Item 2 09/00958/CLEUD Refuse

Case Officer Mr Peter Willacy

Parish Coppull

Proposal Application for certificate of lawfulness in respect

of mixed use of agriculture and milk processing

Location Yew Tree House Farm Coppull Hall Lane Coppull

Applicant J & B Woodcock & Sons

Background The application site relates to a farm and associated agricultural land.

The application seeks confirmation that the land identified in the application has been in use continually for more than ten years for the purposes of agriculture and milk processing.

Government Circular 10/97 is clear that that the test when considering such an application is whether, on the balance of probability, the evidence submitted supports the claim that the use commenced more than 10 years before the application was made and has continued over that period.

Members should be aware that the application is being reported to committee for their information because there has been significant public interest in the application, but members are unable to make any comments on the application as the planning merits do not fall to be considered.

Planning History

In 2009 the Council received a complaint concerning the volume of heavy goods traffic accessing the farm. On investigation it became apparent that alongside the agricultural use of the site that the processing, bottling and distribution of milk was also taking place. Previously milk had been produced from there own herd with some milk imported for processing. It appeared to your officers that a breach of planning control involving a material change of use from agriculture to a mixed use of agriculture and processing of milk had occurred. A retrospective planning application was therefore requested which resulted in the current application for a lawful use being applied for.

Applicant's Case

The application has been submitted with a supporting statement from the applicants including:

- A statutory statement from one of the partners
- Letters from engineers who have installed/maintained equipment
- Letters from milkman who purchased milk for their rounds
- Environmental health inspection certificates
- Letter from milk bottle supplier
- Letter from supplier of hygienic cleaning products
- Letters from suppliers of raw milk
- Letters from customers

To substantiate the following

 A mixed use of agriculture and processing of milk throughout the past 10 years

Comments received A large number of letters have been received in relation to the

This is not an application for planning permission and any comments received would only be relevant if they have relevance to the lawfulness of the use or otherwise

As explained in the introduction the planning merits of the application do not fall to be considered therefore many of the comments received have no bearing on the application and cannot be taken into account.

Assessment

The applicant has submitted evidence to support the claim that the use commenced more than 10 years ago and has continued until the present day.

The issue to be determined is whether on the balance of probability the evidence put forward is sufficient to enable a Certificate to be issued.

What is clear from the information submitted is that the farm has produced milk from their own cows over the years and there has been some importation of milk from elsewhere. The production and processing of milk from the farms own animals is an agricultural use.

That situation has change in recent years with the erection of new buildings without planning permission, the use of agricultural buildings for non agricultural purposes, the formation of hardstanding to enable vehicle parking and manuovering, the erection of silos and an electricity sub station. This has led to a intensification of the use and character of the use which the Council considers requires planning permission. As a result of these changes the importation and processing of milk has intensified which has led to increased traffic movements to and from the site leading to an increase in noise generated, and visual impact on the Green Belt due to the various unauthorised development undertaken.

The applicant has suggested that based on the evidence submitted that the Council could grant a partial certificate on those parts of the site unaffected by the unauthorised development. However, to do so would ignore the fact that a material change of use has occurred within the planning unit as a whole and not within a separate identifiable planning unit.

In view of the unauthorised development which has taken place at the site over the last 10 years the evidence submitted does not demonstrate therefore that the use of the site for a mixed use of agriculture and milk processing is lawful.

Recommendation: Refuse

Reason

The Council consider that the evidence submitted fails to demonstrate the lawfulness of the use described in the application.