

Delegated Report

Planning Ref: 23/00678/FUL

Applicant: Julie Lawcock

Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: Land South Of Market Bosworth Tennis Club Barton Road

Proposal: Proposed construction of barn (retrospective), stables and associated hardstanding; retention of static mobile home as ancillary welfare facility; and change of use of agricultural field and existing private stables and manège to a mixed use for commercial equestrian uses and a horse sanctuary.

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 proposed construction of barn (retrospective), stables and associated 4m wide hardstanding, alongside the retention of a static mobile home as ancillary welfare facility, and the retrospective change of use of an agricultural field, as well as existing private stables and a manège to a mixed use for commercial equestrian uses and a horse sanctuary at the Land south of Market Bosworth Tennis Club, Barton Road, Market Bosworth.

2.2. The new stables externally measure 33m in width x 6.7m in depth, with a total footprint of 218sqm. The stables utilise a pitched roof that has a ridge height of 3.2m, and an eaves height of 2.4m. The scheme is constructed with timber and a corrugated steel roof and provides six additional stable spaces on a 100mm concrete subbase. The development also utilises clean gravel to match the existing hard standing surfacing.

2.3. The development creates a dual use of the site as a horse sanctuary in association with a charity, Child Youth and Heartfelt Ranch, to provide rehabilitation of geriatric and rescued horses. The other use of the site is for a commercial equestrian use, which includes the hiring out of the existing manège and horse riding around the wider site. The commercial equestrian use also offers leisure opportunities to disadvantaged children with the aim of providing them with social and emotional support. The children are accompanied by a select group of volunteers who support them to participate in the upkeep of the site, such as via cleaning the stables, feeding the horses, and providing them with the opportunity to ride the horses. Both uses of the site are funded through financial donations and contributions.

3. Description of the Site and Surrounding Area

3.1. The 1,200sqm application site currently comprises an existing agricultural field, which features a barn for plant machinery, a static caravan, a shed, an existing stable, and a 60m x 20m equestrian manège.

3.2. The agricultural barn was granted prior approval via planning application 18/00655/GDO. However, the barn is currently used in association with a commercial equestrian use, which is contrary to the conditions of its prior approval.

- 3.3. The static caravan has not received any form of planning permission and was subject to a planning enforcement investigation, 21/00162/BLDS. Whilst this investigation has since been closed, the structure has still not received planning permission. The existing stables have also not been granted planning permission.
- 3.4. The shed was granted planning permission as a fodder store, alongside the formation of hardstanding and the reinstatement of the access retrospectively via planning permission 19/01296/FUL.
- 3.5. The provision of the manège, gates, and the widening of the access drive were granted planning permission via 21/00914/FUL. Condition 02 of this planning permission stated that:

“The private equestrian manège, hardstanding, access track, access drive and gates hereby permitted shall not be carried out otherwise than in complete accordance with the submitted details, as follows. No agricultural, residential, or other use is hereby permitted.”

The red line boundary for this application only included a small section of the application site adjacent to its eastern boundary and it did not include the wider application site.

- 3.6. The site is located outside of the identified settlement boundary of Market Bosworth in the designated open countryside. However, the site is still within the identified settlement boundary of the Market Bosworth Neighbourhood Plan.
- 3.7. The application site is immediately adjacent to an area designated as an Open Space, Sports, and Recreation Facility within the adopted Site Allocations and Development Management Policies Development Plan Document (2016), which includes Dixie Grammar School sports pitches and buildings as well as the Market Bosworth Tennis Club Pavilion, other buildings, and tennis courts. To the immediate west of the site is the Old Park Spinney, which screens the application site from public views from Barton Road.
- 3.8. Barton Road is an adopted and classified ‘C’ road that is subject to the National Speed Limit. Access to the site utilises the first few metres of the metalled road leading to the Market Bosworth Tennis Club, and then branches off onto its own unmetalled access drive for approximately 300 metres to the existing gate to the application site. This access drive runs parallel to the tennis club access drive and is separated from it with hedges.

4. Relevant Planning History

4.1 21/00914/FUL

- Private equestrian manège, hardstanding, access track, access drive and gates
- Permitted
- 04.03.2022

4.2 21/00773/FUL

- Erection of manège and track
- Withdrawn
- 02.07.2021

- 4.3 **21/00162/BLDS**
- Unauthorised building operation: Siting of a caravan
 - Case Closed
 - 15.07.2021
- 4.4 **19/01296/FUL**
- Erection of fodder store, formation of hardstanding and reinstatement of access track (all retrospective)
 - Permitted
 - 09.01.2000
- 4.5 **18/00655/GDO**
- Agricultural building for the storage of fodder and machinery
 - General Development Order
 - 09.08.2018
- 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 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) (subject to conditions)
- 6.2 Whilst Market Bosworth Parish Council have not objected to the development, the Parish Council consider the development to be largely for a charity use. Therefore, Market Bosworth Parish Council have requested that the development is limited in scale to a small number of horses and that the enterprise should remain non-commercial.
- 6.3 No further responses have been received.
- 7. Policy**
- 7.1 Core Strategy (2009):
- Policy 11: Key Rural Centres Stand Alone
- 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 DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3 Market Bosworth Neighbourhood Plan 2014 – 2026 (MBNP) (2015):
- Policy CE1: Character and Environment
 - Policy CE5: Landscape of the Wider Parish

- 7.4 National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (2021)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.5 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, and that the NPPF is a material planning consideration in planning decisions.
- 8.3 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted 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. Paragraph 12 of the NPPF states 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.
- 8.4 The current Development Plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). 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.
- 8.5 Both the adopted Core Strategy and the SADMP are over 5 years old, and 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. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.6 Section 6 of the NPPF states that planning policies and decisions should help to create conditions in which businesses can invest, expand, and adapt, and significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

- 8.7 Paragraph 84 of the NPPF states that planning decisions should enable:
- (a) The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.
 - (b) The development and diversification of agricultural and other land-based rural businesses.
 - (c) Sustainable rural tourism and leisure developments which respect the character of the countryside.
 - (d) The retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses, and places of worship.
- 8.8 The application represents the growth and expansion of a business in a rural area through the provision of a new stable building, which is compliant with Paragraph 84(a) of the NPPF. The scheme is also considered to involve the development of a commercial equestrian business, which is considered to be a land-based rural business that in accordance with Paragraph 84(b) of the NPPF. Furthermore, the provision of a commercial equestrian business is regarded as a leisure development, which can potentially be supported by Paragraph 84(c) of the NPPF.
- 8.9 Paragraph 85 of the NPPF states planning decisions should recognise that sites to meet local business and community needs in rural area may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances, it will be important to ensure that development is sensitive to its surrounding and does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling, or by public transport).
- 8.10 The application site is outside of any identified settlement boundary and does not attempt to make its location more sustainable. However, its impact on the character of the surrounding area and local roads is assessed further in this report.
- 8.11 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 174(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."
- 8.12 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 residential 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".

- 8.13 Therefore, the proposed development does not relate to, or comply with, any of the criteria above in either Policy DM4, but this does not mean that the development is not sustainable. 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.
- 8.14 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

- 8.15 Paragraph 134 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.
- 8.16 Paragraph 174(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 176 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.”

- 8.17 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.

- 8.18 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.”

- 8.19 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.
- 8.20 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 174(a) of the NPPF, this demonstrates that development may be acceptable within the application site if it avoids or minimises its impact to natural environment.

- 8.21 The application site is also not within, and does not have any of the features of, Paragraphs 180 or 181 of the NPPF. Given the existing equestrian use of the site, the application site is not known to feature any evidence of protected species. Therefore, the application has a minimal impact on the natural environment.
- 8.22 Due to the existing agricultural and equestrian structures on site, it is not considered that their change of use to a commercial equestrian use has a significant adverse impact on the character of the area. Whilst the proposal may increase the use of the site, it is not considered that the scheme contributes to unacceptable levels of soil, air, water or noise pollution or land instability in accordance with Paragraph 174(e) of the NPPF.
- 8.23 Furthermore, the application site and the new stables are located over 290m east of the public highway. Whilst the structures are visible from the Market Bosworth Tennis Club, they are experienced from a community sports facility in the context of the countryside and the existing equestrian use of the site. The impact of the scheme is further reduced by the limited height, and massing, of the structures.
- 8.24 In addition, the new stables are constructed with timber boarding 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.
- 8.25 To summarise, although the application does not comply with any of the criteria of Policy DM4(a, b, c, d, and e) of the SADMP, the proposal is sensitive to its setting, which complies with Paragraph 13.11 of the SADMP and therefore the Policy DM4(i) of the SADMP. By virtue of these factors, it is considered that, on balance, the application does not result in unacceptable harm to the character of countryside, subject to conditions, in accordance with Section 15 of the NPPF, and Policies DM1, DM4, and DM10 of the SADMP.

Impact upon Residential Amenity

- 8.26 Paragraph 130(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.27 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.
- 8.28 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.
- 8.29 There are no residential dwellings in close proximity to the development, and therefore the scheme is not considered to result in any 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 Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF outlines that 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.
- 8.31 Section 9 of the NPPF promotes sustainable transport. Paragraph 124(c) of the NPPF states that planning decisions should support development that makes efficient use of land, when taking into account, "The availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use."
- 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 an existing access that is shared with a community sports facility. Given the above, and the scale of the development, the Local Highway Authority consider that the impacts of the development on highway safety are not unacceptable, and, when considered cumulatively with other developments, the impacts on the road network are not severe, subject to conditions. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG.

Planning Balance

- 8.35 The proposed development does not relate to, or comply with, any of the criteria above in either Policy DM4 of the SADMP, and therefore is considered to be unacceptable in principle. This is given significant weight within the planning balance.
- 8.36 Notwithstanding this, the scheme is not considered to result in any detrimental impacts to residential amenity, nor highway safety in accordance with Policies DM10, DM17, and DM18 of the SADMP.
- 8.37 Furthermore, the NPPF recognises the need to support economic growth and productivity and the development of a land-based rural business is supported by Paragraph 84 of the NPPF. Therefore, the development of the commercial equestrian use is given moderate weight in the planning balance.
- 8.38 Ultimately, by virtue of its size, scale, massing, distance from the highway, the proposal is sensitive to its setting and does not result in unacceptable harm to the character of countryside. This in accordance with Paragraph 13.11 and Policies DM4 and DM10 of the SADMP, as well as Paragraphs 85 and 174, and Section 15 of the NPPF.

- 8.39 As a result of this, it is considered that the benefits of the development significantly and demonstrably outweigh the potential harm that results from the scheme. Consequently, the scheme is considered to be compliant with Policies DM1, DM4, DM10, DM17, and DM18 of the SADMP, Sections 2, 6, 12, and 15 of the NPPF, the Leicestershire Highway Design Guide, and the Good Design Guide,

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 The proposed development is considered to be compliant with the relevant national and local policy as it:
- Is an appropriate scale and design.
 - Does not have an adverse impact upon the character and appearance of the area.
 - Does not have a significant adverse impact upon the amenity of neighbours.
 - Does not have a significant adverse impact upon highway safety.
 - Provides sufficient vehicle parking spaces for off-street parking.
- 10.2 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 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 not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:

- Proposed Plan and Elevation (submitted: 18.07.2023)

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. No vehicular access, gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 11 metres of the highway boundary, and any gates shall be hung to open away from the highway.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway in accordance with the National Planning Policy Framework (2021).

4. The application site and its associated buildings shall only be used for the Applicant's commercial equestrian use and as a horse sanctuary. Should the stables and associated buildings become redundant, the buildings shall be demolished, and the site shall be restored to grassland unless otherwise agreed in writing by the Local Planning Authority.

Reason: Permission has been granted on the basis that the buildings are required for the accommodation and associated care of horses in relation to the dual use hereby permitted. Should that use no longer be required then alternative uses 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 (2021).

a. Notes to Applicant:

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance, or alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaways will be subject to the approval of the Building Control Surveyor.

3. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).