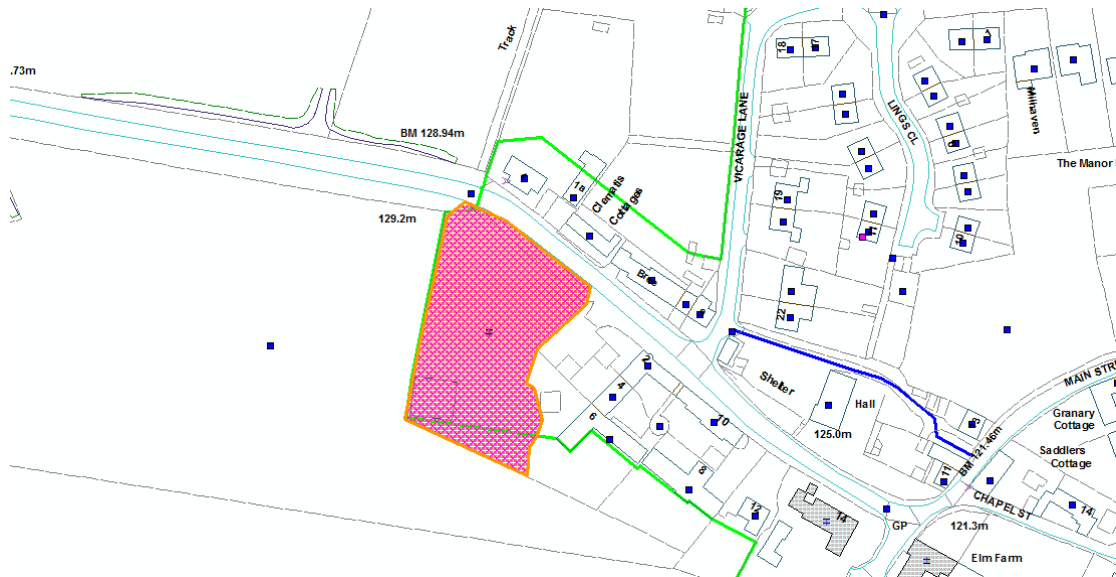


Reference: 14/00354/VAC
Date Submitted: 30.04.14
Applicant: Mr C Smith
Location: Land Off Main Street, Main Street, Eaton
Proposal: Removal of Condition 15 relating to Planning Approval 13/00293/EXT



Introduction:-

The application seeks consent to remove condition 15 of the planning approval which requires the applicant to erect a barrier outside of the community playing fields opposite the site, approval reference 13/00293/EXT. Planning permission has been approved on the site for the erection of 4 log cabins (holiday units), storage barn and improvements to access from road. Planning conditions are currently being discharged to allow commencement of the development.

Condition 15 states: -The development hereby approved, shall not be commenced until such time as a scheme for the design of a access control barrier - to be erected at the pedestrian entrance to the community playing field to the north-west of the application site, -that will restrict egress from that area on to the public highway, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought in to use or otherwise occupied, until the approved barrier has been installed in accordance with the approved details.

The applicants have provided a statement to support the request to have the condition removed. The site is not in the control of the applicant and works can only proceed with the land owners consent and it is stated that there is currently a ‘kissing gate’ at the entrance to the community field, which controls the speed of people leaving the site. It is maintained that the condition is no longer required.

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

- Impact upon Public Safety

Relevant History:-

14/00338/DIS - Discharge of Conditions 3 - Painting, 4 - Landscaping, 6 - Materials, 7 - Foul and Surface Water, 8 - Access and 14 - Site and Floor Levels relating to Planning Approval 13/00293/EXT – Pending consideration.

13/00293/EXT - Extend the time limit for implementation relating to Planning Approval 10/00395/FUL to Erection 4 log cabins (holiday units) storage barn and improvements to access from road.

13/00292/CON – Conservation Area Consent granted for demolition of buildings on the site.

10/00395/FUL - 4 no. holiday log cabin units, office, storage barn and improvement to access from road – approved 23rd July 2010.

09/00171/CON - Conservation Area Consent to demolish the existing barns on site – Approved 22.05.2009.

09/00155/FUL - Erection of 3 Log Cabin style holiday units, erection of a utilities block and office, erection of steel framed storage barn, improvement to access from road and electric hook ups for 7 touring caravans – refused 22.05.2009.

97/00511/FUL - Conversion of redundant farm buildings into 4 residential units and erection of 4 houses in redundant farmyard/stackyard – Refused 02.10.1997.

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 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:

- Support sustainable economic development.
- Recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

- Promote mixed use development, encouraging multiple benefits from the use of land in urban and rural areas.

On Specific issues relevant to this application it advises:

Building a Strong Competitive Economy

- Planning should encourage growth, not prevent it and should plan proactively to encourage economic growth
- Significant weight should be given to the need to support economic growth

Supporting a Prosperous Rural Economy

- Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through new buildings and conversions.
- Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.

Promoting Sustainable Transport

- Safe and suitable access to the site can be achieved for all people
- Development should be located and designed (where practical) to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities.

Require Good Design

- Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- Securing high quality and inclusive design goes beyond aesthetics considerations and should address the connections between people and places and the integration of new development into the natural, built and historic environment.

Promoting Healthy Communities:

- Plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.
- Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities

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
Highways: No objections	The condition was imposed by the Committee with a desire to safeguard children from running out of the community playing field straight across the highway to access the log cabins. The reason for the condition states; <i>The combination of the increased use of the site access close to the community playing field and the likelihood that occupants of the holiday log cabins will utilise the community playing field, will result in additional pedestrian movements on to the public highway. The restricted pedestrian access barrier is necessary in terms of public safety at the entrance</i>

	<p><i>to the community playing field.</i></p> <p>The Highways Authority has no objection to the removal of the condition in terms of highway safety. They do not consider that there would be a need for a barrier in this rural location and have no accident data to support the need for additional barriers.</p> <p>The current gate at the entrance to the community playing field is of a ‘kissing gate’ style which controls the speed of users leaving the site. The playing field is at the edge of the village and served by a public footpath. The applicant has no control over the land outside of the community playing fields and consent is required by the land owner to make any alterations or additions.</p> <p>The approved log cabins are opposite the site and will have vehicle barriers to the entrance. It is not considered reasonable or necessary for the condition to remain in force given the land ownership issues and that there are no reported accidents to the Highways Authority that warrant additional barriers to be in place. Furthermore it is considered that there is an appropriate control gate at the entrance to the playing fields and the small increase in use that the proposed log cabins may attract does not alter the Highways Authorities position.</p> <p>The Highway Authority do not object to the removal of the condition.</p>
Parish Council:	No comments received to date.

Representations:

A site notice has been posted and neighbouring properties notified. As a result 10 proforma letters and 1 additional letter from 6 separate households have been received to date. Objecting on the following grounds summarised below.

Representation Objection/Concerns	Assessment of Head of Regulatory Services
<p>Pro-forma letter.</p> <p>NPPF para. 28 seeks to promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.</p> <p>NPPF para. 31....The primary function of roadside facilities for motorists should be to support the safety and welfare of the road user.</p> <p>NPPF para 32....safe and suitable access to the site can be achieved for all people</p> <p>NPPF para. 35....therefore, developments should</p>	<p>The proposal does not seek to remove or lose a community facility.</p> <p>The policy objectives (para’s. 31, 32 and 35) have been taken out of context as the purpose is to promote sustainable transport for <i>major developments</i> (emphasis added) with high transport generation and to ensure appropriate joining up with neighbouring authority’s for proposals for major transport infrastructure such as provisions of airports, rail freight exchanges</p>

<p>be locate and designed where practical to give priority to pedestrian and cycle movements. Create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians</p> <p><i>Condition 15 was imposed to safeguard children from running or cycling directly into oncoming traffic. There has been no change to the highway or its access since the condition was imposed. There is no reason to remove condition 15.</i></p> <p>NPPF, para. 69...Planning policies and decision, in turn, should aim to achieve places which promote: safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas. – <i>condition 15 address's the safe and continual use of the community playing field.</i></p> <p>NPPF, para 172 Planning Polices should be based on up to date information on the location of major hazards and on the mitigation of the consequences of major accidents.</p> <p>NPPF, para 176 where safeguards are necessary to make a particular development acceptable in planning terms (such as environmental mitigation or compensation, the development should not be approved if the measures required cannot be secured through appropriate conditions or agreements. The need for such safeguards should be clearly justified through discussion with the applicants, and the options for keeping such costs to a minimum fully explored, so that development is not inhibited unnecessarily. – <i>Condition 15 was imposed because the planning committee recognised after a visit to the site that safeguards were required to mitigate major accidents.</i></p> <p>NPPF, para 203. Local Planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning conditions – <i>one of the reason this development was made acceptable and therefore approved was through the use of planning conditions.</i></p> <p>NPPF, para 204. Planning obligations should only be sought where they meet all the tests.</p> <ul style="list-style-type: none"> • Necessary to make the development acceptable in planning terms; • Directly related to the development; and • Fairly and reasonable related in scale and kind to the development 	<p>and motorway services.</p> <p>The approved proposal of four tourist accommodation is not introducing a new public space that requires careful planning on pedestrian routes. Removal of condition 15 does not affect the provision of community facilities in the area.</p> <p>Not relevant as it relates to policy making for public safety on major accidents.</p> <p>The application relates to the removal of a condition imposed for a development proposal for four tourist log cabins on a site opposite a community playing field on land outside of the control of the applicant. The Highways Authority did not raised any concerns in relation to highway safety for the original planning permission and have no record of any major accident at this location. The Highways Authority does not object to the removal of the condition and considers an additional barrier in conjunction with the existing 'kissing gate' at the playing field entrance as unnecessary.</p> <p>The condition prevents the implementation of the works for the log cabins until the barrier is in place and as such relies on the land owner giving permission. The community field has a five bar vehicle gate with the pedestrian 'kissing' style gate. It is not considered that the tourist facility will generate a high number of users to warrant the expense the applicant would incur in erecting an approved barrier. The land owners consent would be required for such a barrier to be erected and this may not be in itself feasible. The tourist facility is of small scale and will not material impact upon the public/highway safety.</p>
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<p><i>The obligation of condition 15 clearly meets the above three tests. It was considered necessary to make the development acceptable in planning terms otherwise the planning committee may well have rejected the applications.</i></p> <p>NPPF, para 206. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. – <i>The planning committee imposed condition 15 precisely because they felt it was necessary, relevant, enforceable, precise and reasonable in order to improve highway safety, and mitigate major accidents involving children exiting and entering from the development across the road.</i></p> <p>NPPF, para 211. For the purpose of decision-taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of this framework. – <i>condition 15 was imposed prior to the current Framework, the condition is not out of date and is therefore enforceable.</i></p>	
<p>There has been no material difference/ reason to drop this condition. No barrier has been erected and if anything the park is now (because of an increased awareness) is used more than previously</p> <p>It still represents a road traffic issue and a risk to public safety.</p>	<p>The popularity of the community facility is as a result of existing residents using it and not as a result of the proposal, as it is not yet in operation.</p> <p>The construction of 4 log cabins to be used by tourist visiting the area is not considered to adversely affect highway safety issues through a ‘presumed’ increase in use. The Highways Authority has raised no objection and there are no grounds presented to resist the removal of the condition.</p>

Conclusion

The proposed removal of condition 15 is not considered to have any adverse impacts upon highway safety issues and no evidence has been submitted to imply otherwise. The Highways Authority have no reported accidents at this location and has no objection to the removal of the condition. The approved development consisting of four tourist log cabins is supported by the development plan and the NPPF in promoting sustainable rural tourism and is not considered necessary to require the need for additional financial burdens to make alterations to a facility outside of the parameters of the application site. Accordingly it is recommended that the condition is removed as it is not considered relevant or necessary for the development to proceed. However, as objections have highlighted, the condition was imposed arising from highway safety concerns and there have been no change in circumstances in the area.

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 log-cabins hereby approved shall be subject to the following restrictions:-
 - (i) The log-cabins shall only be occupied for holiday purposes only and shall not be occupied as a persons’ sole, or main place of residence and

- (ii) The owner/occupier of the site shall maintain and up-to-date register of the names of all owners/occupiers of individual log-cabins on the site, and of their main home addresses and shall make these information available at all reasonable times to the Local Planning Authority.
3. The external surfaces of the log cabins hereby permitted shall be painted in Sandolin antique Pine wood stain and shall thereafter be retained in the agreed colour.
 4. The approved landscaping works shall be fully carried out in accordance with the approved details as shown on plan number 19921 OGL rev 02 prior to first use of the site. Any trees or plants which, within a period of five years after planting are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of similar species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
 5. The external materials to be used in the office/store building hereby permitted shall be in strict accordance with those specified in the application unless alternative materials are first agreed in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details
 6. The access shall be improved fully in accordance with plan drawing number 19921 OGL rev 2 prior to first use. Once provided the access shall thereafter be permanently so maintained.
 7. Before the development is first brought into use, parking and turning facilities shall have been provided, hard surfaced and made available for use within the curtilage of the site fully in accordance with a scheme that shall first have been submitted to and approved by the local planning authority. Once provided these facilities shall thereafter be permanently so maintained.
 8. The office/storage building hereby approved, shall only be used in conjunction with the adjacent use of the site four holiday log-cabins and for no other purpose, (including any purpose falling within Use Class B1, B2 or B8 as defined in the Town and Country Planning [Use Classes] Order 1987, or any amendments to that Order).
 9. No more than 4 log-cabins shall be positioned on the site in connection with the development hereby permitted, and their design shall be in strict accordance with those details specified in the application and no caravans; mobile homes; or log cabins of an alternative design shall be located on the site unless alternative designs are first agreed by the Local Planning Authority.
 10. Notwithstanding the provisions of Class A and B of Part 5 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), no caravans/mobile homes shall be located on the application site, and any caravans/mobile homes that exist on the site when the development hereby approved is commenced, shall be removed from the site within 14 days of the commencement.
 11. All means of vehicular and pedestrian access/egress to and from the site shall be from the improved access from Main Street and no other access/egress shall be used. Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 (or any order revoking or re-enacting that Order) no other access shall be formed unless planning permission is first obtained from the Local Planning Authority.
 12. The finished site levels and the floor levels of the log cabins shall be carried out in accordance with the plan drawing number 19921 OGL rev 2. The development shall only be carried out in accordance with such agreed details and thereafter retained in the agreed form, and there shall be no changes to the agreed levels in the future.

Officer to contact: **Denise Knipe**

Date: 16th June 2014