

DEVELOPMENT COMMITTEE

28th JANUARY 2016

REPORT OF APPLICATIONS AND ADVICE MANAGERS

DEVELOPMENT CONTROL PERFORMANCE 2015/16 QUARTER 3

1. PURPOSE OF THE REPORT

- 1.1 To advise the Committee, of current national Performance Indicator outcomes related to the determination of planning applications for Q3 (October to December 2015) and service plan delivery.

2. RECOMMENDATION

- 2.1 **The Committee notes the current performance data.**

3. DEVELOPMENT CONTROL PERFORMANCE

3.1 GROWTH AND INFRASTRUCTURE ACT

- 3.2.1 The Growth and Infrastructure Act 2013 put in place Performance Standards, known as the 'Planning Guarantee', relates to reform which is designed to ensure that no planning application should take longer than one year to reach a decision. This implies a maximum of 26 weeks both for an initial decision by a Local Planning Authority and (should there be an appeal against refusal of permission) the Planning Inspectorate. The two criteria to measure whether a Local Planning Authority is performing poorly are:

- timeliness, where Local Planning Authorities are deemed to be underperforming if they determine less than 40% of applications they receive for large scale, 'major' development within 26 weeks; unless an extension of time or planning performance agreement is in place **or**
- quality, where more than 20% of the Authority's decisions on major development are being overturned at appeal.
- Changes to the fee regulations came into force on 1st October 2015 which requires LPA's to refund fees in relation to planning applications not determined within 26 weeks without the agreement of the applicant.

Failure to meet these standards will render the LPA designated by the Secretary of State as one that is 'performing poorly' and allows applications for major development, and other connected applications, to be made directly to the Secretary of State rather than to the Local Planning Authority.

3.3 MEASURES OF PERFORMANCE OUTCOMES AND CURRENT POSITION

3.3.1 Thought no longer the key measures of performance, the table below shows the Council's recent and current performance against previous periods PI's measure focus on efficiency and speed rather than the development of the service, the quality of the decisions made and the outcomes secured.

| Indicator | 2010/ 11 | 2011/ 12 | 2012/ 13 | 2013/14 | 2014/15 | TARGET 2015/16 | Q1 April – June 15 | Q2 July – Sept 15 | Q3 Oct – Dec 15 |
|---|-------------|-------------|-------------|---------|---------|-------------------|-----------------------------|-------------------------|-----------------------|
| % 'major' applications determined in 13 wks | 53.33 % | 83.33 % | 45.45% | 62.5% | 64% | 60% | 33% | 66% | 0% |
| % 'minor' applications determined in 8 wks | 73% | 65.59 % | 67.84% | 63.44% | 62% | 65% | 54.59% | 63% | 63% |
| % 'other' applications determined in 8 wks | 88.86 % | 80.71 % | 83% | 84.72% | 73% | 80% | 72% | 78% | 66% |

3.3.2 Planning application performance for quarter 3 shows a decline in performance particularly in majors and other applications.

3.4 QUALITATIVE MEASURES

3.4.1 The outcome of appeals is regarded as a principal measure of decision making quality, being the means by which decisions are individually scrutinised and reviewed.

| Indicator | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 | TARGET 2015/16 | Q1 April – June 15 | Q2 July – Sept 15 | Q3 Oct – Dec 15 |
|--|---------|---------|---------|---------|---------|-------------------|--------------------------|-------------------------|-----------------------|
| %age of appeals against refused applications dismissed | 71.43% | 58.82% | 71.43% | 68.42% | 47% | 66.66% | 75% | 100% | 82% |

3.4.2 Planning appeal performance

The table below indicates the Council's appeal record for quarter 3, with key information associated with a selection of the appeals detailed in Appendix 1 below.

Appeals by decision background:

| Decision type | No. of appeals dismissed | No. of appeals allowed |
|---------------|--------------------------|------------------------|
| Delegated | 3 | 1 |

| | | |
|--|---|---|
| Committee, in accordance with recommendation | 3 | |
| Committee, departure from recommendation | 3 | 1 |

3.3 DEVELOPMENT OF THE SERVICE

3.3.1 The 2015/16 Service Plan was approved by PFA Committee on 7th July and identifies the long term vision for service delivery within Regulatory Services. Progress on the service plan and outcomes will feature within the quarter 4 report.

4. SUMMARY AND CONCLUSION: HOW ARE WE PERFORMING?

4.1 This report has shown that in quarter three standards of performance have decline, this will be monitored closely into quarter 4.

4.2 Our appeal record for the first three quarters of the year is very good.

Appendix 1 : Appeal decisions for Quarter 2

Proposal: 12/00460/FUL and 12/00454/FUL Two wind turbine applications at Hall Farm and Park Farm, Thorpe Satchville

Level of decision: Committee

Reasons for refusal: The proposed wind turbine would, by virtue of its height, position in the landscape and movement, introduce a new element into the landscape that would be widely visible. This visibility and presence would exceed that of any existing local features. The development would therefore constitute a prominent feature in the open countryside which would fail to protect or enhance its distinctive local character and is not capable of mitigation or adequate compensation. Accordingly the development is contrary to the provisions of Policy OS2 of the adopted Melton Local Plan and the objectives of the East Midlands Regional plan, and the guidance offered in the NPPF in relation to sustainable development, design, renewable energy and the natural environment. These impacts are not considered to be outweighed by the benefits of the proposal in terms of the generation of renewable energy.

Inspector's conclusions: Dismissed – Two appeals have been dismissed for proposed wind turbines at Hall and Park Farm, Thorpe Satchville. The appeal was subject to a Hearing and recovery by the Secretary of State. The application was refused on the ground of the impact on the landscape. The Secretary of State dismisses both appeals as he finds that the harm identified arises from the effect of the turbine on the character and appearance of the countryside, as well as the identified cumulative visual harm with other turbines in the vicinity. Further, the Secretary of State finds that, if both the Hall Farm and Park Farm developments were allowed, the close proximity of the turbines and their disparate scale and speeds of rotation would be harmful, experienced both close to their sites and in views where they are seen near together. In addition, having applied the transitional provision set out in the June 2015 WMS, the Secretary of State is not satisfied that the planning impacts identified by affected local communities have been addressed. The Secretary of State gives significant weight to this non-compliance. Having weighed up all considerations, the Secretary of State concludes that the factors which weigh in favour of the proposed development do not outweigh its shortcomings and the conflict identified with the development plan and national policy. He considers that there are no material considerations of sufficient weight which would justify granting planning permission.

The decision on Hall farm is now the subject of a further legal challenge in which the Secretary of state's evaluation and the weight attached to the WMS (now NPPG) is challenged.

Proposal: 14/00399/FUL Erection of a single wind turbine generator with hub height up to 55m at Field OS 2200, Clawson Road, Holwell

Level of decision: Committee

Reasons for refusal:

- The proposed turbine due to its design and location within the setting of a grade II windmill will have a significant impact upon the setting of the Heritage Asset. The proposal neither preserves or enhances the heritage asset and is contrary to the NPPF chapter 12.
- The proposed wind turbine would, by virtue of their height and movement, introduce a new element into this landscape that would be widely visible. This visibility and presence would exceed that of any existing local features by reason of the height, colour and movement of the proposed turbine. The development would constitute a prominent feature in the open countryside which would fail to protect or enhance its distinctive local character and is not capable of mitigation or adequate compensation. Accordingly the development is contrary to the provisions of Policy OS2 of the adopted Melton Local Plan and the guidance offered in the NPPF. These impacts are not considered to be outweighed by the benefits of the proposal in terms of the generation of renewable energy

Inspector's conclusions: Dismissed – The Inspector concluded that in the absence of a specific development plan policy relating to renewable energy it is unsurprising that the proposal would conflict with a general development management policy. Nevertheless, I have also found that the proposal would conflict with LP policy C2. Whilst conflict with the development plan and harm to the setting of a listed building are capable of being outweighed by the benefits of a proposal, given the extent of the harm that I have identified to the character and appearance of the area and to the setting of the listed windmill, the benefits of the appeal scheme are insufficient to outweigh the totality of the harm. In this instance, notwithstanding the provisions of the above noted 'other documents', the adverse impacts of the scheme significantly and demonstrably outweigh the benefits. This in turn leads me to find that the proposal would fail to satisfy the environmental dimension to sustainable development. It would conflict with the provisions of the Framework when read as a whole and the provisions of the 2015 WMS, the appeal is therefore dismissed.

Proposal: 14/00889/FUL Retrospective application for the installation of a roof mounted 8kw solar Photovoltaic system at Wymondham Mill House, Butt Lane, Wymondham

Level of decision: Delegated

Reasons for refusal:

- The solar panels, by reason of siting, appearance, design and proximity to the windmill, would result in less than substantial harm to the setting of the grade II* listed windmill. A convincing case has not been submitted to demonstrate this harm would be outweighed by benefits to the public and as such the proposal is contrary to paragraph 134 of the NPPF which requires the harm to the designated heritage asset to be outweighed by the public benefits of the proposal.

Inspector's conclusions: Dismissed – The Inspector concluded that the development fails to preserve the setting of the Grade II* listed Wymondham Windmill and that the public benefits do

not outweigh the harm identified. Consequently the proposal does not accord with national planning policy relating to the protection of heritage assets. These findings constitute compelling grounds for dismissing the appeal. None of the other matters raised, including the limited life span of the panels, outweigh the considerations that have led to my decision, the appeal is therefore dismissed.

Proposal: 14/00418/FUL Construction of two semi-detached dwellings part demolition of a wall and fence to create vehicular access removal of trees and crown lift of one tree at Mulberry House, 53 Station Road, Bottesford

Level of decision: Committee

Reasons for refusal:

- In the opinion of the Local Planning Authority, the development if approved would present an over intensive use of a small site resulting in a cramped development with insufficient amenity space for the residents contrary to policy OS1 and BE1 of the Melton Local Plan and paragraph 17 of the NPPF.
- The proposed development would lead to an increased danger to highways users by virtue of the close proximity of the proposed access to the junction of Station Road and existing accesses onto Church Lane, contrary to policy OS1 of the Melton Local Plan.
- The proposed development is considered by virtue of its design and location to be out of character in the designated Conservation Area, and does not make a positive contribution to the local character and distinctiveness of the area. It is not considered that the new dwellings would preserve or enhance this part of the Conservation Area, contrary to paragraph 131 of the National Planning Policy Framework.

Inspector's conclusions: Allowed – The Inspector concluded that the proposed dwellings would be of similar scale and design to surrounding development. Although accommodation in the roof space is proposed, the dwellings would be of modest height and relate well to the barn opposite and the bungalow at Rose Cottage. The use of red facing bricks and red clay pantile roofing material is consistent with the local vernacular. Given their siting and design, the proposed dwellings would not appear visually intrusive or overly prominent. The Inspector did not consider that the proposal would lead to a cramped form of development that would be materially inconsistent with the character of this part of the Conservation Area nor would the proposal have an adverse effect on the safety of users of the highway or the free flow of traffic in the vicinity of the appeal site. The appeal is therefore allowed.

Proposal: 15/00205/FULHH Two storey rear and side extension; single storey rear extension; porch at The Cottage, 9 The Green, Barketstone Le Vale

Level of decision: Delegated

Reasons for refusal:

- In the opinion of the Local Planning Authority the proposed first floor side extension, by reason of its size, massing, scale and siting, would have an undue adverse impact on the residential amenities of the neighbouring property, 7 The Green and the rear garden serving that property, through an unacceptable overbearing impact. As such the development is considered contrary to Policies OS1 and BE1 of the Melton Local Plan June 1999 and the aims and core planning principles identified in the National Planning Policy Framework which seeks to resist development that would have an adverse impact on the residential amenity of neighbouring properties.

Inspector's conclusions: Dismissed – The Inspector concluded that given its proximity to the rear elevation of No 7 and the fact that the ridge height would only be marginally subservient to the ridge of the main house, they find that the proposal would lead to a highly oppressive, over dominant structure when viewed from both the ground floor rooms and rear garden patio of No 7. The resultant increase in the extent of blank brickwork along the common boundary would also lead to a stark, uncompromising feature. The Inspector concluded that significant harm would be caused to the living conditions of existing and future occupants of No 7 The Green with regard to outlook and the appeal is therefore dismissed.

Proposal: 15/00166/FUL Transportable log dwelling at Japonica Cottage, 17 Main Street Saxelby

Level of decision: Committee

Reasons for refusal:

- The proposal relates to the development of a 'greenfield' site which is identified as a Protected Open Area in the Adopted Melton Local Plan where the release of the site for new housing is inappropriate and would affect the spacious open appearance of the site contrary to the provisions of policies OS1 and BE1 and BE12 of the Adopted Melton Local Plan and the NPPF promoting Sustainable Development.
- In the opinion of the Local Planning Authority the proposal would, if approved, result in the erection of a dwelling in an unsustainable location. The development in an unsustainable village location where there are limited local amenities, facilities and jobs and where future residents are likely to depend on the use of the car, contrary to the advice contained in NPPF in promoting sustainable development. It is considered that there is insufficient reason to depart from the guidance given in the NPPF on sustainable development in this location and would therefore be contrary to the "core planning principles contained" within Para 17 of the NPPF.

Inspector's conclusions: Dismissed – The Inspector concluded that the removal of trees and the siting of a log dwelling would diminish the character and introduce built form to a site that is currently largely void of built development. The view of the inspector is that the log dwelling would appear intrusive and incongruous, detracting from the character of the area. On the ground of sustainability, the Inspector concluded that the development would introduce a dwelling into a distinctly rural settlement where there would be little opportunity to travel by sustainable means or to access services and facilities without reliance on private vehicles and the development would not accord with the Governments objectives. The appeal is therefore dismissed.

Proposal: 14/00999/FUL Construction of two single storey two bedroomed dwellings at Land Rear Of 22A, Main Street, Muston

Level of decision: Delegated

Reasons for refusal:

- In the opinion of the Local Planning Authority the proposal would, if approved, result in the erection of residential dwellings in an unsustainable location. The development in an unsustainable village location where there are limited local amenities, facilities and jobs and where future residents are likely to depend on the use of the car, contrary to the advice contained in NPPF in promoting sustainable development. An audit of villages using the Rural Centres selection criteria was undertaken for the Core Strategy and is considered to be a reliable evidence base to measure sustainability against the guidance provided by the NPPF. It is considered that there is insufficient reason to depart from the guidance given in the NPPF on sustainable development in this location and

would therefore be contrary to the "core planning principles contained" within Para 17 of the NPPF.

- The proposed development is outside of the village envelope of Muston as defined by the adopted Melton Local Plan, where there is a general presumption against the erection of new dwellings. It is considered that there is no essential, justified need for new dwellings at this location as stated within policy OS2 of the Melton Local Plan. Development of the greenfield site would have an adverse impact upon the character of the linear form of the village.
- Insufficient information has been submitted by the applicant for the Local Planning Authority to be able to assess the impact the proposed development will have on biodiversity in this location which has the potential to have high ecological value. This is contrary to the NPPF 'Conserving and Enhancing the Natural Environment' where it seeks to minimise impacts upon biodiversity and halt the overall decline in biodiversity. A full habitat survey of the site including the hedge to the west would ensure that the full ecological value of the site is recognised and inform of any mitigation where possible.

Inspector's conclusions: Dismissed – The Inspector concluded firstly on the character of the area that although the appeal site is not in a Conservation Area, the proposed dwellings would appear at odds with, and undermine, the strong, established pattern of ribbon development. They would be an incongruous outward expansion of the village's built form, compromising the sense of openness derived from the undeveloped space behind existing dwellings and resulting in a perception of coalescence between those on Main Street and Church Street. It is suggested that the prominence of the proposed dwellings from 20, 22 and 22A Main Street would be mitigated by a 'mounded and landscaped buffer zone'. It is not clear what, precisely, this would be but no 'mounded' features were readily apparent in or around the village and it is reasonable to consider that it would be equally uncharacteristic in appearance as the proposed dwellings. With regards to ecology, the Inspector concludes that development on the site may have an adverse impact upon a protected species and that a precautionary approach is appropriate. The appeal proposal would conflict, therefore, with the objectives of the Framework, which seeks, among other things, to conserve and enhance biodiversity and is not persuaded that the proposal has demonstrated that significant harm can be avoided or adequately mitigated. Finally with regards to the location of the development, the Inspector concludes that the appeal site is not a suitable location for the development proposed, with regard to its accessibility to local services, facilities and employment by means other than the private car. The appeal proposal would be inconsistent with the principles of sustainable development, having regard to the requirements of the Framework, which seeks, among other things, to ensure that rural housing is appropriately located and that developments should be located and designed where practical to give priority to pedestrian and cycle movements and have access to high quality public transport facilities and therefore the appeal is therefore dismissed.

The application was also subject to an appeal for costs. The appellant stated that the Council had failed to assess properly any harms arising from the appeal scheme against the alleged benefits of it. The Inspector concluded that the Officer's report clearly and explicitly references national policy in the form of relevant sections of the National Planning Policy Framework and undertakes a thorough analysis of the issues arising from the appeal scheme. It considers the Borough's lack of a five year supply of deliverable housing sites and weighs the contribution that the appeal scheme may make towards addressing this against clearly identified harms. It also references the proposed achievement by the appeal scheme of Code for Sustainable Homes level 6. Having read the DAS the Inspector could find no clearly identified list of suggested benefits, merely a discussion of the nature of the scheme and even if the Council had read between the lines and inferred benefits from this discussion, there is no evidence before them to suggest that it would have come a different conclusion given the number and nature of the harms it identified. Thus, the Inspector did not consider that the Council's approach is incorrect or deficient with regard to its assessment of the scheme against national policy or weighing of matters in the planning

balance. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and the appeal for cost dismissed.

Proposal: 15/00212/FULHH Two storey extension to existing dwelling at 31 Beechwood Avenue, Melton Mowbray

Level of decision: Committee

Reasons for refusal:

- The proposed extensions would result in a dwelling of such a scale that it would represent an over intensive development of the plot. The dwelling, by virtue of its scale and the proximity to the neighbouring properties would be out of keeping with and detrimental to the streetscene and as a result would be contrary to Policies OS1 and BE1 of the Adopted Melton Local Plan and part 7 of the NPPF 'Requiring Good Design'
- The proposed extension due to the size and location would create an over intensive development resulting in a detrimental impact on the residential amenities of the adjoining properties. The proposal is considered to be contrary to saved Policies OS1 and BE1 of the Adopted Local Plan.

Inspector's conclusions: Dismissed – The Inspector concluded that the proposed extension would increase the width of the building so as to fill almost the entire plot, with two storey mass very close to the boundaries on both sides. This, combined with the height of the extensions, which would be very similar to the existing building, and the excessive depth, would result in significant bulk, scale and mass. This would create a dwelling far larger than its neighbour's that would fail to reflect the design, scale or appearance of the original building. Consequently, the pleasant consistency in design and spacious character in the street that I have described above would be harmfully eroded. In short, the extension would be disproportionately large in the streetscene, resulting in a visually intrusive and incongruous appearance. The Inspector also concluded that the depth, scale, height, mass and proximity of the addition would become visually dominating, intrusive and overbearing on the neighbours. The appeal is therefore dismissed.

Proposal: 15/00322/FULHH Alterations and extension to existing bungalow at 12 Pasture Lane, Gaddesby

Level of decision: Committee

Reasons for refusal:

- The proposed extensions, by reason of their scale, size and massing, would be to the detriment of the streetscene and the neighbouring property. The proposal is therefore considered to be contrary to saved Policies OS1 and BE1 of the adopted Melton Local Plan and to the National Planning Policy Framework regarding 'Requiring Good Design'

Inspector's conclusions: Dismissed – The Inspector concluded that the extensions proposed would be unsympathetic to the scale, design and appearance of the appeal property and the adjoining bungalow. Although there is some variety in roofscape along the street frontage in Pasture Lane, where alterations have been made to other bungalows, including the dormer window installed at 16 Pasture Lane, they are subservient in scale and design to their single storey host dwellings. The proposed front dormers would not be subservient. They would appear too large for the size and scale of the existing bungalow. As such they would dominate the front elevation of the dwelling and unbalance the symmetry of the semi-detached pair. As a result, they would be uncharacteristically prominent within the row of bungalows on this part of Pasture Lane, causing harm to the overall street scene. With regard to the rear extensions, whilst less prominent from Pasture Lane, they would be visible from the cul de sac in Barrow Crescent. The combination of the full width, pitch roofed dormer window and the shallow angled pitched roof

over the ground floor extension would appear awkward in relation to the simple pitched roof of the other half of the semi-detached pair. The overall size and scale of the dormer window would also dominate the rear elevation of the appeal property and, as with the proposals for the front, unbalance the symmetry of the semi-detached pair. The proposed development would cause unacceptable harm to the street scene within both Pasture Lane and Barrow Crescent and to the character and appearance of the host property and its neighbour at 14 Pasture Lane. The appeal is therefore dismissed.

Proposal: 15/00114/FULHH Change of use of existing building from stable, tack room and store into a dwelling plus a single storey extension to the building at 8 South View, Burrough On The Hill

Level of decision: Delegated

Reasons for refusal:

- In the opinion of the Local Planning Authority the proposed change of use would result in the creation of a dwelling in an unsustainable village where there are limited local amenities, facilities and jobs and where future residents are likely to depend on the use of the private car. The proposal is therefore considered contrary to the NPPF which has a strong presumption in favour of sustainable development.

Inspector's conclusions: Allowed – The Inspector concluded that that the benefits of utilising an existing building to add to local housing stock in a village served by some facilities would outweigh the minor harm caused by the limited increase in car dependency generated by occupancy of the proposed development the appeal is therefore allowed.