

<b>Planning Reference No:</b>	10/2457N
<b>Application Address:</b>	Little Island Nurseries, Haymoor Green Road, Wybunbury, CW5 7HG
<b>Proposal:</b>	Change of use from horticultural to equestrian. Provision of open air menage, stable block, horse walker, muck midden and hay store. Variation of occupancy of tied dwelling to include occupation for equestrian management.
<b>Applicant:</b>	Mr G. Heath
<b>Application Type:</b>	Full Planning
<b>Grid Reference:</b>	368391 350926
<b>Ward:</b>	Doddington
<b>Earliest Determination Date:</b>	30 <sup>th</sup> August 2010
<b>Expiry Dated:</b>	22 <sup>nd</sup> September 2010
<b>Date of Officer's Site Visit:</b>	25 <sup>th</sup> August 2010
<b>Date Report Prepared:</b>	8 <sup>th</sup> September 2010
<b>Constraints:</b>	Open Countryside

## **SUMMARY RECOMMENDATION**

**Impact of the development on:-**

- The impact upon the character and appearance of the Open Countryside
- Whether there is a functional and financial need for an equine workers dwelling
- Protected Species
- Highways implications

## **SUMMARY RECOMMENDATION:**

**REFUSE for two reasons;**

- The lack of information in relation to the ability of the applicant and failure to demonstrate that the functional and financial tests of Annex A of PPS7 have been met in terms of the variation of condition
- The impact of the development on the character and appearance of the open countryside.

## **1. 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 the application on the Open Countryside (Policy NE.2)'*

## **2. 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.

### **3. 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 the applicants 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.*

### **4. RELEVANT HISTORY**

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

### **5. 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

## **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)

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

**Environmental Health:** 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:** Visibility at this location is below standard but because equestrian use generates less traffic than horticultural, there will be no formal requirement to improve the visibility splays. The highways authority recommends that the visibility splays be improved to allow better access to and from this site. The existing gates are in poor condition and must be set back 10.5 meters and open inwards to prevent queuing vehicles along Haymoor Green Road. A plan must be provided demonstrating the above changes before the highways authority can consider this application.

**Ecology:** Originally raised concern over the impact upon Great Crested Newts, Badgers and Water Vole. Following receipt of further information now satisfied that neither badger or water voles present a constraint upon the proposed development (The two ponds which had potential for GCN have now been removed)

## **7. VIEWS OF THE PARISH COUNCIL**

No comments received at the time of writing this report

## **8. OTHER REPRESENTATIONS:**

Letters of objection received from the occupants of Rosemead, The Moorlands, Stapeley House 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
- Burning of waste on the site
- Increase in traffic
- Visibility at the site entrance
- 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

## **9. APPLICANT'S SUPPORTING INFORMATION**

### **Design and Access Statement**

- The site extends to 8 acres with a tied agricultural dwelling
- The applicant purchased the site in May 2010 after it had been on the market for some time. It was clear from the accounts obtained from the agricultural business that this would not sustain a sufficient livelihood for them to occupy the site on this basis. The applicant is a farmer with an agricultural holding in Staffordshire and his wife and children all ride horses. Mr Heath wishes to establish an equestrian use for the site providing livery facilities and for his wife to manage the equestrian business based on the site
- There is a strong equestrian demand in the locality and with horse riding and ownership on the increase nationally (4.3 million people having ridden once in the last 12 months showing considerable growth since 1999 which gave the number at 2.4 million)
- Mr Heath has numerous equine contacts and clients and following research he sees a market for a high class livery with quality stables on a secure site with intrinsic paddocks and exercise facilities
- The access to the site will utilise existing infrastructure. No alteration is needed for the site entrance other than new gates and tidying up of the frontage and it is anticipated that traffic will not be increased by this use.
- An appendix to the Design and Access Statement includes a Business Plan for the business

### **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

### **Addendum to the Ecological Appraisal produced by Ecology First and dated 2<sup>nd</sup> September 2010**

- Signs of Badger activity were searched for during the 19<sup>th</sup> June walkover survey and the nil findings were recorded in the original report (page 2, last line). A repeat check of the site perimeter was carried out on 2<sup>nd</sup> September and again no evidence of activity was found. Between surveys, the perimeter of the site has been sheep-fenced. There were no signs of Badgers having tried to dig under the fence to access the reseeded interior (or to get out).
- No assessment was made of Water Vole activity during the original survey, nor was such an assessment considered important, given the very shallow and intermittent

nature of standing water in the ditch along the northeast edge of the site. Proposals to site a small midden, in which to store manure, near this ditch required a closer inspection to ensure there was no Water Vole activity. When the ditch was revisited on 2nd September, much of its length had been carefully cleared of vegetation, exposing the very small amount of stagnant water. There is currently no inflow and the downstream end is almost completely blocked with twigs and leaves. This ditch will provide a valuable refuge for amphibians displaced from the former nursery area. A careful search was made along its undisturbed banks, but no signs of Water Vole activity (burrows, latrines or feeding stations) could be found.

## **10. 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 tie attached to the agricultural worker's dwelling on the site.

The policies most relevant to the determination of the principal 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 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 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 the 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 principal 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 this is newly created rural businesses 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 owners abilities the Design and Access Statement states that the enterprise would be run by Mr Heath's wife and that she rides horses. The statement does not elaborate on this point further and it is not clear how long Mr Heath's wife has been riding or as to whether she owns any horses, has kept horses or has any qualifications in relation to keeping of horses. As a result it is considered that insufficient information has been provided to meet the second part of this criterion.

ii) *'A functional need – that it is essential for the operation of the enterprise to have a worker readily available'* – No assessment has been provided to show that there is a functional need for a dwelling to serve the proposed livery such as a calculation for the labour requirement to serve the enterprise.

The applicant has 8 acres of pasture land for horse grazing, and intends to stable 20 horses. The British Horse Society 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 proposed use of the site could potentially raise welfare problems due to the over-

intensive use of the site. To support a rural workers dwelling the land is usually required to support 20 horses which is clearly not possible at this site when using the British Horse Society guidance. It is therefore considered that the functional need for a temporary equine workers dwelling on the site has not been proved.

*iii) 'Clear evidence that the enterprise has been planned on a sound financial basis – As part of this application a business plan has been provided. However the results of this business plan are not considered to be acceptable. This business plan concludes that the average price for a DIY livery is £50 - £65 per week, but no justification has been provided for this figure. Furthermore the business forecast does not include the following costs; the cost of the buildings, cost of acquiring the site, any loans, depreciation, and returns on capital, labour and land. It is therefore considered that insufficient information has been provided in relation to the financial test.*

*'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.*

*iv) '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. However the amount of land which the applicant owns would not support the 20 horses which the stable block would accommodate when using the British Horse Society guidance as referred to above. It is therefore considered that a stable block of this size would be an overdevelopment of the site and the submission fails to demonstrate that it is essential for outdoor recreation as required by Policy NE.2. As a result a stable block of this size would be harmful to the character and appearance of the open countryside and would be contrary to 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 they 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. However no floodlights have been applied for as part of this application.

## **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, 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 ménage. Furthermore the Council's Environmental Health Officer had no objection to the proposed development in relation to noise.

The proposals would be unlikely to have a significant impact on neighbouring amenity. In relation to the proposed use compatibility 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.

## **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 proposal and states that the equestrian use would generate less traffic than the previous horticultural use. 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 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.

Concern has been raised over the burning of waste on the site. This is not considered to be a planning issue and is controlled under Environmental Health Regulations. Furthermore the majority of the site clearance had been carried out at the time of the site visit.



It is accepted that works have already commenced on the site. This is at the applicants 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.

## **11. CONCLUSIONS**

It is proposed to vary the occupancy condition so that the existing dwelling on site can be occupied by the applicant 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 does not demonstrate that the development would meet the functional and financial tests of Annex A PPS7 and the submission has failed to demonstrate that the applicant has an ability to develop the enterprise.

The applicant owns 8 acres of land at this site and proposes to stable 20 horses. This number of horses on the land available to the applicant does not meet standards given by the British Horse Society. As a result it is considered that, in the absence of any detailed justification to explain how the business would operate in such circumstances a stable building of this size would result in an unwarranted intrusion that would be harmful to the character and appearance of the open countryside.

The proposed ménage, 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.

## **12. RECOMMENDATIONS**

### **REFUSE**

- 1. The proposed development relates to a newly created rural business and the Local Planning Authority considers that the applicant has failed to demonstrate that there is a clearly established functional need, that the development meets the financial test specified within Annex A of PPS7 and that the applicant has the ability to develop the enterprise. As a result the variation of the condition would not be acceptable as it has not been possible to establish that the stated intentions are genuine, are reasonably likely to materialise and are capable of being sustained for a reasonable period of time. To allow the development would be contrary to the provisions of PPS 7 (Sustainable Development in Rural Areas) and Policies RES.5 (Housing in the Open Countryside) and RES.6 (Agricultural and Forestry Occupancy Conditions) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.**
- 2. The Local Planning Authority considers that there is insufficient land to serve a stable block of the size proposed for this enterprise in accordance with guidance given by the British Horse Society. In the absence of a detailed justification to explain how the enterprise would operate under such circumstances the proposed stable block by reason of its size and**

**scale would result in an overdevelopment of the site and an unwarranted intrusion into the open countryside that would harm its character and appearance. The proposed development would therefore be contrary to Policies NE.2 (Open Countryside) and RT.6 (Recreational Uses in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.**

Location Plan: Cheshire East Council Licence No. 100049045

