

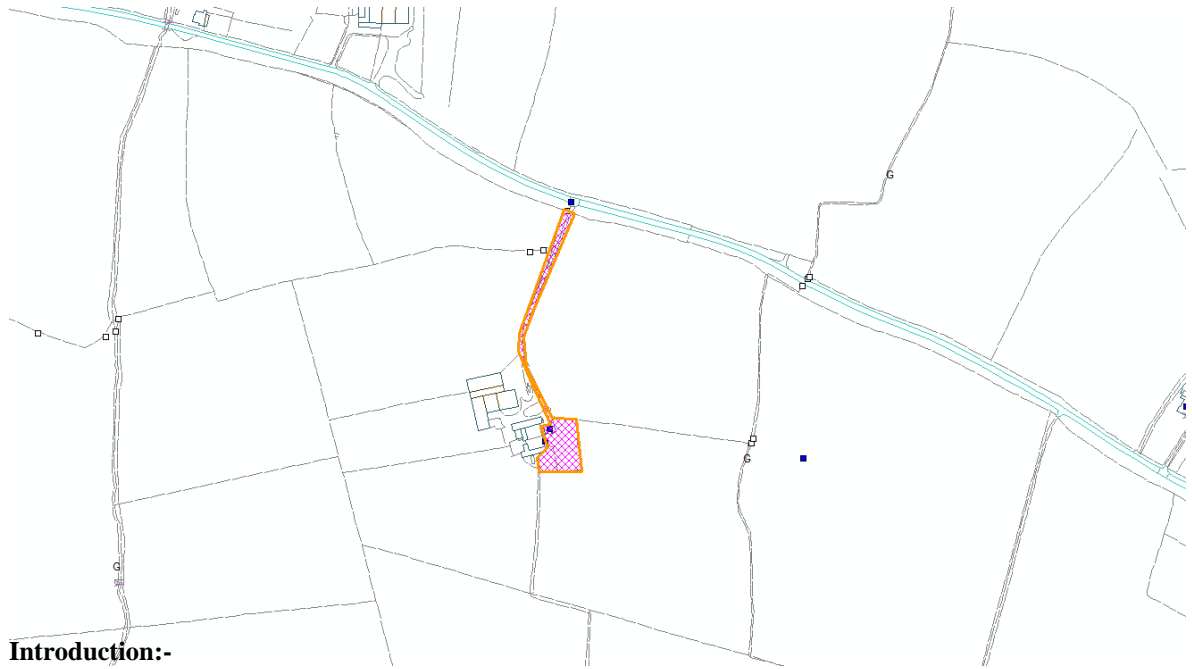
Reference: 14/00107/VAC

Date Submitted: 19.02.14

Applicant: Mrs H Stanley

Location: Barlows Lodge, Colston Lane, Harby, Melton Mowbray, LE14 4BE

Proposal: To vary condition 3 of planning application 03/00242/FUL



Introduction:-

The application relates to Barlows Lodge annex which is attached to Barlows Lodge; farm house to the working farm, which is situated on Colston Lane to the west of the village of Harby. The farm and collection of buildings is within designated open countryside and planning permission was granted in 2004 for an attached annex to the farm house, which was occupied by the late mother of the applicant.

The annex is currently being occupied by a non-family member on a lease agreement contrary to a restrictive occupancy condition. The proposal seeks to vary the condition to allow it to be leased on the open market. The applicant has provided a signed statutory declaration and is prepared to enter into a legal agreement to ensure that the annex does not become severed from Barlows Lodge farm house.

It is considered that the main issue relating to the application is:

- **Compliance with the Development Plan Policies – restriction of isolated dwellings in the open countryside**

Relevant History:-

03/00242/FUL - Proposed alterations to existing house. Proposed extension to form dependant relative unit. Planning permission granted 21st May 2005

08/00914/VAC - Variation of condition 3 on 03/00242/FUL to convert extension into a separate dwelling unit with its own curtilage. Planning permission refused 17th December 2008.

09/00267/FUL - Change of use of part of farm to B8 storage involving placing up to 10 storage units on land. Planning permission granted 3rd December 2009.

12/00253/FUL - Change of use of part of farm to a touring caravan / motorhome site with temporary structures and related works. Planning permission refused 22nd May 2012. Appeal dismissed 7th March 2013.

Planning Policies:-

Adopted Melton Local Plan (Saved Policies)

Policy OS2 states that planning permission will not be granted for development outside of the town and village envelopes except for:-

- Limited small scale development for employment, recreation and tourism which is not significantly detrimental to the appearance and rural character of the open countryside.

The National Planning Policy Framework was published 27th March 2012 and replaced the previous collection of PPS. It introduces a 'presumption in favour of sustainable development' meaning:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; *or*
 - specific policies in this Framework indicate development should be restricted.

The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that whilst the NPPF does not automatically render older policies obsolete, where they are in conflict, the NPPF should prevail. It also offers advice on the weight to be given to 'emerging' policy (i.e the LDF) depending on its stage of preparation, extent of unresolved (disputed) issues and compatibility with the NPPF.

It also establishes 12 planning principles against which proposals should be judged. Relevant to this application are those to:

- Proactively drive and support sustainable economic development to deliver the homes (etc) that the country needs
- Always seek to ensure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it

On Specific issues relevant to this application it advises:

Delivering a Wide choice of High Quality Homes

- Maintain a five year land supply of deliverable sites with a further 5% headroom.
- Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby.

- Deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
- Identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand
- Avoid new isolated homes in the countryside unless there are special circumstances
- Provide rural exception sites on the edge of rural villages to meet local affordable housing needs. Some market housing should be considered if it brought significant additional affordable housing to the area.

This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. (NPPF para. 12)

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
<p>Highways: No objections</p> <p>Although not desirable as a separate dwelling, there are no sustainable grounds to resist on highway safety</p>	<p>The annex shares the same access and parking arrangements to the main residence and farm buildings.</p> <p>It is not considered that the relaxing of the condition to allow non-dependants to lease the annex would have a detrimental impact upon highway safety.</p>
<p>Clawson, Hose and Harby Parish Council: The Parish Council had no objections to this application but requests that any connecting door remains and is not bricked up so it could be used again in the future.</p>	<p>The annex is of single storey and projects from the rear of the farm house. The annex has been constructed in accordance with the planning permission 03/00242/FUL and contains two bedrooms, kitchen, bathroom, living room and a small conservatory on the rear. There is a connecting doorway to the main dwelling. The applicant's mother lived in the annex until she passed away in 2008.</p> <p>In 2009 planning permission was sought to remove the occupancy condition to allow the annexe to be occupied as a separate dwelling. The proposal was refused as it was considered to be contrary to the development plan and previous national planning policy PPS3 and PPS7 through providing a separate dwelling with no restriction.</p> <p>The annex has been let on short term 6 month lease agreements and has been fulfilling a local need for rental properties. The annex is currently occupied. The applicants are seeking to vary the condition to allow the annex to be leased to non-dependants but have no intention to sever the annex from the lodge so that it can be made available to family members when required. The applicants are willing to enter into a legal agreement if considered necessary by the Council to ensure that the annex cannot be sold separately to the main host dwelling.</p> <p>It is considered that due to the design, close proximity to the host building sharing the same service points (one bill) and being situated within a working farm that it would not be practical to</p>

	<p>sell the dwelling on the open market. However the annex is currently occupied as a rental property and clearly there is a demand for this type of property/tenure. The location is considered to be unsustainable for the creation of an independent dwelling and to allow the annex to be occupied by non-family members or workers on the farm is contrary to the development plan.</p> <p>The building is existing and no physical changes will be required. The accommodation is not required by dependants of the applicants at this time and they have no desire to sell as a separate dwelling due to its close relationship with the farm and are prepared to enter into a legal agreement to that affect. While this legal agreement has been offered it is considered that a condition can satisfactorily ensure that the annex is not separated from the farm house.</p> <p>If the annex is not leased it would be left unoccupied which has no benefits to either the applicant or community. The applicants would prefer it to be in use to meet the needs of a local person for housing, fulfilling a short term need, as it currently does.</p>
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Representations:

A site notice was posted. As a result no objections have been received.

Other material considerations (not raised through consultation or representation)

Consideration	Assessment of Head of Regulatory Services
<p>Compliance (or otherwise) with Planning Policy</p>	<p>The application seeks to vary the condition which prevents the annex from being occupied by a non-family member but still requires the annex for future use by family, as and when required. Permission was granted in 2004 to allow the applicant's elderly parent to live on the site but to still retain independence, whilst providing the care required. That need is no longer required and the annex is currently being occupied by a person working in the area. (not on the farm)</p> <p>The single storey annex provides a modest two bedroomed property with parking spaces and amenity space. The proposal is considered to be contrary to Melton Local Plan policy as the annex is outside of the village envelope and does not comply with any exception policy tests within Policy OS2. Policy OS2 is considered to retain relevance and weight under the tests set by para 215 of the NPPF because it is compatible with the NPPF objectives on countryside protection.</p> <p>However, The NPPF introduces a presumption in favour of sustainable development, consisting of Social, Economic and Environmental factors. The rental agreement generates an income to the farm</p>

	<p>and could be considered to support the rural economy, whilst meeting the social need in providing housing. Whilst the location outside the settlement is undesirable, the village of Harby is less than a kilometre away. Harby is considered to be a sustainable village benefiting from services such as school, shop, garage, public house and regular bus service. Although it is accepted that walking to the village may not be desirable as there are no footpaths along the rural road. However sustainable development does not render car use unacceptable but seeks to reduce reliance upon it.</p> <p>Whilst the proposal is outside of the village envelope, the buildings already exist and are within an established residential curtilage and therefore it is considered that to allow the continued occupancy on short term letting agreements would not cause physical harm to the countryside (i.e it would not prejudice the objectives of Policy OS2).</p>
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Conclusion

The development is contrary to Policy OS2 as a result of its location outside the village envelope. However, it fulfils NPPF objectives to increase housing supply and a type for which there is an identified local demand in the area.

It is considered that the proposed dwelling in this location does not have a detrimental impact upon the countryside and therefore could be considered as an exception to Policy OS2, and that the dwelling constitutes sustainable development as supported in the NPPF.

Therefore, on balance it is considered that the benefits of permission in terms of meeting NPPF objectives are sufficient to outweigh the very limited harm that would arise from the breaching of Policy OS2. Accordingly the application is recommended for approval.

RECOMMENDATION: Permit, subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried in strict accordance with the plans submitted to the local planning authority on the 12th March 2013.
3. The annex shall only be occupied as ancillary residential accommodation and it shall not be used or severed from the principal house and used as a separate and unconnected dwelling unit.
4. The car parking and turning facilities shown within the curtilage of the proposed dwelling shall be provided, hard surfaced and made available for use before the dwelling is occupied and shall thereafter be permanently so maintained.
5. Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 1995 as amended (or any Order revoking and re-enacting that Order) in respect of the dwelling hereby permitted no development as specified in Classes A, B or E shall be carried out unless planning permission has first been granted by the Local Planning Authority.

The reasons for the conditions are:-

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt..
3. The Local Planning Authority would not normally allow the formation of a separate residential unit in such a countryside location and the condition is imposed to prevent the creation of two dwellings on the site.
3. In the interests of highways safety.
4. To enable the Local Planning Authority to retain control over future extensions in view of the form and density of the development proposed.

Officer to contact: **Denise Knipe**

Date: 28th March 2014