Item: **05**

Reference: **10/00591/COU**

Applicant: **Mr And Mrs Carl Law**

Location: **Oak Farm Ratby Lane Markfield Leicestershire LE67 9RJ**

Proposal: **CHANGE OF USE FROM COW SHED TO SHOP AND STORAGE**

Target Date: **29 September 2010**

Introduction:-

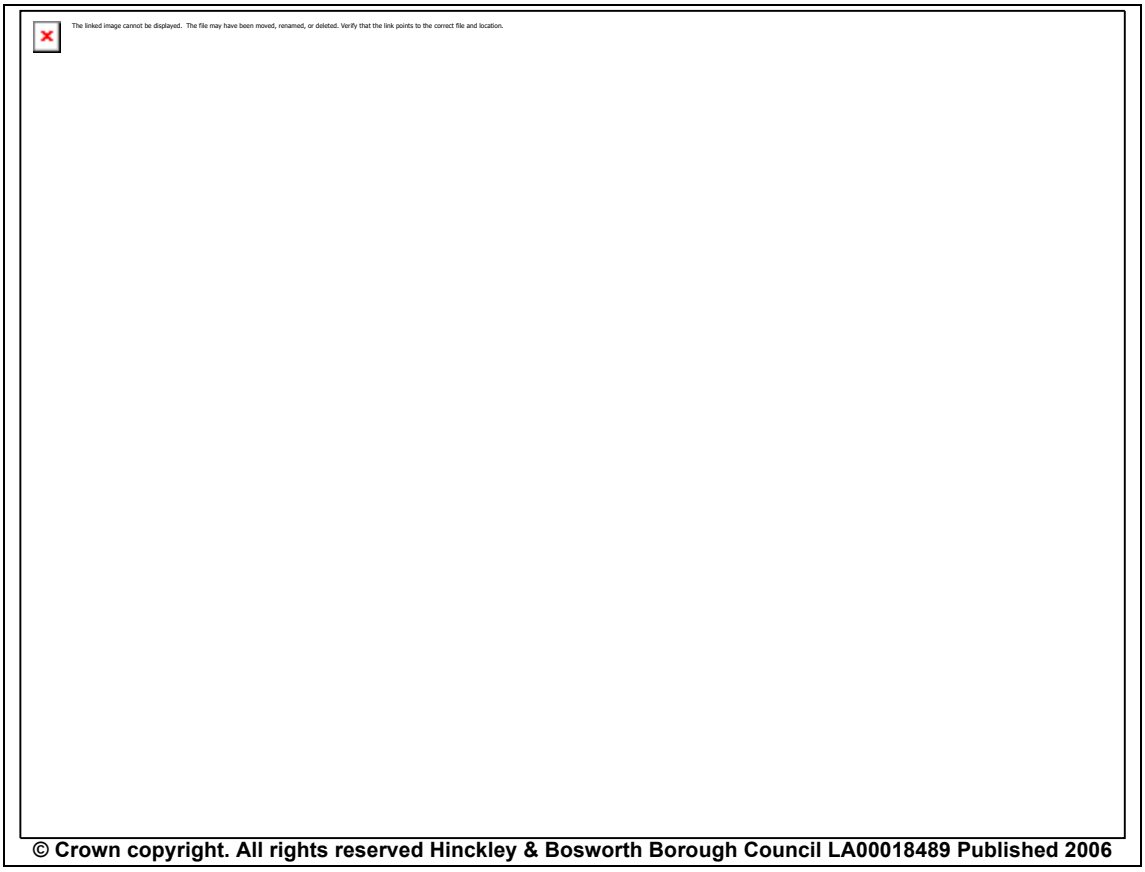
This application seeks planning permission for the part change of use of part of a complex of farm buildings currently used as a store and stables, to a shop and associated store at Oak Farm, Ratby Lane, Markfield.

Oak Farm is a small holding located to the south of Markfield and Field Head. Currently the business consists of stabling for the owners' horses, livery for a maximum of 6 horses, contracted farming work, the production and sale of hay and the delivery of hay, straw, bedding and animal feed. The farm complex consists of the main barn with the stables and store forming part of this application abutting to the south with a 'L' shaped stables and tack room extending to the east.

The application seeks planning permission for the change of use of an existing stables to a shop selling a range of animal feed for cows, pigs, small animals (cats, dogs) and fish, equestrian and pet equipment/ accessories and a small range of country clothing. The proposed shop would have an area of 36.2 sq m with the store floor area equating to 95.71 sq m.

History:-

01/00058/FUL 06.03.01	Barn extension to form ménage and enlargement of existing pond	Approved
99/00462/FUL 07.07.99	Formation of agricultural access	Approved
93/00266/4 28.04.93	Erection of agricultural livestock building	Approved
92/01097/4 17.05.93	Retention of mobile home	Withdrawn
86/00169/4 29.04.86	Change of use of land from agricultural and former sewage works to cross country course for horse riding	Approved
86/00168/4 25.03.86	Erection of stables to accommodate 6 horses	Approved



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Consultations:-

No objection has been received from:-

Head of Community Services (Pollution)
Head of Community Services (Land Drainage).

No objections subject to conditions have been received from Director of Environment and Transport (Highways).

Site notice and Press notice were displayed and neighbours notified.

10 letters of objection / support have been received raising the following concerns:-

a) inappropriate as the business has been operating without planning permission for one year.
b) increase in traffic on the busy highway looking for the shop results in a highway danger and a traffic survey should be carried out.
c) due to the gates being left open there is a risk of horses running onto the highway.
d) loss of business to existing businesses as cannot compete with other business not paying rates or taxes.
e) lack of street lighting at access results in an unsafe access.
f) proposal would blight homes
g) would result in loss of value to property
h) proposal has resulted in large number of delivery vehicles entering small roads looking for Oak Farm.

i) will enforcement action follow if planning permission is refused.
j) will put part time job at risk, resulting in stress, worry and weight gain.
k) high numbers of bats are in the area and proposal should be accompanied by a bat survey.

At the time of writing the report comments have not been received from Markfield Parish Council.

Policy:-

Central Government Guidance

Planning Policy Statement (PPS1) on Sustainable Development and Climate Change provides overarching planning policies on the delivery of sustainable development through the planning system.

Planning Policy Statement (PPS4) considers planning for sustainable economic growth.

Planning Policy Statement (PPS7) considered Sustainable development in rural areas.

Local Development Framework Core Strategy 2009

None relevant.

Hinckley and Bosworth Local Plan 2001

Policy BE1- Design and siting of development including the effect on neighbouring residents
Policy NE5- Development in the Countryside
Policy T5- Highway and parking standards.

Appraisal:-

The main issues for consideration are the impact of the proposal on the countryside, farm diversification, and sustainability.

There are no external changes to the buildings proposed to be used as a shop and store. Therefore it is not considered there are any impacts from the proposal on the appearance of the countryside.

During a site visit it was noted that a store room is already stocked with a variety of products including equestrian feed, large animal feed, bedding and accessories to domestic pet food (including food for guinea pigs, cats, dogs and fish), wild bird food and accessories. There were bales of hay and straw for animal bedding as well as smaller items including horse boots, riding crops and associated equestrian accessories. It is estimated that half of the products for sale is related solely to equestrian use. The applicants confirmed that 100% of the produce in the store is imported to the site. The stables are painted and lights installed, however there is no shop furniture installed or products on display. It is therefore considered that the retail unit is not yet functioning.

The applicants state that they produce their own hay which they sell and deliver to clients. More recently, as well as providing equestrian bedding and feed, customers have been requesting feed for other large animals and domestic pets. The applicants have therefore expanded their business to address this need. They also attend horse shows where produce is sold. It is these uses that resulted in the enforcement complaint being received, and the application now before members being submitted.

Economic development in the countryside is generally supported by national policy to sustain the rural economy. One aspect of this is farm diversification. However, case law has determined that this needs to be balanced against the other planning objectives including sustainable development and reducing the number of trips and distances by private car.

PPS1, identifies sustainability as a central aim of the planning system, and considers that one way this can be achieved is through locating development in such a way that reduces the need to travel. The location of the proposal is not the most sustainable with regard to its geographical location. However it is considered that the majority of the products sold would be used by people with small holdings or paddocks within the countryside and the location as proposed could be situated within the community it seeks to target and also aimed at some people who may already visit the site. The location of the proposal is therefore considered to be acceptable.

Policy EC6.2 of PPS 4 states that whilst planning authorities should strictly control economic development in the open countryside they should support diversification for business purposes that are consistent in their scale and environmental impact with their rural location. Policy EC12.1 advises planning authorities to approve planning permission for the conversion and re-use of existing buildings in the countryside, particularly those adjacent, or closely related to existing settlements where the benefits outweigh the harm in terms including local economic needs and opportunities.

The proposal seeks to diversify the existing use on site to support an existing rural enterprise, brought on due to increased demand from existing customers. The floor area of the proposed retail element is minimal when compared with the area occupied by other uses on the site and any extension would require additional consent which would be considered on its merits at that time. The building is used to store bedding, feed and other produce used by the applicants for their own horses, some of which they sell to users of the livery. It is considered that the principle of a shop associated with the existing use on the site complies with the provisions of PPS4.

It is considered that a retail unit which complements the main use of the site would be an acceptable and legitimate use. However, officers have concerns over the amount of non-equestrian products that are currently stored on the site intended for sale. The applicants have indicated that they would be willing to abide with a condition that restricted the amount of non-equestrian sales from the site. There is case law which supports restricting the use and sales in this way. It is therefore considered that such a condition would be appropriate.

Highways

Comments from the Director of Environment and Transport (Highways) have indicated that whilst the location of the site is not a good transport choice as it will rely heavily on the use of the private car, they have taken into account the scale of the proposal and improvements to the visibility of the access and it is their opinion that a refusal would not be sustainable on highway grounds.

Other issues

Objections have been received on the grounds of blight and loss of value to nearby residential properties, and loose animals running onto the highway. These are not material planning considerations that would influence the determination of this application.

The proposal does not involve any demolition or other works to the building, and therefore no loss of habitat. The application does not therefore trigger a requirement for an ecological survey.

The effect on the viability of other rural businesses has been considered by case law. Two nearby businesses have been cited as being affected by the development namely Tomlinson's at Upper Grange Farm and Cooks Farm Shop. Tomlinson's has no record of receiving planning permission for a retail use and it is understood that whilst there is a small retail element to the business, they sell items ancillary to the canine-related business. In imposing conditions restricting sales on Oak Farm to mainly equestrian items the two enterprises would not be in direct competition. Cooks farm shop is a large established farm shop and again not considered to be in direct competition with Oak Farm.

Conclusion

The proposal is considered to be of an appropriate scale that would diversify an existing business and assist in supporting an existing economic use. Subject to appropriate conditions that would restrict the sale of goods to those complementing the existing use or produced by the farm, these factors are considered to outweigh the location in the countryside.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan and national policy, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development by virtue of the scale of the proposed use and existing business of the site the change of use of stables to a shop and store would be in accordance with the development plan.

Planning Policy Statements 1, 4 and 7

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, NE5 and T5

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 scale 1:1250, received 17.02.10
1566/1 received 29.07.10

3 The proposed shop shall only be operated as an ancillary business to the existing livery business operated by Mr and Mrs Law.

4 No more than 15% of the gross sales revenue shall be derived from sales relating to non-equestrian products.

5 Before first use of the development hereby permitted, visibility spays of 2.4 metres by 215 metres shall be provided at the junction of the access with Ratby Lane. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.

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 interests of proper planning.

3&4 In the interest of sustainable development in accordance with PPS1, PPS4 and PPS7.

5 To afford adequate visibility at the access/junction in the interest of highway safety in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

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 6th 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).

5 Any proposed advertisements or signage may require advertisement consent. You are advised to contact the planning department for further information.

Contact Officer:- Sarah Fryer Ext 5680