Item: **08**

Reference: **09/00178/FUL**

Applicant: **Mr Tony Abbott**

Location: **Breach Farm Breach Lane Earl Shilton Leicester Leicestershire Le9 7FB**

Proposal: **ERECTION OF AN AGRICULTURAL DWELLING**

Introduction:-

This is a full application for the erection of a permanent agricultural dwelling at Breach Farm, Breach Lane, Earl Shilton, an agricultural holding covering an area of approximately 36 hectares in the countryside to the south of Earl Shilton. The agricultural holding involves the rearing of 90 head of beef cattle together with 10 DIY liveries. The proposed dwelling is a detached bungalow with lounge, kitchen/diner, utility/laundry, three bedrooms, bathroom and shower room together with double garage. The external floor area would measure approximately 192 square metres with an additional 36 square metres occupied by the double garage. The dwelling would be located to the south of the Earl Shilton Bypass and north of two existing agricultural buildings and another agricultural/stables building currently under construction essentially forming a new farm complex. The land falls gently from north to south and there are open fields to the east and west. An amended plan has been received that has reduced the extent of the residential curtilage and has relocated the access road. Access would be from the Earl Shilton Bypass, via a section of Breach Lane and a newly constructed public bridleway, then onto a new access approved as part of a previous planning permission for the agricultural storage/stables building (reference 08/00160/FUL).

A Design and Access Statement has been submitted to support the application. This states that the need for the proposed dwelling has arisen as the existing farmhouse on Breach Lane is now detached from the relocated agricultural complex and associated farmland by the Bypass. Direct vehicular access to the complex is no longer available from the existing farmhouse and entails a 1.27 mile road journey, with pedestrian access only available across the busy Bypass. In hindsight, it may have been possible to address this issue when negotiations regarding the route and design of the Bypass were taking place, however, the opportunity to do so has now been lost. It is intended that the existing farmhouse on Breach Lane would remain occupied by the applicant's mother (retired) and the proposed dwelling would be occupied by the applicant who would continue to operate the farm. The proposed dwelling is intended to have an agriculture tie as its sole purpose is to provide essential accommodation for the applicant in the full-time operation of this well established, financially viable agricultural holding, providing the necessary on-hand labour commensurate with the rearing of livestock and to maintain animal welfare and security at all times. This need can no longer be fulfilled by the now remote existing farmhouse from which surveillance is now impossible and therefore there is a clearly established functional need for the dwelling on the site. The layout is designed to provide maximum surveillance of the site whilst minimising the impact of the dwelling on the countryside by locating the dwelling in close proximity to and against a background of existing agricultural buildings to form and appear as a farm complex. The dwelling is oriented to minimise its width when viewed from the most

prominent public area, i.e. the bypass and adjacent bridleway. Its single storey, traditional design with hipped roof and of modest proportions also helps to minimise its impact on the landscape.

A Great Crested Newt (GCN) Assessment carried out in December 2008 has also been submitted in respect of the site. The report concludes that GCNs were considered likely to be present on site at certain times of the year (subject to ground conditions) due to their known presence within 500m of the site and an apparently suitable pond within 275m of the site. The report recommends further surveying for both GCNs and ground nesting birds prior to commencement of works, a simple mitigation strategy to compensate for any potential loss of habitat and that a watching brief be maintained by a competent person during the construction phase of the development.

History:-

08/00160/FUL	Erection of Agricultural Storage and Equestrian Building, Manege, Associated Hardstanding and Creation of Access.	Approved	13.05.08
07/01087/FUL	Erection of Agricultural Storage and Equestrian Building Manege, Associated Hardstanding and Creation of Access.	Withdrawn	06.12.07
07/00382/UNUSE	Enforcement Enquiry	Closed	21.09.07
07/00104/FUL	Erection of Stabling, Manege and Associated	Withdrawn	24.07.07
06/01398/FUL	Erection of Agricultural Building	Withdrawn	26.01.07
05/00085/BOC	Enforcement Enquiry	Closed	20.05.08
04/00475/FUL	Change of Use of Agricultural Land to Garden	Approved	24.06.04
04/00445/FUL	Erection of Agricultural Livestock Building	Approved	19.07.04
04/00061/BOC	Enforcement Enquiry	Closed	27.05.04
03/00663/FUL	Erection of Agricultural Storage Building	Approved	19.08.03
77/01014/4	Conversion of Old Farm House into Stables	Withdrawn	25.10.77
75/00100/4	Erection of Farmhouse and Garage	Approved	25.03.75
74/00501/4	Erection of Farmhouse and Garage	Refused	23.12.74



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Consultations:-

No objection has been received from Head of Community Services (Pollution).

No objection subject to conditions has been received from:-

Director of Highways, Transportation and Waste Management (Highways)
Director of Community Services (Ecology)
Environment Agency
Head of Community Services (Land Drainage).

Borough Council's Agricultural Appraisal Consultant has conducted a formal desktop appraisal of the proposal in relation to Annex A of Planning Policy Statement 7, as guidance in determining the application. He advises that the proposal fails to pass either the functional or financial tests of Annex A to Planning Policy Statement 7. There is insufficient agricultural support for the proposed new dwelling as the holding is both part-time and financially unviable, and is unable to sustain the cost of the proposed new dwelling. He further advises, however, that if the dwelling is to be classed as a relocation of the existing dwelling, including the relocation of the farm and equestrian buildings which have already been granted consent, and if the Local Planning Authority are prepared to accept the application in general planning terms and that the monies from the sale of the residential development land should be taken into account, the proposed site does comply with paragraph 11 of Annex A to PPS7 being well related to the existing farm buildings. More details of the response are included in the appraisal section of this report.

No response has been received at the time of writing this report from:-

Earl Shilton Town Council
Site notice
Neighbours.

Policy:-

Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' sets out the overarching planning policies on the delivery of sustainable development through the planning system. Paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by protecting and enhancing the natural environment and the quality and the character of the countryside. Paragraph 17 states that planning policies should seek to protect and enhance the quality, character and amenity value of the countryside. Paragraph 19 states that planning decisions should be based on the potential impacts on the environment of development proposals. Significant adverse impacts on the environment should be avoided and alternative options which might reduce or eliminate those impacts pursued.

Planning Policy Statement 3 (PPS3): Housing sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to ensure that housing developments are in suitable locations, which offer a good range of community facilities, with good access to jobs, key services and infrastructure. Paragraph 16 outlines matters to consider when assessing design quality and includes the extent to which the proposed development is easily accessible and well-connected to public transport and community facilities and services.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' sets out the Government's planning policies for rural areas. Paragraph 1 advises that new building development in the open countryside outside existing settlements should be strictly controlled in order to protect the countryside for its intrinsic beauty. Paragraph 10 makes it clear that isolated new dwellings in the countryside require special justification for planning permission to be granted. Further advice is provided in Annex A to PPS7 which states that one of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural and certain other full time workers to live at, or in the immediate vicinity of, their place of work. In assessing planning applications for new dwellings in the countryside Annex A requires a functional and financial test to be applied in order to give consideration to: the nature of the holding and the functional need/necessity for the person to live on site, having regard to the security and efficient operation of the holding, (e.g. if a worker is needed day and night to provide essential care at short notice and deal quickly with emergencies that could otherwise cause serious loss); the financial viability of the holding to sustain the worker in full time employment; the availability of suitable existing accommodation nearby. In addition, the agricultural dwelling should be of a size commensurate with the established functional requirement and be well related to existing farm buildings. Dwellings that are unusually large in relation to the needs of the unit or expensive to construct in terms of the income it can sustain in the long term should not be permitted. It is the requirements of the enterprise not those of the owner or occupier that is relevant in determining the size of the dwelling that is appropriate.

Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation states that planning decisions should aim to maintain and enhance biodiversity conservation

interests. In taking decisions, local planning authorities should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; and to biodiversity interests within the wider environment (para.1(ii)). The aim of planning decisions should be to prevent harm to biodiversity conservation interests (para.1 (vi)). Sites of local biodiversity interest have a fundamental role to play in meeting overall national biodiversity targets.

Local Plan Policy

Policy BE1 seeks to safeguard and enhance the existing environment and states that planning permission will be granted where the development:- complements or enhances the character of the surrounding area with regard to scale, layout, mass, design and materials; has regard to the safety and security of individuals and property; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; is not adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties and incorporates landscaping to a high standard.

Policy RES12 states that in assessing planning applications for dwellings required to accommodate a person employed in agriculture, consideration will be given to: the nature of the holding and the necessity for the person to live on site, having regard to the security and efficient operation of the holding; the viability of the holding to sustain the worker in full time employment; the availability of suitable alternative accommodation in the local housing market. Policy T5 refers to the application of appropriate standards for highway design and parking targets for new development.

Policy NE5 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 only where it does not have an adverse effect on the appearance or character of the landscape, is in keeping with the scale and character of the existing buildings and general surroundings, will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping. Policy NE12 states that proposals for development should make provision for further landscaping where appropriate. Policy NE14 requires satisfactory arrangements to be made for the disposal of foul sewage, trade effluent and surface water.

Appraisal:-

The main considerations with regards to this application are the principle of development in this countryside location and its impact upon the character and appearance of the surrounding landscape together with access.

Principle of Development and Impact on the Character and Appearance of the Area

The existing farmhouse was granted planning permission in 1975 as a replacement for the previous farmhouse which was in poor structural condition. Notwithstanding claims to the contrary in the Design and Access Statement, the dwelling is subject to the standard agricultural occupation condition. The proposed dwelling would therefore be a second dwelling associated with the holding. The holding involves the rearing of 90 head of beef cattle on 36 hectares of grazing land with an additional 4 hectares of rented land. New stables providing 10 DIY liveries are also under construction. The agent stresses that full time attendance is required for the proper

operation of the enterprise due to the nature of the activities and for security purposes in respect of the buildings and livestock and livestock welfare. The agent has provided information regarding livestock levels etc. to enable an assessment to be made of the operation and financial viability of the holding in sustaining an agricultural workers dwelling. The Borough Council's Agricultural Appraisal Consultant has undertaken a desktop appraisal of the information provided. He advises that if the enterprise/holding is assessed using the guidance set out in Annex A to PPS7 for new agricultural dwellings there is clearly no agricultural support for the proposed new dwelling as the holding is both part-time and financially unviable, and is unable to sustain the cost of the proposed new dwelling. In addition, the size of the dwelling, which is in excess of 185 square metres, would not be commensurate with the established functional requirement of the enterprise and would therefore not comply with paragraph 9 of Annex A to PPS7. The functional need of the enterprise could be fulfilled by the existing dwelling which has an agricultural tie, or by suitable alternative dwellings in Earl Shilton that would comply with paragraph 3(iv) of Annex A to PPS7. In terms of security of the site, paragraph 6 of Annex A to PPS7 states that whilst the protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling it will not by itself be sufficient to justify one. The proposal does comply with paragraph 11 of Annex A of PPS7 in that it is well related to existing farm buildings, however, the dwelling would not be considered to be a relocation as the existing dwelling would remain available for operation of the agricultural holding.

As such, overall the proposed dwelling is contrary to central government guidance and adopted Local Plan policies that seek to protect the character and appearance of the countryside from residential development that does not have any special justification.

Other Issues

The proposed dwelling would not have an adverse impact on highway safety or generate traffic to adversely affect the rural character of the area and the Highway Authority has no objection to the proposal subject to satisfactory construction of the proposed access at the applicant’s expense. There is adequate private amenity space and parking provision within the site.

The Environment Agency and Director of Community Services (Ecology) do not object but if planning permission were granted, they would require a condition to safeguard any protected species and a watching brief during development.

Conclusion

Both central government guidance and adopted Local Plan policies seek to protect the countryside for its own sake. An unsatisfactory agricultural appraisal has been received and the proposal has failed to pass the functional and financial tests of Annex A of PPS7. There is no special justification for the proposed dwelling in this countryside location and the application is therefore recommended for refusal.

RECOMMENDATION :- REFUSE, for the following reasons :-

1 In the opinion of the Local Planning Authority, from the information provided, the proposed agricultural dwelling does not pass the functional or financial tests set out in Paragraphs 4, 8 and 9 of Annex A to Planning Policy Statement 7. The proposal therefore represents an unwarranted and unacceptable intrusion of residential development in an unsustainable

location in the countryside to the detriment of the character and appearance of the landscape and visual amenity. The proposal is therefore contrary to policies BE1, RES12 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance in Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3: 'Housing' and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.

2 The approval of this proposal would set a precedent for the consideration of further applications of a similar nature, to which the Local Planning Authority would also object, but which would consequently be difficult to resist and could lead to a proliferation of new residential development in the countryside. The proposal is contrary to Policies BE1, RES12 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance in Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3 'Housing' and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.

Notes to Applicant:-

1 List of Plans used in the determination of this application:- Site Location Plan3770/01 Rev B; Block Plan 3770/03 Rev A; general Arrangement 3770/02; LCC drawing No. LCC/09/00178/FUL/01.

Contact Officer:- Richard Wright Ext 5894