

Delegated Report

Planning Ref: 23/00799/FUL

Applicant: Mr & Mrs Pearson

Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: 1 Boston Sidings Bull in the Oak Cadeby Nuneaton

Proposal: Retrospective application for change of use of agriculture field to equestrian (sui generis) for private use, with the retention of a stable block and horse exercising area

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning Application Description

2.1. This planning application seeks full planning permission for the retrospective change of use of an agricultural field into a private equestrian (sui generis) use, and includes the retention of a stable block and horse exercising area at 1 Boston Sidings, Bull in the Oak, Cadeby. The change of use and construction of the stable block began on 01 May 2023, with the stables being completed on 12 May 2023. The proposal utilises the existing agricultural access into the site.

2.2. The stable block externally measures 6.1m in width x 3.1m in depth, with a total footprint of 18.9sqm. The structure has a pitched roof with a ridge height of 2.9m. The building is constructed in Redwood Shiplap timber and Onduline metal corrugated roof sheets.

2.3. During the application process, the existing, and unlawfully constructed, access to the agricultural field was reconstructed in accordance with the approved plans of planning permission 17/00149/FUL. This agricultural access has since been approved at Section 184 Stage by Leicestershire County Council.

3. Description of the Site and the Surrounding Area

3.1. The 4.2 hectares application site is situated on the northern side of Bosworth Road, Cadeby. The site comprises an agricultural field which rises upwards towards its north-eastern corner and features a pond near its centre. The application site is outside of any identified settlement boundaries and lies within the open countryside.

3.2. The application site is bounded by the A447 to the east and open agricultural fields to the north, beyond the A447 to the east, and to the west of the site. Extensive vegetation and mature hedgerows bound each of these site boundaries. To the south of the site are residential dwellings, including a Grade II Listed Building that is sited on the corner of the junction of the A447. There are also several trees which are protected under Tree Preservation Order, 23/0002/TPORD, adjacent to 1 Boston Sidings and Bosworth Road.

3.3. The application site is within the ownership of 1 Boston Sidings, which was approved alongside four other detached dwellings via planning permission 17/00149/FUL in 2018. These dwellings are all accessed via Bosworth Road, which is an adopted, classified, 'B' road that is subject to the National Speed Limit. Beyond these residential dwellings and the Bosworth Road is further open agricultural fields.

4. Relevant Planning History

4.1 22/001177/FUL

- Proposed relocation of existing field access and dropped kerb
- Withdrawn
- 20.04.2023

4.2 17/00149/FUL

- Removal of existing residential and agricultural buildings for the erection of 5 new dwellings and associated works
- Permitted
- 08.08.2018

5. Publicity

5.1 The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

5.2 Three members of the public have objected to the development for the following reasons:

- Harm to neighbouring residential amenity.
- The scheme is located within land that is subject to a restrictive covenant.

5.3 One member of the public has also claimed that the application has been utilised for seating for spectators, which exacerbates the extent of the loss of privacy to neighbouring properties.

The Planning Officer notes that this application is for a private equestrian use, and therefore commercial spectator events are not acceptable within the limits of the Applicant's requested planning use.

5.4 The Planning Officer also highlights that restrictive land covenants are legal matters that are controlled outside of the planning process.

5.5 No further responses have been received.

6. Consultation

6.1 There have been no objections from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer
- HBBC's Waste Management Officer
- Local Highway Authority (LHA)

The Local Highway Authority (LHA)

6.2 On 11 September 2023, the Local Highway Authority (LHA) has requested a detailed access route past the front of the residential property and within the red line boundary. In addition, the LHA have requested a swept path analysis of the access for the largest anticipated vehicle that is likely to use the access. The LHA have also requested that the Applicant provides details as to how the existing, unauthorised access would be permanently closed.

6.3 On 14 May 2024, the LHA confirmed that the Applicant had removed the unlawful access on to Bosworth Road and installed full height curbs. As a result, the LHA confirmed that these amendments have addressed their issues.

6.4 Cadeby Parish Council, National Grid, and the Ramblers Association did not respond to the planning application.

6.5 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- N/A.

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (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
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (December 2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)

8. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

Principle of Development

8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions.

8.3 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.

8.4 However, 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. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.

- 8.5 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.6 Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF. Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.
- 8.7 Nevertheless, in accordance with Paragraph 225 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF. Ultimately, the closer the policies in the plan are to the policies in the NPPF, the greater weight they may be given. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.8 Outside the defined settlement boundaries, the countryside is not regarded as a sustainable location for new development. Section 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 180(b) specifically highlights that this should be achieved by, *“Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.”*
- 8.9 This is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. Policy DM4 of the SADMP only considers development in the countryside sustainable where:
- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation”.
- 8.10 Ultimately, the proposed development does not relate to, or comply with, any of the criteria of Policy DM4 of the SADMP, but this does not mean that the development is not sustainable.
- 8.11 Importantly, Policy DM4 also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.

- 8.12 Given the above, the Council considers that the proposal is offered no support by Policy DM4 of the SADMP. As such, the application does not accord with Development Plan Policy and is unacceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Design and Impact upon the Character of the Area

- 8.13 Section 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.

- 8.14 Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

- 8.15 Paragraph 180(a) of the NPPF states that planning policies and decisions should protect and enhance valued landscapes, sites of biodiversity, or geological value and soils in a manner commensurate with their statutory status or identified quality in the Development Plan. Paragraph 182 of the NPPF states that:

“The scale and extent of development within... designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”

- 8.16 Policy DM4 of the SADMP states that development in the countryside will be considered sustainable where:

- i.) It does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside; and
- ii.) It does not undermine the physical and perceived separation and open character between settlements; and
- iii.) It does not create or exacerbate ribbon development.
- iv.) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
- v.) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21.

- 8.17 Within Policy DM4, Paragraph 13.11 of the SADMP states that:

“In order to protect the intrinsic value, beauty and open character of the countryside, the policy sets criteria to ensure that any development which takes place does so in a way which is sensitive to its setting.”

- 8.18 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

- 8.19 The application site is not within a designated area such as a National Park, the Broads, or any Areas of Outstanding Natural Beauty. Therefore, in line with Paragraph 180(a), this demonstrates that development may be acceptable within the application site if it avoids or minimises its impact to natural environment.

- 8.20 The application site is also not within and does not have any of the features of Paragraphs 182 or 183 of the NPPF. Given the existing use of the site as an open agricultural field, the application site is not known to feature any evidence of protected species. Therefore, the application has a minimal impact to the natural environment.
- 8.21 Given the limited scale and massing of the proposal, it is considered that the scheme does not contribute to unacceptable levels of soil, air, water or noise pollution or land instability in accordance with Paragraph 180(e) of the NPPF. Moreover, as the stable is for the Applicant's private use, it is considered that the creation of the structure does not create a significant intensification of the use of the site. The private use of the development is secured via planning condition.
- 8.22 Furthermore, the stables are located over 100m north of Bosworth Road, and 100m west of the A447. Due to these distances, the existing mature vegetation and hedgerow along the site boundaries, as well as the fleeting visual experiences of the site along these two public highways as part of a vehicular journey, the scheme is not considered to result in any significant harm to the visual character of the site and the surrounding area that is perceived by members of the public.
- 8.23 In addition, the scheme is constructed with timber and by virtue of this and the proposal's height, scale, size, volume, and massing, the development is considered to appear rural in character and it does not result in significant harm to the intrinsic value, beauty, landscape character, and open character of the countryside.
- 8.24 By virtue of these factors, whilst the development does not comply with the criteria of Policy DM4(a-to-e) of the SADMP, the scheme is considered to preserve the character of the site and the intrinsic value, beauty, open character, and landscape character, of the designated countryside, which is in accordance with Policy DM4(i) of the SADMP. As a result, the development is considered to be compliant with Policies DM4 and DM10 of the SADMP, and the Good Design Guide.

Impact upon Residential Amenity

- 8.25 Paragraph 135(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, which promote health and well-being, and a high standard of amenity for existing and future users.
- 8.26 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.
- 8.27 The Good Design Guide SPD outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.
- 8.28 Given the size, and scale of the development, the scheme is not considered to result in any significant adverse light or noise pollution impacts on neighbouring residential amenity. However, in order to safeguard the residential amenity of neighbouring properties, a restriction to the use of the site for only the Applicants' private use is secured via planning condition.

- 8.29 By virtue of these factors and the fact, the proposal does not result in any significant adverse impacts to neighbouring residential amenity in accordance with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.30 Section 9 of the NPPF promotes sustainable transport. Paragraph 114 of the NPPF states that planning decisions should ensure that developments provide appropriate opportunities to promote sustainable transport modes, given the type of development and its location and a safe and suitable access to the site for all users. Any proposal should ensure that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 8.31 Ultimately, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, in accordance with Paragraph 115 of the NPPF.
- 8.32 Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.33 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.34 The development utilises the agricultural access that was approved via planning permission 17/00149/FUL.
- 8.35 Based on available records to the Local Highway Authority (LHA), there has been one Personal Injury Collision (PIC) recorded on Bosworth Road, which occurred approximately 500m west of the site access. This occurred in July 2022 and was a loss of control type PIC involving two vehicles. The LHA therefore consider the proposals are unlikely to exacerbate any existing highway safety concern.
- 8.36 Furthermore, the Applicants have stated that the development is only for their private use, and as a result, the scheme is not considered to not result in the intensification of the use of the existing site access. This is secured via planning condition in the interests of highway safety. Given the ancillary nature of the proposals no additional trips are anticipated. As such, there would appear to be no material impact on the public highway.
- 8.37 The LHA also considers that there is sufficient off-street vehicle parking and turning space within the site and that the change of use is unlikely to result in vehicles parking on or reversing into the highway.
- 8.38 To conclude, the provision of one stable and tack room structure, which is for the sole benefit of the Applicant is not considered to result in an unacceptable impact on highway safety or the road network in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG.

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

- (1) 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, and the matters specified in Section 149 of the Equality Act 2010 in the determination 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. Conclusion

10.1 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

11.2 Conditions and Reasons

1. The development hereby permitted relates to the submitted application details received by the Local Planning Authority as follows::

- Floor Plan & Elevation (submitted: 16.08.2024)
- Site Location Plan (Rev B) (submitted: 15.04.2024)

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).

2. The site and building shall only be used for the Applicants' horses and for ancillary storage. The site shall not be used for any events or any commercial or industrial purposes, including the use of the site for livery stables. Should the stables no longer be required for the stabling of horses, the stables shall be demolished, removed from the site and the site restored to grassland within twelve months of the stables becoming no longer required unless otherwise agreed in writing by the Local Planning Authority.

Reason: Permission has been granted on the basis that the building is required for the accommodation of the Applicants' horses. Should that use no

longer be required then alternative uses are unacceptable and/or are unlikely to be supported in the interests of the amenity and character of the 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 (December 2023).