

Application No: **10/4497N**

Location: **Little Island Nurseries, Haymoor Green Road, Wybunbury, CW5 7HG**

Proposal: **Change of Use for the Land From Horticultural to Equestrian, The Provision of a 60x30m Manege and 60x12m Stable Block, a Muck Midden and Hay Store, a Horse Walker and the Request for Variation of Occupancy of the Site to Include Equestrian Manager**

Applicant: **Mr G Heath**

Expiry Date: **18-Jan-2011**

Ward **Doddington**

Date Report Prepared: **6<sup>th</sup> January 2011**

#### **SUMMARY RECOMMENDATION**

**Approve subject to conditions**

#### **MAIN ISSUES**

- **The principle of development**
- **Whether there is a functional and financial need for an equine workers dwelling and does the new business satisfy the financial test**
- **The impact upon the character and appearance of the Open Countryside**
- **Amenity**
- **Highways implications**
- **Protected Species**

#### **REASON FOR REFERRAL**

This application is referred to the Southern Area Planning Committee at the request of Cllr Walker for the following reason

*'I believe the Committee should discuss the impact of this application on the open countryside (Policy NE.2)'*

The application was deferred at the Southern Planning Committee meeting of 2<sup>nd</sup> February to allow additional consultation with the British Horse Society.

#### **DESCRIPTION OF SITE AND CONTEXT**

The application site is located on the eastern side of Haymoor Green Road within the Open Countryside. To the front of the site is a detached two-storey red brick dwelling which has an

agricultural tie. To the east of the dwelling the majority of the greenhouses and buildings which were associated with the former nursery have now been demolished and work has commenced on the manege which is part of this application. To the northern boundary of the site two buildings associated with the former nursery have been retained. A small brook runs along the northern boundary of the site and the site is enclosed by mature hedgerows and a number of trees of varying sizes.

## **DETAILS OF PROPOSAL**

This is a full planning application for the following developments;

- The erection of a stable building which would have a width of 12 metres, a length of 60 metres and a ridge height of 5.5 metres. The stable would have a concrete base with Yorkshire Boarding above and would accommodate 20 horses
- The construction of a manege which would have a length of 60 metres, a width of 30 metres and would be enclosed by 1 metre high post and rail fencing
- The provision of a muck midden and hay store which would have a width of 6 metres, a length of 6.6 metres and a sloping roof with a maximum height of 4.2 metres. This would have a concrete base with Yorkshire Boarding above
- The provision of a horse walker

The application also includes a request to vary condition 3 attached to planning permission P03/0291 to allow the dwelling to be occupied by an equestrian manager in operating the proposed livery. This condition states that;

*The occupation of the dwelling shall be limited to a person solely or mainly working or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.*

*Reason :- The Local Planning Authority would not be prepared to permit the erection of a dwelling on the site unconnected with the use of the land for agriculture or forestry, and the condition is imposed to ensure the development complies with National and Local Policies for the protection of the countryside.*

## **RELEVANT HISTORY**

10/2457N - Change of Use from horticultural to equestrian, provision of open air manege, stable block, horse walker, muck midden and hay store. Variation on occupancy of tied dwelling to include occupation for equestrian management – Refused 22<sup>nd</sup> September 2010  
P03/0291 - Agricultural Workers Dwelling – Approved 21<sup>st</sup> November 2003  
P01/0796 - Agricultural Workers Dwelling – Refused – Appeal Lodged  
P01/362 - Detached Dwelling – Refused 4<sup>th</sup> June 2001  
7/20012 - Renewal of temporary permission 7/15572 for mobile home – Approved 26<sup>th</sup> September 1991  
7/19375 - Erection of glass housing – Approved 7<sup>th</sup> February 1991  
7/15572 - Erection of mobile home on existing agricultural land – Approved 11<sup>th</sup> July 1988

## **POLICIES**

### **Local Plan Policy**

NE.2 – Open Countryside  
NE.5 – Nature Conservation and Habitats  
NE.9 – Protected Species  
RT.6 – Recreational Uses in the Open Countryside  
RES.5 – Housing in the Open Countryside  
RES.6 – Agricultural and Forestry Occupancy Conditions  
BE.1 – Amenity  
BE.2 – Design Standards  
BE.3 – Access and Parking  
BE.4 – Drainage, Utilities and Resources

### **Regional Spatial Strategy**

DP1 – Spatial Principles  
DP2 – Promote Sustainable Communities  
DP3 – Promote Sustainable Economic Development  
DP7 – Promote Environmental Quality  
RDF2 – Rural Areas  
L1 – Health, Sport, Recreation, Cultural and Education Services Provision  
EM1 – Integrated Enhancement and Protection of the Region's Environmental Assets

### **Other Material Considerations**

Planning Policy Statement 1 - Delivering Sustainable Development  
Planning Policy Statement 4 - Planning for Sustainable Economic Growth  
Planning Policy Statement 7 - Rural Areas  
Planning Policy Statement 9 - Biodiversity and Geological Conservation  
Planning Policy Guidance Note 17 - Planning for Open Space, Sport and Recreation

### **CONSULTATIONS (External to Planning)**

**Environmental Health:** No comments received but as part of the previous application the following comments were made; *'This site has recently been investigated by Environmental Health following complaints of burning thereby resulting in smoke nuisance. This Division did serve an Abatement Notice on Mr Graham Heath requiring the activities of burning to be ceased immediately with no burning to be undertaken in the future. A recently completed detailed study into local air quality has found exceedences of Air Quality Standards and Objectives for nitrogen dioxide. The Council therefore has a statutory duty to declare Air Quality Management Areas. There is now a focus on air quality in the Borough as a whole and to maintain a Healthy and Desirable Borough in which to live in, alongside aiding the improvement of Air Quality, the burning of materials is to be discouraged. Thus the Burning of manure and general stable waste should be prohibited. Conditions requested in terms of external lighting, pile driving, hours of construction and hours of operation'*

**Strategic Highways Engineer:** The highways authority has no objections to this proposal. *N.B. Visibility could be improved by trimming back and maintaining the hedge line throughout the summer months. The highways authority recommends that this takes place at regular periods. (Please note that this is a recommendation only and is not part of any formal condition).*

## **VIEWS OF THE PARISH COUNCIL**

- Wybunbury Parish Council objects to the recent change of use application (10/4497). Since then, any resemblance to a horticultural nursery has been removed at a great inconvenience to residents due to noise, extra traffic and toxic fumes on various days and late into the evening.
  - The residential house has been left in quite substantial grounds with no connection to its original purpose.
  - To remove the horticultural/agricultural condition from the house would render it a private residence by stealth with associated equestrian/livery facilities whether they be for the owners use or as a commercial business.
  - Since the removal of the nursery, it turns the application into a development in the open countryside which is contrary to the current local plan. Also, if there was an associated DIY livery attached, this would be a commercial leisure activity in open countryside, but would not provide local employment by the nature of it being DIY. This too would be contrary to the local plan.
  - The Parish Council request that this application also be refused and the applicant be charged to reinstate the land to agricultural use to comply with the condition of use.
  - The current application as submitted would lead to over development of the site.
  - There is no screening to the manege as shown on the planning application.
  - The land as stated for extra excursive of the horses is not in the current ownership of the applicant

## **OTHER REPRESENTATIONS:**

Letters of objection received from the occupants of Rosemead, The Moorlands, and Sunnyside, Wybunbury Lane and Fairfields, Haymoor Green Road raising the following points;

- Keeping the tie on the property would help protect the site from any future development
- Noise from people on the site and the horses
- The building is too large to serve as a stables
- The stable will be a blot on the landscape
- Traffic generation caused by the requirement to empty the muck midden and deliver food and hay
- The proposed hours of operation would cause disturbance
- Any floodlighting would be intrusive and cause numerous problems
- No pre-application discussion has been carried out with local residents
- Works have already commenced on the site
- Increase in traffic
- Visibility at the site entrance
- Loss of ponds
- Together with the approved Gypsy site and Rugby pitches the development would be an overdevelopment of Wybunbury Lane
- No internal layout of the stable building
- The site will not support the number of horses which the applicant is suggesting
- The quotes given in relation to DIY livery have been exaggerated
- Full business accounts are required
- Manure storage problems

- The references to rented land cannot be considered as there is no control over this

## **APPLICANT'S SUPPORTING INFORMATION**

### **Supporting Planning Statement produced by Civitas Planning and dated November 2010**

- This document also includes the Design and Access Statement and a Business Plan for the business
- The document makes the following conclusions;
- The application represents a well-balanced application for an equine based business complex that will serve the local community as a facility to store their horses that can be used for outdoor recreation in a rural context. The application also removes the eyesore buildings that are currently on the site and replaces them with suitable rural buildings that will improve the amenity of the area for local residents. Permission for this site would support a local farmer's family who wishes to diversify into a further rural enterprise and help boost the local economy

### **Ecological Appraisal produced by Ecology First and dated 19<sup>th</sup> June 2010**

- The development could proceed without significant impact upon local amphibian populations which do not appear to include Great Crested Newts
- Several 'Reasonable Avoidance Measures' are suggested to minimise the risk to other amphibians, particularly during the removal of materials stored near the newt pond
- No other wildlife interests will be affected by the development

### **Highway Report produced by Bob Hindhaugh Associates dated November 2010**

- There are no tangible highway reasons that would cause any adverse highway safety or traffic concerns for a small development of this nature in this area
- The visibility splays that are in place are more than adequate and the access arrangements with inward opening gates are of an acceptable specification to serve this typical rural development without any changes being required

## **OFFICER APPRAISAL**

### **Principle of Development**

The principal issues surrounding the determination of this application are the impact of the proposed development upon surrounding residential amenity, highway issues, the impact upon the character and appearance of the surrounding countryside and the potential impact upon protected species. Furthermore, it must be assessed whether the functional and financial test outlined in PPS7 have been met with regard to the variation of the use attached to the agricultural worker's dwelling on the site.

The policies most relevant to the determination of the principle of this scheme are NE.2 (Open Countryside) and RT.6 (Recreational Uses in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011. The site falls within the open countryside as defined in the Local Plan and NE.2 (Open Countryside) states that only development essential to agriculture, forestry or outdoor recreation that are appropriate to a rural area will be permitted, to preserve the surrounding rural character. Policy RT.6 allows

recreational uses in the open countryside where they meet a number of criteria including that they do not harm the character or appearance of the area.

The site was a former nursery and guidance given within PPS4 states that Local Planning Authority's should support *'small-scale economic development where it provides the most sustainable option in villages or other locations, that are remote from local service centres, recognising that a site may be an acceptable location for development even though it may not be readily accessible by public transport'*

PPG17 suggests that sports and recreational activities should be given favourable consideration in rural locations. It also states that they will require *'special justification to be located in the open countryside'* and *'All diversification in rural areas should be designed and sited with great care and sensitivity to its rural location.'*

### **Open Countryside and Equine Uses**

Policy NE.2 restricts development within the open countryside to that which is essential to agriculture or other appropriate activities. Proposals relating to equestrian uses are usually accommodated under the outdoor recreational exception (Policy RT.6). Therefore the use of the land for the keeping of horses including the construction of appropriately sized/located stables is supported by policy.

### **Policy Requirements of Rural Workers Dwellings**

The approval for the dwelling on the site has a condition and a legal agreement which restrict the dwelling to being occupied by a person solely or last working in agriculture. The proposed equine use would not fall within the definition of agriculture and a person operating a livery could not occupy the dwelling in accordance with the condition and legal agreement. It is therefore necessary for the applicant to apply to vary the condition and legal agreement (variation of the condition is sought as part of this application).

Policy RES.6 (Agricultural and Forestry Occupancy Conditions) states that agricultural occupancy conditions will not be removed unless a number of criteria can be met. In this case it is clear that the dwelling is no longer needed in connection with the enterprise which generated the need for its construction as the nursery operation has ceased on the site and the glasshouses required in connection with that business have now been demolished. The policy also requires the applicant to demonstrate that there is no long term need for the dwelling to accommodate agricultural workers and for the property to be marketed. In this case it is considered that the principle of a variation in the occupancy condition so that it can be occupied by an equine worker is acceptable because equine development at this site can only be located in the open countryside.

As the varied condition would allow somebody currently or last employed in equine working to occupy the dwelling (no matter how long they were employed) it is necessary to apply the tests contained within PPS7, specifically Annex A, and RES.5 (Housing in the Open Countryside). This is to ensure the development is fully scrutinised as it is important to establish whether the stated intentions to engage in the equine business are genuine, are reasonably likely to materialise and capable of being sustained for a reasonable period of time.

As the dwelling would be for worker employed in a newly created rural business, if a variation of condition is to be granted it is considered that this should be for a 3 year temporary period only in line with Annex A of PPS7. This is to ensure that the proposed business is fully scrutinised as stated above. The following tests therefore need to be met to show that a variation in the condition to allow it to be occupied by an equine worker is essential to the new rural enterprise;

i) *'Clear evidence of a firm intention and ability to develop the enterprise'* – The applicant intends to invest in the business through the provision of a manege, stables, and horse walker. It is considered that this proposed investment is an indication of the owners intentions. In terms of the owner's abilities, the supporting planning statement states that the applicant owns the following horses; seven brooding mares which are ex British show jumpers of breeding quality, young foals and followers, two national show jumpers, one breeding stallion and three ponies. All of these horses are kept at the applicant's dwelling and will not be kept at the application site. Given this information it is considered that this test has been met.

ii) *'A functional need – that it is essential for the operation of the enterprise to have a worker readily available'* – As part of this application an assessment has been provided which shows that there is the following labour requirement to serve the proposed enterprise;

- Daily welfare checks (1 hour per day)
- Mucking out (2 hours per day)
- Turn out and bringing in (1-2 hours per day)
- Holiday cover (hours can vary but can increase daily hours by up to 50%)
- Full livery options (dependent on numbers but could be an additional hour per horse)
- Administration (1 hour per day)
- Pasture management (half an hour per day)
- Security (8 hours per night)

Application 10/2457N was refused in the past because there was perceived to be a lack of land for the proposed stabling of 20 horses. The applicant has 8 acres of pasture land for horse grazing, and intends to stable 20 horses. The British Horse Society (BHS) recommended acreage requirement per horse or pony is 1 - 1.5 acres per horse. Using this guidance the land could only support 8 horses and not the 20 horses which are proposed as part of this business. As a result the previous application was recommended for refusal. However the applicant's submission states that they have contacted the BHS and they have confirmed that the proposal is viable as long as the project is well planned and managed.

The case officer has contacted the BHS separately and they have confirmed in an e-mail that;

*'As you know we recommend as a rule of thumb an allowance of 1 – 1.5 acres per horse. However, we do not consider this to be a hard and fast rule, there are numerous factors that can and do affect the true requirement. These include:*

- *How the horses are managed – i.e. the amount of time that each horse will spend on pasture*

- The number of horses in relation to the amount of land (e.g. 200 horses on 100 acres is generally more feasible than 2 horses on 1 acre even though the ratio of horses to acres is exactly the same)
- Pasture husbandry employed
- The topography of the land
- The soil type and drainage of the land
- The size and type of horse
- The species of grass in the pasture
- Local climate

*This is by no means an exhaustive list but it does help to illustrate the point that it is simply impossible to be too prescriptive. It is certainly true that the way in which horses are managed can make an enormous difference to the required acreage. It is certainly feasible that 20 horses could be kept on 8 acres if it is very well managed. However, I cannot comment on this particular application as I have not seen the site'*

It is therefore considered that the proposed development is functionally acceptable and the previous reason for refusal has been satisfied.

*iii)'Clear evidence that the enterprise has been planned on a sound financial basis – A business plan for the proposed business has been submitted in support of this application.*

There is no definition of financial soundness or viability in planning guidance. However, normal economic assessments of any business would expect a financial performance which provided a reasonable return on the resources deployed in it, notably land, labour and capital and a stable relationship between its current assets and liabilities. Such an assessment base would accord with advice previously given by MAFF to Local Planning Authorities on the subject of agricultural workers dwellings.

The applicant's agent has indicated that the proposed business would charge £50 per week for DIY livery provision. Supporting evidence has been submitted with this application which indicates that this figure is comparable to other similar businesses in the area. These figures are disputed by 1 local resident who states that they are misleading as they have been quoted lower prices from nearby DIY liveries. An article on the web-site [www.equine-world.co.uk](http://www.equine-world.co.uk) states that the estimated DIY livery price would be £30-£40 a week.

The business plan shows that the business would make a healthy profit. However this does not include depreciation, and returns on land, labour and capital. In terms of a return on labour this would equate to a minimum agricultural worker's wage which stands at £13,455.

In terms of the return on land, this would be a notional rent. A recent application at Ash Tree Farm at Blakenhall calculated this at 1 acre @ £65. When taking this assessment into account for the 8 acres of land owned by the applicant this would equate to £520.

As the applicant has not indicated the cost of the buildings or site it is not possible to calculate the return on capital which would be 2.5%. However following the deductions for return on land and labour the business would still make a healthy profit from which the return on capital and depreciation could be deducted which would leave a financially sound



business. This conclusion is made using both the figure of £50 a week for DIY livery suggested by the applicant and £40 a week taken from the internet research.

*iv) 'The functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned'* – This proposal relates to an existing dwelling on the unit not a proposed dwelling and this criterion has been met.

*v) 'Other planning requirements, e.g. in relation to access or impact upon the countryside are satisfied'* – This issue will be addressed separately below.

## **Design**

The proposed stable block would be of a rectangular form with a shallow pitched roof. The stables would have a width of 12 metres, a length of 60 metres and a ridge height of 5.5 metres. The proposal is considered to be of a simple design and materials in this open countryside location. Given that the justification for a stable block of this size has now been accepted it is considered that the building is of an appropriate design which would not appear dissimilar to many modern agricultural buildings. The building would be sited on the footprint of the former glasshouses on the site and would be viewed in relation to the existing buildings which stand on the site. It is therefore considered that a stable block is an appropriate form of development within the open countryside and complies with Policies NE.2 and RT.6.

Although the proposed manege is large in size it is considered to be a relatively small scale development that is of a temporary nature and that could easily be removed from the site. The proposal would be enclosed by a simple post and rail fence and given its scale it would not have a detrimental impact upon the character and appearance of the open countryside.

The muck midden/haystore and horse walker are minor forms of development and it is considered that the siting and scale of these is appropriate.

A number of the letters of objection have referred to floodlights and the impact that they may cause. The proposed manege would include the provision of 8 floodlights although the height and design of these are not known at this stage. These details could be controlled by condition. The principle of floodlighting in this location is considered to be acceptable as similar floodlighting is currently in use at the nearby Crewe Vagrants Club which is approximately 290 metres from the application site. It is not considered that this floodlighting would cause significant harm to the character and appearance of the open countryside in this location.

## **Amenity**

The principal impact on amenity arising from the development is likely to be the noise arising from the stabling of horses on the site and the compatibility of this use with surrounding uses; namely the nearby residential property.

Horses that are stabled tend to make more noise due to banging at feeding times. This can have an impact on neighbouring amenity. However this impact is likely to be intermittent and

minor in its impact due to the limited number of horses at the site, particularly since the nearest residential property is approximately 70m away from the proposed manege. Furthermore the Council's Environmental Health Officer has no objection to the proposed development in relation to noise as part of the previous application.

The proposals would be unlikely to have a significant impact on neighbouring amenity. In relation to the compatibility of the proposed use with surrounding land uses, equine facilities require rural locations and the proposal will not appear out of character or an incongruous feature within the open countryside.

The manege would include eight 70W floodlights and in terms of the impact upon residential amenity the Environmental Health Section have requested a condition to ensure that the lights are angled and positioned to ensure no light spillage (zero lux) at the elevations of the nearby residential properties. This condition would ensure that there is no detrimental impact upon residential amenity from the proposed lighting columns.

## **Highways**

Concerns have been raised over the highway safety implications and traffic generation issues raised by the proposed development. The Strategic Highways Engineer has raised no objection to this. Although the Strategic Highways Engineer suggests visibility improvements he does state that there would be no formal requirement to improve the visibility splays. It is considered that traffic speeds at the point of the access onto Haymoor Green Road are relatively slow as vehicles will reduce speed as they approach the junction with Wybunbury Lane. As a result it is not considered that the visibility improvements suggested by the Strategic Highways Engineer are required and the development is acceptable in terms of its highway safety/traffic generation implications.

## **Protected Species**

In terms of protected species, the main species that could be affected by the development are Great Crested Newts, Badgers and Water Voles. The protected species survey indicates that Great Crested Newts, Badgers and Water Voles are unlikely to be affected by the development and these conclusions are accepted by the Council's Ecologist.

As part of the site clearance works two ponds which were suitable for Great Crested Newts and were used by Smooth Newts and Common Frog have been removed from the site. If the application was recommended for approval a condition requiring replacement ponds would be attached to any permission.

## **Other Issues**

Concern has been raised by some residents over the cumulative impact of the proposed development together with the approved Gypsy site and Rugby Pitches. In response to this, each application is determined on its own merits and the scale of these developments is considered to be relatively minor and when combined they would not have a detrimental impact upon the character and appearance of Wybunbury Lane.

It is accepted that works have already commenced on the site. This is at the applicant's own risk and is not a reason to refuse the application.

The plans do not include an internal layout of the stable building. This could be controlled by condition should the application be approved.

## **CONCLUSIONS**

It is proposed to vary the occupancy condition so that the existing dwelling on site can be occupied by an equestrian manager as part of the proposed equine business. In order to ensure that the enterprise is genuine, is reasonably likely to materialise and is capable of being sustained for a reasonable period of time it is necessary to apply the criterion of Annex A to PPS7. The supporting information demonstrates that the development would meet the functional and financial tests of Annex A PPS7 and that the applicant has an ability to develop the enterprise. It is therefore considered that the proposed variation of condition is acceptable subject to the use of a 3 year temporary occupancy condition.

Following the submission of additional information and the case officer's discussions with the British Horse Society, the justification for a stable building of the size proposed is accepted and it is considered that the development would not be harmful to the character and appearance of the open countryside.

The proposed manege, horse walker, and muck midden/hay store are considered to be acceptable in principle and would not raise any implications in relations to residential amenity, protected species, highway safety and are of an acceptable design.

## **RECOMMENDATIONS**

APPROVE SUBJECT TO THE FOLLOWING CONDITIONS;

- 1 Standard time 3 years
- 2 Development to be carried out in accordance with the approved plans
- 3 Surfacing Materials to be submitted to the LPA and approved in writing
- 4 External materials to be submitted to the LPA and approved in writing
- 5 Removal of stables, manege, muck midden/hay store and horse walker within six months of the date when they cease to be used for equine purposes
- 6 Work to stop if protected species discovered
- 7 No external storage
- 8 Hedgerow and tree retention
- 9 Within 3 months of the date of approval details of the creation of 2 ponds within the application site should be submitted to the LPA and approved in writing. The ponds shall be constructed before the stables hereby approved are first brought into use
- 10 Agricultural occupancy condition attached to the dwelling to be varied for 3 years only
- 11 Details of pile driving operations to be submitted to the LPA and approved in writing
- 12 Hours of operation to be restricted to 06:00 – 20:00 Mon – Sun (including Bank Holidays)
- 13 Before development commences, details of all external lighting equipment (including design and height) shall be submitted to and approved by the Local Planning Authority. The lighting in the scheme should be erected and directed so as to avoid nuisance to residential accommodation in close proximity. Lights shall be angled and positioned to

ensure no light spillage (zero lux) at the elevations of the nearby residential properties. High intensity lights shall be positioned so that the source is not visible at nearby residential properties. No other lighting equipment may then be used within the development other than as approved by the Local Planning Authority.

- 14 The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.
- 15 Floodlighting shall not be in use from 20:00 until dusk the next day
- 16 Remove rights for the siting of containers on the application site
- 17 Limit the number of horse transporters parked on the site to five

Location Plan:

