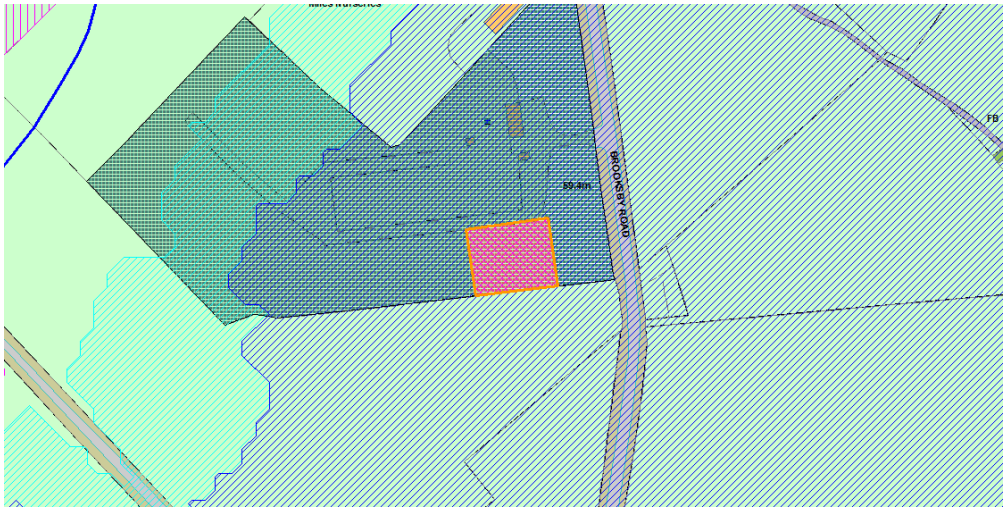


Reference: 16/00672/OUT
Date submitted: 21.09.2016
Applicant: Mr Thomas Miles
Location: Miles Nursery, Brooksby Road, Hoby LE14 3EA
Proposal: Proposed erection of occupational dwelling, together with associated garaging, parking provision and vehicle turning area.



Proposal :-

This application seeks outline planning permission for the development of the site for a workers' dwelling on land falling outside of the village envelope for Hoby on an existing site that is currently a garden centre and nursery. The application has been submitted with xxx.

It is considered that the main issues arising from this proposal are:

- **Compliance or otherwise with the Development Plan and the NPPF**
- **Impact upon the character of the area and open countryside including on heritage assets**
- **Impact upon residential amenities**
- **Impact upon ecology**
- **Highway safety**

The application is presented to the Committee due to the request to call in this application by Councillor Edward Hutchinson of the Frisby ward for the reason of this application having special aspects/consideration of site security and seven day a week support/access.

History:-

No relevant history

Development Plan Policies:-

Melton Local Plan (saved policies):

Policies OS2, BE1,

OS2 states that planning permission will not be granted for development outside the town and village envelopes shown on the proposals map except for:-

- Development essential to the operational requirements of agriculture and forestry;
- Limited small scale development for employment, recreation and tourism which is not significantly detrimental to the appearance and rural character of the open countryside;
- Development essential to the operational requirements of a public service authority, statutory undertaker or a licensed telecommunications code system operator;
- Change of use of rural buildings;
- Affordable housing in accordance with policy H8

Policy BE1 - allows for new buildings subject to criteria including buildings designed to harmonise with surroundings, no adverse impact on amenities of neighbouring properties, adequate space around and between buildings, adequate open space provided and satisfactory access and parking provision.

Policy C8 - planning permission for a new dwelling outside the town and village envelopes shown on the proposals map will not be granted unless:-

- There is an essential long term need for a dwelling to enable a person employed in agriculture or forestry to live at, or very close to the place of work and there is no existing suitable means of accommodation available;
- The need cannot be met within the town and village envelopes shown on the proposals map;
- There is no building on the farm holding or under the control of the applicant which is in a suitable location to meet the functional need and could be satisfactorily converted to form a dwelling;
- The dwelling would be sited to minimise its intrusiveness in the open countryside;
- The size, scale, design, form, construction, materials and architectural detailing are in keeping with existing traditional buildings in the area.

when planning permission for an agricultural dwelling is granted it will be subject to a condition that the occupation of the dwelling is limited to a person solely or mainly employed in the locality in agriculture (as defined by section 336 of the town and country planning act 1990) or forestry, or a dependent of such a person residing with him or her, or a widow or widower of such a person.

The National Planning Policy Framework 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 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, business and industrial units, infrastructure and thriving local places that the country needs.

- always seek to secure 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
- promote mixed use developments, and encourage multi benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation)
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

On Specific issues it advises:

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.
- Create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians
- Consider the needs of people with disabilities by all modes of transport.

Delivering a Wide choice of High Quality Homes

- Housing applications should be considered in the context of the presumption in favour of sustainable development.
- LPA's should identify land for 5 years housing supply plus 5% (20% if there is a history of under delivery). In the absence of a 5 year supply housing policies should be considered to be out of date.
- 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

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. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- The exceptional quality or innovative nature of the design of the dwelling.

Such a design should:

- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- reflect the highest standards in architecture;
- Significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area.

Supporting a prosperous rural economy

At paragraph 28, the NPPF advises that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well designed new buildings;
- Promote the development and diversification of agricultural and other land-based rural businesses.

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: Refer to standing advice</p>	<p>Noted and will conditions/notes as requested ensuring that the new development will have enough parking etc. to highway standards. Much of this information will be supplied if approved at Reserved matters stage</p>
<p>Ecology The ecology report submitted in support of this application (Curious Ecologists, September 2016) is satisfactory. No protected species were identified. However, we would recommend that a note to applicant is added to any permission granted to draw the applicants' attention to the recommendations in the report.</p>	<p>Noted and will apply notes as requested</p>
<p>Agricultural advisors Using PPS7 Guidelines which have been seen to be relevant in applications of this type:- Paragraph 3 of Annex A to PPS7:- five criteria which must be satisfied to justify a new permanent dwelling in the countryside, paragraph (i) states "There is a clearly established existing functional need (see paragraph 4 below);" – as this business has been operating successfully for 27 years, without a dwelling on site, with the turnover increasing year on year for the last four years – profits have fluctuated over the last four years from a low level in 2012 to a reasonable level in the year end 31st July, 2015. It has been considered that any essential/functional need is questionable as the business has clearly been operated and managed successfully by the applicant from his existing dwelling 24 miles away for the last 27 years. Therefore, there is no clear evidence that the criteria in paragraph 3(i) or the essential need criteria in paragraph 55 of The Framework is satisfied.</p> <p>3(ii) states "The need relates to a full-time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;" – from the supporting information, the unit currently employs the applicant and two full-time employees plus one part-time employee, and</p>	<p>There is no rural occupational need for the proposed new permanent dwelling as the existing enterprise is unable to sustain the cost of the proposal in the long-term, and any essential/functional need could be fulfilled by the applicant living in the area.</p> <p>The proposal therefore fails to meet the criteria set out in the NPPF of an "<u>essential need for a rural worker to live permanently at or near their place of work in the countryside</u>"</p>

casual/seasonal labour at peak times. **Therefore, the enterprise is clearly full-time; and this criteria could be satisfied if there was an essential/functional need for one of the full-time workers to live at the application site.**

(iii) states “The unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so (see paragraph 8 below);” – as stated above it has been seen that the enterprise has been profitable for the last four years albeit only marginally. It has also been noted that the Director’s salary, together with his Social Security payments are less than the minimum wage. If a minimum wage is deducted from the accounts, - taking account of the Director’s salary etc., the profits in the accounts for 2012, 2013 & 2014, would all show a loss. The profit in 2015 would cover the cost of the minimum wage; however, the remaining profits would be unable to cover the cost of a notional rent or interest on capital employed within the business; and sustain the cost of the proposed new dwelling in the long-term. **Therefore calculate that the enterprise is unable to satisfy the criteria in paragraph 3(iii), 8 & 9 of Annex A to PPS7, or comply with the sustainability element of The Framework.**

3(iv) states “The functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned;” – **there are dwellings available in the nearby villages of Hoby and Thrussington and the town of Melton Mowbray which are suitable and available and capable of fulfilling the functional needs of the enterprise, and would be significantly closer to the application site than the applicant’s existing dwelling i.e. approximately 24 miles away. Therefore, criteria in paragraph 3(iv) has not been satisfied.**

Paragraph 3(v) states “Other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.” – I consider this is a planning criteria and would not affect the horticultural or other occupational needs of the enterprise and should therefore be considered by

<p>yourself as the Case Officer for the application.</p> <p>With regard to the security of the site I consider paragraph 6 of Annex A to PPS7 is particularly relevant and it states “The protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one.” There is no mention of the security of plants, or machinery etc., within paragraph 6 of the Annex; only the protection of livestock, and this alone is not sufficient to justify a dwelling.</p> <p>In conclusion, there is no rural occupational need for the proposed new permanent dwelling as the existing enterprise is unable to sustain the cost of the proposal in the long-term, and any essential/functional need could be fulfilled by the applicant living in the area/locality where there are dwellings both for sale and to rent which are clearly both suitable and available and much closer to the application site than the applicant’s existing dwelling.</p>	
<p>Parish Council:</p> <p>On balance the Parish Council were supportive of this proposed development on the basis of current supplied information, but they would reserve the right to review that opinion should circumstances change with for and against comments:</p> <p>FOR.</p> <ul style="list-style-type: none"> • The owner of this rural enterprise lived adjacent to it until his divorce. • It has been a viable business for 25 years employing full time and part time staff. • It is primarily growing horticultural produce for wholesalers with a small retail business. • The proposed residential development is sheltered and unobtrusive and would not create any disfigurement of the landscape any more than the existing business. • A dwelling will facilitate community safety for the business. <p>AGAINST.</p> <ul style="list-style-type: none"> • What would be the position if the business were closed or sold? • The Wyvale Garden Centre at East Goscote 	<p>The new dwelling needs to be taken on its own merits</p> <p>Noted, but does not explain position on the new dwelling in the countryside in terms of need</p> <p>Noted, but does not explain position on the new dwelling in the countryside in terms of need,</p> <p>Sustainable development principles are a key consideration at this stage .</p> <p>Noted but sustainable development principles are considered to be the key issues at this stage</p> <p>There is a need to consider the use of conditions very closely</p> <p>Noted – every application assessed on own merits</p>

<p>became a large estate.</p> <ul style="list-style-type: none"> • How could a future change of use from an agricultural dwelling be controlled? • Can everlasting restrictions be placed on a single development to prevent further developments on the site in the future (say 20 years), say through the Neighbourhood Development Plan? 	<p>and those examples are considered to have no bearing on this application.</p> <p>This would be controlled but the use of conditions, of permission was granted. This is not possible; every application assessed on its own merits and cannot speculate about possible future proposals. In any event, any such condition could be the subject of an application for removal/amendment at a future date which would also have to be considered based on the merits prevailing at that time and as such gives no greater control.</p>
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Representations:

A site notice was posted and neighbouring properties consulted. As a result 6 letters of support have been received, the representations are detailed below:

Representations	Assessment of Head of Regulatory Services
The proposed development is tucked away in a corner of the site and will not be obvious from the road.	Noted. However, these points do not detract from the inherent unsustainability of the site and its conflict with the NPPF, which is the principal guide for the determination of applications.
Security has always been a major issue - as borne out by the police reports -so having somebody living on site will be the best deterrent to theft.	
Effective plant husbandry during prolonged hot and cold weather is also critical to the business , so having a body on site 24/7 will greatly improve our ability to react to any given weather related situation.	
Given many of the local teenagers their first taste of a working environment as well students from Brooksby Melton college work experience as part of their course..	
Hoby is an area of high value properties which makes buying a local property unrealistic.	
The proposed development will have no visual impact or increase traffic.	

Conclusion

The applicant has failed to demonstrate that the proposed dwelling is capable of being sustained by the nursery business. The absence of a sufficient justification, the proposed dwelling would result in new residential development in the open countryside, having an adverse effect on the character and appearance of the countryside. The proposal would therefore represent an inappropriate and unsustainable form of development within the open countryside, which would not comply with the Framework's presumption in favour of sustainable development; and insufficient justification has been provided to demonstrate why the proposed development should override local or national planning policy.

RECOMMENDATION: Refuse, for the following reason

In the opinion of the Local Planning Authority the application is contrary to Local Plan Policy OS2 and paragraph 55 of the NPPF which states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need of a rural worker to live permanently at or near their place of work in the countryside. The Framework is only supportive of sustainable development, and in the case of dwellings for rural workers this is taken to mean that the enterprise is required to be financially viable and capable of supporting the cost of a permanent dwelling in the long term. The information provided by the applicant in support of the

application does not show that the business is capable of supporting a permanent dwelling on site, and the functional requirement for crime prevention is not considered an essential need as the business has no animal welfare issues.

Officer to contact: **Mr G Baker-Adams**

Date: 22 November 2016