

Reference: 15/00652/COU
Date submitted: 25th August 2015
Applicant: Mrs J Skipper
Location: Land between 2 & 8 Richard Close, Melton Mowbray
Proposal: Change of use of land to garden



Introduction:-

The application seeks permission to change the use of the land to off Richard Close to use as a private residential garden. The applications site is an open grassed areas located within a relatively new development comprising mainly two storey dwellings. The site was recently sold at auction, having previously been provided and used as public open space for the residents of Richard Close.

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

- **Impact upon the character and appearance of the area**
- **The loss of the land as a facility for local residents**

The application is required to be considered by the Planning Committee due to the level of representations received.

Relevant History:

Application reference 08/00532/OUT for a two bedroom detached bungalow was refused planning permission in 2008; the decision was upheld at appeal.

Development Plan Policies:

Melton Local Plan (saved policies):

Policies OS1, BE1

OS1 states that planning permission will only be granted for development within the town envelope where:

- The form, character and appearance of the settlement is not adversely affected;
- The form, size, scale, mass, materials and architectural detailing of the development is in keeping with the character of the locality;
- The development would not have a significantly adverse effect upon the historic built environment or nature conservation features including trees;
- The development would not cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing dwellings in the vicinity;
- Satisfactory access and parking can be made available.

BE1 states that planning permission will not be granted for new buildings unless among other things, they are designed to harmonise with their surroundings, they would not adversely affect the amenity of neighbours and there is adequate access and parking provision.

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- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: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 the 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 establishes 12 planning principles against which proposals should be judged. Relevant to this application are those to:

- Not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives.
- Always seek to ensure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

On Specific issues relevant to this application it advises:

Requiring good design

The Government attach great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. At paragraph 64 the NPPF goes on to state that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The 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 paragraph 12).

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
<p>Highway Authority: No objection</p> <p>The Highways Authority has no comments to make on the application.</p>	<p>Noted.</p> <p>Amended plans were submitted to the Council on 22nd September that show part of the site being used for parking the applicant's cars. A strip to the western side of the piece of land would be used to provide off road parking for 2-3 cars, which is proposed to be gravelled and enclosed by small shrubs to the east and the existing fence to the west. At present the applicants cars are parked on the road side of Saxby Road, where there is on street parking causing a narrowing of the road used by heavy goods vehicles to access the industrial estates to the east.</p> <p>Whilst the access to the new parking spaces may reduce the availability of one on-street parking space in Richard Close, it is considered that this loss is acceptable in respect of the highways gain from fewer parked cars on Saxby Road. It is unlikely that the parking two or three additional cars on this land would cause sufficient highways safety concerns to warrant refusal. Of concern would be the use of gravel close to the highway which could result in it entering the highway, affecting the safety of other road users. It is proposed that there should be a condition that the surface should be hard bound for the first 2 metres beyond the highways boundary to minimise the potential for the gravel entering the highway.</p> <p>It is not considered that the proposal would cause any highways safety issues, subject to conditions regarding the gravel. As such, the proposal is considered to meet the requirements of policies OS1 and BE1 of the Melton Local Plan.</p>

Representations:

The application was advertised by way of a site notice close to the application site, the Ward Councillor was also informed and letters were sent to 15 neighbours. As a result of the initial consultation 4 letters of objection were received, in addition to a petition signed by 20 households of Richard Close. No representations were received in response to the amended plans.

Consideration	Assessment of Head of Regulatory Services
<p>Impact Upon Character and Appearance of the Area</p> <p>The proposed gravel area is some 97sqm which the average parking area for two cars on the estate is 40sqm</p> <p>The gravel is not in keeping with the area which has exclusively tarmac drives. There is no indication given of the colour of the gravel.</p>	<p>Noted.</p> <p>The amended plans show that the proposed gravel area for parking could accommodate 2 to 3 cars, parked one behind the other. The area forms a strip along the western side of the site. It is proposed to segregate this from the grassed area to the east by using small shrubs, with two thirds of the site to the</p>

<p>The fence height should be curtailed at 5 feet and landscaped on all sides to reduce the effect.</p> <p>The proposed fence will be unsightly.</p> <p>The parking area should be reduced to be in keeping with the surroundings.</p> <p>The bungalow applied for on this land in 2008 was refused</p>	<p>east remaining an open, grassed area.</p> <p>The gravel proposed will help to reduce surface water run-off which would be caused by a tarmac driveway, and whilst it is agreed that this is not an immediate feature of Richard Close, it is not considered that this will affect the character and appearance of the area to such a degree as to warrant a refusal of planning permission. To ensure that the gravel will be of a suitable colour a condition could be used to ensure that the applicants provide a sample to the Local Planning Authority prior to the commencement of development.</p> <p>The original plans showed a 2 metre high close boarded fence to be erected to separate garden area from the large proposed gravel parking area. This has been amended on the revised plans received at these offices on 22nd September 2015 and now a 1.2 metre picket fence is proposed with the existing planting to remain to reduce the impact of the new fence.</p> <p>It is considered that this amendment to the plan to lower the fence and retain the existing bushes will soften the fence and not harm the character and appearance of the area. The amended plans also substantially reduce the amount of parking available at the site.</p> <p>The bungalow had a different impact upon the character and appearance of the area, and as such has no bearing on consideration in the determination of the change of use of the land. All applications are determined on their individual merit.</p>
<p>Impact Upon Residential Amenity</p> <p>The parking spaces will be directly opposite my lounge window and will be dominant to the outlook from the lounge and bedroom.</p> <p>The proposed fence will be on ground higher than the applicants property and will be a substantial feature of the outlook from my property (to the north)</p> <p>The fence will completely ruin the outlook of properties 8&10 Richard Close and cause a loss of light. This also applies to no's 13, 15, 17 and 19.</p> <p>No's 2, 4, 6, 8 and 10 will suffer a loss of privacy and be overlooked from the applicants and their visitors</p>	<p>Noted.</p> <p>The amended plans show that the parking will be provided to the west of the site, with cars parked one behind the other. The access to this parking area will be almost directly opposite the entrance to the parking area to the rear of 11, 13 and 15 Richard Close. As such, it is not considered that the parking will dominate the outlook from these properties.</p> <p>The amended plans have reduced the height of the proposed fence from 2 metres to 1.2 metres, and have revised it to a picket fence, utilising the existing planting at the site to provide a more secure boundary. As such, it is not considered that the fence would create substantial outlook from the dwellings to the north. Furthermore, the distance between the front windows of these dwellings and the fence would be approximately 19 metres. This is considered a satisfactory distance so as not to cause a loss of residential amenity and privacy.</p>

<p>The area is a small, pleasant, quiet close and the land was provided as a recreational area for the residents, it was believed that this would always be for the community.</p> <p>Use of gravel will cause general disturbance</p>	<p>Numbers 8 & 10 Richard Close are situated to the east of the application site and face towards it. Their front windows are approximately 9 metres from the proposed 1.2 metre picket fence.</p> <p>It is considered that a fence of this height would not adversely impact upon their residential amenity to such an extent as to warrant a refusal of planning permission. As such, the proposal meets with the objectives of policies OS1 and BE1 of the Melton Local Plan.</p> <p>The land was not adopted by Melton Borough Council, and the developers have chosen to sell the land rather than continue to maintain it..</p> <p>The parking to be provided at the site would be for a maximum of 2-3 cars associated with the residential dwelling to the south on Saxby Road. It is not considered that the volume of vehicle movements from the site would be so significant as to cause a noise nuisance from the use of gravel that would impact severely on residential amenity. As such, it is considered that the proposal meets the objectives of policies OS1 and BE1 in respect of residential amenity.</p>
<p>Highways Safety</p> <p>There is a very large parking area proposed, how many cars will be parked here? We expect caravans, vans etc, not just the families cars – the size of the parking would suggest four or five vehicles.</p> <p>It will cause more parking problems in Richard Close, there is not enough parking for the current residents. 2 residents parking spaces would be lost by the proposal due to the applicants gaining access to their spaces.</p> <p>Emergency vehicles will have problems accessing properties</p> <p>The safety of children in the Close will be compromised</p> <p>The gravel will be detrimental to the pavement and the road surface.</p>	<p>Noted.</p> <p>The original plans showed half of the site being used as parking area. This has been significantly reduced in the amended plans to an area to the west of the site that would be able to accommodate 2-3 cars parked behind each other. This is an acceptable amount of parking for the applicants dwelling on Saxby Road.</p> <p>It is anticipated that on street parking in Richard Close may be reduced by one parking space to allow for vehicles to move in and out of the new parking area. This is not considered to be so significant loss of parking as to warrant a refusal on highways safety grounds.</p> <p>Highways users have a duty to park in a responsible manner to allow for emergency (and other) vehicles. It is not considered that the proposed parking area would directly cause a lack of access for emergency vehicles as it is providing off-street parking.</p> <p>It is not considered that providing off-street parking would endanger children any further than the current on-street parking problems in the area do.</p> <p>A condition of planning permission could be used to ensure that the first few metres of the parking area are constructed of a hard bound surface to prevent gravel entering the highway which could cause a safety issue to highways users.</p>

<p>The parking area should be reduced so as to not utilise all of the dropped kerb space as it's used by visitors to Richard Close</p> <p>More cars will exacerbate the situation in Richard Close</p> <p>This will cause more traffic in Richard Close</p>	<p>The amended plans have significantly reduced the size of the proposed parking area, leaving most of the existing dropped kerb area available for on-street car parking.</p> <p>The addition of 2-3 cars using Richard Close to access and park in the area are not considered to cause a significant issue with regards to the parking issues already experienced in the area. It is considered to be a highway gain in some respects as it will alleviate the parking problems to some extent experienced on Saxby Road.</p>
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Other Material Considerations Not Raised In Consultations:

Consideration	Assessment of Head of Regulatory Services
<p>Policy Considerations</p> <p>The site lies within the town envelope where residential development is supported. Policies OS1 and BE1 seek to ensure that development respects the character of the area and that there would be no loss of residential amenities and satisfactory access and parking provisions can be complied with.</p>	<p>The development is considered to accord with the applicable Local Plan policies, as described above. In this instance, the policies are not considered to conflict with the NPPF and as such there is no requirement to balance the regimes against one another.</p> <p>The amended plans show that the proposal will not have a negative impact upon the character and appearance of the area or residential amenities and will not cause highways safety issues.</p> <p>To ensure the on-going protection of the character and appearance of the area, and the residential amenity of the neighbouring dwellings it is considered appropriate to remove the permitted development rights that would be associated with the change of use to garden.</p> <p>The proposal is considered to meet the objectives of policies OS1 and BE1 of the Melton Local Plan, and the NPPF in terms of design.</p>
<p>Loss of land from public use</p>	<p>The land to which the application relates is at present used as recreational space for the residents of Richard Close. The land is overlooked by the rear elevations of the dwellings on Saxby Road, and by dwellings to the east of the development on Richard Close. The land is grass, surrounded by mature shrubs, and separated from the dwellings surrounding it by close boarded fencing.</p> <p>The application seeks to enclose the southern part of the site to be used as private residential garden space for the dwelling which is located on Saxby Road. Approximately one third of the space to the north of the site will remain open, and whilst would remain privately owned (rather than in the ownership of the developer) it will be accessible to the residents of Richard Close. A planning condition removing the permitted development rights to erect further fences or enclosures at the site without prior planning permission would</p>

	<p>prevent further enclosure of the site.</p> <p>It is not considered that the loss of approximately two thirds of the site to residential garden would be a significant loss of amenity space to the residents of Richard Close. The site does not appear to be in regular use, and no evidence has been submitted to show that the site is regularly used by residents and should therefore remain in its entirety for their use.</p>
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Conclusion

The application seeks planning permission for the change of use of land off Richard Close to be used as a garden. The amended plans received on 22nd September 2015 show that a strip of the land to the west will be used for car parking, the remaining land to the east will remain open to the residents of Richard Close, and the land to the south will be used as garden, connected to the applicant’s home on Saxby Road. The garden will be enclosed by a picket fence standing at 1.2 metres high, and softened with planting. The proposal is considered to meet the objectives of policies OS1 and BE1 of the Melton Local Plan. It is not considered to have a harmful impact upon the character and appearance of the area, and will not adversely impact the residential amenities enjoyed by the residents of Richard Close. In addition, the proposal is not considered to impact upon highways safety, and in some respects offers a small highways gain by removing some parked vehicles from Saxby Road. As such, 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. This decision relates to the amended plans received at these offices on 22nd September 2015.
3. No development shall start on site until all materials to be used in the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority.
4. Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 (or any Order revoking and re-enacting that Order) in respect of the change of use hereby permitted no development as specified in Classes A, E, F, H shall be carried out unless planning permission has first been granted by the Local Planning Authority.
5. Notwithstanding the provisions of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 (or any Order revoking and re-enacting that Order) in respect of the change of use hereby permitted no development as specified in Classes A shall be carried out unless planning permission has first been granted by the Local Planning Authority.
6. Before first use of the development hereby permitted, its access drive shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 2 metres behind the Highway boundary and thereafter be permanently so maintained.

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, the initial proposals being considered unsatisfactory.
3. To enable the Local Planning Authority to retain control over the external appearance as no details have been submitted

4. To enable the Local Authority to retain control over future development at the site due to the impact upon the character and appearance of the area.
5. To enable the Local Authority to retain control over future development at the site due to the impact upon residential amenity of the residents of Richard Close.
6. To reduce the possibility of deleterious material being deposited in the highway (loose stones etc).

Officer to contact: **Mrs Sarah Legge**

Date: 16th October 2015