Item: **01**

Reference: **11/00166/FUL**

Applicant: **Mr Darren Price**

Location: **Land East Of Heath Road Bagworth**

Proposal: **AGRICULTURAL BUILDING FOR LIVESTOCK AND STORAGE OF HAY**

Target Date: **11 May 2011**

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, following a request by a local member.

Application Proposal

This application seeks full planning permission for the erection of a new agricultural building on a roughly rectangular piece of land to the east of Heath Road, Bagworth. The proposed building is to be located close to the northern boundary of the application site and close to the existing field access off Heath Road to the west. The proposed building measures approximately 18 metres x 12 metres (216 square metres of floor space) with a ridge height of approximately 5.8 metres and eaves height of 3.8 metres. The proposals also involve the setting back of the gated access 10 m from the highway to the west. A plan has been submitted with the application that proposes that the building is to be constructed of steel frames with external walls of low level concrete blockwork with Yorkshire boarding over, green steel sheet roof panels, a feed trough to the west elevation and double steel access doors to the south elevation.

The Site and Surrounding Area

The application site is located in the countryside to the south west of Bagworth. The site extends to approximately 4.04 hectares and slopes from north to south. It consists of two fields divided by a post and wire fence and laid to grass. There is an existing lean-to type building constructed of timber frame and profiled cladding sheets located in the north west corner of the site. This structure has open sides to the east and south elevations and appeared to be unused at the time of the case officer's site visit. The building measures approximately 11 metres in length, 6 metres in depth and 3 metres in height. The site is bounded by a mature hedgerow to the west fronting Heath Road and by Heath Woods to the north and east. To the south of the site lies a small lake and wetland habitat. Access is via two existing field gates off Heath Road.

Technical Documents submitted with Application

A Design Statement has been submitted to support the application. This information states that the proposed agricultural building will be used to provide shelter for the cattle being kept on the site and will replace the existing agricultural building located in the north western corner of the site. This supporting statement also provides some justification for the proposed development. The information states that the use of the

land for equestrian purposes was as a result of an agreement with the previous owner to accommodate their horses on the land whilst alternative accommodation was being sought. In addition it states that the applicant is now in the process of registering the land with DEFRA, has an agricultural business registered with the Rural Payments Agency and has registered with the Cattle Movement Authority to enable a herd book to be kept in accordance with current animal health and welfare policy. The statement concludes that the existing agricultural building is not suitable for the rearing of cattle.

A request was made to the applicant's agent on 21 March 2011 for evidence that the site was being used for cattle rearing. On 22 March 2011 photographic evidence was received from the applicant's agent showing that the land was being used for the grazing of 4 cattle.

A letter was received on 9 May 2011 in support of the applicant's case which stated that the applicant is operating their business as a agricultural operation, cattle has been grazing the land, sufficient information has been provided to justify the agricultural building and that the site could be used for the breeding of horses for sale of horse meat, which is considered to be a legitimate agricultural activity. A further letter was received on 10 May 2011 with evidence demonstrating that there are existing businesses within the United Kingdom that deal in the trading of horse meat.

This application is a resubmission of 10/0770/FUL that was previously refused by members at the planning committee meeting on 5 January 2011. The details submitted with this information are identical to that application with the exception of additional information to justify the proposed development.

History:-

10/00770/FUL	Erection of Agricultural Building	Refused	05.01.12
10/00650/FUL	Erection of Agricultural Building	Withdrawn	15.09.10
10/00448/GDO	Erection of Barn for the Purpose required of Storing Hay	Approved	23.07.10
10/00308/GDO	Erection of an Agricultural Building required	Approved	20.05.10



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Consultations:-

No objection has been received from:-

Environment Agency
Head of Community Services (Pollution).

No objection subject to conditions has been received from The Director of Environment and Transport (Highways).

A letter of comment was received in support of the case for the applicant. This letter of comment states that:-

a) the applicant has arranged their business in a proper manner for it to function as an agricultural business
b) cattle has been grazing the land
c) the applicant has been persistent in demonstrating that the building is required and explained why this is the case
d) there is no rationale for a capital outlay on an agricultural building unless it is required
e) the previous activity of keeping horses on the land was a legitimate agricultural activity
f) the previous activity of breeding of horses for stock improvement and the selling of surplus stock for meat was a legitimate agricultural activity.

At the time of writing the report comments have not been received from:-

National Forest Company
Bagworth & Thornton Parish Council.

Policy:-

Central Government Guidance

Planning Policy Statement 7: Sustainable Development in Rural Areas' in paragraph 1 states that new building development in the open countryside away from existing settlements should be strictly controlled to protect the countryside for the sake of its character, beauty, diversity, heritage and wildlife so it may be enjoyed by all. All development in rural areas should be well designed and inclusive, in keeping with its location, and sensitive to the character of the countryside. Paragraph 15 states that planning policies should provide a positive framework for facilitating sustainable development that supports traditional land based activities that require a countryside location but continue to ensure that the quality and character of the wider countryside is protected. Paragraph 16 states that when determining planning applications for development in the countryside, local planning authorities should support development that delivers diverse and sustainable farming enterprises and other countryside based enterprises and activities which contribute to rural economies whilst also conserving sites of landscape value.

Regional Policy Guidance

The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS`s letter of 27 May 2010 and that it should still be regarded as a material consideration. Judgement was recently given in a second challenge by Cala Homes when the Court held that the SoS`s intention to reform the planning system by removing regional strategic planning from it is to be taken into account as a material consideration. In relation to the weight to be given to that intention as a material consideration the Court held that `the weight to be given to relevant provisions of Regional Strategies pending the legislative process will be for decision-makers to gauge. Until the end of that process is reached Regional Strategies will remain in place as part of the development plan.

East Midlands Regional Plan 2009

No relevant policies.

Local Policy

Local Development Framework Core Strategy 2009

There are no relevant policies within the Core Strategy.

Hinckley and Bosworth Local Plan 2001

The site is in the countryside as defined on the proposals map of the adopted Local Plan.

Policy BE1: 'Design and Siting of Development' seeks to secure attractive development and to safeguard and enhance the existing environment. Planning permission will be granted where the development complements or enhances the character of the surrounding area with regard to scale, layout, design and materials; has regard to the safety and security of property; incorporates landscaping if necessary; ensures that there is adequate highway visibility for road users and adequate provision of parking and manoeuvring facilities.

Policy NE5: 'Development in the Countryside' states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is important to the local economy and cannot be provided within or adjacent to an existing settlement and where it does not have an adverse effect on the appearance or character of the landscape; is in keeping with the character of the general surroundings; will not generate traffic likely to exceed the capacity of the highway network or impair road safety and where necessary is effectively screened by landscaping.

Policy NE12: 'Landscaping Schemes' states that development proposals should take into account the existing landscaping features of the site and make provision for further landscaping where appropriate.

Policy T5: 'Highway Design and Vehicle Parking Standards' refers to the application of appropriate standards for highway design and parking provision unless otherwise justified.
Other Documents.

Leicestershire County Council document: 'Highways, transportation and development' provides further guidance to developers in respect of all highway issues and on the policies and objectives of the Highway Authority.

Supplementary Planning Guidance on the 'Design of Farm Buildings' advises that the position of a new farm building is usually dependant on its function and the space available. There are other factors that should be taken into account, such as the visual prominence of the building in the wider landscape. The function of the building will influence its size, scale, type and design. The long term agricultural requirements of the building should also be considered.

Appraisal:-

The main considerations with regards to this application are the principle of development and impact on the countryside, design and layout, highway safety and other issues.

Principle of development

Whilst both central government guidance in Planning Policy Statement 7 and policy NE5 of the adopted Local Plan seek to protect the character and appearance of the countryside for its own sake and from unnecessary development, it is recognised that certain forms of development, including those in connection with agricultural land based activities which require a countryside location, are generally acceptable in principle.

In this case, the planning history of the site includes two previously determined applications for a similar sized building for the storage of hay made under the prior notification procedures of Schedule 2, Part 6 of the Town and Country Planning

(General Permitted Development) Order 1995. In determining these applications, consideration was given to the use of the land at the time for the grazing of the applicant's horses, rather than for any agricultural operation or activity and the lack of any substantive evidence to suggest that the building would be used for agricultural purposes or was reasonably necessary for such purposes. In both cases it was concluded that the building could not be classified as permitted development under the Order and planning permission was required for the proposed building as it did not relate to an agricultural operation and was not reasonably necessary for the purposes of agriculture at the time.

Members will also recall that a planning application for the erection of an agricultural building was refused at this site at the committee meeting on 05 January 2011. This application is a resubmission of that application which was refused on the grounds that insufficient information was provided to justify the building in connection with agricultural purposes.

Notwithstanding the previous applications relating to the site, this application must be determined on its own merits and on the basis of the information submitted, including the additional information submitted in order to justify the proposed agricultural building. Whilst the erection of an agricultural building on the site may be generally acceptable in principle, in this case and on the information submitted, it is considered that the applicant has failed to demonstrate that there is any agricultural justification for the proposed building for the stated purpose that would outweigh national and local plan policies that seek to protect the character and appearance of the countryside for its own sake and from unnecessary development. As a result, the proposed development is considered to be contrary to Planning Policy Statement 7 and policy NE5 of the adopted Local Plan.

Design and Layout

The design has a low pitched roof and an appearance not untypical of modern agricultural buildings and is therefore consistent with advice contained in the Council's Supplementary Planning Guidance on the Design of Agricultural Buildings. Furthermore the proposed materials of construction are reflective of most agricultural buildings found in the open countryside.

Highway Safety

The site has two accesses directly off a relatively straight stretch of Heath Road. The use of the site for agricultural purposes in itself, including the keeping of beasts, would not require planning permission. The existing field gate from Heath Road close to the north west corner of the site will be used to access the building. The Director of Environment and Transport (Highways) does not object but recommends that improvements are made to the access to mitigate for any small increases in traffic to and from the site. However, given the potential unrestricted agricultural use of the land it is unlikely that it can be satisfactorily demonstrated that the proposed building will result in a significant increase in traffic to and from the site and that the recommended improvements are necessary and reasonable to make the proposed development acceptable in highway safety terms. In this case, the erection of the proposed building is considered unlikely to result in any significant adverse impact on highway safety.

Other issues

The nearest buildings used for residential purposes are in excess of 330 metres from the proposed building. Given this separation distance the proposed use of the building for accommodating livestock is considered unlikely to result in any adverse impact on the amenities of any residential properties.

Letter received in support of applicant's case dated 6 May 2011

As stated above the erection of an agricultural building on the site is considered acceptable in principle. It is considered that insufficient information has been provided to justify the agricultural building on the site. It is not in dispute that the applicant has introduced a small number of cattle onto the land but this is insufficient to justify a larger agricultural building. The applicant has been consistent with the submission of Planning Applications and Prior Notifications for an agricultural building but has failed to provide sufficient information to justify it being used in connection with agriculture.

It is not disputed that the applicant is prepared to finance the erection of an agricultural building. According to the information submitted with this planning application and previous applications in relation to this site the land was used for the grazing of horses. There is no demonstrable or documentary evidence to suggest that these horses were being bred on the land and later sold on for meat. Therefore the opinion that insufficient justification has been provided is retained.

Conclusion

Whilst it is recognised that certain buildings of appropriate design to be used in connection with agricultural operations and activities can be acceptable in countryside locations, the need for any building must be balanced against the need to protect the countryside from unnecessary development. In this case, insufficient agricultural justification has been submitted to demonstrate that the building is necessary or reasonably required in connection with agricultural operations or activities that would outweigh the need to protect the open and undeveloped character and appearance of the countryside. The application is therefore recommended for refusal.

RECOMMENDATION:- REFUSE, for the following reasons:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies:-

Reason:-

1 In the opinion of the local planning authority, the applicant has failed to demonstrate that adequate agricultural justification exists for the proposed building and as a result the proposed development would result in an unwarranted intrusion into the open and undeveloped countryside to the detriment of its character and appearance. The proposal would therefore be contrary to Planning Policy Statement 7 and policy NE5 of the adopted Hinckley and Bosworth Local Plan.

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