DELEGATED REPORT

Recommendation Made: 23 July 2010

Reference:- 10/00448/GDO **Parish:- Bagworth Parish Council**

Applicant:- Mr Darren Price
88 Ratby Lane
Leicester Forest East
Leicester

Location:- Land East Of Heath Road Bagworth Leicestershire

Proposal:- ERECTION OF BARN FOR THE PURPOSE OF STORING HAY

Introduction:-

This is an application under the prior notification procedure for the erection of a new building on a roughly rectangular piece of land to the east of Heath Road, Bagworth under the provisions of Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) Order 1995. The proposed building would measure approximately 18 metres x 12 metres (216 square metres of floor space) with a ridge height of 5.8 metres and eaves height of 3.8 metres. The external walls would be constructed of a mix of concrete blocks and panels with Yorkshire boarding to the gables and steel sheet roof panels. The building would have large access doors to the south elevation. The agent has also confirmed by separate letter that the building is required for the storage of hay off the field for winter feed and that this will be used for feeding of livestock in the fields owned and rented by the applicant but no further details regarding the livestock have been submitted.

The plot of land on which the building would be located 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 appears to be unused at the present time. 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. The submitted site location plan indicates that the applicant owns additional land to the north of Ibstock on Ravenstone Road.

History:-

10/00308/GDO	Erection of and Agricultural Building	Refused	20.05.10

Consultations:-

GDO application - None.

Development Plan Policies:-

Town and Country Planning (General Permitted Development) Order 1995 Schedule 2, Part 6, ‘Agricultural Buildings and Operations’.

Hinckley and Bosworth Local Plan (2001):- Policy BE1: 'Design and Siting of Development'

Appraisal:-

The main considerations in respect of this application are whether the proposed development meets the criteria for permitted development under the provisions of Schedule 2, Part 6, of the Town and Country Planning (General Permitted Development) Order 1995, which relates to agricultural buildings and operations.

Town and Country Planning (General Permitted Development) Order 1995

Schedule 2, Part 6 Class A defines permitted development on agricultural units of over 5 hectares as including the erection of a building which is reasonably necessary for the purposes of agriculture within that unit. In this case, whilst the design of the building has the appearance of an agricultural building, the application fails to establish that the land is in agricultural use or that the proposed building is reasonably necessary for, or would be used for, agricultural purposes within the unit. The land has until recently been used for the keeping of the applicant's horses and the inclusion of feed troughs on the proposed building may infer that it is the intention that livestock would be kept within the unit, although an amended plan has been submitted during the course of the notification to omit the food troughs. Whilst the agent has confirmed in a separate letter received on 20th July 2010 that the building is required solely for the storage of hay off the field for winter feed and that this will be used for feeding of livestock in fields owned and rented by the applicant. No indication has been provided of what livestock is to be fed by the hay to be stored within the proposed building. Given the recent previous GDO application on the site and in the absence of details to the contrary, it is considered that the hay would be used to feed the applicant's horses.

In the case of Sykes v SOS 1981 the question was raised as to whether the grazing of horses on land could be considered as an agricultural use due to the phrase 'the use of land as grazing land' contained in the statutory definition of agriculture. It was held that if horses were simply turned out on land with a view to feeding them from the land, clearly the land was in use for grazing. However, if the horses were being kept on the land and were being fed wholly or primarily by some other means so that the grazing as they do was completely incidental then plainly the land was not being used for grazing but was merely being used for the keeping of horses.

There is no information submitted to suggest otherwise than that the hay to be stored in the proposed building would be used for the feeding of the applicant's horses and given the previous application under the prior notification procedure, and consideration of the Sykes v SOS case, it is considered that the proposed building falls outside of permitted development as described within Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 1995 as it is not required for agricultural purposes but merely for the storage of winter feed to be distributed to the applicants livestock (horses) kept on land within his control. In addition, there is an existing unused structure within the land holding and no justification has been submitted to support the erection of an additional building.

Conclusion

The information submitted in support of the application fails to demonstrate that the proposed building is reasonably necessary for the purposes of agriculture within the unit and therefore, it is considered that the proposal does not fall within permitted development under the provisions of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 1995 and will require full planning permission.

RECOMMENDATION:- REFUSE, for the following reasons:-

1 From the information that has been provided and a visit to the site, you are hereby notified on behalf of Hinckley and Bosworth Borough Council, acting as Local Planning Authority, that planning permission is needed for the proposal as it would not be classed as permitted development as defined within the Town and Country Planning (General Permitted Development) Order 1995, Schedule 2, Part 6 because it does not relate to an agricultural operation and is not reasonably necessary for the purposes of agriculture.

Note to Applicant:-

1 You are advised that should a planning application be submitted, it should include details to provide justification for the need for a building and of the scale proposed within the site. In order to proceed with processing a planning application, additional details will be required to be submitted in line with National and Local Requirements which can be found on the website at www.hinckley-bosworth.gov.uk

Contact Officer:- Richard Wright Ext 5894 **Date Printed:** 23 July 2010