DELEGATED REPORT

Recommendation Made: 20 July 2010

Reference:- 10/00354/FUL **Parish:- Markfield Parish Council**

Applicant:- Mr Mike Hurst
11 Chapel Lane
Ratby
Leicestershire
LE6 0JD

Location:- 26 Little Shaw Lane Markfield Leicestershire LE67 9PP

Proposal:- DEMOLITION OF OUTBUILDING AND ERECTION OF ANNEXE

Introduction:-

This is a full application for the erection of a residential annex to the rear of 26 Little Shaw Lane, Markfield. The dwelling is a semi-detached two storey property that forms part of a linear development along the A511. The site has vehicular access serving the rear as well to the garage to the front. Both accesses are off Little Shaw Lane. An old dilapidated stable building is located within the rear curtilage. To the south the application site backs onto open fields that contain a agricultural building at the northern end. The site is located outside the Markfield Settlement boundary and therefore considered to be in the countryside.

It is proposed to erect a single storey building containing a living area, kitchen, bathroom and bedroom described as an annex to the existing dwelling. Two parking spaces would be provided to the south of the proposal providing separate parking and an access. The proposed building measures 3.8m by 13m with a height to the eaves of 2.5m and to the ridge of 4.2m. The building would have pitched roof with the ridge running north to south.

Relevant Planning History

09/00736/FUL	Conversion and extension of stable to form dwelling	Withdrawn 26.02.10
09/00710/FUL	Erection of new garage with extensions including alterations to dwelling	Approved 27.10.09

Consultations:-

- Head of Community Services (Land Drainage)- recommended the use of sustainable drainage techniques
- Ecology- refers to recommendations within the submitted ecology report.
- Head of Community Services (Pollution)- No comments
- Director of Environment and Transport (Highways)- have referred the case officer to standing advice, however have raised concerns regarding the access if the proposal is not tied to the original dwelling house.

To date one representation has been received objecting to the proposal on the grounds that this is clearly a new bungalow and it would result in overlooking.

Development Plan Policies:-

Government Policy-
Planning Policy Statement 7- Sustainable development in rural areas.

Local Development Framework-
Core Strategy- None relevant

Hinckley and Bosworth Local Plan

Policy BE1- Design and siting of development.
Policy RES5- New residential development
Policy NE5- Development in the countryside
Policy T5- Highway design and vehicle parking standards

Appraisal:-

The main issues for consideration are if the whole of the proposal is within the curtilage of the dwelling house, whether the proposal can be considered as ancillary to the enjoyment of the dwelling house, the impact of the proposal on the countryside, highway and amenities of neighbouring residents.

Ancillary accommodation

Section 55(2)(d) of the 1990 Act provides that the use of buildings within the curtilage of the dwelling house is not development if used for any purpose incidental to the enjoyment of that dwelling house. The same section of the act also makes it clear that this is not the case if the accommodation created constitutes a separate self contained unit and separate planning unit.

The proposal has the appearance of a new dwelling that can act independently of the main residential property. It has its own access and parking and the amenity space can be divided between the two. Ancillary accommodation should have some dependency upon the main dwelling, and it is considered that this unit could operate independently of the main unit. A condition could be imposed tying the proposal to the main dwelling preventing it being let or sold as a separate unit. However such a condition would be difficult to enforce as it would depend on a third party reporting a breach. This was a consideration the inspector gave to an appeal decision in Chichester. Here a garage and rear storage area was converted to residential use containing 2 bedrooms, lounge and kitchen diner. The building was located at the end of a long drive which also served the main dwelling house. The inspector held that it would be difficult for the Local Authority to ensure the unit generated the necessary degree of dependency so as to render its use ancillary. A condition was considered but it was considered that it could be breached without the council knowing and therefore unable to maintain the ancillary link

Given this case history, it is considered that the proposal subject of this application does not demonstrate an adequate degree of dependency on the main dwelling for it to be considered ancillary and any condition imposed linking the proposal to the dwelling would not be enforceable. It is therefore considered that the application constitutes a new dwelling in the open countryside.

Curtilage

Ariel photographs taken 2006 and 2000 indicate that the curtilage of the dwelling extends to the southern wall of the existing stable buildings on the site proposed to be demolished. The red line of the proposal extends beyond this boundary resulting in a residential incursion into the countryside. This is contrary to Policies RES5, NE5 and Planning Policy Statement 7.

Amenities
The nearest residential properties to the proposal site are 22 Little Shaw Lane, a detached bungalow to the west of the site and 28 Little Shaw Lane, a two storey semi-detached property immediately adjacent to the existing dwelling. There is a 2m high fence to the west of the site separating the proposal site from no 22. This prevents overlooking and the majority of the mass of the proposed building from effecting the amenities of the residents of this property.

No 28 is separated from the application site by a low wall with trellis and fencing above. Notwithstanding this, due to the location and the single storey nature of the proposed structure it is not considered that the proposal would result in any overlooking or loss of light.

It is therefore considered that the proposal would not affect the amenities of any neighbouring residents.

Highway safety

The Highway Authority has concerns regarding the use of the access providing vehicular access to the rear of the property if the use of such is intensified. Currently the access is for agricultural purposes and if the dwelling was not tied by a condition to the existing dwelling, the proposal could result in more traffic using the access, contrary to highway safety.

Conclusion

In conclusion the proposal is considered to be a unit not deemed to be dependant on the main dwelling and therefore is considered to constitute a new dwelling in the countryside without justification. The red line of the application site extends the residential curtilage into the countryside again contrary to both national and local policy. It is for these reasons planning permission is recommended for refusal.

RECOMMENDATION :- REFUSE, for the following reasons :-

Reasons :-

1 In the opining of the Local Planning Authority the proposed development would operate independently of the existing property on the site and result in a new dwelling in the countryside contrary to the objectives of Planning Policy Statement 7, Policies NE5 and RES5 of the adopted Hinckley and Bosworth Local Plan.

2 In the opinion of the Local Planning Authority, the proposed development would adversely impact upon the character of the area by virtue of the extension to the residential curtilage and associated residential access and parking encroaching into the countryside thereby altering the character. As such it is contrary to the objectives of Planning Policy Statement 7, Policies NE5 and RES5 of the adopted Hinckley and Bosworth Local Plan.

3 In the opinion of the Local Planning Authority, the proposal would lead to a significant increase in turning traffic using an existing access onto a busy Class I (A511) road where the turning manoeuvres would be an additional source of danger to road users which would not be in the interests of highway safety, and therefore contrary to Policy T5 of the adopted Hinckley and Bosworth Local Plan.

4 In the opinion of the Local Planning Authority, the proposal would lead to an intensification in use of an access that is substandard in width and geometry and would likely lead to vehicles waiting within the highway in order to enter the site, which would be an additional source of danger for road users, would be detrimental to the free flow of traffic and not in the interests of highway safety and therefore contrary to Policy T5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

Contact Officer:- Sarah Fryer Ext 5680 **Date Printed:** 22 July 2010