DELEGATED REPORT

Recommendation Made: 30 March 2010

Reference:- 10/00095/COU **Parish:- Markfield Parish Council**

Applicant:- Leicestershire County Council
County Hall
Glenfield
Leicestershire
LE3 8RE

Location:- Leicestershire County Council Copt Oak Road Copt Oak Markfield Leicestershire

Proposal:- CHANGE OF USE TO HIGHWAYS DEPOT INCLUDING THE STORAGE AND DISTRIBUTION OF HIGHWAY EQUIPMENT AND MATERIALS.

Introduction:-

This is a full application to regularise the use of a roughly triangular shaped piece of land located to the north of the flying horse island, Copt Oak Road, Markfield. The land has been used as a depot for the Leicestershire Highways Authority, as a distribution base for vehicles, staff, materials and equipment over a period of many years.

Access to the site is achieved from a gateway located 30 m north of the Flying Horse traffic island and has three buildings on the site, forming garaging and secure storage facilities. The rest of the site is hard surfaces providing open storage.

Applications for a certificate of lawful use have been submitted for the use of the site for a Highways Depot, however the applicant has not been able to provide the evidence to demonstrate the continued use of the site as a Highways Depot. The use is considered to be a Sui Generis use, therefore for a certificate application to be approved the precise use had to be demonstrated. The applications failed to do this.

Relevant Planning History

09/00593/CLU	Certificate of lawful use for existing use as a highways depot Refused 05.10.09
08/00739/CLU	Certificate of lawful use for existing as a highway depot (use class B8) Refused 03.09.08
06/00006/CLU	Certificate of lawfulness for existing use as a highway depot (Class B8) Refused 01.03.06

Consultations:-

- Director of Environment and Transport (Highways)- No objection
  Director of Environment and Transport (Ecology) – have requested that a watching brief be maintained during the development.
- Head of Community Services (Pollution)- No objection to the hours proposed.
- Head of Community Services (Land Drainage)- soakaways are considered acceptable providing fuel is stored on hard standing.

Development Plan Policies:-

Local Development Framework-
Core Strategy- None relevant

Hinckley and Bosworth Local Plan

Policy BE1- design and siting of development.

Appraisal:-

The main issues for consideration are the impact of the continuation of the use on the amenities of neighbouring properties and the highway.

The site has been used by the highways department as a depot for a number of years. This is not disputed by the planning authority, however over this time the nature of the use has changed to respond to different working practices within the department. This has resulted in Leicestershire County not being able to demonstrate the same use consecutively over a 10 year period and resulting in the refusals of applications for certificates of lawful use.

The site is used as a holding area and small local base for materials and signs, that might be required in an emergency. The majority of the time the site is accessed during normal working hours and therefore not causing a nuisance to neighbouring residents. As the use is considered to be sui genius, any change in the use that could result in an increased hours of operation will require a planning application which will be considered on its own merits.

No objections have been raised by the Borough Council's Environmental Health Department, and no objections received from neighbours. If the use of this parcel of land was causing a nuisance to neighbouring residents, it would be expected that complaints or objections to this application would have been received. Given the nature of the use of the site and the lack of objections from neighbours and statutory consultees it is not considered that the site detrimentally affects the amenities of neighbouring residents.

LCC County Highways have not objected on the basis that the use is long established and therefore there are no sustainable grounds on which to refuse the application. Given that there is no objection from the Highways Authority, it is considered that a refusal on highways grounds can not be sustained.

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, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development due to the historic use of the site is considered not to detrimentally affect the amenities of neighbouring properties nor highway safety and would therefore be in accordance with the development plan.
Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1

1 No waste materials shall be burnt on the site at any time.

2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
Markfield Highways Depot scale 1:1250
Markfield Highways Depot scale 1:500, both received 05.02.10

Reasons :-

1 To prevent air pollution causing a nuisance to nearby residents in accordance with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

2 For the avoidance of doubt and in the interests of proper planning.

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.

Contact Officer:- Sarah Humphries Ext 5680 Date Printed: 31 March 2010