolated new dwellings in the countryside require special justification for planning permission to be granted. Further advice is provided in Annex A to PPS7 which states that one of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural and certain other full time workers to live at, or in the immediate vicinity of, their place of work. In assessing planning applications for new dwellings in the countryside Annex A requires a functional and financial test to be applied in order to give consideration to: the nature of the holding and the functional need/necessity for the person to live on site, having regard to the security and efficient operation of the holding (e.g. if a worker is needed day and night to provide essential care at short notice and deal quickly with emergencies that could otherwise cause serious loss); the financial viability of the holding to sustain the worker in full time employment; and the availability of suitable existing accommodation nearby. It is the requirements of the enterprise, not those of the owner or occupier that is of relevance in determining the size of the dwelling that is appropriate.

Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation states that planning decisions should aim to maintain and enhance biodiversity conservation interests. In taking decisions, local planning authorities should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; and to biodiversity interests within the wider environment (para.1(ii)). The aim of planning decisions should be to prevent harm to biodiversity conservation interests (para.1 (vi)). Sites of local biodiversity interest have a fundamental role to play in meeting overall national biodiversity targets.

Local Plan Policy

The site is located in the countryside as defined within the adopted Hinckley and Bosworth Local Plan.

Policy BE1 seeks to safeguard and enhance the existing environment and states that planning permission will be granted where the development:- complements or

enhances the character of the surrounding area with regard to scale, layout, mass, design and materials; has regard to the safety and security of individuals and property; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; is not adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties and incorporates landscaping to a high standard.

Policy RES12 states that in assessing planning applications for dwellings required to accommodate a person employed in agriculture, consideration will be given to: the nature of the holding and the necessity for the person to live on site, having regard to the security and efficient operation of the holding; the viability of the holding to sustain the worker in full time employment; and the availability of suitable alternative accommodation in the local housing market.

Policy T5 refers to the application of appropriate standards for highway design and parking targets for new development.

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is important to the local economy and cannot be provided within or adjacent to an existing settlement and only where it does not have an adverse effect on the appearance or character of the landscape, is in keeping with the scale and character of the existing buildings and general surroundings, will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping.

Policy NE12 states that proposals for development should make provision for further landscaping where appropriate.

Policy NE14 requires satisfactory arrangements to be made for the disposal of foul sewage, trade effluent and surface water.

Appraisal:-

The main considerations in respect of this application are: the principle of the development; whether it is essential for the proper functioning of the enterprise for one or more full time workers to be available at most times of the day and night (the functional test); whether the enterprise is planned on a sound financial basis; whether suitable alternative accommodation exists nearby; and visual impact of the mobile home.

Principle of Development

One of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work. PPS7, Paragraph 15 of Annex A relates to "Occupational Dwellings" and states that there may be instances where special justification exists for new isolated dwellings associated with other rural-based enterprises. In these cases, the enterprise itself, including any development necessary for the operation of the enterprise must be acceptable in planning terms and permitted in that rural location, regardless of the consideration of any proposed associated dwelling. In relation to equine uses, paragraph 32 of PPS 7 states that horse riding and other equestrian activities are popular forms of recreation that can fit in well with farming activities and

aid the diversification of rural economies. In some parts of the country, horse training and breeding businesses play an important economic role. This application is for a temporary mobile home associated with an equine establishment and dog kennels, which are both considered activities acceptable within the countryside. It therefore falls to consider whether the development meets the tests within Annex A of PPS7.

Criteria of Annex A, PPS7

Functional Test

In considering functional need, PPS7 advises that it is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement may arise for example where workers are needed on site in case animals or agricultural processes require essential care at short notice, or to deal with emergencies that could otherwise result in serious loss if not dealt with quickly. The supporting statement accompanying the application in respect of the functional need lists the supervision requirements of the enterprise, which principally concern the welfare and security of the animals on site. In respect of each use, the need for 24hr supervision is supplied. These include;-

- Specialist care and supervision, including the administration of medication, catering for special dietary requirements or illnesses and monitoring for "colic" in horses, which often occurs during the night and can be fatal.
- Supervision against theft, which the agent identifies as increasing in the UK, in respect of dogs, horses and fish. In respect of security, Annex A acknowledges that this is a material consideration that may contribute on animal welfare grounds to the need for a new dwelling. It cannot, however, be the sole justification for a new dwelling.
- To prevent mortality caused by numerous sources, as this would be unacceptable for family pets such as horses and dogs. In respect of fish, supervision will ensure that oxygen levels don't fall leaving the fish vulnerable to suffocation, and to ensure that the free range chickens would be securely housed at night to reduce their susceptibility to predators.
- In respect of commercial kennels, in order for a licence under the Animal Boarding Establishment Act 1963 to be granted, on site accommodation is required to ensure 24hr supervision and care is provided.

Although justification has been provided as to why 24hr supervision is necessary, officers are not convinced that the issues stated warrant continual on site presence by the applicant. In respect of monitoring the horses for colic, this can occur at any point of the day, as with any illness, and if managed would not prove fatal. If the animals, which are boarding or at livery, are properly cared for, there is no reason why mortality rates would be affected whether or not there is a continual presence. In respect of the fishing enterprise, this is not of a scale to warrant 24hr supervision, and once the chickens are securely housed, there is no need for further checking throughout the night. Accordingly it is felt that the dwelling would be more for the convenience of the applicants, than the welfare of the animals. It has been calculated that the agricultural and equestrian aspect of the enterprise have a labour requirement of 0.92 of a full-time person. As boarding kennels are not considered a use which complies with PPS7, their need has not been factored into the assessment of functional need. Accordingly the application does not fulfil the functional need as outlined by PPS7.

Other Suitable Accommodation

In addition to identifying a functional need, it is also necessary to consider whether that need can be accommodated by existing dwellings on the holding, or by any other available accommodation within the locality. Although there is no other dwelling on site, the applicant lives on Equity Road East, Earl Shilton, and his property is less than a mile from the site. This complies with paragraphs 1, 3 (iv) and 12 (iv) of Annex A to PPS7. Furthermore, it is considered that existing security and monitoring could be upgraded, which would overcome most of the problems the owner currently states he suffers, and would not require the presence of an on-site dwelling.

Financial Test

The agent has provided a financial appraisal for each of the different uses on site in order for the financial viability of the holding to be assessed. The financial projections are highly dependant on the income from the 20 dog boarding kennels. As there is only permission for 10 kennels the income and projected profit for years 2 and 3 are unjustified, and thus would not sustain the costs of running a permanent dwelling in the future. Therefore the enterprise would be unable to pass the financial test as set out in Annex A to PPS7. Paragraph 13 of Annex A to PPS7 states "Authorities should not normally grant successive extensions to a temporary permission over a period of more than three years, nor should they normally give temporary permissions in locations where they would not permit a permanent dwelling." It is therefore clear that if permission for a permanent dwelling is unlikely to be forthcoming, then a temporary permission should not be issued in the first instance.

Based on the above information, it is clear that there is no agricultural or equestrian support for the proposed temporary dwelling, and the applicant's existing dwelling in the village of Earl Shilton, complies with paragraphs 1, 2 (iv) and 12 (iv) of Annex A to PPS7. Therefore it is considered that there is insufficient support for a temporary "Occupational" dwelling on the site.

As such, the proposed dwelling is contrary to central government guidance and adopted Local Plan policies that seek to protect the character and appearance of the countryside from residential development that does not have any special justification.

The Borough Council's Agricultural Appraisal Consultant advises that there is no agricultural or equestrian support for the proposed temporary dwelling and refers to two recent appeal decisions which are relevant when considering this proposal.

Siting and Design

Although small scale and temporary in nature, as no functional or financial need for the dwelling has been proven, the development will constitute new development in the countryside and will accordingly be contrary to the intentions of Policy NE5 of the adopted Hinckley and Bosworth Local Plan resulting in a detrimental impact on the character and appearance of the countryside.

Conclusion

Both central government guidance and adopted Local Plan policies seek to protect the countryside for its own sake. There is no special justification for the proposed dwelling in this countryside location as it fails the tests identified in Annex A of PPS7. It is considered, therefore, that the application should be refused.

RECOMMENDATION :- REFUSE, for the following reasons :-

Reasons:-

1 In the opinion of the Local Planning Authority the proposed occupational dwelling does not pass the functional or financial tests set out in Paragraphs 4, 8 and 15 of Annex A to Planning Policy Statement 7. The proposal therefore represents an unwarranted and unacceptable intrusion of residential development in an unsustainable location in the countryside to the detriment of the character and appearance of the landscape and visual amenity. The proposal is therefore contrary to policies BE1, RES12 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance: Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3: 'Housing', and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.

2 The approval of this proposal would set a precedent for the consideration of further applications of a similar nature, to which the Local Planning Authority would also object, but which would consequently be difficult to resist and could lead to a proliferation of new residential development in the countryside. The proposal is contrary to Policies BE1, RES12 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance: Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3 'Housing', and Planning Policy Statement 7 'Sustainable Development in Rural Areas'

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