

AGENDA ITEM NO: 8/1(a)

Parish:	Hockwold cum Wilton	
Proposal:	Change of use of the building from a cattery with ancillary offices to use as a cattery with ancillary offices, residential accommodation for the occupation by the cattery owner/manager, minor changes to the external appearance of the building and car parking	
Location:	White Dyke Farm Black Dyke Road Hockwold cum Wilton Norfolk	
Applicant:	Mr John Scott	
Case No:	16/01177/F (Full Application)	
Case Officer:	Mr K Wilkinson	Date for Determination: 28 October 2016 Extension of Time Expiry Date: 9 December 2016

Reason for Referral to Planning Committee – Referred by the Assistant Director of Environment and Planning.

Case Summary

This application seeks approval for residential accommodation within the existing cattery building. The business is located in an area of countryside where new dwellings are normally restricted. The justification put forward is that the new dwelling is needed in connection with the existing business. However, officers believe that there is no need for a further dwelling on the site, and that existing dwellings cater for this need.

This application was deferred without been considered from the January Committee meeting due to the ill health of the applicant and his agent.

Key Issues

The key issues in relation to this application are;

The planning history.

The principle of a new dwelling as part of the business.

Recommendation

REFUSE

THE APPLICATION

The application relates to Country Retreat Boarding Cattery, which comprises part of Whitedyke Farm situated on the eastern side of Black Dyke Road, Hockwold.

White Dyke farmhouse which is a Grade II listed building lies immediately south of the barn and beyond this lies an outbuilding that was previously occupied by the cattery. There is

also an annex which was granted a Certificate Lawful Use or Development Certificate (CLUD) for use as a single dwelling house.

These are owned by the applicant and are therefore shown outlined in blue on the submitted site and location plans. Additionally to the south of the application site lays a complex of barns which have previously been converted into residential properties and are no longer owned by the applicant.

The site is located in the countryside as defined by the development plan. The site also lies within the Breckland Special Protection Area (SPA) and Breckland Farmland Site of Special Scientific Interest (SSSI).

Planning permission was granted in 2014 (14/00265/F) for the relocation and expansion of the existing cattery from the outbuilding on the southern side of White Dyke Farm to a new cattery building along with re-siting of existing cattery pens and provision of car parking and revised access.

A recent application sought the variation of conditions 2 and 7 of that permission to amend the approved plans and remove conditions 5 and 6 (relating to off-site highway works).

This application seeks to amend the approved development from 2014 from cattery with ancillary offices to cattery ancillary, offices and residential accommodation to enable residential use within the existing building for the owner/manager of the cattery.

SUPPORTING CASE

The applicant's agent has submitted the following case in support of this application:

The applicant's agent has submitted the following summary case in support of this application:

The proposal is considered to comply with SADMP policy DM6.

There is a clear intention to engage in the activity of managing the cattery, as the applicant's partner is the current owner of this established and expanding business;

The applicant is content for a condition to be in place to control the occupancy of the residential element;

This rural based enterprise is well established;

The proposal is not for a new permanent dwelling, but for the use of part of a building that already has planning permission;

There is a clear functional need for the occupant to be on site at the enterprise, both day and night, for security reasons and to provide the expected high level of care to the cats. This is supported by letters from the local vet and Cat Protection representative;

The need could not be suitably met by other dwellings in the locality. The existing farmhouse building is too large, and its value is too great to be supported by the existing cattery operation. The residential annex, recently granted a Lawful Development Certificate for a lawful residential use, is too small and inflexible, and would limit the potential sale of the cattery should the need arise, and does not provide an appropriate level of security (being some 80m distant and with no windows directly overlooking the cattery or the access drive).

The former cattery building, recently granted planning permission under ref 15/01316 is too remote to provide an appropriate level of security to the cattery;

There is clear evidence of a financially sound business, in that the cattery has been operating since 2007, and is an established contributor to the local economy, and has recently expanded into the barn in order to accommodate the increasing demand;

The proposal is acceptable in all other respects.

On the 3rd of January the agent submitted additional information in relation to his client and made comments in respect to the report within the agenda.

Evidence was submitted in relation to the poor health of his client's partner (Mr Rolph) with a copy letter to his doctor outlining his serious condition.

Consideration of this additional information is addressed within the planning analysis section of the report.

The letter also criticised the council in relation to what the agent sees as an inconsistent approach to considering new development housing in the countryside and in particular the interpretation of NPPF Para 55 and DM06.

It also suggests that if a full permission is considered unacceptable a temporary permission for 2 years be considered.

PLANNING HISTORY

The site has a long and complex planning history relation to residential conversions and cattery uses.

Conversion of redundant barn, cartsheds and grainstore to 3 dwellings and removal of covered area

Ref. No: 05/01603/LB .Permitted

Conversion of redundant buildings to 3 dwellings and change of use of land to residential garden land and alterations/new vehicle access

Ref. No: 05/01606/F. Permitted

Change of use of outbuilding to animal shelter (cattery)

Ref. No: 07/00006/CU | Status: Application Permitted

Permanent use of converted of farm building/animal shelter to cattery (retrospective) following temporary permission 07/00006/CU

Ref. No: 08/02698/F. Permitted

Re-application for loft conversion works

Ref. No: 11/00017/LB | Status: Application Permitted

Change of use and extension of existing cattery to dwelling and change of use of existing barn to cattery, poultry unit, associated office accommodation and work/live unit

Ref. No: 11/01459/F. Withdrawn

Remodelling of existing barns to facilitate the relocation and expansion of the existing cattery business, resiting of existing cattery pens, provision of swimming pool and gym for residential use, provision of car parking spaces and revised access to the site

Ref. No: 12/01302/F. Refused

Proposed new cattery building to facilitate the relocation and expansion of the existing cattery business, resiting of existing cattery pens and provision of car parking and revised access

Ref. No: 14/00265/F. Permitted

Relocation of two stable blocks in paddock

Ref. No: 14/01518/F. Permitted

NON-MATERIAL AMENDMENT TO PLANNING PERMISSION 14/00265/F:
Ref. No: 14/00265/NMA_1 | Status: Application Permitted

Variation of conditions 2 and 7 attached to planning permission 14/00265/F to amend the approve plans and removal of conditions 5 and 6 (off site highway works)
Ref. No: 15/01314/F. Refused

Lawful Development Certificate: Use of annex as a single dwelling house (use class C3)
Ref. No: 15/01515/LDE. Lawful

15/01314/F: Application Refused: 28/01/16 - Variation of conditions 2 and 7 attached to planning permission 14/00265/F to amend the approve plans and removal of conditions 5 and 6 (off site highway works)

CONSULTATIONS

Hockwold Parish Council: OBJECT; The Hockwold Parish Council have voted not to support this application on the following grounds:

- Not in character with the area.
- They also feel that there should be an adequate foul water disposal system required for this if the County is to go ahead with it.

Norfolk County Highways: Following our conversation it is my understanding that this application differs from the 2014 application reference 14/00265/F in that a residential dwelling would be incorporated.

In terms of this application I would anticipate that the level of traffic is likely to be similar to the 2014 approval as that main part of the traffic would be attributed to the cattery and the attendance of the site manager if utilised. On balance therefore it would be difficult to substantiate an objection to the application on highway grounds however this would be subject to updated conditions and providing the highway improvements previously approved. Conditions proposed; revised access, visibility spays, off site passing bay on Corkway Drove.

CSNN; NO COMMENT

Conservation team; NO OBJECTION

REPRESENTATIONS

1 letter of representation has been received in relation to this application principally regarding foul sewage disposal.

1 letter of support from Ely and District branch of Cats Protection.

1 letter of support from Paul Jarman veterinary Surgeon.

A petition signed by 186 people has been received in support of the proposal for residential accommodation as part of the existing cattery.

NATIONAL GUIDANCE

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS11 - Transport

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM6 - Housing Needs of Rural Workers

PLANNING CONSIDERATIONS

The key issues identified in the consideration of this application are as follows:

- Planning History
- Principle of a new residential use as part of the business
- Other considerations.

History

The original application for relocation and expansion of the existing cattery business (application ref: 12/01302/F) was previously refused by the Council and later dismissed at appeal on 5th August 2013.

Since this appeal was dismissed planning permission 14/00265/F has been granted for a new cattery building to facilitate the relocation and expansion of the existing cattery business, re-siting of existing cattery pens and provision of car parking and revised access. However, in order to overcome previous concerns raised by the Council and Inspector the scheme was substantially amended from that previously dismissed at appeal in terms of its design and also the omission of any ancillary residential use (swimming pool/gym) or other residential accommodation.

Recently permission was sought (under application ref: 15/01314/F) – to vary conditions 2 and 7 attached to planning permission 14/00265/F to amend the approved plans and remove conditions 5 and 6 (off site highway works) this was however refused under delegated powers in January this year. The reasons for refusal were as follows:

1. The application as submitted would result in the provision of a self-contained residential unit within the cattery building which would fundamentally and substantially alter the proposals previously approved under planning permission 14/00265/F, contrary to advice contained within National Planning Policy Guidance (NPPG) (2016).
2. The proposed amendments to the previously approved drawings permitted under planning permission 14/00265/F, due to the provision of large, incongruous dormer windows on the east elevation and first floor windows on the north and south gable ends, would appear visually intrusive and result in the domestication of a non-residential building which would be at odds with the established form and character of the site, result in substantial harm to the intrinsic character and beauty of the countryside and have a detrimental impact on the setting and significance of adjacent listed buildings. The proposal is therefore contrary to Policies CS01, CS06, CS08 and CS12 of the Council's adopted Core Strategy (2011), draft Policy DM15 of the LDF Site Allocations and Development Management Policies – Pre-Submission Document (2015) and the provisions of the National Planning Policy Framework (NPPF) (2012).
3. The unclassified road serving the site is considered to be inadequate to serve the development proposed, by reason of its poor alignment / restricted width/ lack of passing provision. The proposal, if permitted, would be likely to give rise to conditions detrimental to highway safety, contrary to Policy CS11 of the King's Lynn and West Norfolk Borough Council Core Strategy (2011) as well as the provisions of the NPPF (2012).
4. The proposal would result in provision of a new residential unit in an unsustainable and isolated location. The NPPF at Paragraph 55 is clear that LPAs should resist new isolated homes in the countryside unless there are special circumstances and insufficient evidence has been submitted in support of this application to demonstrate there is an essential need for the cattery owner / manager to reside within the building when there is existing residential accommodation within the applicant's ownership and control that is in close proximity to the cattery.

The proposal therefore conflicts with the provisions of paragraph 55 of the NPPF as well as Policies CS01 and CS06 of the Core Strategy (2011) and draft Policy DM6 of the LDF Site Allocations and development Management Policies – Pre-Submission Document (2015). It is therefore considered that the adverse impacts of developing this site would 'significantly and demonstrably' outweigh the benefits, when assessed against paragraph 14 of the NPPF.

Three of the four reasons for refusal (set out above) specifically related to the S.73 application, but the key issue with this application is the residential occupation of part of the new cattery building.

Within the officer report pursuant to the above it is stated;

'Irrespective of the discrepancies with the plans, it is the view of the local planning authority that seeking to introduce a residential use into the previously approved cattery by means of a variation of condition application is not acceptable as it represents a significant change to the original consent (particularly given the recent appeal history) that cannot be considered in this way.'

The application under S73 was refused permission on the 24 August 2015 for the 4 reasons set out earlier in this report.

This current application is the latest to try to regularise aspects or make changes to the approved scheme.

Principle of new residential use as part of the business.

Having regard to the NPPF para 55 and appeal decisions which revert back to PPS7 annex A tests (notwithstanding the fact that PPS7 has been superseded) new dwellings in the countryside should only be permitted in exceptional circumstances where they comply with the policy exceptions within NPPF para 55, and policy DM06 of the adopted Site Allocations and Development Management Policies Plan (SADMP).

Policy DM 6 – Housing needs of rural workers states,

“New Occupational Dwellings”

1. Development proposals for occupational dwellings must demonstrate the stated intentions to engage in farming, forestry or any other rural-based enterprise, are genuine, are reasonably likely to materialise and are capable of being sustained. Proposals should show that the needs of the intended enterprise require one or more of the people engaged in it to live nearby.
2. Agricultural or rural based occupancy conditions will be placed on any new permanent or temporary occupational dwellings specifying the terms of occupation.

Permanent occupational dwellings

3. New permanent dwellings should only be allowed to support existing rural based activities on well-established rural based enterprises, providing:
 - a. there is a clearly established existing functional need, requiring occupants to be adjacent to their enterprises in the day and at night,
 - b. The need could not be met by existing dwellings within the locality,
 - c. The application meets the requirements of a financial test demonstrating that:
 - d. the enterprise(s) and the rural based activity concerned have been established for at least three years, have been profitable for at least one of them and;
 - i. are currently financially sound, and have a clear prospect of remaining so and;
 - ii. the rural based enterprise can sustain the size of the proposed dwelling;
 - iii. acceptable in all other respects.”

The cattery is an established and viable rural business and as such in relation to the financial sustainability of the business, it has previously been agreed that the business does have a functional need for staff to be nearby which was established through the approval of 14/00265/F. However, such a functional link already exists.

The approved scheme (14/00265/F) through Condition 7 links the use of the cattery with occupation of West Dyke Farmhouse, which is an existing property on the farm complex some 60m from the cattery.

It is noted that the applicant has provided a letter from the Ely and District Cats Protection and a supporting petition with 186 signatures from clients in support of the need for the accommodation to be within the building.

However, it is also noted that this proposal would actually increase the number of potential dwellings within the wider site to 4, which are the main farmhouse, the former annex which now has a Certificate of Lawful Use or Development (CLUD) as a separate dwelling as well

as the former cattery building which has permission for conversion. This level of residential development associated with the wider site is already well in excess of what is functionally necessary to operate the business.

Given the above it is not considered that it is established that there is an additional essential need for the on-site supervision to be within the cattery building as proposed, as opposed to being within West Dyke Farmhouse, or within the annex building, which currently occurs.

In this respect the proposal clearly fails to comply with policy DM06 (3b) and it is therefore considered unacceptable as the need could be met from one of two existing dwellings, or from conversion of the former cattery.

As with many animal care arguments it is considered that monitoring though CCTV can often be used to alleviate the need for direct supervision and given that close-by alternative accommodation is already available (and is currently used) it is not considered that a further essential need has been proven.

In response to the refusal of the S73 application above (15/01314/F) the applicant cites a number of examples of catteries permitted within the Borough over the last 9 years where use of the cattery has not been tied to a particular dwelling. However, there are also catteries which do have tied properties, and it is likely to depend on the individual circumstances, not least of which is the location of the cattery.

Other Considerations

It is noted that the offsite passing bay between the site and Corkway Drove required by condition 5 of 14/00265/ F has not been implemented and enforcement action will need to be pursued on this matter. If this application is refused, then the other changes and discrepancies will also need to be picked up through this process, given the previous refusal of application 15/01314/F which also sought to amend the approved plans.

Personal circumstances of the applicant;

The additional submission from the agent dated 3 January refers to the applicant's partner's health issues and consequent difficulties in walking, sitting and climbing stairs and as such the occupancy of the current annex is not suitable and use of the new cattery building would be beneficial.

Officers are of course sympathetic to Mr Rolph's medical condition and accept that medical conditions are capable of being a material consideration in the planning process; however in this instance it is considered that they can be given only very limited weight in decision making and do not outweigh the strong policy objection to the proposal as set out within the report.

Temporary permission

The applicant's offer to restrict the use of the residential area for 2 years is noted; however it is considered that the planning objections to the proposal are substantial and robust and a temporary permission is not justified.

CONCLUSION

This application seeks consent to introduce a residential element into the cattery building, to allow the owners to live in it. It also seeks authorisation for some other minor discrepancies from the approved plans. The site is located within a relatively remote location within the

countryside. It is a location where new dwellings clearly wouldn't be approved, unless for exceptional reasons, such as the essential need linked to a rural enterprise.

The application falls to be considered under the guidance set out in the NPPF, and particularly Development Management policy DM6 – Housing Needs of Rural Workers, as the case put forward is that this proposal is essential in connection with the existing business. However it is your officer's view that there are clearly other dwellings available on the same site and in the applicant's ownership, including the farmhouse and annex that could be used to meet that need. There is also permission that exists for conversion of the former cattery to dwelling, giving another potential residential dwelling on the site. Indeed the business is currently operating with the applicant living in the on-site annex building. The need therefore can quite clearly be met by other existing dwellings not only in the same locality, but actually on the same site.

The provision of the passing bay linked to the previous cattery approval is still considered necessary, and will need to be pursued as breaches of the 2014 consent; the remaining breaches will also need to be picked with the applicant separately.

Given the above the proposal for a new residential unit is therefore considered to be contrary to the provisions of the NPPF, Core Strategy policies CS01 and CS06, and development plan policy DM6, with no exceptional circumstances put forward by the applicant considered to outweigh this in principle objection; the application is consequently recommended for refusal.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 The proposal would result in provision of a new residential unit in an unsustainable and isolated location. The NPPF at Paragraph 55 is clear that LPAs should resist new isolated homes in the countryside unless there are special circumstances and insufficient evidence has been submitted in support of this application to demonstrate there is an essential need for the cattery owner / manager to reside within the building when there is existing residential accommodation within the applicant's ownership and control that is in close proximity to the cattery.

The proposal therefore conflicts with the provisions of paragraph 55 of the NPPF as well as Policies CS01 and CS06 of the Core Strategy (2011) and particularly Policy DM6 of the LDF Site Allocations and Development Management Policies Plan 2016.