Item: **10**

Reference: **09/00246/TEMP**

Applicant: **Mr C Klenk**

Location: **Stanmaur Farm Breach Lane Earl Shilton Leicestershire LE9 7FB**

Proposal: **TEMPORARY OCCUPATIONAL DWELLING AT BOARDING KENNELS**

Introduction:-

The proposal is for the siting of a temporary mobile home at Stanmaur Farm in association with the boarding kennels and equestrian enterprise at the farm to the south of the new Earl Shilton Bypass where it severs Breach Lane, Earl Shilton. The site is surrounded on three sides by agricultural land to the west, south and east with the Earl Shilton Bypass running loosely south-west to north-east to the north of the site approximately 180m in distance. The land falls gently from north to south.

The mobile home will accommodate 2 bedrooms, a large lounge, separate dining room, kitchen and bathroom. The overall size is 11.78m x 5.80m, with a maximum ridge height of 4.23. The structure will be sited to the front of existing development, approximately 50m from the highway.

The holding extends to a total of approximately 3.2 hectares (8 acres) of owner-occupied land, and 4.8 ha (12 acres) of grassland, which is rented. The site currently comprises three Steel portal framed barns (one with a lean-to) used for stabling, kennels and to store machinery, tack and animal feed. A large ménage is situated to the rear of the stable block and a fishing lake is located adjacent to the southern perimeter of the site.

The Design and Access Statement submitted with the application states that on-site accommodation for a worker is essential to the economic sustainability of the business. An on-site presence at most times will help to significantly reduce losses of animals through general injuries and theft, which could occur at night time. An on site presence is essential to enable the applicant to successfully apply for a licence to operate the boarding kennels as well as to look after the animals in their care.

An appraisal of the need for a temporary dwelling to service the equestrian activities and boarding kennels at the property, including a business plan has also been submitted. This concludes that there is an essential functional requirement for the provision of temporary accommodation on the holding and if the business continues to develop as planned in the attached business plan, the financial test for an eventual permanent dwelling will be met, therefore the business is planned on a sound financial basis.

History:-

08/00542/CONDIT	Continued use of land and buildings without compliance with condition 4 of planning permission 06/01048/FUL condition 8 of planning permission	Approved	25.07.08

	99/00920/FUL and condition 3 of planning permission 98/00544/FUL		
06/01048/FUL	Erection of Implement store and stable block	Approved	13.11.06
03/01102/FUL	Erection of stable block, Boarding kennels poly tunnels and disabled toilet extension to stable, to provide store, excavation of pond and temporary siting of mobile home (resubmission)	Refused	03.12.03
03/01081/CONDIT	Variation of condition 3 of application 98/00544/FUL and condition 8 of application 99/00920/FUL to remove the limitations on personal use (re-submitted)	Refused	03.12.03
02/01322/CONDIT	Variation of planning condition 3 of application 98/00544/FUL and condition 8 of 99/00920/FUL resubmission	Withdrawn	06.01.03
02/01095/FUL	Erection of stable block boarding kennels, poly tunnel and disabled toilet, extension to stable to provide store and excavation of pond and temporary siting of mobile home.	Withdrawn	06.01.03
00/00672/FUL	Siting of residential mobile home	Refused	11.10.00
99/00920/FUL	Stationing of touring caravan, erection of two field shelters,relocation of ménage and installationof CCTV and 6 floodlights	Approved	16.12.99
98/00544/FUL	Erection of stable building, barn,and construction of access drive ménage and conservation pond	Approved	12.08.98
98/00044/COU	Siting of residential caravan for farm worker for period of 12 months	Withdrawn	



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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 Head of Community Services (Land Drainage).

One neighbour objection has been received, stating that the proposed property is out of character with the area and will cause additional traffic.

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

Borough Council's Agricultural Appraisal Consultant
Director of Highways, Transportation and Waste Management (Highways)
Director of Community Services (Ecology)
Environment Agency
Earl Shilton Town Council
Site notice.

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 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. It is the requirements of the enterprise not those of the owner or occupier of relevance 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

The site is defined within the countryside in the adopted Hinckley and Bosworth Local Plan.

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 in respect of this application are: the principle of the development; whether it is essential for the proper functioning of the enterprise for one or more full time workers to be available at most times of the day and night (the functional test); whether the enterprise is planned on a sound financial basis; whether suitable alternative accommodation exists nearby; visual impact of the existing mobile home.

Principle

One of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work. Paragraph 15 of Annex A relates to “Occupational Dwellings” and states that there may be instances where special justification exists for new isolated dwellings associated with other rural-based enterprises. In these cases, the enterprise itself, including any development necessary for the operation of the enterprise, must be acceptable in planning terms and permitted in that rural location, regardless of the consideration of any proposed associated dwelling. In relation to equine uses, paragraph 32 of PPS 7 states that horse riding and other equestrian activities are popular forms of recreation that can fit in well with farming activities and help to diversify rural economies. In some parts of the country, horse training and breeding businesses play an important economic role. This application is for a dwelling associated with an equine establishment and dog kennels, which are both considered activities acceptable within the countryside.

Criteria of Annex A, PPS7

Functional Test

In considering functional need, PPS7 advises that it is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement may arise for example where workers are needed on site in case animals or agricultural processes require essential care at short notice, or to deal with emergencies that could otherwise result in serious loss if not dealt with quickly. The supporting statement accompanying the application in respect of the functional need lists the supervision requirements of the enterprise, which principally concern the welfare and security of the animals on site. In respect of each use, the need for 24hr supervision is supplied. These include;

- Specialist care and supervision, including the administration of medication, catering for special dietary requirements or illnesses and monitoring for "colic" in horses, which often occurs during the night and can be fatal.

- Supervision against theft, which the agent identifies as increasing in the UK, in respect of dogs, horses and fish. In respect of security, Annex A acknowledges that this is a material consideration that may contribute on animal welfare grounds to the need for a new dwelling. It cannot, however, be the sole justification for a new dwelling.

- To prevent mortality caused by numerous sources, as this would be unacceptable for family pets such as horses and dogs. In respect of fish, supervision will ensure that oxygen levels don't fall leaving the fish vulnerable to suffocation, and to ensure that the free range chickens would be securely housed at night to reduce their susceptibility to predators.

- In respect of commercial kennels, in order for a licence under the Animal Boarding Establishment Act 1963 to be granted, on site accommodation is required to ensure 24hr supervision and care is provided.

Although justification has been provided as to why 24hr supervision is necessary, the Local Planning Authority do not feel convinced that the issues stated warrant continual on site presence by the applicants. In respect of monitoring the horses for colic, this can occur at any point of the day, as with any illness, and if managed would not prove fatal, if the animals which are boarding or at livery at the kennels are properly cared for, there is no reason why mortality rates would be affected by whether or not there is a continual presence. In respect of the fishing enterprise, this is not of a scale to warrant 24hr supervision, and once the chickens are securely housed, there is no need for further checking throughout the night. Accordingly it is felt that the dwelling would be more for the convenience of the applicants, than the welfare of the animals.

Other Suitable Accommodation

In addition to identifying a functional need, it is also necessary to consider whether that need can be accommodated by existing dwellings on the holding, or by any other available accommodation within the locality. Although there is no other dwelling on site, the applicants live on Equity Road East, Earl Shilton, and their property is less than a mile from the site. This complies with government and local policy advice in

respect of such development. Further, whilst it is acknowledged that the applicants do not live within site or sound of the farm, it is considered that security and monitoring could be significantly improved through the installation of a CCTV system. Better security would overcome most of the problems the owners currently state they suffer, and would not require the presence of an on-site dwelling.

Financial Test

The agent has provided a financial appraisal for each of the different uses on site; in order for the financial viability of the holding to be assessed.

The Borough Council's Agricultural Appraisal Consultant has assessed the financial and functional information provided and has verbally advised that, in his opinion, the proposal does not pass either the functional or financial tests of Annex A of PPS7 and there is insufficient support for a temporary “Occupational” dwelling on the site. Details of the formal response will be reported as a late item.

As such, 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. It is considered, therefore, that the application should be refused on policy grounds, and as there is insufficient justification to warrant the erection of a dwelling.

Siting and Design

Although small scale and temporary in nature, as no functional or financial need for the dwelling has been proven, the development will constitute new development in the countryside and will accordingly be contrary to the intentions of Policy NE5 of the adopted Hinckley and Bosworth local plan. Further, in respect of temporary dwellings, PPS7 advises that planning permission should not be granted where the location would not be suitable for a permanent dwelling, and where the requirements for a permanent dwelling can not be achieved. As the application is considered to have failed the requirements for a permanent dwelling, and as the proposal will be located in the countryside, the proposal does not comply with the requirements of PPS7. The acceptance of a dwelling for this site, which presently operates on a fairly small land holding of 20 acres (part rented), could encourage this type of use to be established elsewhere in the Borough, with the same eventual requirement for a dwelling in the open countryside. This would set a precedent for similar development, making it harder for the Local Planning Authority to subsequently resist them.

Conclusion

Both central government guidance and adopted Local Plan policies seek to protect the countryside for its own sake. There is no special justification for the proposed dwelling in this countryside location as it fails the tests identified in Annex A of PPS7 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 Occupational dwelling does not pass the functional or financial tests set out in Paragraphs 4, 8 and 15 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 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 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:- Drg Nos. PL-05; Elevations 1, 2 and 3; Plan 1; Site Plan Scale 1:2500; Design and Access Statement; Appraisal Of The Need For A Temporary Dwelling.

Contact Officer:- Eleanor Shaw Ext 5691